

R7 J A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REPEALING RESOLUTION NO. 2023-32719, WHICH CALLED FOR A CITY OF MIAMI BEACH SPECIAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER A 1% TAX ON FOOD/BEVERAGE SALES IN MIAMI BEACH SHOULD BE LEVIED TO FUND THE CONSTRUCTION/OPERATION OF HOUSING FOR HOMELESS PERSONS AND DOMESTIC VIOLENCE CENTERS, AND SHELTER, FOOD, CLOTHING, MEDICAL CARE, MENTAL HEALTH TREATMENT, TRAINING, AND EDUCATION; FURTHER, DIRECTING THE CITY CLERK TO IMPLEMENT THIS RESOLUTION BY COORDINATING WITH THE MIAMI-DADE COUNTY ELECTIONS DEPARTMENT FOR ITS IMPLEMENTATION OF STATE OF FLORIDA DIVISION OF ELECTIONS REFERENCE GUIDE 0007 ESTABLISHING GUIDELINES FOR COUNTY ELECTIONS DEPARTMENTS TO POST OFFICIAL NOTICES IN ELECTION OFFICES, AT POLLING PRECINCTS, EARLY VOTING SITES, IN VOTE-BY-MAIL BALLOTS, AND ON COUNTY WEBSITES, ADVISING THE CITY'S VOTERS THAT THE CALLING OF THE REFERENDUM HAS BEEN REPEALED AND THE SUBJECT BALLOT MEASURE ORDERED REMOVED FROM THE NOVEMBER 5, 2024 BALLOT BY THE MIAMI BEACH CITY COMMISSION, AND THAT IN ACCORDANCE WITH SAID REFERENCE GUIDE 0007, ANY VOTES CAST FOR THIS BALLOT MEASURE WILL NOT COUNT FOR ITS APPROVAL OR REJECTION NOR SHALL ANY SUCH VOTES CAST BE COUNTED AS PART OF THE OFFICIAL RESULTS OF THE CITY OF MIAMI BEACH'S NOVEMBER 5, 2024 SPECIAL ELECTION.

Applicable Area:



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: October 30, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REPEALING RESOLUTION NO. 2023-32719, WHICH CALLED FOR A CITY OF MIAMI BEACH SPECIAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER A 1% TAX ON FOOD/BEVERAGE SALES IN MIAMI BEACH SHOULD BE LEVIED TO FUND THE CONSTRUCTION/OPERATION OF HOUSING FOR HOMELESS PERSONS AND DOMESTIC VIOLENCE CENTERS, AND SHELTER, FOOD, CLOTHING, MEDICAL CARE, MENTAL HEALTH TREATMENT, TRAINING, AND EDUCATION; FURTHER, DIRECTING THE CITY CLERK TO IMPLEMENT THIS RESOLUTION BY COORDINATING WITH THE MIAMI-DADE COUNTY ELECTIONS DEPARTMENT FOR ITS IMPLEMENTATION OF STATE OF FLORIDA DIVISION OF ELECTIONS REFERENCE GUIDE 0007 ESTABLISHING GUIDELINES FOR COUNTY ELECTIONS DEPARTMENTS TO POST OFFICIAL NOTICES IN ELECTION OFFICES, AT POLLING PRECINCTS, EARLY VOTING SITES, IN VOTE-BY-MAIL BALLOTS, AND ON COUNTY WEBSITES, ADVISING THE CITY'S VOTERS THAT THE CALLING OF THE REFERENDUM HAS BEEN REPEALED AND THE SUBJECT BALLOT MEASURE ORDERED REMOVED FROM THE NOVEMBER 5, 2024 BALLOT BY THE MIAMI BEACH CITY COMMISSION, AND THAT IN ACCORDANCE WITH SAID REFERENCE GUIDE 0007, ANY VOTES CAST FOR THIS BALLOT MEASURE WILL NOT COUNT FOR ITS APPROVAL OR REJECTION NOR SHALL ANY SUCH VOTES CAST BE COUNTED AS PART OF THE OFFICIAL RESULTS OF THE CITY OF MIAMI BEACH'S NOVEMBER 5, 2024 SPECIAL ELECTION.

RECOMMENDATION

BACKGROUND/HISTORY

The above Resolution has been placed on the October 30, 2024 City Commission meeting agenda at the request of Commissioner David Suarez.

Section 212.0306(1)(b) of the Florida Statutes authorizes Miami-Dade County (the "County") to levy a 1% local option food and beverage tax, also known as the Homeless and Domestic Violence Tax (or the "1% Tax"), with the proceeds thereof dedicated for homeless services and the construction and operation of domestic violence centers. Pursuant to Section 212.0306, Fla. Stat., and Section 29-51 of the Miami-Dade County Code, 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.

