

Alternate Member Category for Land Use Boards

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE II, ENTITLED "BOARDS," BY AMENDING DIVISION 2, ENTITLED "PLANNING BOARD," AT SECTION 118-52, "MEETINGS AND PROCEDURES," AND SECTION 118-53, ENTITLED "COMPOSITION," TO CREATE AN ALTERNATE MEMBER CATEGORY ON THE PLANNING BOARD; BY AMENDING DIVISION 3, ENTITLED "DESIGN REVIEW BOARD," AT SECTION 118-72, ENTITLED "MEMBERSHIP," AND SECTION 118-75, ENTITLED "QUORUM AND VOTING," TO CREATE AN ALTERNATE MEMBER CATEGORY ON THE DESIGN REVIEW BOARD; BY AMENDING DIVISION 4, ENTITLED "HISTORIC PRESERVATION BOARD," AT SECTION 118-103, ENTITLED "MEMBERSHIP," AND SECTION 118-106, ENTITLED "QUORUM AND VOTING," TO CREATE AN ALTERNATE MEMBER CATEGORY ON THE HISTORIC PRESERVATION BOARD; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety, and general welfare of its citizens; and

WHEREAS, currently the Design Review Board (DRB), Historic Preservation Board (HPB) and Planning Board are all composed of seven (7) regular voting members; and

WHEREAS, if a regular member is absent from a meeting, or has a voting conflict on an item, the board is forced to conduct business with one fewer member, resulting in a "short board;" and

WHEREAS, a short board may limit the board's ability to consider and adjudicate applications, resulting in unnecessary continuances and a less efficient and predictable land use board process; and

WHEREAS, the City seeks to provide for a more efficient land use board process; and

WHEREAS, the amendment set forth below is necessary to accomplish all of the above objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Chapter 118, "Administration and Review Procedures," Article II, entitled "Boards," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

**CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES**

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ARTICLE II. – BOARDS

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DIVISION 2. – PLANNING BOARD

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Sec. 118-52. Meetings and procedures.

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- (d) *Quorum and voting.* A quorum shall constitute four regular members. An affirmative vote of four regular members shall be required to approve a request before the board that requires city commission approval. An affirmative vote of five regular members shall be required to approve a conditional use request or to approve any other request that does not require city commission approval. If an application is denied, the board shall provide a written statement in support of its finding. The alternate member shall only be eligible to vote when a regular voting member recuses due to a voting conflict on a particular application or is otherwise absent from a meeting. In the event a regular voting member resigns or is removed from the board, the alternate member shall take the former member's place until such time as a new regular voting member is appointed by the city commission.

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Sec. 118-53. Composition.

- (a) The planning board shall be composed of seven regular voting members and one alternate member, who shall also be a voting member, in accordance with the requirements herein. Each regular member, and the alternate member, shall be appointed with the concurrence of at least four members of the city commission. Each regular voting member, and the alternate member, shall serve for a term of two years. The planning director or designee, and city attorney or designee, shall serve in an advisory capacity.
- (b) All regular voting members of the board, and the alternate member, shall have considerable experience in general business, land development, land development practices or land use issues; however, the board shall at a minimum be comprised of:
- (1) One architect registered in the State of Florida; or a member of the faculty of a school of architecture in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of architecture; or a landscape architect registered in the State of Florida; or a professional practicing in the fields of architectural or urban design, or urban planning;
 - (2) One developer who has experience in developing real property; or an attorney in good standing licensed to practice law within the United States;

