

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE II, ENTITLED "CITY COMMISSION," TO AMEND THE AGENDA REQUIREMENTS AND RULES OF PROCEDURE APPLICABLE TO MEETINGS OF THE CITY COMMISSION AND CITY COMMISSION COMMITTEES; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Article II of Chapter 2 of the City Code, entitled "City Commission," establishes rules of procedure and agenda requirements for meetings of the City Commission; and

WHEREAS, the Mayor and City Commission now desire to amend the City Code to strengthen the City's procedural requirements and promote efficiency and decorum in the conduct of public business.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Article II of Chapter 2 of the Miami Beach City Code is hereby amended to state as follows:

**CHAPTER 2
ADMINISTRATION**

* * *

Article II. City Commission

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Sec. 2-11. Time of regular meetings and presentations and awards meetings of the city commission; and time of city commission committee meetings.

(a) Regular meetings and presentations and awards meetings of the city commission. All regular meetings and presentations and awards meetings of the city commission will be generally held on the first and third Wednesdays of each month, respectively, with the dates and times to be established by resolution; however, the city commission may from time to time cancel and/or change the dates and starting times of the meetings as it deems advisable and proper. The city commission may recess for one month during the summer (June, July, or August) as established by resolution. Regular meetings of the city commission shall commence no earlier than 8:30 a.m. and shall

terminate no later than 7:00 p.m. The city commission may, by majority vote, extend the duration of a regular meeting for a period of one additional hour at a time.

(b) *City commission committee meetings.* Meetings of city commission committees, as established by resolution, shall be limited to four hours in duration, except that a meeting may be extended, by majority vote of the committee, for a period of one additional hour at a time.

Sec. 2-12. Chairperson.

- (a) The mayor shall serve as the chairperson of the city commission. In the mayor's absence, the vice-mayor shall serve as the chairperson of the city commission. The chairperson presides at all meetings of the city commission. The chairperson of each city commission committee shall preside at meetings of the committee.
- (b) As to both city commission meetings and commission committee meetings, the chairperson's responsibilities shall include, but are not limited to, the following:
 - (1) Open the meeting at the appointed time and call the meeting to order, having ascertained that a quorum is present.
 - (2) Announce the business to come before the city commission or city commission committee, in accordance with the prescribed order of business.
 - (3) Recognize all commissioners, the city manager, the city attorney, and the city clerk, who seek the floor; and recognize members of the public who desire to address the city commission or city commission committee.
 - (4) Preserve decorum and order, and in case of disturbance or disorderly conduct in the commission chamber or other meeting place, may cause the same to be cleared or cause any disruptive individual to be removed.
 - (5) Call to order any member of the commission who violates any of these procedures and, when presiding, decide questions of order, subject to a motion to appeal, consistent with Robert's Rules of Order, which is incorporated by reference in section 2-14(i).
 - (6) Expedite business in every way compatible with the rights of the members, and the right of the public to participate in public hearings. To that end, the chairperson shall use best efforts to call public hearing items as close to the advertised hearing time as possible.
 - (7) Remain objective. For the chairperson to make a motion, the gavel must be relinquished. The gavel shall be relinquished in the following order:

- a. To the vice-mayor;
- b. To other commissioners based upon seniority.

If the chairperson relinquishes the gavel, the chairperson should not return to the chair until the pending motion has been disposed of.

- (8) Declare the meeting adjourned when the commission or committee so votes, when the applicable time limit in section 2-11 has been reached, or at any time in the event of an emergency affecting the safety of those present.

Sec. 2-13. – Rules of inquiry, discussion, and debate.

(a) Decorum.

- (1) Every commissioner desiring to speak should address the chairperson, and upon said recognition by the chairperson, should confine discussion to the question under debate.
- (2) A commissioner, once recognized, should not be interrupted when speaking, unless a point of order is raised. The commissioner should then cease speaking until the question of order is determined. If in order, the commissioner shall be at liberty to proceed.
- (3) A commissioner shall be deemed to have yielded the floor when the commissioner has finished speaking. A commissioner may claim the floor only when recognized by the chairperson.

