

## ORDINANCE 05-17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING ORDINANCE 99-06 DESIGNATING OFFICIALS AND AUTHORIZING ACTION IN THE EVENT OF IMMINENT THREAT OF EMERGENCY; AMENDING CURFEW TIMES AND IMPLEMENTATION PROCESS; PROVIDING AUTHORITY; SEVERABILITY; EFFECT OF ORDINANCE, AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Prohibitions During State of Emergency as set forth in Section 4(2) is amended as set forth below. Language being repealed from the existing Ordinance is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

SECTION 4(2) . It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the Town ~~between the hours of 7:00pm and 7:00 am~~ dusk and dawn, except for law enforcement officers, members of the Fort Myers Beach Fire Control District, emergency medical personnel, town council members, other persons authorized by the responsible official, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

SECTION 3. Prohibitions During State of Emergency as set forth in Section 4(3) is repealed in its entirety, as indicated below with ~~strikethroughs~~.

~~(3) It shall be unlawful for any person in the town to charge more than the normal average retail price or rent for any merchandise or space sold or rented. The average rent or retail price means that rent or price at which similar merchandise or space was being sold or rented during the ninety (90) days immediately preceding the state of emergency, or at a markup which is no larger a percentage over wholesale cost than was being added to wholesale cost prior to the state of emergency. Exempted from this limitation are commercial and residential rents in accordance with leases which preexisted the declaration of a state of local emergency.~~

SECTION 4. Severability. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express

law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance , and in no way affect the validity of all other provisions of this ordinance.

SECTION 5. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinance establishing the Town of Fort Myers Beach Recovery From Disaster Ordinance, except as expressly provided.

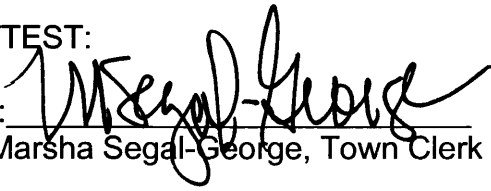
SECTION 6. Effective Date. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Rynearson and seconded by Council Member Katcko and, upon being put to a vote, the result was as follows:

|                        |            |
|------------------------|------------|
| Howard Rynearson       | <u>Aye</u> |
| Don Massucco           | <u>Aye</u> |
| Ken Katcko             | <u>Aye</u> |
| W. H. "Bill" Van Duzer | <u>Aye</u> |
| Garr Reynolds          | <u>Aye</u> |

DULY PASSED AND ENACTED this 27<sup>th</sup> day of June, 2005.


ATTEST:

By:   
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
W. H. "Bill" Van Duzer, Mayor

Approved as to form by:

  
Anne Dalton, Town Attorney -