

ORDINANCE No. 06-17

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH
AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT-
RUN-OFF ELECTION PROVISION FOR 2007 ELECTIONS ONLY;
SEVERABILITY; REPEALING CLAUSE AND 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 services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Florida Statute 100.3605 (2) authorizes the Town to change, by ordinance, the dates for qualifying and for the election of members of the Town Council and provide for the orderly transition of office resulting from such date changes; and

WHEREAS, Article V of the Town Charter provides for the regular election of the members of council on the second Tuesday in March with a run-off election if necessary on the second Tuesday in April, if no candidate receives a majority of votes for that office; and

WHEREAS, the Lee County Supervisor of Elections has advised the Town that, for 2007, she is able to conduct a Town election on the second Tuesday in March in compliance with the Town Charter; and

WHEREAS, the Lee County Supervisor of Elections has advised the Town that, for 2007, she cannot conduct a Town run-off election (if necessary) on the second Tuesday in April but rather can conduct it on the first Tuesday in May; 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.

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

SECTION 1. INCORPORATION. The above "whereas" clauses are hereby incorporated into the body of this Resolution by reference.

SECTION 2. AMENDMENT – ELECTIONS. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows for the March, 2007 election only:

"Section 5.01. Elections. The regular election of the members of the council shall be held on the second Tuesday in March. If necessary, a runoff election will be held on the first Tuesday in May. The time period that candidates must qualify shall be from noon of the 50th day prior to the second Tuesday in March to noon of the 46th day, or as adjusted by a holiday or leap year. "

SECTION 3. 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 invalid, then such provision shall be null and void and shall be

deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 4. REPEALING CLAUSE. All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 5. EFFECTIVE DATE. This ordinance shall become effective immediately upon its adoption.

SECTION 6. SUNSET DATE. This ordinance shall automatically stand repealed as of June 1, 2007, unless extended by act of Town Council prior thereto. Upon such repeal, the language of the Charter prior to this Ordinance shall be restored, i.e.,:

“Section 5.01. Elections. The regular election of the members of the council shall be held on the second Tuesday in March. If necessary, a runoff election will be held on the second Tuesday in April. The time period that candidates must qualify shall be from noon of the 50th day prior to the second Tuesday in March to noon of the 46th day, or as adjusted by a holiday or leap year. “

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Meador and seconded by Council Member Boback and, upon being put to a vote, the result was as follows:

Dennis C. Boback, Mayor	aye
Don Massucco, Vice Mayor	aye
Garr Reynolds	aye
Charles Meador, Jr.	aye
William Shenko, Jr.	aye

DULY PASSED AND ENACTED this 16th day of October, 2006.

ATTEST:

By: 
Michelle Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Dennis C. Boback, Mayor

Approved as to form by:


Anne Dalton, Town Attorney