

## **CITY OF MIAMI BEACH NOVEMBER 5, 2024 SPECIAL ELECTION** **BALLOT QUESTIONS<sup>1</sup>**

On November 5, 2024, at the time of the General Election, the City of Miami Beach will be holding a Special Election to present the City's voters with several ballot measures, including seven (7) proposed amendments to the Miami Beach City Charter, and a ballot measure proposing a 1% food and beverage tax to fund homeless services and the construction and operation of domestic violence centers. These ballot questions are briefly summarized below:

### **Charter's "Citizens' Bill of Rights": Amending Existing Rights, Incorporating County Ethics Commission's Enforcement**

Shall Bill of Rights be amended:

- expanding existing rights to public records, right to no unreasonable postponements, and right to notice and be heard on City matters, amendments including: limits on deferring agenda items, increased public hearings and notice requirements;
- incorporating Code Chapter 62 "Human Relations" classification categories (on which discrimination is prohibited) into "Nondiscrimination" rights;
- incorporating Miami-Dade County Ethics Commission's powers to enforce and impose penalties (in addition to existing Circuit Court enforcement)?

#### **BRIEF SUMMARY:**

The "Citizens' Bill of Rights" has been part of the Miami Beach City Charter for over 30 years, setting forth specified rights of the public to good government. The above proposal amends the Bill of Rights by expanding upon existing rights to public records, the right to no unreasonable postponements of matters pending before the City, and the right to notice and be heard on City matters. These amendments will enhance the transparency of City government and thus afford the public a greater ability to know how officials conduct business and make decisions that affect the public. Also, to conform existing City Code provisions with the City Charter, the proposed amendment seeks to incorporate all of the protected "classification categories" in Chapter 62 of the City Code (on which discrimination is prohibited in Miami Beach) into the "Nondiscrimination" rights set forth in the Bill of Rights.

Finally, this measure amends the City's Bill of Rights to expressly reflect that, under existing Miami-Dade County law, the Miami-Dade County Commission on Ethics and Public Trust has authority (in addition to the Circuit Court) to enforce municipal Bill of Rights provisions.

To view the enabling resolution, which includes the proposed text of the Charter Amendments for Referendum 1, please visit:

<https://www.miamibeachfl.gov/wp-content/uploads/2024/07/Resolution-2024-33168.pdf>

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<sup>1</sup> This information has been made available to the public for the purpose of reporting in an accurate, fair, and impartial manner official actions of the Miami Beach City Commission relative to the City's ballot for its November 5, 2024 Special Election, with the City posting relevant factual information on its website and/or in printed materials. The public is further encouraged to review the City's election website page at: <https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/november-5-2024-general-and-special-elections>. Any questions pertaining to the November 5, 2024 Special Election may be referred to the Office of the City Clerk by calling 305-673-7411, or by calling the Miami-Dade County Elections Department at 305-499-8683.

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## **Charter's "Citizens' Bill of Rights": Amending Circuit Court Forfeiture Remedy**

Shall Bill of Rights at Section (C), "Remedies," be amended to:

- provide that the "forfeiture of office or employment" judicial remedy for willful violations of the Bill of Rights is subject to terms of collective bargaining agreements (per State law); and
- establish that such forfeiture remedy is within the Court's discretion instead of mandatory, based upon the Court's determination that the violator has committed repeated violations of the Bill of Rights?

### **BRIEF SUMMARY:**

In addition to remedies that may be imposed by the Miami-Dade County Commission on Ethics and Public Trust for violations of the Bill of Rights, the Bill of Rights also contains judicial remedies for violations of those rights, including mandatory forfeiture of office or employment for willful violations, as ordered by a Circuit Court Judge.

This proposal amends the forfeiture remedy to 1) specifically acknowledge the supremacy of State law by providing that the forfeiture remedy shall be subject to terms of any applicable collective bargaining agreements (for City employees who are members of collective bargaining units); and 2) provide that the Circuit Court shall have discretion to impose the forfeiture remedy upon a judge's finding that the violator has committed repeated violations of the Bill of Rights.