(b) Motions. All motions shall be made and seconded before debate on the motion consistent with Robert's Rules of Order, which is adopted by reference in section 2-14(i).

(c) Motions to amend. An amendment to a motion must be germane, that is, it must relate to the substance of the main motion. An amendment may not introduce an independent question, and an amendment may not be introduced for purposes of rejecting the original motion. A commissioner may seek to amend the main motion in either of the following two ways:

- (1) By consent of the members. The chairperson, or another commissioner through the chairperson, may ask for certain changes to be made to the main motion. If the maker of the motion does not object to the proposed amendment, the motion shall stand as amended.
- (2) Formal amendment. An amendment may be proposed formally by motion to amend the main motion. The motion must be seconded, and the motion is debatable. If the motion to amend is adopted by majority vote, the main motion shall include the amendment. If the motion to amend fails, the main

motion shall not include the amendment. The mayor and members of the city commission are encouraged to draft written amendments in advance of the meeting, in order to facilitate the city commission's discussion.

- (3) *Vote on amended motion.* In the event that a pending motion is amended by either method above, a separate vote on the motion, as amended, shall be required.

Sec. 2-142. Meeting procedures and agendas.

- (a) *Statement of legislative intent.* Consistent with the City of Miami Beach Charter, this section will help uphold the principles of separation of powers and checks and balances. It will also lend to improving transparency in government, and promoting efficiency and decorum in the conduct of public business.
- (b) *Ordinance and charter amendment sponsors and co-sponsors.* Any proposed ordinance or charter amendment that appears on the agenda of a city commission meeting for discussion, referral, and/or approval by the mayor and city commission must have the name of the mayor, or a member of the city commission placed prominently next to it as the primary sponsor of the legislation. Except for the setting of a time certain, which is governed by the provisions in subsection (d)(2) hereof, the primary sponsor controls the placing of the item on an agenda and the withdrawal of the item from an agenda. Co-sponsors are merely intended to provide additional support for an item and do not possess any procedural control of the item. Notwithstanding the foregoing, members of the city commission shall not be precluded from sponsoring ordinances or charter amendments on the same subject matter, provided that the proposed ordinances or charter amendments contain different terms or text. The following are excepted from the requirement of a sponsor:
- (1) applications for amendments to the land development regulations filed by appointed boards or property owners pursuant to subsection 118-162(a) or (b) of the City Code; and
 - (2) resolutions that do not concern charter amendments; discussion and/or referral items that do not concern charter amendments; discussion and/or referral of items to boards or committees not scheduled for first or second reading as an ordinance; and referrals to boards or committees proposed by the city manager or city attorney.
- (c) *Agenda submission schedule.*
- (1) *Submission of agendas.* Agenda items must be submitted to the city clerk at least no later than eight calendar six business days prior to the date of a regularly scheduled meeting, or at least five business days prior to a presentations and awards meeting, special city commission meeting, or city commission workshop, in order to be printed as part of the agenda on the initial print day. All city commission meeting agendas shall be submitted to the mayor and city commissioners on the initial print day of the agenda, which shall be no later than

~~five calendar~~ four business days preceding a regularly scheduled city commission meeting, presentations and awards meeting, special city commission meeting, or city commission workshop. The foregoing deadlines shall not apply to a meeting called to address an emergency. ~~In those instances when a special meeting is called pursuant to section 2.04 of the City Charter, the agenda shall be submitted to the mayor and city commissioners as soon as practicable before the special meeting.~~ The meeting agenda shall determine the business conducted at the meeting.

