

RESOLUTION NO. 2022-32168

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR AN AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER, IN CERTAIN RESIDENTIAL ZONING DISTRICTS LOCATED SOUTH OF 5TH STREET, THE CITY SHALL INCREASE FAR FROM 1.25 TO 1.50 IN THE RPS1 DISTRICT, AND FROM 1.50 TO 1.75 IN THE RPS2 DISTRICT, TO PROVIDE BONUS FAR INCENTIVE ONLY FOR PROPERTIES CONVERTING APARTMENT HOTEL USES TO RESIDENTIAL USE.

BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH:

SECTION 1.

In accordance with provisions of the Charter of the City of Miami Beach, Florida and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the City of Miami Beach, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, August 23, 2022, for the purpose of submitting to the electorate the question as set forth hereinafter.

SECTION 2.

That the appropriate and proper Miami-Dade County election officials shall conduct the said Special Election hereby called, with acceptance of the certification of the results of said Special Election to be performed by the City Commission. The official returns for each precinct shall be furnished to the City Clerk of the City of Miami Beach as soon as the ballots from all precincts have been tabulated.

SECTION 3.

That the said voting precincts in the City of said Special Election shall be as established by the proper and appropriate Miami-Dade County Election Officials. All electors shall vote at the polling places and the voting precincts as determined by the Miami-Dade County Election Officials.¹

¹ Pursuant to City Code section 38-3(b): "The City Clerk shall further publish, in a newspaper meeting the requirements set forth in Florida Statute § 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."

SECTION 4.

Notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Miami Beach, Miami-Dade County, Florida. Such publication shall be made in accordance with the provisions of Section 100.342, Florida Statutes, and Section 38-3 of the Code of the City of Miami Beach.

SECTION 5.

The Notice of Election shall be substantially in the following form:

THE CITY OF MIAMI BEACH, FLORIDA

NOTICE OF SPECIAL ELECTION

NOTICE IS HEREBY GIVEN THAT A SPECIAL ELECTION HAS BEEN CALLED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AND WILL BE HELD IN SAID CITY FROM 7:00 A.M. UNTIL 7:00 P.M. ON THE 23rd DAY OF AUGUST, 2022, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY REGISTERED AND QUALIFIED VOTERS OF THE CITY OF MIAMI BEACH THE FOLLOWING QUESTION:

RPS1 District / RPS2 District
FAR Incentive to Convert Remaining Apartment Hotel Uses to Residential Use

City Charter requires voter approval before increasing a property's floor area ratio ("FAR") (City's method of regulating building size).

In certain residential zoning districts south of 5th Street, apartment-hotels are now prohibited, but previously approved properties may continue such uses.

Shall City increase FAR from 1.25 to 1.50 in RPS1 District, and from 1.50 to 1.75 in RPS2 District, to provide bonus FAR incentive only for properties converting apartment hotel uses to residential use?

Yes _____

No _____

Said Notice shall further set forth pertinent information regarding eligibility of electors to participate in said elections.

SECTION 6.

That the official ballot to be used in the Special Election to be held on August 23, 2022 hereby called, shall be in substantially the following form, to-wit:

“OFFICIAL BALLOT”

RPS1 District / RPS2 District
FAR Incentive to Convert Remaining Apartment Hotel Uses to Residential Use

City Charter requires voter approval before increasing a property’s floor area ratio (“FAR”) (City’s method of regulating building size).

In certain residential zoning districts south of 5th Street, apartment-hotels are now prohibited, but previously approved properties may continue such uses.

Shall City increase FAR from 1.25 to 1.50 in RPS1 District, and from 1.50 to 1.75 in RPS2 District, to provide bonus FAR incentive only for properties converting apartment hotel uses to residential use?

Yes _____
No _____

SECTION 7.

The form of the ballots to be used in this Special Election and their preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

SECTION 8.