To view the enabling resolution, which includes the proposed text of the Charter Amendments for Referendum 2, please visit:

<https://www.miamibeachfl.gov/wp-content/uploads/2024/07/Resolution-2024-33169.pdf>

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## **Charter Section 1.03: Sale/Lease of City property; right-of-way vacations; management/concession agreements**

Shall Charter be amended, requiring for all sales/leases (10 years or more) of City property (awarded after November 5, 2024) and right-of-way vacations:

- majority voter approval (includes changing approval for Convention Center Campus/Parking Lots from 60% to majority);
- advisory Planning Board review;
- planning analysis;
- appraisal;
- competitive bidding (sales/leases only);
- public hearing; and

for management/concession agreements (10 years or more):

- 6/7 Commission vote;
- public hearing;
- advisory Planning Board review?

### **BRIEF SUMMARY:**

This measure adopts uniform requirements for the sale, lease, or other transfer of City property. Specifically, the measure amends the Charter to require majority voter approval prior to the sale or long-term lease (10 years or more) of City property or the vacation of a right-of-way. The measure also requires advisory Planning Board review, a written planning analysis, an independent appraisal, competitive bidding (for sales/leases), and a public hearing.

For management/concession agreements (10 years or more), the measure retains the existing 6/7th supermajority requirement for approval by the City Commission, and would additionally require a public hearing. Consistent with the amendments to the sale/lease provisions, the measure would require advisory review by the Planning Board (instead of the current requirement of approval by the Planning Board on a 4/7ths vote).

This measure would apply to any sale, lease (10 years or more), vacation, or agreement awarded pursuant to a competitive bidding process (if applicable) or waiver of such process approved by the City Commission after November 5, 2024.

Currently, the City Charter requires majority voter approval prior to the sale or long-term lease (10 years or more) of certain specified City properties (including park, recreation, and waterfront property; the parking lots west of North Shore Open Space Park known as the West Lots; the Cultural Campus; the 72nd Street Parking Lot; the Lincoln Road Parking Lots; City-owned property along the 41st Street Corridor; public beach rights-of-way; and public street ends bordering Government Use, Golf Course, or waterfront land). For the sale or long-term lease of certain properties in the Convention Center Campus or the Convention Center parking lots, 60% voter approval is required. For all other properties, a sale or long-term lease requires 4/7ths approval by the Planning Board and 6/7ths approval by the City Commission.

To view the enabling resolution, which includes the proposed text of the Charter Amendments for Referendum 3, please visit:

<https://www.miamibeachfl.gov/wp-content/uploads/2024/07/Resolution-2024-33170.pdf>

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### **Election of City Commission: Moving City's Runoff Election Date, Installation/Term Commencement, Conforming Office Terms**

Shall Charter be amended to provide, commencing City's November 2025 general election:

- City's runoff election date shall be second Tuesday in December immediately following City's general election instead of 2 weeks after said general election;
- installation/commencement of Commission members' terms shall occur on the Monday immediately following runoff election date;
- to conform with above, existing Commission members' terms expiring November 2025 and November 2027 shall be respectively extended to those years' December installation date?

#### **BRIEF SUMMARY:**

Pursuant to the City Charter, members of the City Commission are elected at the City's general election date on the first Tuesday in November of odd-numbered years, with a runoff election (if no candidate receives a majority of the votes cast) held 2 weeks after the general election. This ballot measure proposes, commencing with the City's next general election in 2025, moving the runoff election date to the second Tuesday in December immediately following the City's general election. This is approximately 5 weeks after the general election.

