

Municipality establishing speed limit on county road

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Date: February 13, 2001

Subject:

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Mr. Paul R. Gougelman, III
Town of Indialantic Attorney
1825 Riverview Drive
Melbourne, Florida 32901

RE: MUNICIPALITIES--COUNTIES--TRAFFIC CONTROL--ROADS--authority of municipality to establish 30 miles per hour speed limit on county maintained road located within municipality. ss. 316.006, 316.008, 316.183, 316.189, Fla. Stat.

Dear Mr. Gougelman:

You ask substantially the following question:

Does a municipality have the authority to set a 30 miles per hour speed limit on that portion of a county road that runs through a residential district and is located within the municipality?

In sum:

A municipality has the authority to set a 30 miles per hour speed limit on that portion of a county road that runs through a residential district and is located within the municipality.

According to your letter, the Town of Indialantic is interested in reducing the speed limit on a road that traverses a single-family residential neighborhood. Currently the speed limit is posted at 35 miles per hour, presumably by the county that apparently owns the roadway. The county attorney has advised the town that it has the authority to change the speed limit. You have advised this office that the Town of Indialantic is a chartered municipality.

Chapter 316, Florida Statutes, the Florida Uniform Traffic Control Law, was enacted to "make uniform traffic laws to apply throughout the state and its several counties and uniform traffic ordinances to apply in all municipalities." [1] The purpose of the act was to eliminate the "hodgepodge of ordinances which vary as to language and penalty," resulting in an inconvenience and hazard to travelers. [2]

The provisions of Chapter 316, Florida Statutes, are "applicable and uniform throughout this state and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized." [3] This office has previously stated that Chapter 316, Florida Statutes, operates to prohibit any local legislation on traffic control or the enforcement thereof under the police power of a

municipality, except as may be expressly authorized by the Uniform Traffic Control Law.[4]

Section 316.006(2)(a), Florida Statutes, provides:

"Chartered municipalities shall have original jurisdiction over *all streets and highways located within their boundaries, except state roads*, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic." [5] (e.s.)

In contrast, section 316.006(3)(a), Florida Statutes, provides that "[c]ounties shall have original jurisdiction over all streets and highways located within their boundaries, *except all state roads and those streets and highways specified in subsection (2) . . .*" (e.s.) In considering the application of section 316.006, the court in *State v. Williams* [6] stated that the statute vests exclusive jurisdiction in the various governmental entities enumerated, in that case the State, through the Department of Transportation, for the establishment of traffic control devices, speed limits, signs, etc., on state roads.

In enacting Chapter 316, Florida Statutes, the Legislature recognized that there are conditions that require municipalities to pass certain traffic ordinances regulating municipal traffic that are not required to regulate the movement of traffic outside of municipalities. [7] Section 316.008, Florida Statutes, expressly recognizes areas in which local authorities may exercise control with respect to the streets and highways under their jurisdiction and within the reasonable exercise of the police power. Among those areas enumerated is the power to alter or establish speed limits within the provisions of Chapter 316. [8]

Section 316.183(2), Florida Statutes, provides:

"On all streets or highways, *the maximum speed limits for all vehicles must be 30 miles per hour in business or residence districts*, and 55 miles per hour at any time at all other locations. However, with respect to a residence district, a county or municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable. It is not necessary to conduct a separate investigation for each residence district. The minimum speed limit on all highways that comprise a part of the National System of Interstate and Defense Highways and have not fewer than four lanes is 40 miles per hour." (e.s.)

Moreover, section 316.189(1), Florida Statutes, provides in part that the maximum speed within any municipality is 30 miles per hour, although a municipality may set speed zones altering the speed limit, both as to maximum and minimum, after an investigation determines that such a limit is reasonable. Similarly, section 316.189(2), Florida Statutes, provides that the maximum speed on any county maintained road in a business or residence district is 30 miles per hour. "Residence district" is defined by section 316.003(38), Florida Statutes, as

"The territory contiguous to, and including, a highway, not comprising a business district, when the property on such highway, for a distance of 300 feet or more, is, in the main, improved with

residences or residences and buildings in use for business."

While the county may have maintenance responsibility over the road as a county road, the above statutes indicate that the town, as a chartered municipality, has jurisdiction to control traffic over that portion of the road located within the boundaries of the municipality. Moreover, an examination of Chapter 316, Florida Statutes, clearly indicates that the speed limit on a local road or highway within a residence district, whether within a municipality or county, is generally 30 miles per hour.[9]

Accordingly, I am of the opinion that a municipality has the authority to set a 30 miles per hour speed limit on that portion of a county road that runs through a residential district and is located within the municipality.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] Section 316.002, Fla. Stat.

[2] See the preamble to Ch. 71-135, Laws of Florida, creating Ch. 316, Fla. Stat.

[3] Section 316.007, Fla. Stat. See s. 316.002, Fla. Stat., stating that it is unlawful for any local authority to pass or attempt to enforce any ordinance in conflict with the provisions of Ch. 316, Fla. Stat.

[4] See, e.g., Ops. Att'y Gen. Fla. 98-62 and 98-15 (1998).

[5] See *generally* s. 316.003(23), Fla. Stat., defining "Official Traffic Control Devices," for purposes of Chapter 316, Florida Statutes, to include "[a]ll signs, signals, markings, and devices, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic."

[6] 303 So. 2d 74, 75 (Fla. 3d DCA 1974).

[7] Section 316.002, Fla. Stat.

[8] Section 316.008(1)(j), Fla. Stat.

[9] See s. 316.183(2), Fla. Stat. (with respect to a residence district, a county or municipality may set a maximum speed of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable); s. 316.189(1), Fla. Stat. (while maximum speed within municipality is 30 miles per hour, a municipality may, with respect to

residence districts, set a maximum speed of 20 or 25 miles per hour on local streets or highways after an investigation); s. 316.189(2), Fla. Stat. (while maximum speed in a business or residence district is 30 miles per hour, a county may set on a county maintained road a maximum speed limit of 25 miles per hour in residence districts after an investigation that such speed is reasonable).