- (3) One attorney licensed to practice law in the State of Florida who has considerable experience in land use and zoning issues;
 - (4) One person who has education and/or experience in historic preservation issues. For purposes of this section, the term "education and/or experience in historic preservation issues" shall be a person who meets one or more of the following criteria:
 - a. Has earned a college degree in historic preservation;
 - b. Is responsible for the preservation, revitalization or adaptive reuse of historic buildings; or
 - c. Is recognized by the city commission for contributions to historic preservation, education or planning;
 - (5) Two persons who are residents at-large and who currently reside in the city and have resided in the city for at least three consecutive years at the time of appointment or reappointment. Additionally, strong preference shall be given to individuals who have previously served on a Miami Beach board or committee and/or completed the Miami Beach Leadership Academy course, and to individuals not currently working in the fields of real estate development, real estate brokerage/sales, real estate law, or architecture; and
 - (6)
 - a. A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;
 - b. A person licensed by the State of Florida in hydrology, water or wastewater treatment;
 - c. A person with a degree from an accredited college or university in a field of study related to water resources; or
 - d. A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert").
- (c) The alternate member shall be a resident of the City, who has resided in the city for at least one year and satisfies at least one of the criteria for membership in subsection (b), above.
- (d) Except as provided in subsection (b)(5), no person except a resident of the city, who has resided in the city for at least one year, shall be eligible for appointment to the planning board. The residency requirement in this subsection ~~(e)~~ (d) shall not apply to the water management expert appointed to the planning board pursuant to subsection (b)(6).
- ~~(d)~~ (e) With the exception of the alternate member, ~~t~~The city commission may waive the residency requirements by a five-sevenths vote in the event a person not meeting these requirements is available to serve on the board and is exceptionally qualified by training and/or experience.

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DIVISION 3. DESIGN REVIEW BOARD

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Sec. 118-72. Membership.

- (a) *Composition.* The design review board shall be composed of seven regular members and one alternate member, who shall also be a voting member, in accordance with the requirements herein. The seven regular members shall consist of:
- (1) One architect registered in the United States;
 - (2) An architect registered in the State of Florida or a member of the faculty of a school of architecture, urban planning or urban design in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of architecture; or a professional practicing in the fields of architectural design or urban planning;
 - (3) One landscape architect registered in the State of Florida;
 - (4) One architect registered in the United States, or a professional practicing in the fields of architectural or urban design, or urban planning; or resident with demonstrated interest or background in design issues; or an attorney in good standing licensed to practice law within the United States;
 - (5) Two persons who are residents at-large and who currently reside in the city and have resided in the city for at least three consecutive years at the time of appointment or reappointment. Additionally, strong preference shall be given to individuals who have previously served on a Miami Beach board or committee and/or completed the Miami Beach Leadership Academy course, and to individuals not currently working in the fields of real estate development, real estate brokerage/sales, real estate law, or architecture; and
 - (6) a. A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;
b. A person licensed by the State of Florida in hydrology, water or wastewater treatment;
c. A person with a degree from an accredited college or university in a field of study related to water resources; or
d. A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert").
- One person appointed by the city manager from an eligibility list provided by the disability access committee shall serve in an advisory capacity with no voting authority. The planning director, or designee, and the city attorney or designee, shall serve in an advisory capacity.
- (b) *Appointment.* Design review board members shall be appointed with the concurrence of at least four members of the city commission. An eligibility list for these professional membership categories may include, but shall not be limited to, suggestions from the following professional and civic associations as listed below:
- (1) American Institute of Architects, local chapter.
 - (2) American Society of Landscape Architects, local chapter.
 - (3) The Miami Design Alliance.
 - (4) American Planning Association, local chapter.
 - (5) The Miami Design Preservation League and Dade Heritage Trust.
 - (6) Other city civic, neighborhood and property owner associations.
- (c) *Residency and place of business.*
- (1) All regular members shall reside in or have their primary place of business in the county, except for the water management expert appointed pursuant to subsection (a)(6), who need not reside in or have a principal place of business in the county, and except as otherwise provided in subsection (a)(5).

(2) The two resident at-large members and one of the registered landscape architects, registered architects, or professionals practicing in the fields of architectural or urban design or urban planning shall be residents of the city.

(3) The alternate member shall be a resident of the City, who has resided in the city for at least one year and satisfies at least one of the criteria for membership in subsection (a), above.

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Sec. 118-75. Quorum and voting.

A quorum shall consist of four regular members. An affirmative vote of four regular members shall be required to approve an application for design review. Prior to a decision of the design review board, the ex officio members shall submit a recommendation for each item on the agenda. An affirmative vote of five regular members of the board shall be necessary to approve any variance request. The alternate member shall only be eligible to vote when a regular voting member recuses due to a voting conflict on a particular application or is otherwise absent from a meeting. In the event a regular voting member resigns or is removed from the board, the alternate member shall take the former member's place until such time as a new regular voting member is appointed by the city commission.