The 2-week runoff date provision was placed in the Charter in 1990, and although workable at the time, is no longer feasible given present-day duties associated with election administration. Numerous election laws have been enacted since 1990 which, coupled with other election-related statutory and administrative provisions (including the timely handling of vote-by-mail ballots and cure affidavits, recount procedures, and the multitude of statutory post-election processing), have resulted in the Miami-Dade County Elections Department's stated need for increased time between the general and runoff election for its administration of City elections.<sup>2</sup> Working

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<sup>2</sup> For reasons stated above, the Elections Department has requested not just Miami Beach but all municipalities within the County that have a 2-week period between their general and runoff elections to increase the amount of time between elections.

collaboratively with the Elections Department,<sup>3</sup> the City is thus proposing this change of runoff election date, expecting that increasing the time between the general and runoff elections by approximately 3 weeks will result in a more sustainable administration of City elections, and thus better ensure voters, candidates, and the general public their rights under election laws.

Further, commencing with the City's November 2025 general election, the Charter will establish the Monday immediately following the date of runoff election as the specific day for the installation and commencement of terms of newly elected Commission members. In this regard, to conform the terms of incumbent Commission members serving as of the November Special Election with this Charter amendment, Commission members' terms expiring November 2025 and November 2027 shall be respectively extended to the December installation date in those years.

To view the enabling resolution, which includes the proposed text of the Charter Amendments for Referendum 4, please visit:

<https://www.miamibeachfl.gov/wp-content/uploads/2024/07/Resolution-2024-33171.pdf>

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### **Charter Section 2.05: Public Hearings and Public Notice for Ordinances**

Shall Charter 2.05 be amended:

- establishing process requiring two public hearings instead of one for proposed City ordinances except emergency ordinances and proposed ordinances subject to adoption procedures established in City's Zoning Ordinance; and
- authorizing City's alternative optional publication of notice of proposed ordinances on a publicly accessible website in accordance with Chapter 50, Florida Statutes, instead of requiring publication of such notices only in a newspaper of general circulation within City?

#### **BRIEF SUMMARY:**

This Charter amendment will expand the public's opportunity to address the City Commission on proposed ordinances by increasing the number of required public hearings before the adoption of ordinances from one to two (subject to the existing exception for emergency ordinances and proposed ordinances controlled by the City's Zoning Ordinance).

The Amendment further amends the City Charter by allowing the City, pursuant to Florida law, to publish notice of proposed City ordinances on a publicly accessible website hosted by Miami-Dade County, as an alternative to the existing requirement to publish notice of proposed City ordinances in a newspaper of general circulation.

To view the enabling resolution, which includes the proposed text of the Charter Amendments for Referendum 5, please visit:

<https://www.miamibeachfl.gov/wp-content/uploads/2024/07/Resolution-2024-33172.pdf>

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<sup>3</sup> The County Elections Department administers the City's elections. Per Florida law, the City must obtain the consent of the Supervisor of Elections regarding the scheduling of any special election.

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## **Charter Section 2.07 "Vacancies in City Commission"**

Shall Charter Section 2.07 be amended to:

- require election to fill vacancy unless City Commission appoints person to fill vacancy within 30 days;
- provide that Commission's power to appoint shall commence upon vacancy or submittal of resignation (if filed) instead of 30 days later;
- require appointments by remaining Commission members be super-majority (majority plus 1) vote instead of majority vote;
- clarify election and installation dates regarding vacancies due to resignation?

### **BRIEF SUMMARY:**

Current Charter Section 2.07 establishes the process for filling Commission vacancies (stemming from a Commission member's resignation, removal from office, or death), with the Commission having the power to fill a vacancy by either appointment or by calling a Citywide election. However, the Charter does not provide what happens if the Commission cannot agree on whether to appoint or have an election (resulting in an unfilled seat on the Commission).<sup>4</sup>

This Charter amendment addresses the above situation by expressly providing that a City election *must* be held if the Commission fails to timely appoint someone to fill the vacancy, thus ensuring that an election will be called if no appointment is made. Further, should the Commission choose to appoint, such action will now require a super-majority vote (majority of remaining Commission members, plus one) instead of the current requirement, which is a simple majority vote by the remaining Commission members.

