

**EMERGENCY ORDINANCE NO. 25-16**

**AN EMERGENCY ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, IDENTIFYING A QUALIFYING PERIOD FOR THE FILLING OF VACANCIES, WHICH MAY RESULT FROM THE SPECIAL RECALL ELECTION OF COUNCIL MEMBERS JOHN R. KING AND KAREN WOODSON, AS SCHEDULED FOR THE 4TH DAY OF NOVEMBER 2025 BY THE HONORABLE J. FRANK PORTER, CHIEF JUDGE OF THE 20<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR LEE COUNTY, FLORIDA PURSUANT TO SECTION 100.361(4), FLORIDA STATUTES; MAKING A FINDING OF EMERGENCY; PROVIDING FOR NON-CODIFICATION, SEVERABILITY, AN EFFECTIVE DATE, AND AN ENDING 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**, Section 166.041(3)(b), Florida Statutes, permits the governing body of a municipality, by a two-thirds vote, to enact an emergency ordinance without complying with the requirements of paragraph (a) of Section 166.041; and

**WHEREAS**, Section 100.361, Florida Statutes contains uniform procedures to be followed for the recall of elected municipal officials; and

**WHEREAS**, a municipal recall is underway to remove Council Members John R. King and Karen Woodson from their elected positions on the Town Council; and

**WHEREAS**, on September 4, 2025, pursuant to Section 100.361(3)(f), Florida Statutes the Lee County Supervisor of Elections certified to the Town Clerk that at least 15 percent of the qualified electors in the Town of Fort Myers Beach have signed petitions for recall of Council Members King and Woodson; and

**WHEREAS**, the Town Clerk thereafter immediately upon receipt of the Lee County Supervisor of Elections determination, served notice of the determination upon Council Members King and Woodson on September 4, 2025 by hand delivery; and

**WHEREAS**, pursuant Section 100.361(4), Florida Statutes, Council Members King and Woodson each had 5 days from September 4, 2025 to voluntarily resign from their elected positions by notifying the Town Clerk and neither chose to deliver a written resignation; and

**WHEREAS**, pursuant to Section 100.361(4) “[i]n the absence of a resignation, the chief judge of the judicial circuit in which the municipality is located shall fix a day for holding a recall election for the removal of those not resigning. Any such election shall be held not less than 30 days or more than 60 days after the expiration of the 5-day period last-mentioned and at the same time as any other general or special election held within the period; but if no such election is to be held within that period, the judge shall call a special recall election to be held within the period aforesaid.” and

**WHEREAS**, the Honorable J. Frank Porter, the Chief Judge of the 20<sup>th</sup> Judicial Circuit on September 10, 2025 ordered the Lee County Supervisor to schedule a Special Recall Election to be held on November 4, 2025; and

**WHEREAS**, Section 4.01(a) of the Town of Fort Myers Beach Charter provides that the Town Council Members shall be elected at large; and

**WHEREAS**, Section 100.361(6), Florida Statutes provides that “[i]f an election is held for the recall of members elected only at-large, candidates to succeed them for the unexpired terms shall be voted upon at the same election and *shall be elected in the same manner as provided by the appropriate law for the election of candidates at general elections*. Candidates shall not be elected to succeed any particular member. If only one member is removed, the candidate receiving the highest number of votes shall be declared elected to fill the vacancy. If more than one member is removed, candidates equal in number to the number of members removed shall be declared elected to fill the vacancies; and, among the successful candidates, those receiving the greatest number of votes shall be declared elected for the longest terms. Cases of ties, and all other matters not herein specially provided for, shall be determined by the rules governing elections generally.” (Emphasis added); and

**WHEREAS**, the Town Council adopted Ordinance 24-12, which identifies a qualifying period for candidates for a general election, but does not identify a qualifying period for the filling of vacancies which may result from a Special Recall Election within the deadlines set forth in Section 100.361(4); and

**WHEREAS**, the Town has an immediate need to create an ordinance identifying a qualifying period for a Special Recall Election so the Lee County Supervisor of Elections has sufficient time to: 1) review qualifications of individuals seeking to fill any vacancy resulting from the Special Recall Election; 2) review any petitions submitted by individuals for qualification by petition due on Friday, September 12, 2025 by 5:00 PM at the Lee County Supervisor of Elections Office; 3) create a ballot as required by Section 100.361(5); and 4) mail ballots to overseas voters or others requesting mail ballots, to allow for the Special Recall Election to be held on the 4th day of November, 2025 as ordered by the Honorable J. Frank Porter, Chief Judge; and

**WHEREAS**, adoption of this Emergency 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 COUNCIL OF THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

**Section 1.** That the above recitals are true and correct, and incorporated herein by this reference as legislative intent.

**Section 2.** This Emergency Ordinance is adopted to address a situation in the Town of Fort Myers Beach in the interests of the public health, safety, welfare, and morals, and for the purpose of identify a qualifying period to fill vacancies which may result from the special recall election. The Town Council finds that due to the subject matter of the ordinance and the need for its immediate adoption, this is an appropriate use of the Town's ability to adopt an emergency ordinance pursuant to Section 10.02(b) of the Town's Charter.

**Section 3.** The qualifying period for the Special Recall Election to be held on November 4, 2025 shall open on Monday, September 15, 2025 at 9 am and will close at 5 pm on Tuesday, September 16, 2025.

**Section 4.** The provisions of this Ordinance shall not be codified.

**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 take effect immediately upon its adoption.

**Section 7.** This Ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted.

The foregoing emergency Ordinance was **NOT** adopted by the Town Council upon a motion by Council Member Safford and seconded by Vice Mayor Atterholt, and upon being put on a roll call vote, the results were as follows:

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

**ADOPTED** this 11<sup>th</sup> day of September 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

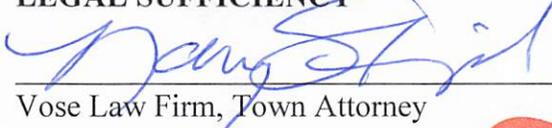
**TOWN OF FORT MYERS BEACH**

  
\_\_\_\_\_  
Dan Allers, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

  
\_\_\_\_\_  
Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 11<sup>th</sup> day of September 2025.

**NOT ADOPTED**