

ORDINANCE No. 00- 17

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH REGULATION OF LIVE SHELLFISH ORDINANCE PROVIDING AUTHORITY; REGULATION OF LIVE SHELLFISH; REVOCATION OF A LICENSE; SEVERABILITY; CONFLICTS 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. Regulation of Live Shellfish. The violation of, or failure to comply with the following provision of the Florida Administrative Code, within the limits of the Town, shall constitute an offense against the Town, and shall subject the offender to arrest under Florida Statutes Chapter 901.15 (1) (1997), and, upon conviction, to a fine of not to exceed five hundred dollars or imprisonment for a period of not to exceed sixty (60) days or to both such fine and imprisonment:

8B-26.003 Live Shellfish, Regulation.

(1) Lee County Live Shellfish Restrictions.

(a) Except as provided in paragraph (b) for Sanibel and Ft. Myers Beach, and in subsection (3), no person shall:

1. Harvest more than two live shellfish of any single species, per day, within Lee County.
2. Possess, in that area of Lee County between the mean high water line and the county limits in the Gulf of Mexico, more than two live shellfish of any single species at any time.

(b) Except as provided in subsection (3), no person shall harvest any live shellfish within the following named communities, or possess, in that area between the mean high water line and the city or town limits, any live shellfish at any time:

1. The City of Sanibel.
2. The Town of Ft. Myers Beach.

(2) Manatee County Live Shellfish Restrictions –

(3) Pursuant to Section 370.10(2), Florida Statutes, the Fish and Wildlife Conservation Commission may issue permits to harvest or possess more live shellfish of any single species within Lee County or Manatee County than provided for in subsections (1) and (2) of this rule, for experimental, scientific, or exhibitional purposes.

(4) It is lawful to harvest any shell within Lee County or within Manatee County, so long as such shell does not contain any live shellfish at the time of harvest and so long as a live shellfish is not killed, mutilated, or removed from its shell prior to such harvest.

Section 3. Revocation of a license. Not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5. Conflicts. 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. 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 Cain and seconded by Council Member Reynolds and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>
Terry Cain	<u>aye</u>

DULY PASSED AND ENACTED this 6th day of November, 2000.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

By: Daniel Hughes
Daniel Hughes, Mayor

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