- (2) *Supplemental agenda materials.* Agenda items that are included in the agenda that is printed on the initial print day may be supplemented, amended, or corrected by materials in a supplemental agenda, and as may be provided by the city clerk in an errata document or announcement.
- (3) *Addendum agenda items.* Any item not included in the agenda submitted to the mayor and city commission on the initial print day must be submitted by the city clerk to the mayor for a determination whether the item is to be placed on the agenda as an addendum item. If the mayor declines to place the item on the agenda as an addendum item, then the item shall be submitted to the city commission for a vote and the item shall only be considered at the city commission meeting upon a finding by the city commission, by a five-seventh affirmative vote, that such item:
 - a. Constitutes a public emergency affecting life, health, property, or public safety and should be considered immediately; or
 - b. Does not constitute a public emergency, but should be considered immediately.
- (4) *Four-day rule for regular meetings, presentations and awards meetings, special meetings, and city commission workshops.* A copy of each agenda item sponsored and initiated by a city commissioner and placed on a meeting agenda for a regular city commission meeting, presentations and awards meeting, special meeting, or city commission workshop, including all supporting materials, shall be furnished to the members of the commission not later than four (4) business days prior to the date of the meeting. The provisions of this rule shall be deemed waived unless asserted by a commissioner before the city commission takes action on the resolution, ordinance, motion, or other item in question. In the event the rule is asserted by a commissioner before action is taken, the item sponsor may request a waiver of this rule by a five-sevenths vote of the city commission upon a finding that such item:
 - a. Constitutes a public emergency affecting life, health, property, or public safety and should be considered immediately; or
 - b. Does not constitute a public emergency, but should be considered immediately.

If the item sponsor fails to request or obtain a waiver of the rule, the agenda item shall be automatically deferred to the next regular city commission meeting. This

rule is not applicable to emergency meetings called pursuant to section 2.04 of the city charter.

(d) *Agenda items.*

(1) *Item details.* Items published in a city commission meeting agenda shall include sufficient detail and information for the city commission and the public to evaluate the items in a reasonable and timely manner and, whenever possible, endeavor to sufficiently advise the city commission and the public of the nature of any requested actions that may be taken on the items. A draft of any resolution or ordinance sponsored and initiated by the mayor or a member of the city commission shall be shared with the city administration sufficiently in advance of the publication of the agenda to provide sufficient time for response or comment during the scheduled meeting.

- a. *Fiscal impact statement required.* As part of the commission memorandum that accompanies any ordinance or resolution placed on a city commission meeting agenda (including any resolution calling for a voter referendum on any measure), the city administration shall, to the extent applicable, prepare a written statement, to be included as a stand-alone section of the commission memorandum, briefly describing the estimated or anticipated increase or decrease of the revenues or expenditures of the city associated with the proposed measure, if any, for the current fiscal year and the subsequent fiscal year. If an ordinance or resolution sponsored and initiated by the mayor or a city commissioner is determined to have a fiscal impact greater than ~~\$25,000.00~~ 75,000.00, the item shall first be referred to a commission committee for review and recommendation, unless the city commission waives this requirement by a five-sevenths (5/7ths) vote.
- b. To the extent determined applicable by the city administration, the fiscal impact statement may include:
 - (i) Historical data concerning the revenues or expenditures at issue;
 - (ii) Any assumptions, sources of information or methodologies used to estimate the fiscal impact to the city;
 - (iii) An estimate of the staff time or other resources that may be needed to implement the proposed measure;
 - (iv) Whether the proposed measure could be absorbed in the current fiscal year's budget, or whether an additional appropriation is required to implement the proposed measure;
 - (v) Whether the fiscal impact in subsequent years (up to, but no more than, five years, from adoption of the measure) materially differs from the fiscal impact in the first year;

