

ORDINANCE No. 07-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT – REPEAL OF REQUIREMENT OF MAJORITY VOTE; AMENDMENT – REPEAL OF QUALIFICATION FOR SPECIFIC COUNCIL SEAT; AMENDMENT – REPEAL OF REQUIREMENT OF RUN-OFF ELECTION; REFERENDUM; SEVERABILITY; REPEALING CLAUSE AND EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution 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, Article XIII of the Town Charter provides that the Town Council may, by ordinance, propose amendments to any or all of the Charter to be submitted to the electors as provided by general law; 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. AUTHORITY. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 99.061, 100.3605 and 166, Florida Statutes, and other applicable provisions of law as set forth in the “Whereas” clauses which are hereby incorporated by reference.

SECTION 2. AMENDMENT - ELECTIONS. Section 4.01(b) of Article IV of the Town of Fort Myers Beach Charter adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 4.01(b). Council seats shall be designated as seats #1, #2, #3, #4, and #5. Candidates shall not be required to seek election to a specific seat on the council. All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

SECTION 3. AMENDMENT - ELECTIONS. Section 5.01 of Article V of the Town of Fort Myers Beach Charter, adopted as Chapter 95-494, Laws of Florida, is amended as follows:

Section 5.01. The regular election of the members of the council shall be held on the second Tuesday in March. ~~If necessary, a runoff election will be held on the second Tuesday in April.~~ The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the second Tuesday in March to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year.

SECTION 4. AMENDMENT - ELECTIONS. Section 5.07 of Article V of the Town of Fort Myers Beach Charter, adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.07. In the event that more ~~than two~~ candidates qualify for election than there are open council seats, to a single office, those candidates shall participate in the regular election and the candidate or candidates receiving a majority of the most votes cast shall be elected to the open council seat or seats. ~~If no candidate receives a majority, then the two candidates receiving the most votes shall participate in a runoff election established in Section 5.01 to decide the winner for that office.~~”

SECTION 5. REFERENDUM. The Town Council shall submit the provisions of this ordinance to the vote of the electorate at the special national presidential primary preference election to be held on January 29, 2008 and may combine the questions set forth in the above sections as otherwise permitted by law.

SECTION 6. EFFECTIVE DATE. Upon approval by a majority vote of the electorate voting in the referendum and certification of same by the canvassing board, such provision shall be deemed adopted and shall be effective as to the next ensuing election of members of the Town Council. The provision so adopted shall be incorporated in the Town Charter and the charter so revised shall be filed with the Florida State Department. In the event that any of the provisions of this ordinance are not approved by such majority vote, such provision(s) shall be deemed null and void and of no effect.

Section 7. INTEGRATION The Town Council has voted to include another Town referendum question in the January, 2008, ballot for determination by the vote of the electorate. In the event that such other referendum question passes and thereby changes the date of council elections from March to November of odd years, the provisions of Section 3, above, shall be deemed to have been modified so as to change the date of council elections and the corresponding dates for qualification in accordance therewith.

Section 8. 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 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 9. REPEALING CLAUSE. All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.


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

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

DULY PASSED AND ADOPTED this 10<sup>th</sup> day of September , 2007.

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle D. Mayher, Town Clerk

By:   
Dennis C. Boback, Mayor

Approved as to legal sufficiency by:

  
Anne Dalton, Town Attorney