

**OPTION B:
REQUESTED BY VICE MAYOR KRISTEN ROSEN GONZALEZ AND
COMMISSIONER MICHAEL GRIECO**

RESIDENTS' RIGHT TO KNOW

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE II, ENTITLED "CITY COMMISSION," BY CREATING SECTION 2-14 TO BE ENTITLED "RESIDENTS' RIGHT TO KNOW," TO CODIFY THE LEGISLATIVE INTENT OF THIS ORDINANCE, DEFINE MATTERS THAT IMPACT RESIDENTS' QUALITY OF LIFE, PROVIDE THAT THE CITY COMMISSION SHALL ADOPT A PROCESS FOR REGISTERING NEIGHBORHOOD ASSOCIATIONS AND INDIVIDUAL RESIDENTS WHO CHOOSE TO REGISTER, REQUIRE TARGETED ELECTRONIC NEIGHBORHOOD NOTICES FOR MATTERS THAT IMPACT RESIDENTS' QUALITY OF LIFE, ALLOW FOR TIMELY OPPORTUNITIES FOR PUBLIC INPUT, SUPPLEMENT EXISTING PROVISIONS IN THE CITY CODE RELATING TO PROCEDURAL FAIRNESS IN QUASI-JUDICIAL HEARINGS AND HEARINGS PERTAINING TO CERTAIN LEGISLATIVE MATTERS, ALLOW A REGISTERED NEIGHBORHOOD ASSOCIATION OR INDIVIDUAL RESIDENT WHO CHOOSES TO REGISTER TO REQUEST DEFERRAL OR RECONSIDERATION OF A MATTER IF SUCH MATTER IS NOT DULY NOTICED PURSUANT TO THIS ORDINANCE, PROVIDE THAT ANY AMENDMENT OR REPEALER OF THIS ORDINANCE SHALL REQUIRE THE AFFIRMATIVE VOTE OF 5/7THS OF THE CITY COMMISSION, DIRECT THE CITY MANAGER OR THE MANAGER'S DESIGNEE TO CONDUCT PERIODIC REVIEW AND PREPARE ANNUAL WRITTEN REPORTS, AND PROVIDE THAT THIS ORDINANCE SHALL BE ADMINISTERED BY THE OFFICE OF THE CITY MANAGER; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Paragraph (A)5 of the Citizens' Bill of Rights provides for a right to be heard before the City Commission or any City agency, board, or department with regard to the presentation, adjustment, or determination of an issue, request, or controversy within the jurisdiction of the City; and

WHEREAS, likewise, Paragraph (A)6 of the Citizens' Bill of Rights provides that "[p]ersons entitled to notice of a City hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held"; and

WHEREAS, in the spirit of encouraging public notice and public participation in City government, the Mayor and City Commission desire to enact this Residents' Right to Know Ordinance to provide for targeted neighborhood notices, timely opportunities for input, and procedural fairness in quasi-judicial hearings.

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

SECTION 1. That Section 2-14 of Chapter 2 of the Miami Beach City Code is hereby created to state as follows:

**CHAPTER 2
ADMINISTRATION**

* * *

Article II. City Commission

* * *

Sec. 2-14. - Residents' Right to Know.

- (a) Legislative intent. It shall be the policy of the city to provide targeted neighborhood notice, timely opportunities for input, and procedural fairness in hearings for any proposed policy, ordinance, project, or other matter that impacts residents' quality of life.
- (b) Impacts to residents' quality of life. Matters that impact residents' quality of life shall include the following:
 - (1) any position that has been formally adopted by resolution of a registered neighborhood association and transmitted to the city through its city manager;
 - (2) any application for development review before the city's land use boards, or any proposed zoning legislation before the city commission, that includes the potential for lot aggregation, or that includes the potential for material increase in (i) traffic over current levels, (ii) required parking, (iii) building height, (iv) base elevation, (v) intensity of uses, (vi) hours of operation for those uses that require a city approval (e.g., a variance or business tax receipt) for extended hours, (vii) density, or (viii) floor area ratio;
 - (3) development proposals that require approval by the city commission which propose
 - a. changes of use or commercialization in a public park, public beach, or other public property or public easement; and
 - b. the design and implementation of a streetscape, transit, pedestrian, parking, or area improvement project (other than routine repairs and maintenance);
 - (4) administrative decisions made by the city manager that the city manager determines, in the city manager's reasonable judgment and discretion, would

impact residents' quality of life (excluding decisions made during emergency situations and decisions for which advance notice is impracticable); and

- (5) any material change to any of the matters listed in subsections (b)(1) through (b)(4) above.

