

R5 U 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 III, ENTITLED "AGENCIES, BOARDS, AND COMMITTEES," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," AT SECTION 2-22 THEREOF, ENTITLED "GENERAL REQUIREMENTS," TO ADOPT RESTRICTIONS ON THE APPOINTMENT OF A CITY VENDOR, INCLUDING A PRINCIPAL OR EMPLOYEE OF A VENDOR, TO A CITY BOARD OR COMMITTEE; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: February 26, 2025 11:10 a.m. First Reading Public Hearing

TITLE: 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 III, ENTITLED "AGENCIES, BOARDS, AND COMMITTEES," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," AT SECTION 2-22 THEREOF, ENTITLED "GENERAL REQUIREMENTS," TO ADOPT RESTRICTIONS ON THE APPOINTMENT OF A CITY VENDOR, INCLUDING A PRINCIPAL OR EMPLOYEE OF A VENDOR, TO A CITY BOARD OR COMMITTEE; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

At the request of Commissioner David Suarez, the attached Ordinance has been placed on the February 26, 2025 City Commission meeting agenda for First Reading.

Chapter 2 of the City Code, entitled "Administration," at Article III, establishes regulations on the City's agencies, boards, and committees, including minimum requirements for appointment.

ANALYSIS

This Ordinance amends Section 2-22 of the City Code, entitled "General requirements," to adopt restrictions on the appointment of a City vendor, including a principal or employee of a vendor, to a City board or committee. The term "vendor" specifically includes City grantees.

More specifically, the Ordinance provides that, commencing with terms beginning on or after April 1, 2025, "no individual who is a vendor of the city (or a principal or employee of a vendor of the city) may be appointed to a city agency, board, or committee for the duration of the term of the vendor's contract with the city nor within one (1) year after the contract's termination or expiration."

The Ordinance also provides that, as a condition of appointment, each applicant must certify that they are not currently, and have not been within the one (1) year period prior to appointment, a City vendor, nor a principal or employee of a City vendor. The applicant must also confirm that the entity of which they are a principal or employee has not been a City vendor for at least one (1) year prior to appointment. If a City board member becomes a City vendor, or if the entity of which they are a principal or employee becomes a vendor, the execution of the vendor's contract shall be deemed a tender of resignation from the City agency, board, or committee.

The Ordinance provides for a waiver by the City Commission on a five-sevenths (5/7ths) vote. The Ordinance also exempts City vendors providing goods, equipment, or services not exceeding \$10,000 in a City fiscal year, and grantees receiving \$10,000 or less in a given fiscal year.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate?

(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Condensed Title

11:10 a.m. 1st Rdg PH, Restrict Appointment of Vendor to Board/Committee. (Suarez) CA

Previous Action (For City Clerk Use Only)

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 III, ENTITLED "AGENCIES, BOARDS, AND COMMITTEES," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," AT SECTION 2-22 THEREOF, ENTITLED "GENERAL REQUIREMENTS," TO ADOPT RESTRICTIONS ON THE APPOINTMENT OF A CITY VENDOR, INCLUDING A PRINCIPAL OR EMPLOYEE OF A VENDOR, TO A CITY BOARD OR COMMITTEE; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 2, Article III, Division 1 sets forth regulations on the City's agencies, boards, and committees and the appointment of their members; and

WHEREAS, the Mayor and City Commission now desire to amend Section 2-22 of the City Code to adopt restrictions on the appointment of a City vendor, including a principal or employee of a vendor, to a City board or committee.

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 2-22 of Chapter 2 of the Miami Beach City Code is hereby created to state as follows:

CHAPTER 2

ADMINISTRATION

* * *

Article III. Agencies, Boards and Committees

* * *

Sec. 2-22. General requirements.

Except as otherwise specifically provided:

- (1) All agencies, boards and committees shall express a statement of their bodies' purpose.
- (2) All agencies, boards and committees shall appoint a chairperson and a vice-chairperson, or a chair shall be appointed by the mayor in cases dealing with a mayor's board or committee.
- (3) The enabling legislation for all agencies, boards and committees shall contain qualifications for membership as to knowledge and experience.
- (4) Members of agencies, boards and committees shall be affiliated with the city; this requirement shall be fulfilled in the following ways:

- a. An individual shall have been a resident of the city for a minimum of six months; or
- b. An individual shall demonstrate an ownership interest (for a minimum of six months) in a business established in the city (for a minimum of six months); or
- c. An individual shall be a full-time employee of such a business (for a minimum of six months); provided further that such employee must be based in an office or other location of the business that is physically located in Miami Beach (for a minimum of six months). Notwithstanding the requirements set forth herein, the qualified full-time employee of a business must be approved by a four-sevenths vote of the mayor and city commission.