In addition, the city attorney shall determine whether a request is properly before the board. If an application is denied, the board shall provide a written statement in support of its finding.

As applicable to meetings held during a state of emergency declared by the city, county, or state that applies to the City of Miami Beach and that impacts the board's ability to meet in person, a quorum of the board shall attend the meeting in person, and remaining board members may attend and participate using communications media technology such as telephonic and video conferencing, unless the in-person quorum requirement has been suspended by the Florida Governor, by a court of competent jurisdiction, or otherwise suspended pursuant to applicable law.

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DIVISION 4. HISTORIC PRESERVATION BOARD

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Sec. 118-103. Membership.

(a) The historic preservation board shall be composed of seven members and an alternate member, who shall also be a voting member, in accordance with the requirements herein. There shall be a member from each of the following categories:

- (1) A representative from the Miami Design Preservation League (MDPL), selected from three names nominated by such organization.
- (2) A representative from Dade Heritage Trust (DHT), selected from three names nominated by such organization.
- (3) Two at-large members, who have resided in one of the city's historic districts for at least one year, and who have demonstrated interest and knowledge in architectural or urban design and the preservation of historic buildings.
- (4) An architect registered in the State of Florida with practical experience in the rehabilitation of historic structures.
- (5) (i) A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;

- (ii) A person licensed by the State of Florida in hydrology, water or wastewater treatment;
 - (iii) A person with a degree from an accredited college or university in a field of study related to water resources; or
 - (iv) A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert"), each of the foregoing with professional experience and demonstrated interest in historic preservation.
- (6) A member of the faculty of a school of architecture in the State of Florida, with academic expertise in the field of design and historic preservation or the history of architecture, with a preference for an individual with practical experience in architecture and the preservation of historic structures.
- (b) The alternate member shall be a resident of the City, who has resided in the city for at least one year and satisfies at least one of the criteria for membership in subsection (a), above.
- (c) All members of the board except the architect, university faculty member, and water management expert shall be residents of the city; provided, however, that with the exception of the alternate member the city commission may waive the residency requirement (if applicable) by a 5/7ths vote, in the event a person not meeting the residency requirements is available to serve on the board and is exceptionally qualified by training and/or experience in historic preservation matters. All appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation.

Sec. 118-106. Quorum and voting.

The presence of a quorum shall be necessary to conduct a historic preservation board meeting. A quorum shall consist of four members of the board. A majority vote of the members present shall be necessary to approve all requests or to decide all issues coming before the board with the following exceptions:

- (1) Issuance of a certificate of appropriateness for demolition, recommendations for historic designation and reclassification of properties listed as "historic" in the historic properties database shall require five affirmative votes.
- (2) The issuance of a certificate of appropriateness pertaining to revisions to any application for a property where a certificate of appropriateness for demolition was previously issued, including an after-the-fact certificate of appropriateness for demolition, shall require five affirmative votes.
- (3) The approval of any variance request shall require five affirmative votes.
- (4) The issuance of a certificate of appropriateness pertaining to any application for new construction, renovation or rehabilitation, except as otherwise provided in this section, shall require four affirmative votes.
- (5) In the event of a tie vote on a motion on all requests or issues coming before the board, the motion shall be deemed denied.

Additionally, the alternate member shall only be eligible to vote when a regular voting member recuses due to a voting conflict on a particular application or is otherwise absent from a meeting. In the event a regular voting member resigns or is removed from the board, the alternate member may take the former member's place until such time as a new regular voting member is appointed by the city commission.

As applicable to meetings held during a state of emergency declared by the city, county, or state that applies to the City of Miami Beach and that impacts the board's ability to meet in person, a quorum of the board shall attend the meeting in person, and remaining board members may attend and participate using communications media technology such as telephonic and video conferencing, unless the in-person quorum requirement has been suspended by the Florida Governor, by a court of competent jurisdiction, or otherwise suspended pursuant to applicable law.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of 2023.

Dan Gelber, Mayor

ATTEST:

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

Rafael E. Granado, City Clerk



City Attorney NK 1-5-22
Date

First Reading: February 1, 2023
Second Reading: February 22, 2023

Verified by: _____
Thomas R. Mooney, AICP
Planning Director