- (vi) Whether the proposed measure will involve pension liability, and the estimated costs thereof; and
 - (vii) Any capital requirements or infrastructure constraints associated with the proposed measure.
- c. If the fiscal impact on the current or future revenues or expenditures of the city cannot be determined at the time the proposed measure is considered by the city commission, the fiscal impact statement shall include a description of the risk factors or variables involved, and the administrative actions that will be required in order to determine the anticipated impact on future revenues and expenditures. In such cases, the fiscal impact statement should, to the extent possible, use ranges to estimate the impact on revenues or expenditures.
 - d. With respect to proposed agenda items related to the procurement of goods and services, including construction services, that are awarded pursuant to a previously approved budget, or which involve expenditures that are specifically authorized in a previously approved budget, the requirements of this section shall be deemed satisfied by a statement of the budget code or funding source that will be used to cover the proposed item, and the contract amount associated with the proposed item, if any.
 - e. If a proposed item has a fiscal impact on revenues or expenditures of the city in the amount of \$25,000.00 or less, the fiscal impact statement shall state that the item involves an estimated fiscal impact of \$25,000.00 or less, and no further information or analysis shall be required.
 - f. The failure to comply with the requirements of this section shall not constitute grounds for canceling the consideration of a proposed measure or rendering invalid any determination made by the city commission.
- (2) *Time certains.* Except for the setting of time certains for public hearings as required by law, the mayor shall be authorized to set time certains for all matters to be discussed or considered on a city commission agenda. The mayor may consider and set a time certain based upon the request of a city commissioner, the city administration, or a member of the public if such request is made prior to the commission meeting.
- (3) *Deferred items.* If an agenda item that is not set as a time certain for a public hearing is not reached during a city commission meeting, and the city commission does not specifically defer the item, the item shall be deemed to be deferred:
- a. To the next regularly scheduled commission meeting if the item was on a regular commission meeting agenda; or

- b. To the next regularly scheduled presentations and awards meeting if the item was on a presentations and awards meeting agenda.

Any agenda item that has been deferred by the sponsor and has not been heard ~~within~~ for a period of 120 days or more ~~from~~ following the meeting date the item was first placed on a city commission agenda shall be automatically withdrawn. No item based on the same proposal may be placed on another commission agenda for a 90-day period; however, the 90-day period may be waived by a six-sevenths (6/7ths) vote of the city commission.

- (4) *Time certain public hearing items.* If a time certain public hearing agenda item is to be reset to another commission meeting agenda, the public hearing must either be:

- a. Specifically opened and continued to another commission meeting date and time certain; or
- b. Re-advertised for another commission meeting date and time certain.

- (5) *Previously proposed ordinances and resolutions; exceptions.*

a. *Previously proposed ordinances.* Should an ordinance fail on first or second reading due to the lack of the requisite vote for passage or adoption, or should an ordinance fail to receive a second on a motion for passage or adoption on first or second reading, an ordinance based on the same proposal shall not be placed on another commission agenda for a ~~three-month~~ 90-day period; however, the ~~three-month~~ 90-day period may be waived by a six-sevenths (6/7ths) commission vote. This subsection shall not:

- ~~a. i.~~ i. Prevent a reconsideration vote pursuant to subsection (f) (i) hereof; or
- ~~b. ii.~~ ii. Permit the earlier consideration of a previously submitted ordinance if not otherwise permitted in this Code. In such event, the City Code provision with the more stringent time period for the consideration of a previously proposed ordinance shall control.

b. *Previously proposed resolutions.* Should a resolution fail due to the lack of the requisite vote for passage or adoption, or should a resolution fail to receive a second on a motion for adoption, a resolution based on the same proposal shall not be placed on another commission agenda for a 60-day period; however, the 60-day period may be waived by a six-sevenths (6/7ths) commission vote. This subsection shall not:

