

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 38 ENTITLED "ELECTIONS", SECTION 38-3 THEREOF ENTITLED "RESOLUTION BY CITY COMMISSION CALLING ELECTION AND NOTICING THEREOF" BY CLARIFYING DETAILS OF RESOLUTIONS CALLING SPECIAL ELECTIONS ON PROPOSED BALLOT MEASURES, AND AMENDING CODE SECTION 38-4 ENTITLED "ACCEPTANCE OF ELECTION RETURNS; INSTALLATION OF NEW OFFICERS" BY EXPRESSLY PROVIDING THAT DATE OF CITY COMMISSION'S ACCEPTANCE OF ELECTION RETURNS APPLICABLE TO CITY GENERAL AND SPECIAL ELECTIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

**SECTION 1.** That Chapter 38 of the Miami Beach City Code entitled "Elections", Sections 38-3 and 38-4 thereof, are hereby amended to read as follows:

**CHAPTER 38 – ELECTIONS.**

**Sec. 38-3. - Resolution by city commission calling election and noticing thereof.**

(a) For the purpose of making proper provision for each municipal election held in the city, the city commission shall, not less than 30 days prior to the proposed date of such election, adopt a resolution calling the subject election setting forth the following:

(1) The date upon which such election is to be held.

(2) The purpose of such election, including if a special election for the purpose of presenting to the City's voters a proposed ballot question:

i. the ballot title and ballot summary consistent with Florida Statute Section 101.161(1) (and, in cases of bond referenda, consistent with Florida law governing bond elections held by municipalities, including Florida Statute Section 100.341), as drafted by the City Attorney, as well as (where applicable) the proposed City Charter or City Code text change.

ii. The effective date of the proposal, specifying that if the City's electors voting on a ballot question approve same, it shall become effective upon the City Commission's acceptance of certification of final election results.

iii. All other details necessary to submit such proposed measure to the City's electors.

- (3) The days and hours, prior to the date of such election during which persons qualified to vote therein may register for the election.
  - (4) The form of ballot to be used in such elections, prepared in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.
  - (5) The results of all city elections shall become effective upon the City Commission's acceptance of certification of final election results, as set forth in the resolution calling each election.
- (b) The city commission shall further authorize and direct the city clerk to give notice of the adoption of such resolution and of the provisions thereof prescribed in subsection (a), by and through the publication of an appropriate advertisement in a newspaper meeting the requirements set forth in F.S. § 50.031 once a week for four consecutive weeks next preceding the day upon which such municipal election is to be held. The city clerk shall further publish, in a newspaper meeting the requirements set forth in F.S. § 50.031 and on the city's website, the polling places for the election twice, once in the third week and once in the first week prior to the week in which the election is to be held.

#### **Sec. 38-4. - Acceptance of election returns; installation of new officers.**

On the first business day immediately following the county elections supervisor's issuance of final election results for any City general or special election, the city commission shall meet for the purpose of accepting the returns of such election(s) and ascertaining the results thereof.

- (a) Should no run-off election be necessary, new officers shall be declared elected subsequent to the city commission's acceptance of final general (or special, as the case may be) election ~~returns~~ results at which time the new officers shall be installed and shall enter upon the discharge of their duties, except as otherwise provided by the city Charter; if a run-off election is necessary, all new officers shall be declared elected subsequent to the city commission's acceptance of final run-off election ~~returns~~ results on the first business day following the county elections supervisor's issuance of such final election results, at which time the new officers shall be installed and shall enter upon the discharge of their duties, except as otherwise provided by the city Charter.
- (b) If a run-off election is necessary, the commission meeting(s) occurring between the date of general election and the commission's acceptance of final run-off election ~~returns~~ results shall occur for the limited purpose of accepting the returns of such general election, and/or to address any emergency matter, pursuant to Florida law and city Charter section 2.05.

#### **SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same 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 the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.


ATTEST:

\_\_\_\_\_  
DAN GELBER, MAYOR

\_\_\_\_\_  
RAFAEL E. GRANADO, CITY CLERK

(Sponsored by Commissioner Alex J. Fernandez)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

2-24-22  
\_\_\_\_\_  
Date