

ORDINANCE NO. 2017-05

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER XIV *BUILDING AND HOUSING*, SPECIFICALLY SECTION 14-8.13 ENTITLED “CODE ENFORCEMENT BOARD; ORGANIZATION; SPECIAL MAGISTRATES” TO PROVIDE THAT VACANCIES ON THE CODE ENFORCEMENT BOARD SHALL HAVE NOMINATIONS MADE WITHIN TWO REGULARLY SCHEDULED CITY COMMISSION MEETINGS, AND IF NO NOMINATION IS MADE, A MAJORITY OF THE COMMISSION SHALL MAKE THE NOMINATION; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach (“City”) has a Code Enforcement Board (“CEB”); and

WHEREAS, the CEB has advisory responsibilities which are integral to the productivity and efficient functioning of the business of the City, and

WHEREAS, Chapter XIV *Building and Housing*, of the City’s Code of Ordinances, under 14-8.13 “Code Enforcement Board; Organization; Special Magistrates”, the membership, quorum, and appointment process of the CEB is provided; and

WHEREAS, recently there are regularly occurring instances where failure to nominate members to fill vacant positions on the CEB results in an inability to hold meetings and conduct important business because of failure to obtain a quorum; and

WHEREAS, in order to promote efficiency and ensure important business of the City is able to be conducted, an amendment to the appointment process which provides that upon a vacancy on the CEB and notice to the appointing Commissioner, if no nomination is made after two (2) regularly scheduled City Commission Meetings, the majority of the City Commission may nominate a member for appointment; and

WHEREAS, in accordance with the Citizens Bill of Rights, the Mayor and City Commission desire to promote the orderly, efficient, and fair operation of government and provide an alternative process for appointments to the CEB when there is a vacancy and recommend approval of the proposed amendment.

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

Section 1. The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Section 14-8.13 of the City of North Miami Beach Code of Ordinances, entitled “Code Enforcement Board; Organization; Special Magistrates”, is amended as follows:

CHAPTER XIV - BUILDING AND HOUSING

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14-8 - ADMINISTRATION AND ENFORCEMENT OF BUILDING, PLANNING AND ZONING REGULATIONS.

* * *

14-8.13 Code Enforcement Board; Organization; Special Magistrates.

a. There is hereby created and established a Code Enforcement Board to enforce the business tax receipts regulations, building, zoning, sign and other related codes and ordinances, which Board shall consist of seven (7) members and may additionally have up to two (2) alternate members to serve in the absence of Board members, appointed by the Mayor and City ~~Council~~ Commission for three (3) year terms, except as set forth herein.

Four (4) members, who represent seats 1, 3, 5, and 7, shall be appointed to serve from November 15 of that year, and three (3) members, who represent seats 2, 4, and 6, shall be appointed to serve from November 15 of that year. For the first board only, members appointed representing seats 1, 3, 5, and 7 shall be appointed for a term of three (3) years, while members appointed representing seats 2, 4, and 6 shall be appointed for a term of two (2) years. Appointments to fill vacancies shall be for the unexpired term only. Vacancies shall be filled by the ~~councilperson's~~ Commissioner's seat that made the appointment. Upon a seat becoming vacant, the City Clerk shall immediately notify, in writing, the Commissioner who made the appointment, and if no nomination is made within the next two ensuing regularly scheduled City Commission Meetings, a majority of the City Commission will appoint a member to fill the vacant position.

Effective November 15, 2012, the first Code Enforcement Board shall consist of newly-appointed members, in accordance with the intent of the City ~~Council~~ Commission and the City Charter. All board members shall be newly appointed at the City ~~Council~~ Commission meeting on November 6, 2012. Alternates shall be appointed by the Mayor and City ~~Council~~ Commission. Members of the Code Enforcement Board shall be subject to the provisions of Florida Statutes Section 286.012, relating to voting at meetings of the board, and to the provision of Florida Statutes Sections 112.311—112.3175, inclusive, relating to financial disclosure and conflicts of interest, and to the provisions of Florida Statute Section 112.501, relating to suspension and removal from office.

Members of the Code Enforcement Board shall be residents of the City of North Miami Beach. No person holding an elective office of the City shall be eligible to appointment to the Code Enforcement Board until at least one (1) year following termination of his/her elective office. Appointments shall be made on the basis of experience or interest in the fields of zoning and building control. The membership of the Code Enforcement Board shall, whenever possible,

include an architect, a businessperson, an engineer, a general contractor, a subcontractor and a realtor, but shall not be limited to these professions.

b. Members of the Code Enforcement Board shall be appointed for three (3) year terms to commence on November 15 of the year of appointment. Service as an alternate member shall not preclude service as a regular member. Appointments to fill a vacancy shall be for the remainder of the unexpired term. If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the Chairperson, the Code Enforcement Board shall declare the member's office vacant, and the Mayor and City ~~Council~~ Commission shall promptly fill such vacancy for the remainder of the term.

c. At each December Code Enforcement Board meeting, members of the Code Enforcement Board shall elect a Chairperson and a Vice-Chairperson from the members of the Board and each shall be a voting member of the Board. The presence of four (4) or more members shall constitute a quorum. Members shall serve without compensation but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the Mayor and City ~~Council~~ Commission.

d. Special Magistrates shall be appointed by the City ~~Council~~ Commission to preside over code enforcement hearings in the same capacity as the Code Enforcement Board and shall have the same status as an Enforcement Board, pursuant to Florida Statute Chapter 162. The Special Magistrate shall be an attorney-at-law admitted to practice law in the State, a member in good standing of the Florida Bar, shall possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability, and have significant knowledge of the City's Code enforcement matters and City Code.

e. The City Attorney or Assistant City Attorney shall either be counsel to the Code Enforcement Board or Special Magistrate or shall represent the City by presenting cases before the Code Enforcement Board or Special Magistrate. However, in no case shall the same attorney serve in both capacities.

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Section 3. All ordinances or parts of ordinances in conflict therewith be and the same are hereby repealed.

Section 4. If any section, subsection, clause or provision of this Ordinance is held invalid, the reminder shall not be affected by such invalidity.

Section 5. It is the intention of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word Ordinance” may be changed to “Section”, “Article”, or other appropriate word as the Codifier may deem fit.

Section 6. This Ordinance shall become effective ten days after adoption on second reading.

APPROVED on first reading this **18th day of April, 2017.**

APPROVED AND ADOPTED on second reading this **16th day of May, 2017.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

LANGUAGE

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM &
& FOR EXECUTION

JOSÉ SMITH
CITY ATTORNEY

Sponsored by: Mayor and City Commission

Note: Proposed additions to existing City Code text are indicated by underline.