

ORDINANCE NO. 24-31

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTIONS 4.02 “MAYOR,” 4.03 “VICE MAYOR,” 5.01 “ELECTIONS,” AND 5.03 “TERMS OF OFFICE” OF FORT MYERS BEACH TOWN CHARTER, TO CODIFY CHANGES TO THE DATE OF TOWN ELECTIONS FROM MARCH TO NOVEMBER AND TO ESTABLISH FOUR (4) YEAR TERMS OF OFFICE FOR TOWN COUNCIL MEMBERS, AS APPROVED BY THE VOTERS AT THE MARCH 2020 MUNICIPAL ELECTION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER’S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

WHEREAS, 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 service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach 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, on August 5, 2019, the Town Council adopted Ordinance 19-08, to amend the Town’s Charter so that the Town’s regular election coincides with Federal and State election dates and to establish four (4) year terms of office for Town Council members, and also directed the Supervisor of Elections to place the proposed amendments on the ballot for consideration by the electorate; and

WHEREAS, on March 17, 2020, a municipal election was held in the Town of Fort Myers Beach in conjunction with the presidential preference primary election; and

WHEREAS, the proposed amendment to the Town Charter as it pertains to the election date was approved by a vote of 1,877 to 372, and the proposed amendment to the terms of office was approved by a vote of 1,348 to 891, as certified by the Lee County Supervisor of Elections to the Town on April 3, 2020; and

WHEREAS, the Town desires to amend Sections 4.02, 4.03, 5.01, and 5.03 of the Town Charter as approved by the Town’s voters during the 2020 municipal election and as provided in Ordinance 2019-08; and

WHEREAS, on the 21st day of October, 2024, the Town Council held a first reading of Ordinance 24-31; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town’s website on the 18th day of October, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in the News Press on the 18th day of October, 2024, which is 10 days prior to the final reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

WHEREAS, on the 28th day of October 2024, the Town Council held a second and final reading of Ordinance 24-31; and

WHEREAS, the Town Council determined that adoption of the Ordinance as provided herein is in the best interests of the health, safety, welfare, and morals of the Town’s residents.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. Sections 4.02 “Mayor,” 4.03 “Vice mayor,” 5.01 “Elections,” and 5.03 “Terms of office” of the Town of Fort Myers Beach Charter, as provided in Ordinance 19-08 and approved by the Town’s voters during March 2020 municipal election, are hereby amended to read as follows:

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.

Sec. 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 ~~November 2001 to March 2005~~ 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.

Sec. 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.

Sec. 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 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.

Section 3. That the Town Council intends that the provisions of this Ordinance be made a part of the Town of Fort Myers Beach Charter, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the town manager without further process.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. If any section, subsection, sentence, clause, word, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member King and seconded by Council Member Safford, and upon being put on a roll call vote, the results were as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Karen Woodson, Council Member	Aye
Scott Safford, Council Member	Aye

ADOPTED this 28th day of October 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers
Dan Allers (Nov 4, 2024 06:33 EST)

Dan Allers, Town Mayor

ATTEST:

Amy Baker
Amy Baker (Nov 4, 2024 08:16 EST)

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Nancy Stuparich
Nancy Stuparich (Nov 1, 2024 20:55 EDT)

Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 1st day of November 2024.