Registration of persons desiring to vote in the Special Election shall be in accordance with the general law of the State of Florida governing voter registration. Qualified persons may obtain registration forms to vote at the Office of the City Clerk, City Hall, 1700 Convention Center Drive, First Floor, Miami Beach, Florida 33139, during normal business hours, and at such other voter registration centers and during such times as may be provided by the Supervisor of Elections of Miami-Dade County. The Miami-Dade County Supervisor of Elections will register voters for this Special Election until 5:00 p.m. on July 25, 2022. All persons eligible to vote at this Special Election must be registered before the time and date set forth herein or have registered previously, as provided by law. Each person desiring to become a registered voter shall be responsible for

properly filling out the registration form and returning it to the Miami-Dade County Elections Department. All questions concerning voter registration should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87th Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

SECTION 9.

That voters participating via a Vote-by-Mail ballot in said Special Election shall be entitled to cast their ballots in accordance with the provisions of the Laws of the State of Florida with respect to such voting. All questions concerning Vote-by-Mail ballots should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87th Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

SECTION 10.

That the City of Miami Beach shall pay all expenses for conducting this Special Election and will pay to Miami-Dade County or directly to all persons or firms, upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

SECTION 11.

That if the Charter Amendment provided for in Sections 5 and 6 above shall be approved by a majority of the qualified electors of the City voting on the subject Charter Amendment, it shall be considered adopted and effective upon the City Commission's acceptance of certification of final election results.

SECTION 12.

Upon the Charter Amendment's approval by a majority of the qualified electors of the City voting on such measure in the election and the City Commission's acceptance of certification of final election returns, the City Clerk is hereby directed to have the subject Charter amendment incorporated into the City Charter, file such Amendment with the Clerk of the Circuit Court and file the revised Charter with the Department of State.

SECTION 13.

If any section, sentence, clause or phrase of this Resolution or of the ballot measure or the Charter Amendment set forth herein 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 said Resolution, ballot measure or Charter Amendment.

SECTION 14.

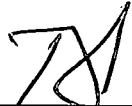
This Resolution shall be effective immediately upon its passage.

PASSED and ADOPTED this 4 day of May, 2022.

ATTEST:




DAN GELBER
MAYOR

 **MAY 09 2022**

RAFAEL E. GRANADO
CITY CLERK



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 4-28-22

City Attorney PAZ Date RP

**AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION:
BALLOT QUESTION**

I. BALLOT QUESTION:

**RPS1 District / RPS2 District
FAR Incentive to Convert Remaining Apartment Hotel Uses to Residential Use**

City Charter requires voter approval before increasing a property's floor area ratio ("FAR") (City's method of regulating building size).

In certain residential zoning districts south of 5th Street, apartment-hotels are now prohibited, but previously approved properties may continue such uses.

Shall City increase FAR from 1.25 to 1.50 in RPS1 District, and from 1.50 to 1.75 in RPS2 District, to provide bonus FAR incentive only for properties converting apartment hotel uses to residential use?

Yes _____

No _____

**Proposed Draft of City Code Amendment
(Subject to City Commission Revision and Approval)**

Sec. 142-694. – Nonconforming uses, lots and structures.

- (a) Nonconforming uses, lots and structures shall be subject to the regulations contained in chapter 118, article IX.
- (b) The following regulations shall apply to the conversion of a legally established, non-conforming apartment hotel use located in the R-PS1 or R-PS2 district, to a conforming residential apartment use, notwithstanding the underlying district regulations in Sec. 142-696:
- (1) For those properties located in the R-PS1 district, the maximum floor area ratio (FAR) shall not exceed 1.50 and the maximum building height shall be 55 feet, except for lots that are 50 feet wide or less, in which case the maximum building height shall be 50 feet.
 - (2) For those properties located in the R-PS2 district, the maximum floor area ratio (FAR) shall not exceed 1.75 and the maximum building height shall be 65 feet, except for lots 50 feet wide or less, in which case the maximum building height shall be 60 feet.
 - (3) The above noted FAR and building height limits shall only apply (i) to those properties that, as of the date of this Ordinance, have a legally established apartment hotel as the main permitted use, and (ii) if the entire property is converted to a conforming residential use.
 - (4) A property may only be eligible for the FAR and building height incentives set forth herein if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that, for a term of 30 years, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.
 - (5) The above noted FAR and building height limits shall not apply to transient uses of any kind including, but not limited to, hotel, suite hotel, apartment-hotel or the short term rental of apartment units.
 - (6) The above noted provisions pertaining to FAR and building height shall only apply to projects that have obtained a full building permit or certificate of use for the conversion to a conforming residential use by December 31, 2025.
 - (7) There shall be no variances from any of the above noted provisions.