In 2023 and 2024, Section 212.0306, Fla. Stat., was amended to authorize the 1% Tax to be levied in a city or town which collects its own municipal resort tax, which includes Miami Beach, if the city “adopts an ordinance that is subsequently approved by a majority of the electors in such city or town voting in a referendum held at a general election”

On July 26, 2023, the Mayor and City Commission adopted Ordinance No. 2023-4567, which created Section 102-388 of the City Code, entitled “Levy, collection and administration of 1% local option food and beverage tax (Homeless and Domestic Violence tax),” to authorize Miami-Dade County to levy, collect, and administer the 1% Tax in Miami Beach, as provided in Section 212.0306, Florida Statutes, subject to the approval of the City’s voters in a general election (as defined in Section 97.021, Florida Statutes).

ANALYSIS

On July 26, 2023, and pursuant to Section 212.0306(2)(d), Fla. Stat., the Mayor and City Commission adopted Resolution No. 2023-32719, calling for a November 5, 2024 City of Miami Beach Special Election, for the purpose of submitting to the electorate of the City of Miami Beach a question asking whether the 1% Tax should be levied in Miami Beach.

The attached Resolution repeals Resolution No. 2023-32719 in its entirety, and directs the City Clerk to coordinate with the Miami-Dade County Elections Department to remove the ballot question from the November 5, 2024 ballot by implementing State of Florida Division of Elections (“DE”) Reference Guide 0007 (attached to this Memorandum as Exhibit “A”).

DE Reference Guide 0007 establishes guidelines for County elections departments to post official notices in election offices, at polling precincts, early voting sites, in Vote-by-Mail ballots, and on County websites, advising the City’s voters that the calling of the referendum has been repealed and the subject ballot measure ordered removed from the November 5, 2024 ballot by the Miami Beach City Commission.

If this Resolution is adopted, any votes cast for this ballot measure will not count for its approval or rejection nor shall any such votes cast be counted as part of the official results of the City of Miami Beach’s November 5, 2024 Special Election.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Condensed Title

Repeal Resolution 2023-32719, Ballot Question for 1% Tax. (Suarez) CA



Notice of Candidate Withdrawal or Disqualification or Removal of Ballot Issue

DE Reference Guide 0007 (Updated 02/2024) supersedes all prior versions

These guidelines are for reference only. They are not to be construed as legal advice or representation. For any particular set of facts or circumstances, refer to the applicable state, federal law, and case law, and/or consult a private attorney before drawing any legal conclusions or relying upon this information.

GENERAL OVERVIEW

- We offer the following guidelines to provide notice to the voter when a candidate has withdrawn, been disqualified, or passed away, or a public measure has been removed from the ballot but it is too late to change the format and content of the ballot.
- We also include guidelines for the tabulation of elections results under such circumstances.
- Official Spanish translations of notices are provided. Please note that dialects within your jurisdiction may use different terminology such papeleta versus boleta to refer to the ballot.

HOW TO USE THESE GUIDELINES

- Use the templates under the header “Notice Templates,” *as may be applicable*.
- If the race is not applicable to all voters in the county, clearly state to whom it applies. Examples:
 - ENG: Examples - “Notice to Primary Election Ballot Voters Only”/“Notice to Voters in Congressional District 1 Only” / “Notice to Voters in County Commission, District 1 Only”
 - SPN: Ejemplos - “Aviso para votantes de papeletas de elecciones primarias únicamente”/ “Aviso para los votantes del Distrito del Congreso 1 únicamente”/ Aviso para los votantes de la Comisión del Condado del Distrito 1 únicamente”etc.
- Post in EACH polling place and in EACH voting booth the notice of withdrawal, disqualification, passing, or removal (as applicable) from the ballot.
- Provide notice to all vote-by-mail ballot voters to whom the notice is applicable and for whom you have not already prepared to send ballots (regardless of delivery method) starting the day after the candidate has withdrawn, been disqualified or passed away, or the day after the court ordered the ballot issue removed.
- Provide notice on county websites.
- The Division will also post notice for federal, state, multi-county and district races.

NOTICE TEMPLATES

Templates #1 – 8 cover a number of scenarios and recommended notices.

TEMPLATE #1: For use when a candidate withdraws, is disqualified, or passes away and it does not result in an unopposed candidate

NOTICE TO THE VOTER

A candidate in the race for the office of _____ has [insert *withdrawn, been disqualified, or passed away*, whichever is applicable] such that:

A vote cast for [insert name of candidate A] will count.