For the purposes of subsection (4)b., the following terms shall have the following meanings:

- (i) *Ownership interest* shall mean ownership of ten percent or more (including the ownership of ten percent or more of the outstanding capital stock) in a business.
- (ii) *Business* any sole proprietorship, sponsorship, corporation, limited liability company, or other entity or business association.

Members of agencies, boards, and committees, shall be required to demonstrate compliance with the city affiliation requirements of subsections (4)a., and b., by executing an affidavit, in a form prepared by the city clerk's office, stipulating that they have met either (or both) of the affiliation requirements in subsections (4)a., and/or b. Each agency, board, or committee members covered by the requirements of subsections (4)a. or b. shall file the original affidavit with the city clerk's office prior to being sworn in as a member.

Exceptions to subsections (4)a. and b. of this section shall only be permitted if it is determined by the city commission that an agency, board or committee requires the membership of an individual with a specific position, knowledge, experience or expertise not available in another individual who may otherwise comply with the terms of subsections (4)a. and b. of this section.

- (5) All ad hoc agency, board and committee terms shall be one year; all other agency, board and committee terms shall be two years, expiring on December 31 and commencing on January 1.

- a. Members appointed by individual city commissioners (referred to as "direct appointees") to a specific agency, board or committee shall serve for no more than eight consecutive years on such agency, board or committee.

Notwithstanding any other provision of the City Code or of any resolution, commencing with terms beginning on or after January 1, 2007, the term of every board member who is directly appointed by a member of the city commission shall automatically expire upon the latter of: December 31 of the year the appointing city commissioner leaves office or upon the appointment/election of the successor city commission member.

- b. Members appointed by the city commission as a whole (referred to as "at-large appointees") to any agency, board or committee shall serve for no more than six years on any agency, board or committee as an at-large appointee. Nothing set forth in this subsection shall prohibit any individual from being reappointed (and serving up to six years) to any at-large position after a hiatus of two years.

However, individuals serving on an agency board or committee who will have otherwise served six years as of December 16, 2006, may serve the remainder of their existing term.

Term limits set forth in subsections (5)a. and b. of this section shall be measured retroactively from an individual's initial appointment to membership on an agency, board or committee.

Exceptions to subsection (5)b. of this section shall only be permitted if it is determined by the city commission that an agency, board or committee requires the membership of a registered architect or registered landscape architect who does not otherwise comply with the terms of subsection (5)b. hereinabove.

- (6) An individual member can serve as a chairperson of a specific agency, board or committee for no more than four consecutive years.
- (7) All agency, board and committee terms shall be staggered upon initial appointment by the city commission.
- (8) All agencies, boards and committees shall be supported by a city department. The supporting department shall make every effort to provide appropriate assistance with the mailing of meeting summaries, agendas and notices.
- (9) If any member of an agency, board or committee fails to attend 33 percent of the regularly scheduled meetings per calendar year, such member shall be automatically removed. To calculate the number of absences under the 33 percent formula, .4 or less rounds down to the next whole number and .5 or more rounds up to the next whole number.
- (10) During meetings, a standard sign-in register must be completed by members of agencies, boards or committees. If there is not a quorum to conduct agency, board or committee business, attendance and absences must otherwise be recorded.
- (11) Attendance shall be recorded when an individual arrives within 30 minutes of the scheduled meeting time and remains for at least 70 percent of the meeting.
- (12) All agencies, boards and committees shall meet at least once quarterly, unless otherwise indicated in this chapter.
- (13) The chairperson or his designee shall biannually submit a completed written report form, supplied by the city administration, to the city commission and city manager. Additionally, the chairperson or his designee shall annually present an oral report to the commission and city manager. The contents of both the report form and the oral report shall be approved by the submitting agency, board or committee prior to the presentations.
- (14) Upon appointment, individuals shall receive an explanation of the government in the sunshine law, public records law, conflict of interest policy, mission statement, attendance requirements and other pertinent information.
- (15) Individuals serving on an agency, board or committee as ex officio members shall be nonvoting members.
- (16) The issue of conflict of interest/abstention impairs an individual's ability to be an effective member of an agency, board or committee. Members of any city agency, board or committee shall abide by the applicable provisions of F.S. ch. 112; County Code

chapter 2 and article VII of this chapter, and any other applicable provisions of law, regarding conflicts of interest.