Lastly, the amendments clarify certain election and installation dates applicable to situations in which a vacancy is due to the resignation of a Commission member.

To view the enabling resolution, which includes the proposed text of the Charter Amendments for Referendum 6, please visit:

<https://www.miamibeachfl.gov/wp-content/uploads/2024/07/Resolution-2024-33173.pdf>

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## **Charter Amendments: Clarifying and Conforming Certain Charter Language to Applicable Laws and/or Current Usage**

Shall Charter be amended to clarify that the one-year residency requirement to qualify as candidate applies to the year "immediately" prior to qualifying, and clarify filing requirements for qualifying by petition (Charter 6.03); clarify and conform to Florida law restriction against qualifying for more than 1 City office, and replace certain obsolete reference to "Commissioner" with "Commission member" (Charter 2.01); amend Charter 1.07 to include therein all nondiscrimination classification categories in Code Chapter 62?

### **BRIEF SUMMARY:**

This ballot measure is presented for voter approval as a housekeeping measure to update the Charter by clarifying and/or conforming the City Charter to existing law, requirements, and recent

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<sup>4</sup> In 2022, there was a vacancy on the City Commission, and the Commission could not originally agree on whether to appoint or call election to fill the vacancy—although the Commission eventually decided to call an election, that situation had the potential for leaving the vacant Commission seat unfilled, a situation rectified by this proposed Charter amendment.

legal precedent, as well as to delete and clarify obsolete language. Specifically, Charter sections dealing with qualifying for elected office will now make clear that the one-year residency requirement to qualify as candidate applies to the year "immediately" prior to qualifying, clarify filing by petition requirements, and clarify/conform to Florida law the restriction against qualifying for more than 1 City office. The amendments further conform to current usage by amending certain obsolete references to "Commissioner" by replacing same with "Commission member," and amends Charter Section 1.07 to include therein all of the nondiscrimination classification categories in City Code Chapter 62.

To view the enabling resolution, which includes the proposed text of the Charter Amendments for Referendum 7, please visit:

<https://www.miamibeachfl.gov/wp-content/uploads/2024/07/Resolution-2024-33174.pdf>

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### **Approve 1% Tax on Food and Beverage Sales for Homeless Assistance / Domestic Violence Centers**

To assist homeless persons and domestic abuse victims, shall Miami Dade County levy a 1% tax on food/beverage sales for consumption on premises at alcoholic beverage establishments in Miami Beach with gross annual revenues exceeding \$400,000, except at hotels and motels, subject to approval by Miami-Dade County, to construct/operate housing for homeless persons and domestic violence centers, and provide shelter, food, clothing, medical care, mental health treatment, training, and education?

#### **BRIEF SUMMARY:**

This measure asks the City's voters whether a 1% local option food and beverage tax, also known as the Homeless and Domestic Violence Tax, shall be levied in Miami Beach (the "1% Tax"). The proceeds of this tax would be dedicated to fund homeless services and the construction and operation of domestic violence centers. The 1% Tax applies to all food and beverage sales generated by establishments with gross annual revenues of \$400,000 or more that are licensed by the State of Florida to sell alcoholic beverages for consumption on the premises, except for hotels and motels.

Currently, the 1% Tax is collected throughout Miami-Dade County, except in municipalities authorized to impose their own municipal resort tax (namely, Miami Beach, Surfside, and Bal Harbour). In 2023, State law was amended to allow Miami-Dade County to levy the 1% Tax in municipalities authorized to impose a resort tax (including Miami Beach), subject to voter approval. On July 26, 2023, the Miami Beach City Commission adopted an Ordinance authorizing the levy of the 1% Tax, subject to the approval of the City's voters. If this measure is approved, Miami-Dade County will have authority to levy, collect, and administer the 1% Tax in Miami Beach.

To view the enabling resolution, which includes the proposed text of the Charter Amendments for Referendum 8, please visit:

<https://www.miamibeachfl.gov/wp-content/uploads/2023/08/Resolution-2023-32719.pdf>