

ORDINANCE NO. 22-03

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE III "BEACH BICYCLE AND VEHICLE SAFETY OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, REQUIRING SAFETY EQUIPMENT ON ALL RENTAL OR LOANED BICYCLES OPERATED WITHIN THE TOWN'S JURISDICTION AS REQUIRED BY STATE LAW; AND PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town finds that the use of bicycles on sidewalks, shared use paths, streets, and roads may be in conflict and 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; and

WHEREAS, the Town desires that all its residents and visitors comply with the laws of the State of Florida concerning the equipping and operating of bicycles on public rights-of-ways and sidewalks; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's residents and visitors to establish reasonable regulations for operating and equipping bicycles with the expectations that cyclists and other users of public rights-of-ways and sidewalks will conduct themselves in a reasonable and safe manner.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS: ¹

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. Article III, of Chapter 28 of the Code of Ordinance, Town of Fort Myers Beach is hereby amended to read as follows:

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as strikethrough.

CHAPTER 28 – TRAFFIC AND VEHICLES

ARTICLE III. – BEACH BICYCLE AND VEHICLE SAFETY

Sec. 28-81. – Requirements.

All bicycles, as defined in F.S. § 316.003(~~3~~ 4), operated within the public rights-of-way or sidewalks must meet the following requirements:

- (1) No bicycle shall be used to carry more persons than the number for which it is designed and equipped.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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 28-85. 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.~~
All bicycle owners or riders/operators of the bicycle, including entities that rent or loan bicycles to others for use on the public rights-of-way, are responsible for compliance with these regulations. Rental contract language shall not redirect or assign responsibility for compliance with Sec. 28-81 of this article.

Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted Land Development Code, Ordinance, Resolution, Town Code provision, or statute, the most restrictive shall apply.

Section 5. Any typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 7. This Ordinance shall become effective upon adoption by the Town Council.

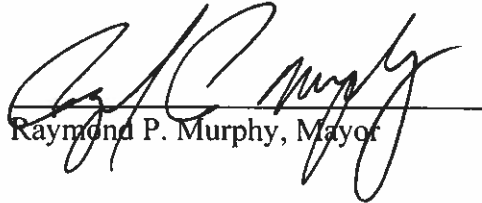
The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member Veach and seconded by Council Member Allers, and upon being put to a roll call vote, the result was as follows:

Raymond P. Murphy, Mayor	aye
Rexann Hosafros, Vice Mayor	aye
Dan Allers, Council Member	aye
Jim Atterholt, Council Member	aye
Bill Veach, Council Member	aye

ADOPTED this 7th day of February 2022, by the Town Council of the Town of Fort Myers Beach, Florida.



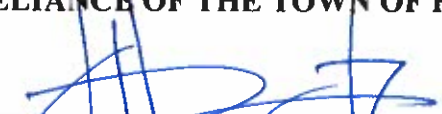
TOWN OF FORT MYERS BEACH


Raymond P. Murphy, Mayor

ATTEST:


Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:


John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 9 day of February 2022.