- (17) Members of the community shall be encouraged to attend agency, board and committee meetings.
- (18) Members of agencies, boards and committees shall be encouraged to make recommendations for the filling of vacancies on their respective bodies.
- (19) The city manager, or the city manager's designee, shall annually prepare and present a report to the city commission tracking and identifying the city's diversity statistics. The report shall include the city's diversity statistics relating to individual commissioner, agency, board and committee appointments, city commission, agency, board and committee appointments, and city workforce diversity statistics.
- (20) At-large appointment of agency, board and committee members to fill categories:
 - a. When an appointment involves the selection of individual member(s) to fill any specified category or categories, the city commission vote(s) thereon shall be limited to the filling of each particular membership category by separate vote, with said votes to be taken and publicly announced in the order of category listings as set forth within the respective enabling legislation. Individuals seeking such appointments may qualify for more than one category.
 - b. Notwithstanding the above, with regard to the City of Miami Beach Visitor and Convention Authority, any vacancy remaining after city commission appointments under the established categories may be filled by applicants from either or both (combined) the "hotel industry" category or "community at large" category.
- (21) Filling special vacancies on certain boards:
 - a. Whenever a vacancy occurs on the board of adjustment, planning board, design review board, or historic preservation board prior to the end of a member's term of office due to resignation, termination, removal or death, a special vacancy exists and said member shall cease to hold office immediately upon such resignation, termination, removal or death. After the city clerk has been notified in writing by the board's liaison that a special vacancy exists, a notice of special vacancy shall be posted in city hall, on the city's website, and in any other place(s) that may be designated by the city commission by resolution. The notice of special vacancy shall also be published once in a newspaper of general circulation in the city. An appointment to any of the above-referenced boards to fill a special vacancy shall not be made for at least ten business days after the newspaper publication of the notice of special vacancy.
 - b. Notwithstanding subsection (21)a., the city commission may, if it finds that an emergency exists, authorize the temporary filling of a special vacancy by resolution. A person appointed to fill the special vacancy shall serve only on an acting basis, but with all of the powers and duties of board membership, until a final appointment is made.
- (22) Whenever a mayor's board or committee is created to study a defined geographic area of the city, the mayor shall make a reasonable effort to appoint at least one individual who has resided in the area to be studied for a minimum of six months, or who demonstrates ownership/interest for a minimum of six months in a business established in the area to be studied for a minimum of six months.

- (23) Commencing with terms beginning on or after January 1, 2024, and as a condition of applying for appointment to a city agency, board, or committee, each applicant must voluntarily agree, in writing, that in the event the applicant files with city clerk, a statement of candidate formally announcing candidacy for city elective office, such filing with the city clerk shall be deemed a tender of resignation from the city agency, board, or committee, and the member's automatic resignation shall thereby immediately create a vacancy in the agency, board, or committee.
- (24) If an appointee is engaged to provide services, for compensation, to either (1) a candidate for city elected office, or (2) a political committee or electioneering communications organization expending funds for or against candidates for city elected office, such engagement shall be deemed a tender of resignation from such city agency, board, or committee.
- (25) Commencing with terms beginning on or after April 1, 2025, no individual who is a vendor of the city (or a principal or employee of a vendor of the city) may be appointed to a city agency, board, or committee for the duration of the term of the vendor's contract with the city nor within one (1) year after the contract's termination or expiration. As a condition of applying for appointment to a city agency, board, or committee, each applicant must first certify, in writing, that they are not currently, and have not been within the one (1) year period prior to appointment, a city vendor, nor a principal or employee of a city vendor. Additionally, the applicant must certify that the entity of which they are a principal or employee has not been a vendor for at least one (1) year prior to appointment. The applicant must also agree that, should they (or the entity of which they are a principal or employee) become a city vendor while serving on an agency, board, or committee, the execution of the vendor's contract shall be deemed a tender of resignation from the city agency, board, or committee, and the member's automatic resignation shall thereby immediately create a vacancy in the agency, board, or committee. The provisions of this subsection may be waived by a five-sevenths (5/7ths) vote of the city commission.

For purposes of this subsection, the term "vendor" means any individual or entity doing business directly with the city, such as renting, leasing, managing or selling any realty, goods, or services; or any grantee receiving city funds. The term "vendor" shall not include those individuals or entities that provide goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year, or that receive \$10,000.00 or less in grant funds from the City in a fiscal year, wherein city commission action is not required.

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 _____.

PASSED and **ADOPTED** this _____ day of _____, 2025.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

(Sponsored by Commissioner David Suarez)

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

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

JB
City Attorney

2/19/2025
Date

NK