

ORDINANCE NO. 08-01

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH MUNICIPAL SPEED LIMIT ORDINANCE; PROVIDING AUTHORITY; DEFINITIONS; SEVERABILITY; CONFLICTS, EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapter 166 of the 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 services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter 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, Florida Statute 316.006(2) provides that chartered municipalities have original jurisdiction over all streets and highways located within their boundaries except for state roads; and

WHEREAS, F. S. 316.008(j) provides that the provisions of Chapter 316 shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of police power, from altering or establishing speed limits within the provisions of Chapter 316; and

WHEREAS, F.S. 316.183(2) provides that a municipality has the discretion to set a maximum speed limit of 20 miles per hour on local streets and highways within a residence district after an investigation determines that such a limit is reasonable, with no requirement to conduct a separate investigation for each residence district; and

WHEREAS, in addition to the requirements set forth in F.S. 316.183(2), F. S. 316.189(1) also requires that the municipality conduct an investigation to determine that a change to 20 mph is reasonable and in conformity to criteria promulgated by the Florida Department of Transportation (FDOT); and

WHEREAS, the Town Council on January 23, 2008, considered the results of staff's investigation (with the memo of January 15, 2008, from Public Work Director Jack Green attached hereto as Exhibit A and hereby incorporated by reference), documents provided in the file, and testimony from the public as required by F.S. 316.189(1) and hereby found that the speed limit change set forth below is in conformity to the criteria promulgated by FDOT; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety and welfare of the citizens of the Town.

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

Section 1. Incorporation of Whereas Clauses. The above “whereas” clauses are incorporated herein as though fully set forth.

Section 2 Establishment of Municipal Speed Limits The Town of Fort Myers Beach hereby establishes a speed of 20 miles per hour for the Laguna Shores subdivision, the boundaries of which are as set forth on the plat which is attached hereto as Exhibit “B” and hereby incorporated by reference.

Section 3. Public Safety. The Town of Fort Myers Beach hereby determines that the establishment of the lower municipal speed limit set forth in Section 2 above is necessary in the interest of public safety and otherwise complies with the requirements set forth in F.S. 316.183(2) and F.S. 316.189(1).

Section 4. Posting of Speed Limit Signs. The Town Manager or designee is directed to comply with the requirements for posting of speed limit signs as specified in FS 316.189 (3) on or before February 6, 2008. The posting of such signs is a prerequisite to the effective date of this ordinance, as set forth in FS 316.189(3).

Section 5. Conflict. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or Statute, the most restrictive shall apply.

Section 6. 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 as invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and shall in no way affect the validity of all other provisions of this ordinance.

Section 7. Repealing Clause. Subject to the provisions of Section 5, above, all ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 8. Effective Date This ordinance shall take effect on February 7 , 2008, which is the day following the posting of the speed limit signs as required by Section 4 above and Florida Statute.

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

Dennis C. Boback, Mayor	<u>aye</u>	Larry Kiker, Vice Mayor	<u>aye</u>
Herb Acken	<u>aye</u>	Charles Meador, Jr.	<u>aye</u>
William Shenko, Jr.	<u>aye</u>		

DULY PASSED AND ENACTED this 23rd day of January, 2008.

ATTEST:


Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

BY: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency by:


Anne Dalton, Esquire
Town Attorney