

**ORDINANCE NO. 18-13**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING ORDINANCE 18-02, TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH BICYCLE AND VEHICLE SAFETY ORDINANCE; REPEALING AND REPLACING ORDINANCE 03-04; AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES; PROVIDING AUTHORITY; TITLE AND CITATION; BICYCLE REQUIREMENTS AND PROHIBITIONS; CODIFICATION; PENALTY; SEVERABILITY AND EFFECTIVE DATE.**

**WHEREAS, the TOWN OF FORT MYERS BEACH has not only the right, but the obligation , to analyze potential safety problems in a conservative manner to protect the health, safety and welfare of the citizens and visitors to the TOWN;**

**WHEREAS, the TOWN OF FORT MYERS BEACH finds that the use of bicycles and other vehicles on TOWN'S sidewalks, shared use paths, streets, and roads may be in conflict and thereby a potential hazard in part due to the heavy use of such public areas by pedestrians, other bicyclists, inline skaters, pet owners who are walking dogs, vehicles, and similar public use of such areas;**

**WHEREAS, the TOWN OF FORT MYERS BEACH desires to comply with the laws of the State of Florida as amended, concerning the equipping and operating certain human and motorized powered bicycles and vehicles on its public rights-of-ways and sidewalk;**

**WHEREAS, the TOWN OF FORT MYERS BEACH is authorized to adopt ordinances regulating bicycle and vehicle operations within its jurisdiction;**

**WHEREAS, the TOWN OF FORT MYERS BEACH finds that it is in the best interests of the health, safety, and welfare of the people of the TOWN to establish reasonable regulations for operating and equipping bicycles with the expectations that cyclists and other users of Town rights-of-ways will conduct themselves in a reasonable and safe manner;**

**WHEREAS, to implement this Ordinance, Chapter 28, Traffic and Vehicles of the Code of Ordinances is amended to include Article III as follows:**

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

**SECTION 1.** This ordinance is enacted pursuant to the provisions of Article VIII, s. 2(b), Fla. Const.; Chapter 166, Florida Statutes; Sections 316.006 and 316.008 (1)(h), Florida Statutes; the Town Charter; and other applicable provisions of the law.

**SECTION 2.** This ordinance shall be known and may be cited as the *Beach Bicycle and Vehicle Safety Ordinance*.

**SECTION 28-81. REQUIREMENTS.** All bicycles, as defined in Section 316.003(3), Fla, Stat., operated within the public rights-of-ways must meet the following requirements:

(A) No bicycle shall be used to carry more persons than the number for which it is designed and equipped.

(B) A bicycle carrying any passenger who is a child under four (4) years of age, or who weighs forty (40) pounds or less, must be provided with a seat or carrier that is designed to carry a child of that age or size and that secures and protects the child from the moving parts of the bicycle.

(C) A bicycle rider or passenger who is under sixteen (16) years of age must be provided with and must wear a bicycle helmet that is properly fitted and is fastened securely upon the rider's or passenger's head by a strap and that meets the federal safety standard for bicycle helmet, final rule 16 C.F.R. part 1203. As used in this section the term "passenger" includes a child who is riding in a trailer or semitrailer attached to a bicycle.

(D) Every bicycle shall be equipped with a functioning lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a functioning lamp on the rear exhibiting a red light visible from a distance of 500 feet to the rear. Said front and rear lamps shall be illuminated at all times the bicycle is being ridden, used or operated by any person.

(E) Every bicycle shall be equipped with a brake or brakes which will enable its rider to stop the bicycle within 25 feet from a speed of ten (10) miles per hour on dry, level, clean pavement.

(F) Every bicycle shall be equipped with a horn or audible device when operated within a public right-of-way in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 50 feet. No horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle.

SECTION 28-82. HEADSETS. No person shall operate a bicycle while wearing a headset, headphone, or other listening device other than a hearing aid or instrument for the improvement of defective human hearing.

