

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 95-3

A RESOLUTION ESTABLISHING AN EMERGENCY; ADOPTING THE LEE COUNTY DEPARTMENT OF TRANSPORTATION ACTIONS; PROVIDING INTENT OF ADOPTION; AND AN EFFECTIVE DATE.

WHEREAS, the Town of Fort Myers Beach, Florida will assume all governmental, corporate and proprietary powers provided Florida municipalities by law as of December 31, 1995; and,

WHEREAS, in order to effectuate an orderly transition of governmental powers, duties, and services from Lee County for the protection of public health, safety and welfare of the citizens of Fort Myers Beach, the Fort Myers Beach Town Council has determined it necessary to regulate motor vehicles and traffic as provided in Florida Statue 316.008; and,

WHEREAS, it is the intent of the Fort Myers Beach Town Council to diligently work toward a permanent solution regarding the transition of governmental powers and duties with Lee county after December 31, 1995;

NOW, THEREFORE IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

SECTION 1. Establishing an emergency. This resolution is necessary to meet a public emergency affecting life, health, property, and the public peace and is therefore exempt from notice requirements.

SECTION 2. Lee County Department of Transportation actions adopted. All of the actions of the Lee County Department of Transportation regarding posting of streets and highways under

their jurisdiction as of this date, which would become under the jurisdiction of the Town of Fort Myers Beach by the authority of Florida Statue 316.008, are adopted as effective in the Town of Fort Myers Beach.

SECTION 3. Intent of the adoption. It is the intent of this resolution to provide for the protection of life, health, property, and the public peace by maintaining the existing level of protection and security within the Town of Fort Myers Beach.

SECTION 4. Effective Date. This resolution shall be effective immediately.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Ted FitzSimons and seconded by Council Member Garr Reynolds and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ADOPTED this 28th day of December, 1995.

ATTEST:

By: William A. Mills
William A. Mills, Town Clerk

TOWN OF FORT MYERS BEACH
By: Anita T. Cereceda
Anita T. Cereceda, Mayor

Approved as to form by:
Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney

Library References

Automobiles §5(5).
WESTLAW Topic No. 48A.
C.J.S. Motor Vehicles §§ 27, 35.

316.008. Powers of local authorities

(1) The provisions of this chapter shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from:

- (a) Regulating or prohibiting stopping, standing, or parking.
- (b) Regulating traffic by means of police officers or official traffic control devices;
- (c) Regulating or prohibiting processions or assemblages on the streets or highways, including all state or federal highways lying within their boundaries;
- (d) Designating particular highways or roadways for use by traffic moving in one direction;
- (e) Establishing speed limits for vehicles in public parks;
- (f) Designating any street as a through street or designating any intersection as a stop or yield intersection;
- (g) Restricting the use of streets;
- (h) Regulating the operation of bicycles;
- (i) Regulating or prohibiting the turning of vehicles or specified types of vehicles;
- (j) Altering or establishing speed limits within the provisions of this chapter;
- (k) Requiring written accident reports;
- (l) Designating no-passing zones;
- (m) Prohibiting or regulating the use of controlled access roadways by any class or kind of traffic;
- (n) Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- (o) Designating hazardous railroad grade crossings in conformity to criteria promulgated by the department of transportation;
- (p) Designating and regulating traffic on play streets;
- (q) Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except on a crosswalk;
- (r) Regulating pedestrian crossings at unmarked crosswalks;
- (s) Regulating persons upon skates, coasters, and other toy vehicles;
- (t) Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions.

§ 316.008

MOTOR VEHICLES
Title 23

(u) Enacting ordinances or erecting signs in the rights-of-way to control, regulate, or prohibit hitchhiking on streets or highways, including all state or federal highways lying within their boundaries.

(v) Regulating, restricting, or prohibiting traffic within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision and enforcing violations under the provisions of this chapter and chapter 318.

(2) The municipality, through its duly authorized officers, shall have nonexclusive jurisdiction over the prosecution, trial, adjudication, and punishment of violations of this chapter when a violation occurs within the municipality and the person so charged is charged by a municipal police officer. The disposition of such matters in the municipality shall be in accordance with the charter of that municipality. This subsection shall not limit those counties which have the charter power to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities from the proper exercise of those powers pertaining to the consolidation and unification of a traffic court system within such counties.

(3) No local authority shall erect or maintain any official traffic control device at any location so as to regulate the traffic on any state road unless approval in writing has first been obtained from the department of transportation.

(4) A county or municipality may enact an ordinance providing a fine for the violation of s. 316.1955 or s. 316.1956 in excess of the fine specified by s. 318.18(2), except that such fine may not exceed \$250. Any such ordinance may provide for the deposit of such fines in a separate county or municipal account to be used in the following manner:

(a) One-third to be used to defray expenses for the administration of this subsection.

