

ORDINANCE NO. 24-32

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2 (A) OF ORDINANCE 2005-04 FOR CONSISTENCY WITH THE CHANGES TO THE TOWN CHARTER APPROVED BY THE TOWN VOTERS AT THE MUNICIPAL ELECTION ON MARCH 17, 2020; 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, Ordinance 2005-04 was adopted on February 28, 2005, clarifying and interpreting the language in Sections 4.02 "Mayor" and 4.03 "Vice mayor" of the Town Charter and changing the month of the election of the Town Mayor and Vice mayor from November to March in non-election years; and

WHEREAS, on August 5, 2019, the Town Council adopted Ordinance 19-08, to amend the Town Charter so that the Town's regular election coincides with Federal and State election dates in November, and directed the Supervisor of Elections to place the proposed amendments on the ballot for approval by the electorate; and

WHEREAS, on March 17, 2020, the Town of Fort Myers Beach held a municipal election, and the proposed Charter amendment was approved by a vote of 1,877 to 372, as certified by the Lee County Supervisor of Elections to the Town on April 3, 2020; and

WHEREAS, Ordinance 2005-04 was not thereafter amended for consistency with the change in the time for municipal elections, necessitating the adoption of this Ordinance; and

WHEREAS, on the 21st day of October, 2024, the Town Council held a first reading of Ordinance 24-32 and approved Ordinance 24-32 with no changes for second reading; 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 24-32; and

WHEREAS, the Town Council determined that adoption of Ordinance 24-32 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. Section 2 of Ordinance 05-04, is hereby amended to read as follows:

SECTION 2. For clarification and as a matter of policy Section 4.02 Mayor and Section 4.03 Vice mayor shall be interpreted to include:

Section 4.02 Mayor.—At the first regularly scheduled meeting following the town’s regular election, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as a 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 regularly scheduled meeting following the town’s regular election, 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.

- A. In non-election years the election of mayor and vice-mayor shall be at the first regularly scheduled meeting in ~~November~~ March ~~November~~.
- B. Should the vice mayor become interim mayor, then, the council, by a majority vote, shall elect from its membership an interim vice mayor who shall serve as mayor during the absence or disability of the interim mayor.

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 Safford and seconded by Council Member Woodson, 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 (Nov 4, 2024 06:34 EST)

Dan Allers, Town Mayor

ATTEST:


Amy Baker (Nov 4, 2024 08:17 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 Sturparich (Nov 1, 2024 20:54 EDT)

Vose Law Firm, Town Attorney

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