

# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY  
RAFAEL A. PAZ, CITY ATTORNEY

## COMMISSION MEMORANDUM

**TO:** Mayor Steven Meiner and Members of the City Commission  
Alina T. Hudak, City Manager

**FROM:** Rafael A. Paz, City Attorney



**FIRST READING**

**DATE:** January 31, 2024

**SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE MIAMI BEACH CITY CODE, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE III, ENTITLED "AGENCIES, BOARDS AND COMMITTEES," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 2-22 THEREOF, ENTITLED "GENERAL REQUIREMENTS," BY CREATING SUBSECTION 2-22(24) TO PROVIDE THAT IN THE EVENT THAT AN APPOINTEE TO A CITY AGENCY, BOARD, OR COMMITTEE WHO IS ENGAGED TO PROVIDE SERVICES, FOR COMPENSATION, TO EITHER (1) A CANDIDATE FOR CITY ELECTED OFFICE, OR (2) A POLITICAL COMMITTEE OR ELECTIONEERING COMMUNICATIONS ORGANIZATION EXPENDING FUNDS FOR OR AGAINST CANDIDATES FOR CITY ELECTED OFFICE, SUCH ENGAGEMENT SHALL BE DEEMED A TENDER OF RESIGNATION FROM SUCH CITY AGENCY, BOARD OR COMMITTEE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

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The proposed Ordinance was prepared at the request of Commissioner Joseph Magazine for consideration on first reading at the January 31, 2024 City Commission meeting.

On September 21, 2023, the City Commission enacted an ordinance providing that, as a condition of eligibility of an appointment to any City advisory board, the appointee voluntarily agrees that if the appointee files with the City Clerk a Statement of Candidate formally announcing candidacy for City elective office, such filing with the City Clerk shall be deemed a tender of resignation from the City agency, board or committee, and the member's automatic resignation shall thereby immediately create a vacancy in the agency, board, or committee.

Similar to the concerns raised regarding candidates for elected City office serving on City boards and committees, ethical concerns have been raised regarding persons who are engaged to provide paid services to candidates campaigning for City elected office, and whether it is in the City's best interest to structure appointments to city boards and committees to avoid any potential for misuse of official position or appearance of impropriety, i.e., with persons potentially using an appointment to an advisory board to secure paid work for themselves from candidates running for office.

Accordingly, the proposed Ordinance amends Section 2-22 of the City Code, to require that if an appointee is engaged to provide services, for compensation, to either (1) a candidate for City elected office, or (2) a political committee or electioneering communications organization expending funds for or against candidates for City elected office, such engagement shall be deemed a tender of resignation from such City agency, board or committee.

Notably, nothing in the proposed Ordinance would preclude any person from exercising their constitutionally protected right of political affiliation and advocacy, but would only preclude compensation for such affiliation or advocacy while serving as a member of a City agency, board or committee.

This ordinance, if approved, would apply prospectively to any advisory board or committee member's future engagement, for compensation, by a candidate's campaign or a PAC/ECO supporting or opposing candidates for City elected office.

RAP/RFR