(b) Two-thirds to be used to provide funds to improve accessibility and equal opportunity to qualified physically disabled persons in the county or municipality and to provide funds to conduct public awareness programs in the county or municipality concerning physically disabled persons.

(5)(a) A county or municipality may enact an ordinance providing a fine for the violation of s. 316.1945(1)(b)2. or 5. in excess of the fine specified by s. 318.18(2), except that such fine may not exceed the fine specified in s. 318.18(2) by more than \$3. However, such ordinance shall provide that the fines collected pursuant to this subsection in excess of the fines which would be collected pursuant to s. 318.18(2) for such violations shall be used by the county or municipality for the purpose of funding a firefighter education program. The amount of the fines collected pursuant to this subsection in excess of the fines which would be collected pursuant to s. 318.18(2) for such violations shall be reported on a monthly basis by the clerk of the court to the appropriate county or municipality.

(b) A county or municipality may enact an ordinance which dedicates a portion of any fine collected for a violation of such ordinance for the purpose

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of funding a firefighter education program, if such ordinance is limited to the regulation of parking within a firesafety zone.

(6) A county or municipality may enact an ordinance providing for the establishment of a "combat automobile theft" program and may charge a fee for the administration of the program and the cost of the decal. Such a program shall include:

(a) Consent forms for motor vehicle owners who wish to enroll their vehicles.

(b) Bright yellow decals indicating a vehicle's enrollment in the "combat automobile theft" program.

A consent form signed by a motor vehicle owner provides authorization for a law enforcement officer to stop the vehicle when it is being driven between the hours of 1 a.m. and 5 a.m., provided that a decal is conspicuously affixed to the bottom left corner of the back window of the vehicle to provide notice of its enrollment in the "combat automobile theft" program. The owner of the motor vehicle is responsible for removing the decal when terminating participation in the program, or when selling or otherwise transferring ownership of the vehicle. No civil liabilities will arise from the actions of a law enforcement officer when stopping a vehicle with a yellow decal evidencing enrollment in the program when the driver is not enrolled in the program provided that the stop is made in accordance with the requirements of the "combat automobile theft" program.

Historical Note

Derivation:

Laws 1989, c. 89-34, § 1.
Laws 1986, c. 86-154, § 3.
Laws 1985, c. 85-325, § 1.
Laws 1985, c. 85-227, § 1.
Laws 1984, c. 84-234, § 1.
Laws 1983, c. 83-164, § 2.
Laws 1976, c. 76-72, § 1.
Laws 1971, c. 71-982, § 3.
Laws 1971, c. 71-135, § 1.

Laws 1971, c. 71-982, § 3, amending subsec. (2), inserted the word "nonexclusive" preceding "jurisdiction" in the first sentence and added the third sentence.

Laws 1976, c. 76-72, § 1, added subsec. (1)(u).

Laws 1983, c. 83-164, § 2, added subsec. (1)(v).

Laws 1984, c. 84-234, § 1, added subsec. (4).

Laws 1985, c. 85-227, § 1, eff. Oct. 1, 1985, added the second sentence and paragraphs thereunder to subsec. (4).

Laws 1985, c. 85-325, § 1, eff. July 1, 1985, in subsec. (4), raised the maximum fine from one hundred dollars to two hundred and fifty dollars.

Laws 1986, c. 86-154, § 3, eff. Oct. 1, 1986, added subsec. (5).

Laws 1989, c. 89-34, § 1, eff. Oct. 1, 1989, added subsec. (6) relating to establishment of a "combat automobile theft" program.

Prior Laws:

Fla.St.1969, §§ 186.08, 186.09, 186.11 to 186.17, 186.21, 186.22, 186.24, 186.27, 186.34, 186.35, 186.38 to 186.41, 186.9908, 186.9910 to 186.9915, 186.9920, 186.9921, 186.9924 to 186.9928, 186.9937, 186.9947, 186.9972, 317.043, 317.191, 317.821, 317.9929.

Laws 1969, c. 69-106, §§ 23, 24, 35.

Fla.St.1967, §§ 186.0107, 186.0109 to 186.0114, 186.0119, 186.0120, 186.0123 to 186.0127, 186.0136, 186.0146, 186.0171.

Laws 1963, c. 63-175, § 1 (317.042, 317.19, 317.82, 317.0108).

Fla.St.1961, §§ 317.19, 317.82, 320.55.

Laws 1957, c. 57-333, §§ 7, 8, 10 to 16, 20, 21, 23, 26, 33, 34, 37 to 40, 106, 108 to 113, 118, 119, 122 to 126, 135, 145, 170.

Laws 1949, c. 25342, § 11.

Laws 1945, c. 23076, § 1.

Laws 1941, c. 20578, § 19.

Comp.Gen.Laws 1927, § 1323.

Laws 1925, c. 10186, § 6.