

ORDINANCE NO. 19-08

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH CALLING AN ELECTION ON AMENDMENTS TO THE TOWN CHARTER TO BE HELD ON TUESDAY, MARCH 17, 2020; PROVIDING FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL A PROPOSED AMENDMENT TO THE TOWN CHARTER, SUCH CHARTER AMENDMENT CONCERNING THE DATE OF TOWN ELECTIONS AND TERMS OF OFFICE SO THAT THE TOWN'S REGULAR ELECTION COINCIDES WITH FEDERAL AND STATE ELECTION DATES AND ESTABLISHING FOUR (4) YEAR TERMS OF OFFICE FOR TOWN COUNCILMEMBERS; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR PROCEDURE FOR BALLOTING; PROVIDING FOR NOTICE; PROVIDING FOR RELATED MATTERS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER; AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 166.031, Florida Statutes, and following the Town of Fort Myers Beach Council's review the Town of Fort Myers Beach ("Town") has caused the final drafting and preparation of proposed amendments to the Town Charter for submission to the electors of the Town; and

WHEREAS, the Town Council desires to submit the proposed Charter amendments to the electors of the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true and correct and incorporated herein by this reference.

Section 2. An election is called for Tuesday, March 17, 2020, to present to the electors of the Town each of the ballot questions provided in Section 5 of this Ordinance.

Section 3. Balloting shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. at the regular polling places for Town elections or as otherwise provided by the Lee County Supervisor of Elections in accordance with applicable law. All qualified electors residing within the Town who are timely registered shall be entitled to vote. Early voting may be provided as authorized by law.

Section 4. That notice of the election shall be published in accordance with Section 100.342, *Florida Statutes*, in a newspaper of general circulation within the Town at least thirty (30) days prior to the election, the first publication to be in the fifth week prior to the election, and the second publication to be in the third week prior to the election, and shall be in substantially the following form:

NOTICE OF ELECTION

PUBLIC NOTICE IS GIVEN THAT PURSUANT TO AN ENABLING ORDINANCE DULY ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA (THE "TOWN"), AN ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON TUESDAY, MARCH 17, 2020, BETWEEN THE HOURS OF 7:00 AM AND 7:00 PM, AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSITION SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN.

There is one (1) proposed amendment to the Town Charter, which proposal is commonly referred to by the following ballot titles:

1. Election Date and Terms of Office

Polling place information, as well as the full text of the proposed Town Charter amendments and the enabling ordinance for this election are available at the Office of the Town Clerk, located at:

2525 Estero Boulevard, Fort Myers Beach, FL 33931
Contact: Michelle Mayher, Town Clerk

The Town Clerk may combine this Notice of Election with other Notices of Election for any other Charter amendments.

Section 5. The form of ballot for each of the proposed Charter amendments shall be as follows:

Section 5. The form of ballot for each of the proposed Charter amendments shall be as follows:

1. ELECTION DATE

The Town Charter currently provides that the regular election of members of the Town Council shall be held on the second Tuesday in March. It is proposed that the Charter be amended to revise such provisions by moving the regular election of members of the Town Council to the first Tuesday after the first Monday in November, so as to coincide with federal and state election dates.

Shall the above-described Charter amendment be adopted?

Yes
No

2. TERMS OF OFFICE.

The Town Charter currently provides that each term of office for Town Councilmembers is three (3) years, with a term limit of two (2) consecutive terms (e.g., a total of six (6) consecutive years in office). It is proposed that the Charter be amended to revise such provisions by increasing the term of office to four (4) years (a one (1) year increase), with a term limit of two (2) consecutive terms (e.g., a total of eight (8) consecutive years in office). Extending the term of office by one (1) year will ensure that all regular Town Council elections coincide with federal and state election dates as set forth in proposed Charter amendment number one above.

Shall the above-described Charter amendment be adopted?

Yes

No

The order of presentation of the above listed ballot items on the ballot may be revised pursuant to Section 8, below. The ballot questions and corresponding Notice of Election may be revised by Council Resolution.

Section 6. The Town Charter is further amended by adding those provisions indicated by underline and deleting those provisions indicated by strikethrough, to read as set forth in Exhibit "A", a copy of which is attached and incorporated herein by this reference.

Section 7. That the County registration books shall remain open at the office of the Lee County Supervisor of Elections until the date which is provided by law as the date that the registration books shall close in accordance with the provisions of the general election laws.

