

ORDINANCE NO. 16-07

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH FLORIDA, SUBMITTING TO REFERENDUM AN AMENDMENT TO THE CHARTER OF THE TOWN OF FORT MYERS BEACH; AMENDING ARTICLE XVII, TO RE-INSTATE THE REVENUE SHARING PROVISIONS PREVIOUSLY CONTAINED IN CHARTER SECTION 17.01; PROVIDING FOR NOTICE TO BE PUBLISHED; PROVIDING THAT THIS ORDINANCE, WHEN ADOPTED, WILL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN OF FORT MYERS BEACH IN MARCH 2017 TO BECOME EFFECTIVE AS PROVIDED BY LAW; PROVIDING FOR A BALLOT TITLE AND QUESTION; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; CONFLICTS AND SEVERABILITY; MODIFICATION; AND, AN EFFECTIVE DATE.

WHEREAS, the Town Council is the governing body in and for the Town of Fort Myers Beach, a municipal corporation in the State of Florida; and

WHEREAS, Chapter 166, Florida Statutes, provides a methodology for Charter amendments where such amendments may be submitted to a referendum vote by the municipal governing body, in an ordinance format; and

WHEREAS, Section 13.01 allows the Council, by ordinance, to propose amendments to the Town Charter in accordance with general law; and

WHEREAS, the Town held a successful referendum election in March 2016, which served to eliminate the revenue sharing provisions previously contained in Charter section 17.01; and

WHEREAS, the provisions of Charter section 17.01 allowed the Town to meet the revenue sharing criteria in Florida Statutes section 218.23 through combining its millage rate with that of other special districts operating within the boundaries of the Town to achieve the 3 mills equivalent; and

WHEREAS, as a result in the property value increases for the 2015/16 fiscal year the Town did meet the revenue sharing criteria without reliance on the former provisions of Charter section 17.01; and

WHEREAS, the Town subsequently determined it is in the best interest of the Town to re-instate the revenue sharing provisions to ensure the Town will meet the criteria set forth in

Florida Statutes s. 218.23 into the future and thereby hedge against a potential decrease in property values; and

WHEREAS, the Town sought input from the Florida Attorney General's Office and the Department of Revenue regarding the appropriateness of re-instating the revenue sharing provisions via the referendum election process proposed in this ordinance and received favorable responses; and

WHEREAS, the Town Council has read, reviewed, and publically considered the provisions of this ordinance; and, finds it is in the best interest of the citizens of the Town of Fort Myers Beach to adopt this ordinance and seek a successful referendum vote.

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

SECTION 1: AMENDMENTS

The Charter of Fort Myers Beach, Florida, is hereby amended, to include Article XVIII, Section 17.01, as follows:

Referendum 1

ARTICLE XVII. REVENUE SHARING

Section 17.01. Town Eligibility; procedure.

It is recognized that the services provided by independent districts within the municipal boundaries provide essential services which would customarily be provided by municipal government. It is therefore declared that the Town of Fort Myers Beach will be eligible to participate in revenue-sharing beyond the minimum entitlement in any fiscal year, provided that the town and all independent special districts created under special law, combined, levy ad valorem taxes in amounts as required by section 218.23, Florida Statutes. This provision is not subject to sunset or repeal except by unanimous vote of the Town Council followed by referendum approval.

SECTION 2: BALLOT TITLE AND QUESTION

The ballot title and question for the Referendum Item proposed herein to be placed on the March 7, 2017 ballot for consideration by the qualified electors of the Town of Fort Myers Beach are is set forth in attached Exhibit "A".

SECTION 3: CODIFICATION AND SCRIVENER'S ERRORS

The Town Council intends that this Ordinance be made part of the Charter and Code of Ordinances, Town of Fort Myers Beach, Florida; and that sections of this Ordinance can be

renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the Town Manager without the need for a public hearing.

SECTION 3: CONFLICTS OF LAW AND SEVERABILITY

Conflicts of Law. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5: MODIFICATION

It is the intent of the Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing. Such modifications will be incorporated into the final version of this Ordinance.

SECTION 6: EFFECTIVE DATE

This Ordinance takes effect immediately upon adoption by the Town Council.

THE FOREGOING ORDINANCE was adopted by the Town Council upon a motion by Council Member Cereceda and seconded by Council Member Gore and upon being put to a vote, the result was as follows:

Dennis Boback	aye
Summer Stockton	absent
Tracey Gore	aye
Rexann Hosafros	absent
Anita Cereceda	aye

DULY PASSED AND ADOPTED this 24th day of October 2016 by the Town Council of the Town of Fort Myers Beach.

ATTEST:

By: 
Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Dennis C. Boback, Mayor

Approved as to Form:

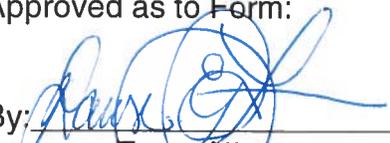
By: 
Town Attorney

EXHIBIT A

REFERENDUM # 1

Sec. 17.01

TITLE: CHARTER AMENDMENT REINSTATING REVENUE SHARING CRITERIA TEXT TO MEET STATUTORY THRESHOLD TO OBTAIN FUNDS

SUMMARY: Charter Amendment allows the Town to meet the annual state revenue sharing criteria by including the ad valorem levy of all independent special districts operating within the Town boundaries as part of the Town's calculation necessary to meet the millage equivalency threshold and receive state funds. The proposed amendment is similar to previous Charter section 17.01.

QUESTION: Shall this Charter Amendment be adopted?

OPTIONS: Yes for approval
 No, for rejection

TEXT: **Article XVII. Revenue Sharing.**

Sec. 17.01. Town eligibility; procedure.

It is recognized that the services provided by independent districts within the municipal boundaries provide essential services which would customarily be provided by municipal government. It is therefore declared that the Town of Fort Myers Beach will be eligible to participate in revenue-sharing beyond the minimum entitlement in any fiscal year, provided that the town and all independent special districts created under special law, combined, levy ad valorem taxes in amounts as required by section 218.23, Florida Statutes. This provision is not subject to sunset or repeal except by unanimous vote of the Town Council followed by referendum approval.