A vote cast for [insert name of candidate B] will not count.

A vote cast for [insert name of candidate C] will count.

AVISO PARA EL VOTANTE*

Un candidato de la carrera para el cargo de _____ [inserte *se ha retirado, ha sido descalificado, o ha fallecido*, la opción que aplique], de manera que:

Un voto para [inserte el nombre del candidato A] contará.

Un voto para [inserte el nombre del candidato B] no contará.

Un voto para [inserte el nombre del candidato C] contará.

TEMPLATE #2: For use when a candidate withdraws, is disqualified, or passes away and the law permits a replacement candidate

NOTICE TO THE VOTER

A candidate in the race for the office of _____ has [insert *withdrawn, been disqualified, or passed away*, whichever is applicable] resulting in a replacement candidate as permitted by law. Please be advised that:

A vote cast for [insert name of candidate A] will count for [insert name of candidate A].

A vote cast for [insert name of candidate B] will count for [insert name of the replacement candidate].

A vote cast for [insert name of candidate C] will count for [insert name of candidate C].

AVISO PARA EL VOTANTE

Un candidato de la carrera para el cargo de _____ [inserte *se ha retirado, ha sido descalificado, o ha fallecido*, la opción que aplique], lo que ha resultado en un candidato de reemplazo conforme lo permite la ley. Por favor, considere que:

Un voto para [inserte el nombre del candidato A] contará para [inserte el nombre del candidato A].

Un voto para [inserte el nombre del candidato B] contará para [inserte el nombre del candidato de reemplazo].

Un voto para [inserte el nombre del candidato C] contará para [inserte el nombre del candidato C].

TEMPLATE #3: For use when a candidate withdraws, is disqualified, or passes away and it results in an unopposed race - If this scenario occurs in a closed primary race, then the Notice below should be preceded by “For [insert party name] Voters Only”

NOTICE TO THE VOTER

A candidate in the race for the office of _____ has [insert *withdrawn, been disqualified, or passed away*, whichever is applicable] resulting in an unopposed candidate race.

A vote cast in this race will not change the outcome as the remaining candidate is deemed by law to be [insert “nominated” or “elected” as applicable] for that race.

AVISO PARA EL VOTANTE

Un candidato de la carrera para el cargo de _____ [inserte *se ha retirado, ha sido descalificado, o ha fallecido*, la opción que aplique], lo que ha resultado en una carrera electoral sin oposición.

Un voto emitido en esta carrera no cambiará el resultado debido a que el candidato restante es considerado legalmente como [inserte “nominado” o “elegido”, conforme aplique] para tal carrera.

TEMPLATE #4: For use when a public measure is ordered removed from the ballot

NOTICE TO THE VOTER

The public measure [insert name of public measure—For example No. 1. Constitutional Amendment, Article __, Section __, Conserving Florida’s Future] has been ordered removed from the ballot.

Any vote cast for this public measure will not count for approval or rejection of the public measure.

AVISO PARA EL VOTANTE

Se ha ordenado que la medida pública [inserte el nombre de la medida pública – por ejemplo, Nro. 1. Enmienda constitucional, Artículo , Sección , Conservando el Futuro de Florida] sea eliminada de la papeleta.

Cualquier voto emitido hacia esta medida pública no contará para la aprobación o rechazo de esta medida pública.

TEMPLATE #5: For use when the only write-in candidate withdraws, is disqualified, or passes away

NOTICE TO THE VOTER

The write-in candidate in the race for the office of _____, has [insert *withdrawn, been disqualified, or passed away*, whichever is applicable].

Any vote cast for the write-in candidate in this race will not count.

AVISO PARA EL VOTANTE

El candidato por escrito en la carrera para el cargo de _____ [inserte *se ha retirado, ha sido descalificado, o ha fallecido*, la opción que aplique].

Cualquier voto emitido para este candidato por escrito será considerado inválido.

TEMPLATE #6: For use when one write-in candidate withdraws, is disqualified, or passes away but other write-in candidates remain

NOTICE TO THE VOTER

[Insert name of write-in candidate who *withdrew, was disqualified, or passed away*, whichever is applicable], a write-in candidate in the race for the office of _____ [insert *withdrawn, been disqualified or passed away*, whichever is applicable].

Any vote cast for this write-in candidate who has withdrawn, been disqualified or passed away, will not count.

AVISO PARA EL VOTANTE

[Inserte el nombre del candidato por escrito que *se ha retirado, ha sido descalificado, o ha fallecido*, la opción que aplique], un candidato por escrito en la carrera para el cargo de _____ [insert *se ha retirado, ha sido descalificado, o ha fallecido*, la opción que aplique].