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission
City Manager Alina T. Hudak

FROM: Rafael A. Paz, City Attorney



DATE: May 4, 2022

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR AN AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER, IN CERTAIN RESIDENTIAL ZONING DISTRICTS LOCATED SOUTH OF 5TH STREET, THE CITY SHALL INCREASE FAR FROM 1.25 TO 1.50 IN THE RPS1 DISTRICT, AND FROM 1.50 TO 1.75 IN THE RPS2 DISTRICT, TO PROVIDE BONUS FAR INCENTIVE ONLY FOR PROPERTIES CONVERTING APARTMENT HOTEL USES TO RESIDENTIAL USE.

The attached Resolution has been prepared calling for a City of Miami Beach Special Election to be held on August 23, 2022 for the purpose of submitting to the City's voters the following question, pursuant to Section 1.03(c) of the City Charter:

RPS1 District / RPS2 District
FAR Incentive to Convert Remaining Apartment Hotel Uses to Residential Use

City Charter requires voter approval before increasing a property's floor area ratio ("FAR") (City's method of regulating building size).

In certain residential zoning districts south of 5th Street, apartment-hotels are now prohibited, but previously approved properties may continue such uses.

Shall City increase FAR from 1.25 to 1.50 in RPS1 District, and from 1.50 to 1.75 in RPS2 District, to provide bonus FAR incentive only for properties converting apartment hotel uses to residential use?

* * *

Section 1.03(c) of the City Charter provides in pertinent part that the "floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001] . . . unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach.

The County's deadline for City Commission adoption of a Resolution placing a matter on the August 23, 2022 CMB Special Election ballot is May 27, 2022. Accordingly, it should be noted that other than the Commission's May 25, 2022 Presentation and Awards meeting, the May 4 2022 City Commission meeting is the last regularly-scheduled meeting of the City Commission at which a Resolution may be adopted placing a ballot question on the City's August 23, 2022 Special Election ballot.

FISCAL IMPACT STATEMENT

The Miami-Dade County Elections Department has provided the City Clerk with an estimate of approximately \$28,499.90 (Cost Estimate for One Page Ballot) and \$56,449.80 (Cost Estimate in the Scenario Multiple Questions Triggers an Additional Page) to conduct the August 23, 2022 Special Election, which includes the costs associated with 14 days of Early Voting. (See Department of Election Estimates). Additionally, the City will incur approximately \$42,000 in legally mandated advertisements, required by the Florida Statutes and the City Code, to notice this Special Election.

Amount(s)/Account(s):

\$28,499.90 – Estimate 1-page ballot (Scenario 1)

\$56,449.80 – Estimate 2-page ballot (Scenario 2)

\$42,000.00 – Legally Mandated Advertisements

Maximum Estimated Amount: \$98,449.80

Account: 011-9322-000312-90-400-592-00-00-00

RAP/JO/ag

ESTIMATE

City of Miami Beach - Piggyback Election - August 23, 2022

Rafael E. Granado, City Clerk
City of Miami Beach
1700 Convention Center Dr., #200
Miami Beach, FL 33139

Estimate N°: MBEACH-PB-082322
Estimate Date: December 16, 2021

Registered Voters:	50,498	Early Voting Days:	0
Precincts:	25	Early Voting Sites:	0
Polling Places:	-		
Permanent Absentee Ballots:	15,218		