SECTION 28-83. VEHICLES PROHIBITED. No person shall drive any vehicle other than by human power upon any public sidewalk or path except for authorized government personnel, emergency vehicles, and special mobile equipment for repair or maintenance of the sidewalk areas. This section does not apply to motorized or manual wheelchairs or other power driven mobility devices for use by persons with disabilities. Mobility devices are allowed to go anywhere pedestrian use is permitted provided that the speed thereof is limited to the pace of pedestrian traffic and are prohibited on escalators. And motorized wheelchairs having three or more wheels. Electric scooters and all types of motorized mopeds are prohibited.

SECTION 28-84. ASSISTED BICYCLES PROHIBITED. No bicycle having any type of helper motor and having two or more wheels shall be driven upon any public sidewalk, path, or beach. This section does not apply to motorized wheelchairs and to other power driven mobility devices for use by persons with disabilities provided the speed thereof is limited to the pace of pedestrian traffic, having three or more wheels. Electric scooters and all types of motorized mopeds are prohibited.

SECTION 28-85. RESPONSIBLE PARTIES. Entities or individuals located within the municipal boundaries of Fort Myers Beach that rent or loan bicycles to others for use on the public rights-of-way are jointly and severally responsible along with the operator of the bicycle for compliance with these regulations.

SECTION 28-86. OPERATION WITH FLOW OF TRAFFIC. Bicycles shall travel in the same direction as traffic while being operated in a public right-of-way, and must be operated on the right as other vehicles which results in traveling with and not against the flow of traffic unless directed otherwise by Town officials.

SECTION 28-87. PENALTY. Violation of any provision of this Ordinance or failure to comply with any of the requirements herein for first-time offender(s) shall result in the issuance of a written warning by enforcement officers. All subsequent violations of any provision or requirement of this Ordinance incurred by any person or company having previously received a written warning shall result in a fine not to exceed \$50.00, in addition to any penalty that may be imposed under State law.

SECTION 3. Town Ordinance 03-04 adopted on April 7, 2003, is hereby repealed and replaced by this Ordinance. All other Town Ordinances or parts thereof in conflict with the provisions contained herein are, to the extent of such conflict, hereby supersede and repealed.

SECTION 4. 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. The Town Council intends that this ordinance will be made part of the Fort Myers Beach Code of Ordinances; that sections of this ordinance can be renumbered or re-lettered and the word "ordinance" can be change to "section ," "article" or some other appropriate word or phrase to accomplish codification; and , regardless of whether this ordinance is ever codified, the ordinance can be renumbered or re-lettered and typographical errors that do not affect the intent can be corrected with authorization of the Town manager or designee, without the need for a public hearing.

SECTION 6. This ordinance becomes effective (60) sixty days after the adoption date noted below.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member ~~Shamp~~ and seconded by Council Member ~~Butcher~~ and upon being put to a roll call vote, the result was as follows:

~~Dennis Boback, Mayor~~ \_\_\_\_\_ aye \_\_\_\_\_ Tracey Gore, ~~Mayor~~ \_\_\_\_\_  
~~Joanne Shamp, Vice Mayor~~ \_\_\_\_\_  
~~Dennis Boback, Council Member~~ \_\_\_\_\_ Anita Cereceda, Council Member \_\_\_\_\_  
~~Bruce Butcher, Council Member~~ \_\_\_\_\_  
~~Vice Mayor~~ \_\_\_\_\_ aye \_\_\_\_\_  
~~Anita Cereceda, Council Member~~ nay \_\_\_\_\_ Joanne Shamp, Council Member \_\_\_\_\_ aye  
~~Bruce Butcher, Council Member~~ \_\_\_\_\_ aye \_\_\_\_\_

ADOPTED this ~~5<sup>th</sup> day of March~~, Day of August, 2018 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

By: \_\_\_\_\_  
\_\_\_\_\_ ~~Dennis C. Boback~~ Tracey Gore, Mayor

ATTEST:

\_\_\_\_\_  
Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Peterson Law Group, Town Attorney