Section 8. The Town Clerk, with any necessary assistance and services from the Lee County Supervisor of Elections, is authorized to take all appropriate actions necessary to carry into effect and accomplish the provisions of this Ordinance.

Section 9. That the election returns shall be canvassed by the Lee County Canvassing Board as required by law.

Section 10. Copies of this Ordinance are on file in the office of the Town Clerk located at 2525 Estero Boulevard, Fort Myers Beach, Florida 33931, and are available for public inspection during regular business hours.

Section 11. That if a majority of the qualified electors voting on the proposed Charter amendment vote for its adoption, it shall be considered adopted and effective upon certification of the election results. Further, to the extent the Town Attorney determines that certain of the Charter amendments provided by Section 5 above are not dependent upon voter approval under that portion of Section 166.021, *Florida Statutes*, which enables certain charter and special act

provisions which presently exist as they existed prior to the initiation of municipal Home Rule Powers in 1973 to be amended by ordinance without a requirement for referendum approval, those limited Charter amendments identified in writing by the Town Attorney shall be effective without regard to the vote of the electors and shall be included in the revised Charter.

Section 12. The Town Clerk shall file the revised Charter with the Florida Department of State.

Section 13. The Charter amendment, if adopted by the electors shall be applied prospectively only unless otherwise stated by the Charter text.

Section 14. That in the event that the provisions of this Ordinance conflict with any other Town Ordinance, the provisions of this Ordinance – if stricter - shall prevail to the extent of any such conflict.

Section 15. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 16. Subject to the requirements of Section 11 above, it is the intention of the Town Council and it is ordained that the provisions of this Ordinance shall become and made a part of the Charter of the Town of Fort Myers Beach; that the sections of this Charter may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

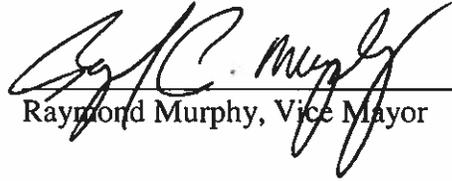
Section 17. That this Ordinance shall become effective immediately upon adoption.

The foregoing Ordinance was adopted by the Town Council upon a motion by Vice Mayor Murphy and seconded by Councilmember Butcher and upon being put to a roll call vote, the result was as follows:

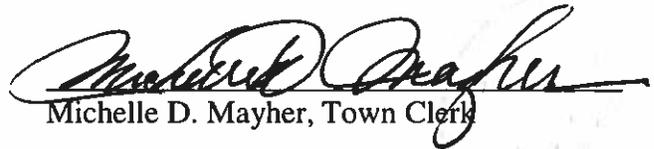
| | |
|--------------------------------|---------|
| Anita Cereceda, Mayor | excused |
| Ray Murphy, Vice Mayor | aye |
| Joanne Shamp, Councilmember | aye |
| Rexann Hosafros, Councilmember | nay |
| Bruce Butcher, Councilmember | aye |

ADOPTED this 5th day of August, 2019 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH


Raymond Murphy, Vice Mayor

ATTEST:


Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:

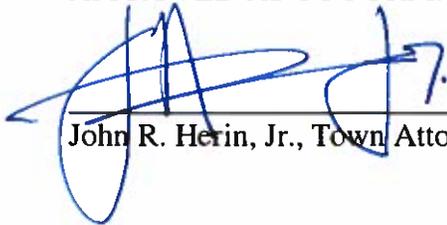

John R. Herin, Jr., Town Attorney

EXHIBIT "A"

The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:¹

Sec. 5.01. - Elections.

The regular election of the members of the council shall be held on the ~~first~~ second Tuesday ~~after the first Monday in November~~ March, ~~except in presidential preference primary years when it shall be held on the third Tuesday in March~~ or as otherwise provided by general law. The time period that candidates must qualify shall be from noon of the 50th day prior to the election to noon of the 46th day, or as adjusted by a holiday or leap year.

Section 5.03 - Terms of office.

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for ~~3~~ 4 years, ~~except during the transition period~~, seats #1 and #2 shall initially be for a term from ~~November, 2000 to March, 2004~~ March, 2019 to November, 2023, and seats #3, #4, & #5 shall be for a term from March, 2020 to November, 2024. 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 4.02 Mayor -- At the first meeting after the ~~second Tuesday in March~~ first Tuesday after the first Monday in November, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

Section 4.03 Vice mayor -- At the first meeting after the ~~second Tuesday in March~~ first Tuesday after the first Monday in November, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

^{1/} Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.