Personnel	\$	-
<i>Salaries & Fringe Benefits, Overtime, Poll Workers</i>		
Polling Places		-
<i>Security, Polling Place Rentals</i>		
Supplies and Services		-
<i>Election Supplies, Communication Charges, Absentee Ballots Set Up</i>		
Trucks and Vehicles		-
<i>Truck Rentals, GSA Vehicles</i>		
Printing and Advertising		25,249.00
<i>Absentee, Early Voting & Precinct Ballots, Temporary Polling Place Change Notices, Newspaper Ads</i>		
Postage		-
<i>Absentee Ballots Sent and Business Reply, Temporary Polling Place Change Notices, Letters</i>		
Ballot Creation		660.00
<i>In-House & Outside Contractual Services, Translations - Based on one question</i>		
Administrative Overhead		2,590.90
<i>Indirect Costs, Logic & Accuracy, Post-Election Audits</i>		
	*TOTAL	<u>\$ 28,499.90</u>

* Please note these costs are estimates and are subject to change. This estimate does include the cost of ballot printing; however, if your question(s)/race(s) creates an additional ballot page, the cost will be adjusted accordingly.

For more information, you may contact:

Jose J. Ponce
Deputy Supervisor of Elections
Miami-Dade Elections Department
2700 NW 87 Avenue
Miami, Florida 33172

Office: 305-499-8320 E-mail: jose.ponce@miamidade.gov

ESTIMATE

City of Miami Beach - Piggyback Election - August 23, 2022 w/ additional page

Rafael E. Granado, City Clerk
City of Miami Beach
1700 Convention Center Dr., #200
Miami Beach, FL 33139

Estimate N°: MBEACH(2)-PB-082322
Estimate Date: December 16, 2021

Registered Voters:	50,498	Early Voting Days:	0
Precincts:	-	Early Voting Sites:	0
Polling Places:	-		
Permanent Absentee Ballots:	15,218		

Personnel	\$	-
<i>Salaries & Fringe Benefits, Overtime, Poll Workers</i>		
Polling Places		-
<i>Security, Polling Place Rentals</i>		
Supplies and Services		-
<i>Election Supplies, Communication Charges, Absentee Ballots Set Up</i>		
Trucks and Vehicles		-
<i>Truck Rentals, GSA Vehicles</i>		
Printing and Advertising		50,498.00
<i>Absentee, Early Voting & Precinct Ballots, Temporary Polling Place Change Notices, Newspaper Ads</i>		
Postage		-
<i>Absentee Ballots Sent and Business Reply, Temporary Polling Place Change Notices, Letters</i>		
Ballot Creation		820.00
<i>In-House & Outside Contractual Services, Translations - Based on one question</i>		
Administrative Overhead		5,131.80
<i>Indirect Costs, Logic & Accuracy, Post-Election Audits</i>		
	*TOTAL	\$ 56,449.80

* Please note these costs are estimates and are subject to change. This estimate does include the cost of ballot printing; however, if your question(s)/race(s) creates an additional ballot page, the cost will be adjusted accordingly.

For more information, you may contact:

Jose J. Ponce
Deputy Supervisor of Elections
Miami-Dade Elections Department
2700 NW 87 Avenue
Miami, Florida 33172

Office: 305-499-8320 E-mail: jose.ponce@miamidade.gov

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Rafael A. Paz, City Attorney
DATE: May 4, 2022

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CALLING FOR AN AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER, IN CERTAIN RESIDENTIAL ZONING DISTRICTS LOCATED SOUTH OF 5TH STREET, THE CITY SHALL INCREASE FAR FROM 1.25 TO 1.50 IN THE RPS1 DISTRICT, AND FROM 1.50 TO 1.75 IN THE RPS2 DISTRICT, TO PROVIDE AN INCENTIVE FOR CONVERTING REMAINING APARTMENT HOTEL USES TO RESIDENTIAL USE.

ANALYSIS

See attached Commission Memorandum.

SUPPORTING SURVEY DATA

N/A

FINANCIAL INFORMATION

See attached Commission Memorandum.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

No

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Office of the City Attorney

Sponsor

Commissioner Mark Samuelian