Cualquier voto emitido para este candidato por escrito que se ha retirado, ha sido descalificado o ha fallecido no se considerará válido.

TEMPLATE #7: For use when a candidate whose candidacy in a closed primary race withdraws, is disqualified or passes away so that the race has now become an open or universal primary race and it is too late to change the race to a universal primary contest on the primary election ballot

NOTICE TO THE VOTER

[Insert name of candidate who *withdrew, was disqualified or passed away*, whichever is applicable], a [write-in, if applicable] candidate in the race for the office of _____ has [insert *withdrawn, been disqualified or passed away*, whichever is applicable]. Without this candidate, the election for this office has now become a universal primary contest open to all voters, regardless of party affiliation. To ensure that all voters have the opportunity to vote for this office, the election for this office will now appear on the general election ballot.

Any vote cast for any candidate in this race on the primary election ballot will not count.

AVISO PARA EL VOTANTE

[Inserte el nombre del candidato por escrito que *se ha retirado, ha sido descalificado, o ha fallecido*, la opción que aplique], un candidato [por escrito, si aplica] en la carrera para el cargo de _____ [insert *se ha retirado, ha sido descalificado, o ha fallecido*, la opción que aplique]. Sin este candidato, la elección para este cargo se convierte en un concurso primario universal abierto para todos los votantes, sin importar su afiliación de partido. Con la finalidad de asegurar que todos los votantes tengan la oportunidad de votar para este cargo, la elección de este cargo ahora aparecerá en la papeleta de elección general.

Cualquier voto emitido para este candidato en la papeleta de la carrera de la elección primaria no se considerará válido.

TEMPLATE #8: Applicable only in Presidential Preference Primary

If a major political party submits multiple presidential candidate nominees to place on the Presidential Preference Primary Election ballot, the candidate nominees have to withdraw by a December deadline in the year preceding the PPP pursuant to chapter 103, FS. If they do not want their name on the PPP ballot. After that deadline, the names of the candidates nominees who did not withdraw by the deadline **MUST** appear on the ballot even if a candidate nominee formally or reportedly suspends or withdraws from campaigning. The votes cast for each candidate nominee on the ballot shall count for that candidate nominee because the major political uses the votes at their national convention to further narrow the field of their presidential candidate for placement on the General Election Ballot. The following is offered solely as recommended (not required) language that may be included in the vote-by-mail ballot envelope and/or polling location or booth, or to use to answer incoming calls on the matter as to the PPP ballot for the specific major political party (the example uses the Republican Party of Florida based on the 2024 Election Cycle).

NOTICE TO THE VOTER

Some party candidates for president have reportedly suspended or ended their presidential campaigns.

If a candidate did not submit a formal withdrawal before statutory deadline of [insert date, in accordance with section 103.101(3), Fla. Stat., the candidate nominee's name must remain on the Presidential Preference Primary (PPP) ballot for his or her respective party.

A vote cast for any candidate nominee appearing on the ballot will count as a vote for that candidate.

AVISO PARA EL VOTANTE

Se ha reportado que algunos candidatos habrían suspendido o terminado sus campañas presidenciales.

Sin embargo, si un candidato no ha presentado un retiro formal antes del fecha límite legal [insert date], de acuerdo con la sección 103.101(3) de los Estatutos de Florida, su nombre debe permanecer en las papeletas de la Primaria de Preferencia Presidencial (PPP) para su partido respectivo. Un voto emitido para cualquier candidato en la papeleta será contado como un voto para ese candidato.

TABULATION OF VOTES/RESULTS

- It may be that your voting system will still record the votes that may be cast for the withdrawn or disqualified candidate or the removed public measure on the ballot.
- These votes cast should not be reported or published except to the extent that they are to count for a replacement candidate (example provided in Template #2).
- These votes are otherwise invalid and are not part of the unofficial or official election results. Moreover, these votes should not be counted for purposes of determining whether a recount or a run-off is triggered.

NOTE: For Presidential Preference Primary Election only, the vote cast for each candidate's name that appears on the ballot must still be recorded and counted regardless of any or informal formal notice or

reported in the media accounts of a candidate suspending or withdrawing after the statutory deadline unless there is a court order.

RESULTS TAPE

[The following DOES NOT apply to the Presidential Preference Primary Election.]

- Post the results tape (as you are required) in the polling place after polls are closed.
- **Do not** redact or otherwise black out the withdrawn or disqualified name or results on the results tape (it is recorded and public). You may post an explanatory note on the fact that the candidate withdrew or was disqualified or the issue was removed from the ballot.
- **Do not** publish those results anywhere else as there is no need.
- **Do not** include or submit the withdrawn/disqualified candidate or removed ballot issue results in any unofficial or official results to the Division.

