

ORDINANCE NO. 2022-XX

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER II “STRUCTURE OF CITY GOVERNMENT,” ARTICLE I, “THE CITY COMMISSION,” SECTION 2-1.1 “MEETINGS OF THE CITY COMMISSION,” SUBSECTION (a), “QUORUM REQUIRED/ETHICAL DUTY TO REMAIN AT CITY COMMISSION MEETINGS,” BY DELETING THE REQUIREMENTS CONCERNING THE DUTY TO REMAIN AT CITY COMMISSION MEETINGS AND MOVING THE REQUIREMENTS TO ARTICLE X “CODE OF ETHICS” IN A NEWLY CREATED SECTION 2-79.14 ENTITLED “ETHICAL DUTY OF REMAIN AT CITY COMMISSION MEETINGS”; AUTHORIZING THE CITY CLERK TO TRANSMIT THE ORDINANCE TO THE MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST FOR ENFORCEMENT PURPOSES; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in October 2016, via Ordinance Number 2016-9, the City Commission amended its quorum ordinance and added a new section to the code entitled “Ethical Duty to Remain at City Council Meetings” to mandate attendance throughout meetings in an effort to avoid, among other things, losing a quorum during a meeting; and

WHEREAS, as a result of the change, section 2-1.1 of the City’s Code of Ordinances, requires that, subject to temporary personal breaks, elected officials must remain at City Commission meetings throughout the entirety of the meeting; and

WHEREAS, under the section, it was intended that a failure to follow the rule would subject an elected official to an investigation by the Miami-Dade County Commission on Ethics and Public Trust and possibly a penalty; and

WHEREAS, it was recently determined by the Miami-Dade County Commission on Ethics and Public Trust that because this section did not appear in the North Miami Beach Ethics Code, the Miami-Dade County Commission on Ethics and Public Trust does not have jurisdiction and authority to enforce the provisions of the section; and

WHEREAS, in an effort to correct this issue, it is being proposed that the provisions of Section 2-1.1 of the Code of Ordinances relating to an elected official’s duty to remain at city commission meetings, be moved to the North Miami Beach Ethics Code; and

WHEREAS, the Mayor and City Commission believe it is in the best interests of the City to approve this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Commission of the City of North Miami Beach, Florida:

Section 1. That the recitals and findings contained in the forgoing “whereas” clauses are adopted by reference and incorporated as if fully set forth in this section.

Section 2. That Chapter II, entitled “Structure of City Government,” Article I, “The City Commission,” Section 2-1.1 entitled “Meetings of the City Commission,” is hereby amended as follows (underlined is added; ~~stricken through~~ is deleted):

2-1.1 Meetings of the City Commission.

- a. *Quorum Required/Ethical Duty to Remain at City Commission Meetings.* Before the City Commission can transact any legal business, there must be not less than five (5) duly qualified Commissioners present. ~~Furthermore, in order to promote the integrity of Commission meetings and to ensure the performance of public duties by the City's elected officials, Commissioners shall (subject to restroom or other temporary personal breaks, and subject to a Commissioner's duty to leave Commission chambers during that portion of a Commission meeting in which the Commissioner has a voting conflict) remain at City Commission meetings throughout the entirety of such meeting, barring an emergency or other matter beyond a Commissioner's control which compels his/her presence elsewhere, in which event he/she shall state into the record the basis of such emergency/other matter prior to leaving the meeting. Failure of a Commissioner to truthfully state the basis of emergency/other matter prior to leaving the meeting shall constitute a violation of this Code subsection. The Miami-Dade County Commission on Ethics and Public Trust shall enforce the provisions of this subsection and may impose any penalty authorized by County Code pertaining to violations of municipal ethics laws. The validity of any action or determination of the City Commission shall not be affected by the failure of any Commissioner to comply with the provisions herein.~~

Section 3. That Chapter II, entitled “Structure of City Government,” Article X, “Code of Ethics,” Section 2-79.14 entitled “Ethical Duty to Remain at City Commission Meetings,” is hereby created to state as follows (underlined is added; ~~stricken through~~ is deleted):

2-79.14 Ethical Duty to Remain at City Commission Meetings.

In order to promote the integrity of Commission meetings and to ensure the performance of public duties by the City's elected officials, Commissioners shall (subject to restroom or other temporary personal breaks, and subject to a Commissioner's duty to leave Commission chambers during that portion of a Commission meeting in which the Commissioner has a voting conflict) remain at City Commission meetings throughout the entirety of such meeting, barring an emergency or other matter beyond a Commissioner's control which compels his/her presence elsewhere, in which event he/she shall state into the record the basis of such emergency/other matter prior to leaving the meeting. Failure of a Commissioner to truthfully state the basis of emergency/other matter prior to leaving the meeting shall constitute a violation of this Code subsection. The Miami-Dade County Commission on Ethics and Public Trust shall enforce the provisions of this subsection and may impose any penalty authorized by County Code pertaining to violations of municipal ethics laws. The validity of any action or determination of the City Commission shall not be affected by the failure of any Commissioner to comply with the provisions herein.

Section 4. That the City Clerk shall provide a copy of this ordinance to the Miami-Dade County Commission on Ethics and Public Trust for enforcement purposes.

Section 5. Conflicts. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. Severability. If any clause, section, other part or application of this Ordinance is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Ordinance.

Section 7. Codification. Specific authority is given to codify this Ordinance.

Section 8. Effective Date. This Ordinance shall become effective ten days after adoption on second reading.

APPROVED on this first reading this **18th day of January, 2022.**

APPROVED AND ADOPTED on second reading this ____ day of _____, 2022.

ATTEST:

ANDRISE BERNARD, CMC
CITY CLERK

(CITY SEAL)

ANTHONY F. DEFILLIPO
MAYOR

APPROVED AS TO FORM, LANGUAGE
AND FOR EXECUTION

HANS OTTINOT
INTERIM CITY ATTORNEY

Sponsored by: Commissioner Barbara Kramer