

ORDINANCE No. 2008-26

AN ORDINANCE OF THE CITY OF ST PETE BEACH PROPOSING A CHARTER AMENDMENT REQUIRING REFERENDUM APPROVAL OF CASINO GAMBLING TO THE EXTENT ALLOWED BY LAW WITHIN THE MUNICIPAL LIMITS OF ST PETE BEACH; PROHIBITING CASINO GAMBLING WITHIN THE CITY UNTIL SUCH REFERENDUM APPROVAL IS GRANTED BY THE CITIZENS OF THE CITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR DEFINITION OF TERMS; DEFINING CASINO GAMBLING TO MEAN PLAYING OR ENGAGING IN ANY GAME OF CHANCE FOR MONEY OR ANY OTHER THING OF VALUE, REGARDLESS OF HOW SUCH GAME IS NAMED, LABELED, OR OTHERWISE CHARACTERIZED, WHICH ACTIVITY WAS UNLAWFUL UNDER THE CONSTITUTION OR LAWS OF THE STATE OF FLORIDA AS OF JUNE 10, 2008; PROVIDING FOR BALLOT LANGUAGE; CALLING A REFERENDUM OF THE QUALIFIED ELECTORS OF THE CITY ON NOVEMBER 4, 2008 ON THIS PROPOSED CHARTER AMENDMENT; PROVIDING THAT SUCCESSIVE BALLOT MEASURES TO APPROVE CASINGO GAMBLING SHALL NOT BE SUBMITTED TO THE ELECTORATE WITHIN TWENTY FOUR MONTHS OF A FAILED REFERENDUM TO APPROVE CASINO GAMBLING, PROVIDED THAT SUCH RESTRICTION IS SUBJECT TO THE POWERS RESERVED TO THE ELECTORATE TO INITIATE CHARTER AMENDMENTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the 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, It serves a municipal purpose for casino gambling to be authorized only by the electors of the City of St. Pete Beach.

PASSED AND DULY ADOPTED, with a quorum present and voting, this 12th day of August, 2008.

First Reading, 5-27, 2008

Second Reading: 8-12, 2008

CITY OF ST PETE BEACH, FLORIDA, BY AND
THROUGH THE CITY COMMISSION OF THE
CITY OF ST PETE BEACH

By: Mike Finnerty
Mayor

ATTEST:

By: Lanala Bree
Deputy City Clerk

EXHIBIT A
NOTICE OF REFRENDUM ELECTION

Notice is hereby given that a referendum election shall be held on Tuesday, November 4, 2008 in the City of St Pete Beach. The referendum will seek voter approval of a charter amendment providing that, to the extent allowed by law, if and when casino gambling becomes lawful within the City of St Pete Beach under the constitution and laws of the State of Florida, no action may be taken by the City Commission, or by any elected or appointed bodies, officials or employees of the City the effect of which is to authorize, to approve, or in any manner, or to allow casino gambling to occur anywhere in the City unless and until the voters approve of casino gambling, with such voter approval to be by the approving vote of sixty five percent (65%) of the votes cast in a referendum separate and apart from any other referendum, statewide or otherwise, on the question, to define casino gambling to include any game of chance considered unlawful as of June 10, 2008, and to prohibit successive ballot measures proposed within twenty four (24) months of the date of a similar failed referendum.

In accordance with the Constitution and laws of the State of Florida as well as the Charter of the City of St Pete Beach, all qualified electors of the City of St Pete Beach shall be entitled to vote in such referendum election to which this notice pertains. The polls will be open from ____ a.m. until ____ p.m. on November 4, 2008, and will be held at _____.

The City of St Pete Beach shall be authorized to amend the charter as set forth above only if such amendment has been approved by vote of a majority of the qualified electors of the City of St Pete Beach.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of St Pete Beach, as follows:

SECTION 1. This Ordinance is enacted by the City Commission of the City of St. Pete Beach, Florida (the "City") pursuant to the Constitution and laws of the State of Florida, the Charter of the City, and other applicable provisions of law. The recitals above are hereby incorporated herein.

SECTION 2. CHARTER AMENDMENT REQUIRING REFERENDUM APPROVAL OF CASINO GAMBLING. The City Charter of the City of St Pete Beach is amended by adding a new Article IX to read as follows:

(A) Article IX Casino Gambling. Reservation of Power by the Electorate.

The citizens of St Pete Beach reserve to themselves the power to approve or disapprove casino gambling of any nature within the boundaries of the City. Therefore, if and when casino gambling becomes lawful within the City of St. Pete Beach under the Constitution and laws of the State of Florida, no action may be taken by the City Commission, or by any elected or appointed bodies, officials or employees of the City the effect of which is to authorize, to approve, or in any manner, or to allow casino gambling to occur anywhere in the City unless and until casino gambling in the City is first authorized by an approving vote of sixty five percent (65%) of the votes cast of the qualified electors residing in the City and voting on the question at a referendum separate and apart from any other referendum, statewide or otherwise, on the question.

(B) Definition.

The term "casino gambling" means "playing or engaging in any game of chance for money or any other thing of value, regardless of how such game is named, labeled or otherwise characterized, which activity was unlawful under the Constitution or laws of the State of Florida as of June 10, 2008.

(C) Limitation.

This charter provision shall be effective to the extent allowed by law. In the event that any portion of this charter section shall be unenforceable or unlawful, the remaining provisions shall be construed to be severable and enforced to the extent legally possible.

(D) Successive Ballot Measures

If the electors of the City fail to approve a ballot measure allowing casino gambling under the provisions of this charter section, no successive such ballot measure may be submitted to the electors of the City for approval within twenty four (24) months of the date of the election at which such measure failed to gain approval.

SECTION 3. OFFICIAL BALLOT. The form of ballot for voting in the City Charter Amendment referendum and bond referendum shall be in substantially the following form:

Ballot title

CITY OF ST PETE BEACH CHARTER AMENDMENT PROHIBITING THE
AUTHORIZATION OF CASINO GAMBLING UNLESS APPROVED BY VOTERS

BALLOT SUMMARY

Shall The City of St Pete Beach City Charter be amended to prohibit the authorization of casino gambling unless first approved by a vote of the electorate presented in a separate referendum and approved by 65% of the votes cast, to define casino gambling to include any game of chance unlawful as of June 10, 2008, and to prohibit successive ballot measures proposed within 24 months of the date of a similar failed referendum?

Yes

No

SECTION 4. REFERENDUM. A City Charter Amendment referendum of the qualified electors of the City is hereby called to be held on Tuesday, November 4, 2008 to determine whether the City Charter will be amended as proposed in Section Two hereof. All qualified electors in the City shall be entitled and permitted to vote in such Referendum.

SECTION 5. NOTICE OF REFERENDUM. At least thirty (30) days' notice of the City Charter Amendment referendum shall be published in a daily

newspaper of general circulation in the City, at least twice, once in the fifth week and once in the third week prior to the week in which the Referendum is held, substantially in the form attached hereto as Exhibit "A" and in the manner provided in Chapter 100.342, Florida Statutes.

SECTION 6. Sections Two, Three, Four, Five, and Six of this Ordinance shall become effective immediately upon adoption. Section One shall become effective upon approval by the electors of the City of St Pete Beach and filing of the charter amendment with the Secretary of State as provided by law.