For Presidential Preference Primary Election only, the vote cast for each candidate's name that appears on the ballot shall be counted regardless of formal notice or reported in the media accounts of a candidate suspending or withdrawing unless there is a court order.

PUBLIC RECORDS

- Although the tabulated votes are not made a part of the unofficial or official election results submitted to the Department of State, if they are recorded, they are still public record.
- Therefore, if someone wants to see what was recorded, they will have to be provided upon request.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REPEALING RESOLUTION NO. 2023-32719, WHICH CALLED FOR A CITY OF MIAMI BEACH SPECIAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER A 1% TAX ON FOOD/BEVERAGE SALES IN MIAMI BEACH SHOULD BE LEVIED TO FUND THE CONSTRUCTION/OPERATION OF HOUSING FOR HOMELESS PERSONS AND DOMESTIC VIOLENCE CENTERS, AND SHELTER, FOOD, CLOTHING, MEDICAL CARE, MENTAL HEALTH TREATMENT, TRAINING, AND EDUCATION; FURTHER, DIRECTING THE CITY CLERK TO IMPLEMENT THIS RESOLUTION BY COORDINATING WITH THE MIAMI-DADE COUNTY ELECTIONS DEPARTMENT FOR ITS IMPLEMENTATION OF STATE OF FLORIDA DIVISION OF ELECTIONS REFERENCE GUIDE 0007 ESTABLISHING GUIDELINES FOR COUNTY ELECTIONS DEPARTMENTS TO POST OFFICIAL NOTICES IN ELECTION OFFICES, AT POLLING PRECINCTS, EARLY VOTING SITES, IN VOTE-BY-MAIL BALLOTS, AND ON COUNTY WEBSITES, ADVISING THE CITY'S VOTERS THAT THE CALLING OF THE REFERENDUM HAS BEEN REPEALED AND THE SUBJECT BALLOT MEASURE ORDERED REMOVED FROM THE NOVEMBER 5, 2024 BALLOT BY THE MIAMI BEACH CITY COMMISSION, AND THAT IN ACCORDANCE WITH SAID REFERENCE GUIDE 0007, ANY VOTES CAST FOR THIS BALLOT MEASURE WILL NOT COUNT FOR ITS APPROVAL OR REJECTION NOR SHALL ANY SUCH VOTES CAST BE COUNTED AS PART OF THE OFFICIAL RESULTS OF THE CITY OF MIAMI BEACH'S NOVEMBER 5, 2024 SPECIAL ELECTION.

WHEREAS, on July 26, 2023, the Mayor and City Commission adopted Resolution No. 2023-32719, calling for a November 5, 2024 City of Miami Beach Special Election, for the purpose of submitting to the electorate of the City of Miami Beach a question asking whether a 1% tax on food/beverage sales in Miami Beach should be levied to fund the construction/operation of housing for homeless persons and domestic violence centers, and shelter, food, clothing, medical care, mental health treatment, training, and education; and

WHEREAS, the Mayor and City Commission now desire to withdraw the question with the appropriate notices advising voters that the proposed ballot question has been repealed, in a manner consistent with the guidelines set forth in Florida Division of Elections Reference Guide 0007, entitled "Notice of Candidate Withdrawal or Disqualification or Removal of Ballot Issue."

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission hereby repeal Resolution No. 2023-32719, which called for a City of Miami Beach Special Election to be held on November 5, 2024, for the purpose of submitting to the electorate of the City of Miami Beach a question asking whether a 1% tax on food/beverage sales in Miami Beach should be levied to fund the construction/operation of housing for homeless persons and domestic

violence centers, and shelter, food, clothing, medical care, mental health treatment, training, and education; and further, direct the City Clerk to implement this Resolution by coordinating with the Miami-Dade County Elections Department for its implementation of State of Florida Division of Elections Reference Guide 0007 establishing guidelines for County elections departments to post official notices in election offices, at polling precincts, early voting sites, in Vote-by-Mail ballots, and on County websites, advising the City's voters that the calling of the referendum has been repealed and the subject ballot measure ordered removed from the November 5, 2024 ballot by the Miami Beach City Commission, and that in accordance with said Reference Guide 0007, any votes cast for this ballot measure will not count for its approval or rejection nor shall any such votes cast be counted as part of the official results of the City of Miami Beach's November 5, 2024 Special Election.

PASSED and ADOPTED this ____ day of _____, 2024.


ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner David Suarez)

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK Date 10/20/2024