- i. Prevent a reconsideration vote pursuant to subsection (i) hereof; or

- ii. Permit the earlier consideration of a previously submitted resolution if not otherwise permitted in this Code. In such event, the City Code provision with the more stringent time period for the consideration of a previously proposed resolution shall control.
- (6) Referrals to commission committees. City commissioners are encouraged, wherever possible, to refer new business to a commission committee prior to consideration by the full city commission. There shall be no limit on the number of commissioner-sponsored referral items per meeting agenda.
- (7) Limit on number of commissioner-initiated discussion items and resolutions per meeting agenda. No more than eight (8) discussion items and resolutions, combined, may be placed on a regular meeting agenda by the mayor or by each member of the city commission. The requirement in this paragraph may be waived by a five-sevenths vote of the city commission. The mayor and members of the city commission are encouraged to first request a referral to committee, prior to introducing new business by sponsoring a discussion item or resolution, in order to promote efficiency, obtain a fiscal impact analysis from the city administration, seek public input, and thoroughly develop new policy proposals.
- (8) Limit on number of new ordinances per meeting agenda. No more than four (4) ordinances may be sponsored and initiated by the mayor or by each member of the city commission and placed on the same agenda for first reading (excluding items that were transmitted to the city commission by a city commission committee or land use board). The requirement in this paragraph shall not apply to ordinances initiated by the city administration, and may be waived by a five-sevenths vote of the city commission.
- ~~(9) Discussion items by commissioners. During the portion of the agenda designated as "discussion items," assignments shall be given to the city manager, city attorney, or city clerk unless objected to by a majority of the commission. The commission may not adopt any resolution without a corresponding agenda item unless such resolution is approved by a five-sevenths (5/7ths) vote of the city commission.~~
- ~~(10) Informational items requiring no action; responses to constituent inquiries.~~ Each meeting agenda shall include a separate section for mayor or commissioner-initiated informational items requiring no action by the city commission. Such information may include correspondence from the mayor or a commissioner to a resident, business owner, or other constituent in response to an inquiry relating to city business which may be of general interest to the city commission or the public at large, or an update relating to any matter on which the mayor or commissioner is directly working with the administration.

- (e) *Presentations and awards meetings.* The presentation of proclamations, awards, certificates, and all other recognitions made by the mayor and city commission shall occur at separate regularly scheduled meetings of the city commission specifically dedicated for these purposes. Other agenda items may be placed on an agenda of a presentation and awards meetings of the city commission only under the following circumstances:
- (1) The item was specifically deferred or opened and continued to a presentation and awards meeting; or
 - (2) The item is submitted to the mayor for a determination whether the item is to be placed on the agenda. If the mayor declines to place the item on the agenda, the item shall only be considered at the presentations and awards meeting upon a finding by the city commission, by a five-sevenths affirmative vote, that the item constitutes either:
 - a. A public emergency affecting life, health, property, or public safety and should be considered immediately; or
 - b. Does not constitute a public emergency, but should be considered immediately.
- (f) *Special city commission meetings.* Agenda items for special city commission meetings called pursuant to section 2.04 of the city charter must be related to the subject matter for which the meeting was called.
- (g) *Quorum.* A majority of the entire city commission shall constitute a quorum. In the event that a commissioner is required to depart a commission meeting prior to adjournment, and the departure causes a loss of quorum, no further official action may be taken unless or until a quorum is restored, other than adjournment. Should no quorum attend within 30 minutes after the hour appointed for the meeting of the commission, or upon a meeting having commenced with a quorum, which quorum shall have been lost, the chairperson or, in the chairperson's absence, another commissioner in order of seniority, shall adjourn the meeting.
- (h) *Minutes.* Meeting minutes shall reflect any motions, votes on motions, formal direction, and the conclusion of each discussion on each agenda item including any future action that shall be taken.
- (f) (i) *Parliamentary procedure.* Robert's Rules of Order Newly Revised, 11th Edition, and all subsequent amendments thereto and all subsequent editions thereof, shall be the recognized authority for general parliamentary procedure applicable to meetings of the city commission in those instances when the city's Charter, Related Special Acts, and Code do not expressly dictate parliamentary procedure.
- (i) *Virtual participation.* As applicable to meetings of the city commission and city commission committees, the City shall use its best efforts to permit members of

the public to attend and provide public comment via telephone or video conferencing software.

- (g) (k) *Effect.* The validity of any action or determination of the city commission or city personnel, board, or committee shall not be affected by the failure of any person to comply with the provisions of this section.

Section 2-15. - Decorum.

