

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ESTABLISHING THE SPECIAL ELECTION DATE FOR FILLING OF COMMISSION GROUP II VACANCY IN EVENT CITY COMMISSION CHOOSES TO FILL SAID VACANCY BY ELECTION, BY AUTHORIZING PURSUANT TO FLORIDA STATUTE SECTION 101.75(3) AND CORRESPONDING FLORIDA STATUTES THE MOVE OF SAID SPECIAL ELECTION DATE TO NOVEMBER 8, 2022 WITH A RUN-OFF ELECTION DATE OF DECEMBER 6, 2022, SPECIFYING QUALIFYING DATES (INCLUDING QUALIFYING VIA PETITION), PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on June 22, 2022, the Honorable Mark Samuelian, City of Miami Beach Commissioner-Group II, passed away;

WHEREAS, as the Group II term of office does not expire until November 2025, the Group II seat is vacant and must be filled for the unexpired remainder of said term;

WHEREAS, City Charter section 2.07 “Vacancies in City Commission” establishes the applicable method for the filling of vacancies on the City Commission. Charter section 2.07 requires that such vacancies be filled by a “majority of the remaining members of the City Commission” or be filled at a Special Election called by the City Commission;

WHEREAS, although per Charter Section 2.07, an election to fill a vacancy “... shall be called to be held within 90 days after the expiration of the subject 30-day period [from date vacancy occurs]...”, the Miami-Dade County Elections Department has informed the City Clerk that due to unavailability of voting devices of the County’s voting system, it is able only to authorize a City Special Election to be held concurrent with the November 8, 2022 General Election, with a Run-Off date of December 6, 2022;

WHEREAS, per Florida Statute Section 101.75(3), a municipality may via ordinance move election dates to a date concurrent with any statewide or countywide election notwithstanding any provision in a municipal charter¹;

WHEREAS, on July 20, 2022, the Mayor and City Commission decided, pursuant to Section 2.07(a) of the City Charter, to fill the vacancy by election;

¹ See, also, Florida Statutes Sections 100.3605(2) and 166.021(4), further confirming the ability of a municipality to change via ordinance its dates for election of members of its governing body and establish corresponding qualifying dates.

WHEREAS, this Ordinance hereby authorizes the move of election date necessitated in order to comply with County Elections Department's scheduling as explained above, thus establishing a November 8, 2022 Special Election date to fill the Group II vacancy, with a December 6, 2022 Run-Off date; and

WHEREAS, City Charter section 6.03's requirements for qualifying for office shall apply to the November 8, 2022 Special Election re: Commission Group II, except that the qualifying dates for this November 8, 2022 Special Election shall commence on August 22, 2022 and shall end on August 25, 2022; and petitions to qualify shall be filed with the City Clerk no later than noon on August 8, 2022 (the 14th day prior to the first day of qualifying as a candidate for City Commission Group II), said petitions signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on July 1, 2022 (the date fifty-two (52) days prior to the August 22, 2022 first day of qualifying as a candidate for Commission Group II office).

NOW, THEREFORE BE IT ENACTED AND ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, THAT:

SECTION 1. RECITALS.

The above recitals are hereby ratified and confirmed, and made a specific part of this Ordinance.

SECTION 2. MOVE OF SPECIAL ELECTION DATE.

In the event the City Commission chooses to fill the Commission Group II vacancy by election, the City Commission hereby establishes and authorizes moving the election date for the City of Miami Beach's Special Election to fill the Group II vacancy to November 8, 2022, with a December 6, 2022 Run-Off date.

SECTION 3. QUALIFYING DATES.

City Charter section 6.03's requirements for qualifying for office shall apply to the November 8, 2022 Special Election re: Commission Group II, except that the qualifying dates for this November 8, 2022 Special Election shall commence on August 22, 2022 and shall end on August 25, 2022; and petitions to qualify shall be filed with the City Clerk no later than noon on August 8, 2022 (the 14th day prior to the first day of qualifying as a candidate for City Commission Group II), said petitions signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on July 1, 2022 (the date fifty-two (52) days prior to the August 22, 2022 first day of qualifying as a candidate for Commission Group II office).

SECTION 4. 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 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2022.

PASSED and ADOPTED this _____ day of _____, 2022.

ATTEST:

DAN GELBER, MAYOR

RAFAEL E. GRANADO, CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

(Sponsored by Commissioner Alex J. Fernandez)

City Attorney *PAZ* 7-21-22
Date