

ORDINANCE 07-07

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT PROVIDING FOR NOVEMBER ELECTIONS; AMENDMENT PROVIDING FOR FOUR YEAR TERMS FOR COUNCIL; INITIATIVE AND REFERENDUM; SEVERABILITY; REPEALING CLAUSE AND 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, 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, Chapters 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 herein by reference.

SECTION 2. 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. Elections. The regular election of the members of the council shall be held on the first Tuesday after the first Monday in November ~~second Tuesday in March~~. If necessary, a runoff election will be held on the first Tuesday in December ~~second Tuesday in April~~. The time period that candidates must qualify shall be from noon of the 50th day prior to the first Tuesday after the first Monday in November ~~second Tuesday in March~~ to noon of the 46th day, or as adjusted by a holiday or leap year.

SECTION 3. AMENDMENT - ELECTIONS. Section 5.03 of Article V of the Town of Fort Myers Beach Charter, adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.03 Terms of office.--The terms for all council seats, #1, #2, #3, #4, and #5, shall be for ~~3 years~~ 4 years, except during the transition period, during which councilpersons elected in March, 2007 to seats #1 and #2 shall initially be for serve a term from November, 2000 to March, 2004 March 2007 to November 2011 and seats councilpersons elected in November, 2005 to seats #3, #4, & #5 shall be for serve a term from November, 2001 to March, 2005. November, 2005 to November, 2009. No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

SECTION 4. REFERENDUM. The Town Council shall submit the provisions of this ordinance to the vote of the electorate at the special national presidential primary 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 5. INTEGRATION The Town Council recognizes that another Town referendum question may be included in the January, 2008, ballot for determination by the vote of the electorate. In the event that such referendum question, if any, passes and eliminates the provisions in the Town Charter regarding the run-off election, the provisions of Section 2, above, shall be deemed to have been modified so as to eliminate the language regarding the run-off election from the Town Charter.

SECTION 6. EFFECTIVE DATE. Upon approval by a majority of the 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. Subject to the provisions of Section 5, above, 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. 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 8. 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.

The foregoing ordinance was enacted 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:

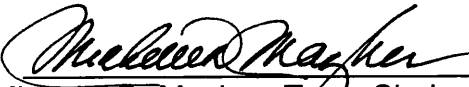
Dennis C. Boback, Mayor aye
Herb Acken, abstain
William Shenko, Jr. aye

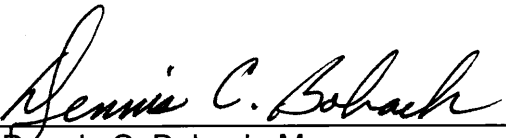
Larry Kiker, Vice Mayor nay
Charles Meador, Jr. aye

DULY PASSED AND ENACTED this 10th 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