



To: Billy Urquia, City Clerk

cc: Stephanie M. Throckmorton, Deputy City Attorney

From: Cristina M. Suárez, City Attorney *CMS*

Re: Ordinance No. 2025-08

Date: September 9, 2025

As you know, on May 20, 2025, pursuant to Florida Statutes §§ 100.3605(2), 101.75, and 166.021(4), the City Commission adopted Ordinance No. 2025-08 providing for an amendment to the City Charter to move the date of the City's general election from April 13, 2027, to November 3, 2026, changing the date of all subsequent elections to coincide with national and state elections in November of even-numbered years, and amending other related dates (the "Coral Gables Ordinance").¹ Consequently, due to feedback from the Miami-Dade County Supervisor of Elections and to account for additional time needed to certify the general election and the Thanksgiving holiday, the Coral Gables Ordinance also moved the run-off election to a Tuesday four weeks after the general election and, as a result, reduced the terms of existing terms of office by four months.

¹ As of May 20, 2025, multiple opinions had been issued by the Florida Attorney General concluding that a municipality is authorized to move the date of its municipal election by ordinance. See Fla. Atty. Gen. Op. 2019-11; Fla. Atty. Gen. Op. 2013-05; Fla. Atty. Gen. Op. 2007-34; Fla. Atty. Gen. Op. 2003-52; Fla. Atty. Gen. Op. 2000-61. Moreover, the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in Hector Medina, et al. v. City of North Miami, et al., Case No. 2023-002691, in an order denying injunctive relief to plaintiffs challenging North Miami's authority to adopt ordinances changing the date of its election and as a result extending terms of sitting councilmembers, concluded that sections 166.021(4) and 100.3605(2) authorized the ordinances. The trial court explained that "[t]he statutory language is clear and unambiguous: the governing statutes authorize a municipality to change its election date, and extend the terms of its sitting councilmembers as a consequence of the election date change, by ordinance and without approval by popular referendum." The Third District Court of Appeal issued a per curiam affirmance of that decision. Medina v. City of N. Miami, 389 So. 3d 516 (Fla. 3d DCA 2023). Accordingly, the Coral Gables Ordinance was approved as to form and legal sufficiency, consistent with the applicable Florida Statutes, the foregoing authority, and previous interpretations of the City Attorney's Office.

Subsequently, in June 2025, the City of Miami sought to move the date of its elections via ordinance, a change resulting in the cancellation of its November 2025 election and an extension of terms of its sitting elected officials by one year. In response to a request by a City of Miami Commissioner prior to the consideration of the proposed ordinance on first reading, Florida's Attorney General issued a letter opining that the City of Miami could only amend its charter to move the date of municipal elections or to change the terms of office for elected officials by a vote of the electors as prescribed in Article VI, section 6.03 of the Miami-Dade County Home Rule Charter, reasoning that the "exclusive" language in section 11(1)(g) of the 1885 Florida Constitution prohibits charter amendments from proceeding by any other method other than the one prescribed in the County's Home Rule Charter. See Fla. Atty. Gen. Op. 2025-01. Nonetheless, on June 26, 2025, the City of Miami adopted its ordinance moving the date of the City's general municipal election scheduled for November 4, 2025, to align with the national and gubernatorial election on November 3, 2026 and consequently extending the terms of sitting elected officials by one year (the "Miami Ordinance").

On June 30, 2025, a potential mayoral candidate sued the City of Miami, seeking a declaration that the Miami Ordinance was unconstitutional as violative of Article VI, section 6.03 of the Miami-Dade County Home Rule Charter. Emilio Tomas Gonzalez v. City of Miami, et al., Case No. 25-12463-CA-01, Eleventh Judicial Circuit in and for Miami-Dade County, Florida. On July 21, 2025, the trial court denied the City of Miami's emergency motion to dismiss and granted plaintiff's motion for summary judgment, finding that the Miami Ordinance constitutes an impermissible amendment to the City of Miami Charter without a vote of the electorate, as required by Article VI, section 6.03(A) of the County Home Rule Charter and Article VII, section 11(1)(g) of the 1885 Florida Constitution, now contained in section 6(3) of the Florida Constitution. The City of Miami appealed that decision and ultimately, the Third District Court of Appeal held that the City of Miami may not enact an ordinance which effectively amends its Charter without submission of the issue to the will and vote of its constituents by referendum, as required by both the City and Miami-Dade County Charters and therefore, held that the Miami Ordinance is unconstitutional. City of Miami v. Gonzalez, 2025 Fla. App. LEXIS 5881 (Fla. 3d DCA July 21, 2025). The City of Miami filed a motion for rehearing, rehearing en banc, or in the alternative, for certification. The motion for rehearing was denied by the Third District Court of Appeal and no further review was sought by the City of Miami.

To date, the Coral Gables Ordinance has not been challenged and the City has not received any communication from the State of Florida, Miami-Dade County, or the Miami-Dade County Supervisor of Elections regarding the Coral Gables Ordinance. Nevertheless, on August 26, 2025, while the City of Miami lawsuit was still pending further review, the Coral Gables City Commission approved Resolution No. 2025-301 setting forth a question to the voters on a proposed amendment to the City Charter identical to the amendment set forth in the Coral Gables Ordinance (i.e. to move the date of the City's April 13, 2027 election to November 3, 2026, accordingly changing the date of all subsequent elections, moving the run-off election to a Tuesday

four weeks after the general election, reducing the terms of sitting elected officials by four months, and amending other related dates). In sending the question to the voters, the City Commission acknowledged that barring any contrary opinion issued by the Third District Court of Appeal or the Florida Supreme Court in the Miami lawsuit, the Commission would seek the approval of the voters to effectuate the change sought by the Coral Gables Ordinance. That ballot question on the proposed Charter Amendment will be scheduled for a mail-in ballot election on April 21, 2026.

As a result of the Third District Court's Opinion and the City Commission's declared intent to have the voters consider a proposed amendment to the City Charter that would move the date of elections to November of even-numbered years, it is my opinion that Ordinance No. 2025-08 is unenforceable and did not effectuate an amendment to the City Charter. While the Miami Ordinance extending terms of sitting elected officials by one year is factually distinguishable from the Coral Gables Ordinance which reduced terms of sitting elected officials by four months, the opinion of the Third District Court of Appeal did not turn on that factual issue. Rather, in my opinion, the legal analysis would be the same if the Coral Gables Ordinance were challenged. Moreover, the City Commission has already acted in accordance with the opinion of the Third District Court of Appeal by adopting a resolution seeking voter approval of the proposed Charter amendment to change the date of the City's election, understanding that such ballot question would not be needed and would be invalid if the City were to implement Ordinance No. 2025-08. Accordingly, Ordinance No. 2025-08 may not be enforced, did not effectuate an amendment to the City Charter, and the City Clerk may not take any steps to implement Ordinance No. 2025-08. Please append a copy of this Opinion to the Ordinance on Legistar and inform Municode so it may effectuate necessary changes consistent with this Opinion.

This opinion is issued pursuant to Section 2-252(e)(1), (8), and (9) of the City Code.