- (1) Order must be preserved. No person shall, by speech or otherwise, delay or interrupt the proceedings or the peace of the commission, or disturb any person having the floor. Any person making irrelevant, impertinent, or slanderous remarks or who becomes boisterous while addressing the commission shall not be considered orderly or decorous. Any person who becomes disorderly or who fails to confine remarks to the identified subject or business at hand shall be cautioned by the chairperson and given the opportunity to conclude remarks on the subject in a decorous manner and within the designated time limit. Any person failing to comply as cautioned may be barred from making any additional comments during the meeting by the chairperson, unless permission to continue or again address the commission is granted by the majority of the commission members present.
- (2) Members of the public may only address the city commission or commission committee from the lectern or in any other manner as may be designated by the chairperson. Members of the public shall not approach the dais when the city commission is in session unless expressly permitted by the chairperson. Any member of the public seeking to distribute written comments, photographs, or other exhibits to the city commission shall first obtain the chairperson's consent to approach the dais, and shall submit sufficient copies to the city clerk for distribution to the city manager, city attorney, city clerk, and each member of the city commission.
- (3) If the chairperson or the commission declares an individual out of order, the individual will be requested to relinquish the podium. If the person does not do so, the individual is subject to removal from the commission chamber or other meeting room.
- (4) Any person who becomes disruptive or interferes with the orderly business of the commission may be removed from the commission chamber or other meeting room for the remainder of the meeting.
- (5) For public safety purposes, no signs or placards larger than 18" by 24" in size shall be allowed at meetings of the city commission or city commission committees, and no signs or placards shall be mounted on sticks, posts, poles, or similar structures regardless of size, except in connection with a formal presentation at the request or consent of the city commission. Signs, placards, and banners shall not disrupt meetings or interfere with the ability of the public to attend the meeting and observe public business.

Sec. 2-16. Sergeant at Arms.

~~A sergeant at arms of the city commission, commission committees, and land use boards (board of adjustment, design review board, historic preservation board, and planning board), who shall be appointed by, and serve at the pleasure of, the mayor, shall maintain order and decorum at public meetings. The sergeant at arms shall be supported by the police department, as needed. In the absence of the sergeant at arms, the chief of police or a designee of the chief of police shall serve as the sergeant at arms. The sergeant at arms shall act under the direction and control of the chairperson, or chairperson's designee. Any person in the audience who uses profane language, or any person who persistently delays or interrupts the proceedings of the city commission, commission committees, or land use boards, or refuses to keep quiet or sit down when requested to do so by the chairperson, may, upon order of the chairperson, be ejected from the commission chamber or other meeting place and kept out for the remainder of the meeting. The chief of police, or any police officer of the city present in the commission chamber, shall assist the chairperson in maintaining order and decorum in the commission chamber.~~

Sec. 2-13 2-16. Commission committee draft minutes—City commission approval.

- (a) *Procedure.* Draft minutes from meetings of each city commission committee shall be placed on a subsequent city commission agenda for the purpose of city commission review and approval. Meeting minutes shall reflect any motions, votes on motions, and the conclusion of each discussion on each agenda item including any future action that shall be taken. The draft minutes are subject to correction, amendment, and approval by the city commission, with any corrections or amendments to be reflected in those minutes. Once the draft minutes from the commission committee meeting have been approved by the city commission, the "draft" notation shall be removed, and the minutes shall be considered final.
- (b) *Effect.* In general, approval of the minutes do not constitute the city commission's substantive approval of actions taken at said commission committees, but shall serve only to allow the minutes to assume their essential status as the official record of the proceedings of the commission committee. However, those portions of minutes addressing a commission committee's request for city administration action, shall only be effectuated when a corresponding item for such requested city administration action is placed on a city commission agenda, and approved pursuant to resolution or motion passed by a majority vote of the members present.

Sec. 2-14 2-17. Residents' right to know.

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SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on _____.

PASSED and **ADOPTED** this _____ day of _____, 2022.

ATTEST:

Rafael E. Granado
City Clerk

Dan Gelber
Mayor

(Sponsored by Commissioner David Richardson)

Underline denotes additions

~~Strike-through~~ denotes deletions

Double underline denotes additions after First Reading

~~Double strike-through~~ denotes deletions after First Reading

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

6-10-22

Date

NK