For purposes of this Ordinance, a "material increase" shall be defined as any increase in building height or base elevation over three (3) feet, or any increase in density, floor area ratio, or **hours of operation for those uses that require a city approval for extended hours.** Additionally, a "material increase" shall be defined as any increase in traffic over current levels, required parking, or intensity of uses that the planning and director considers to be substantial.

- (c) *Targeted neighborhood notice.* The city commission shall adopt a process by resolution (as may be amended from time to time) for registering neighborhood associations and shall provide targeted electronic notices on matters that impact residents' quality of life, as defined above and, in addition to targeted electronic notice, the city shall post such notices on the city's website. Targeted neighborhood notices at each step in the public process, excluding emergency matters requiring immediate action, shall be in addition to any other public notices required by law. Registered neighborhood associations shall have the opportunity to register for specifically categorized notices based on whether a particular action affects North Beach, Mid-Beach, or South Beach. Notices shall be written in plain English, and both the title and summary shall objectively describe the proposed action.

For purposes of this Ordinance, the term "neighborhood association" shall be defined as an organization of residential homeowners and tenants created to address quality of life issues in a defined neighborhood or community.

Notwithstanding the above, an individual resident of Miami Beach may also register to receive targeted neighborhood notices. In order to be eligible for registration, an individual shall have been a resident of the city for a minimum of six (6) months, and must provide the city with a reasonable form of identification exhibiting proof of residency (to be defined in the resolution described above) upon registering.

Registered neighborhood associations (and individuals who choose to register) must renew their registrations on an annual basis.

- (d) *Timely opportunities for input.* Once a matter that impacts residents' quality of life (as defined above) is referred to a city commission committee or land use board, or once a matter is placed on an agenda for approval by the city commission, the city shall use reasonable good faith efforts to ensure that registered neighborhood associations (and individuals who choose to register) have an opportunity to participate in city processes that shape any matter that impacts residents' quality of life (as defined in subsection (b) above).
- (e) *Procedural fairness in quasi-judicial and **applicable legislative** hearings.* The city shall ensure that representatives of registered neighborhood associations (and individuals who choose to register) shall have the opportunity at (i) quasi-judicial hearings **and (ii) legislative hearings on amendments to the land development regulations to**

present or rebut evidence relevant to matters that impact residents' quality of life. **This shall include the opportunity for a registered neighborhood association to obtain a reasonable time certain** and for an individual who chooses to register to request a reasonable time certain for the convenience of the public. **Notwithstanding a registered neighborhood association's right to obtain a reasonable time certain, the chair or presiding officer shall have the discretion to schedule the time of a particular quasi-judicial hearing.** Registered neighborhood associations (and individuals who choose to register) do not need to retain legal counsel to exercise these procedural rights. Notices of filing, and a copy of each quasi-judicial application or applicable legislative item, shall promptly be made available on the city's website, and amendments thereto or supplemental information shall be filed and promptly made available on the city's website in advance of the date of the scheduled hearing.

- (f) *Deferral or reconsideration.* A registered neighborhood association (or individual who chooses to register) may request deferral of any matter that requires targeted notice, or the reconsideration of that matter, if such matter is not duly noticed pursuant to this Ordinance. A reconsideration may only be requested at the publicly noticed land use board or city commission meeting immediately following the meeting at which the challenged action was taken. However, the land use board or city commission shall have the sole discretion to grant or deny any such request. Consistent with Robert's Rules of Order, a motion to reconsider must be made by a board member or commissioner who voted with the prevailing side.
- (g) *Amendment or repealer.* Any amendment to this Ordinance (including the repealer of any provision herein) shall require the affirmative vote of five-sevenths (5/7ths) of the city commission.
- (h) *Periodic review and annual report.* The city manager, or the city manager's designee, shall, annually during the city commission's review and approval of the city's annual operating budget, present a written report to the city commission tracking and identifying the operational implementation and fiscal impact of this Ordinance. The report shall include statistics relating to the number of registered neighborhood associations and individuals registered under the Ordinance and any amendments thereto; issues pertaining to impacts to residents' quality of life that have resulted in the issuance of targeted notices; and any violations and/or complaints received by the city administration with regard to the implementation of the procedures set forth in the Ordinance.
- (i) *Administration of this Ordinance.* This Ordinance shall be administered by the office of the city manager.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance 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 this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on January 1, 2018.

PASSED and **ADOPTED** this _____ day of _____, 2017.

ATTEST:

Rafael E. Granado, City Clerk

Philip Levine, Mayor

(Sponsored by Vice-Mayor Kristen Rosen Gonzalez and Commissioner Michael Grieco)

Underline denotes additions; ~~strike-through~~ denotes deletions

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Rafael E. Granado 5/10/17

City Attorney Date

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