Condensed Title:

An Ordinance proposing an amendment to the Land Development Regulations of the City Code amending the residency requirements for the Planning Board and the Historic Preservation Board.

Key Intended Outcome Supported:

Not Applicable - Regulatory

Supporting Data (Surveys, Environmental Scan, etc

Not Applicable - Regulatory

Issue:

Should the City Commission adopt the proposed ordinance increasing the residency requirements for members of the Planning and Historic Preservation Boards to be residents of the City?

Item Summary/Recommendation:

SECOND READING PUBLIC HEARING

This ordinance will clarify that only a resident of the City may be appointed to a Planning Board position and that the at-large member of the Historic Preservation Board who must own or manage property in a historic district must also be a resident of the City.

The Administration recommends that the City Commission adopt the proposed ordinance as modified by the Planning Board.

Advisory Board Recommendation:

At the October 28, 2008 meeting, the Planning Board voted (6-0; one member absent) to recommend to the City Commission adoption of the proposed ordinance, as modified. The Board modified the proposed ordinance by eliminating the principal place of business eligibility for Planning Board appointment and instead requiring that all members must be residents of the City. The modification also requires that the at-large member of the Historic Board who owns or manages property in a historic district must also be a resident of the City.

Financial Information:

Source of		Amount	Account	
Funds:	1			
	2		•	
	3			
OBPI	Total			

Financial Impact Summary:

The proposed Ordinance is not expected to have any fiscal impact upon the resources of the City.

City Clerk's Office Legislative Tracking:

Jorge Gomez or Mercy Lamazares

Sign-Offs:

Department Difector Assistant City Manager City Manager

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AGENDA ITEM RSB DATE 1-28-09



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

SÉCOND READING PUBLIC HEARING

TO:

Mayor Matti Herrera Bower and Members of the City Commission

FROM:

Jorge M. Gonzalez, City Manager

DATE:

January 28, 2009

SUBJECT: Residency requirements for Planning Board and Historic Preservation Board

members

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE OF THE CITY OF MIAMI BEACH, FLORIDA BY AMENDING **CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE** II, "BOARDS," DIVISION 2, "PLANNING BOARD," BY AMENDING SECTION 118-53, "COMPOSITION," BY CLARIFYING THAT ONLY A RESIDENT OF THE CITY SHALL BE ELIGIBLE FOR APPOINTMENT; AMENDING DIVISION 4, "HISTORIC PRESERVATION BOARD," SECTION 118-103, "MEMBERSHIP," BY ESTABLISHING THAT ONE OF THE AT-LARGE MEMBERS WHO MUST OWN OR MANAGE PROPERTY IN ONE OF THE HISTORIC DISTRICTS SHALL ALSO RESIDE IN THE CITY; PROVIDING FOR REPEALER, SEVERABILITY. CODIFICATION AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the proposed ordinance.

ANALYSIS

The Administration was asked to review the current composition and eligibility requirements of each of the development review boards which include the Board of Adjustment, the Historic Preservation Board, the Design Review Board and the Planning Board, and to propose recommendations that would strengthen the residency requirements,.

These boards are tasked with the regulation of land development, thus the composition requirements are very specific to include the membership of individuals who maintain specialized positions, knowledge, experience and/or expertise and a number of these members are required to be registered professionals. In addition, Chapter 118 of the City code specifically describes rights to serve on these boards, which require members to be either residents of the City, or have their principal business interest within the City.

In order to strengthen the residency requirements for the City's development review boards, amendments to the City Code are required. These amendments would remove having the principal place of business as an option for the eligibility requirement and the residency composition could be expanded by applying the residency requirement to additional members. Because each board is tasked with serving individualized functions, the composition requirements for each board may vary. After thorough review, the conclusion is that strengthening the residency requirement for the Design Review Board would make the eligibility requirements too stringent and would not be recommended. However, revisions to the membership of the Planning Board and Historic Preservation Board could be addressed by amending their ordinances.

In addition to Chapter 118 of the City Code, the City Charter specifically addresses the composition requirements for the Board of Adjustment. Sub-Part B, The Related Acts, Article I, Section 2 of the City Charter specifically states that "Members of the Board of Adjustment must be either residents or have their principal place of business in Miami Beach." Revision to the membership composition of the Board of Adjustment would require a ballot question to amend the Related Acts within the City Charter. Section 118-131 tracks the same language as Section 2 of the City Charter.

The comparative table below shows the applicable composition requirements as well as the residency requirement for each of the land use boards.

Development Boards – Comparison

Board	Appointment	Membership Composition	Residency Requirement		
Planning Board	Seven, appointed with the concurrence of at least four votes of the city commission.	At a minimum, one from each of the professional categories: One registered architect, or 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 professional architectural designer, or professional urban planner,	A resident of the city or an individual having their main business interest in the city		
		One developer One attorney who has considerable experience in land use and zoning issues One person with education or experience in historic preservation issues General business (citizens at large)			
Design Review	Same as above	Two registered architects, One registered architect, 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 architectural designer, or a professional urban planner	Reside in or have their primary place of business in the county, except that the two citizens-atlarge and one of the registered landscape architects, registered architects, professional		

Same as above	One registered landscape architect, One registered architect, or	designers or professional urban planners shall be residents of the city.
	One representative from the MDPL	A11 b
		All members
	One representative from DHT One at-large member who owns or	except the architect, engineer, landscape architect,
	manages a property or properties located in one of the city's historic districts	professional designer or professional urban
	One at-large member who resides in one of the city's historic districts, and who has demonstrated interest in historic preservation issues.	planner and university faculty member shall be residents of, or have business
	One architect registered in the state with practical experience in the rehabilitation of historic structures.	interests in, the city; the city commission may waive these
	 registered landscape architect, or professional designer, or professional urban planner, or 	requirements
	 an attorney at law, or a licensed engineer who has professional experience in historic preservation. 	
	One member of the faculty of a school of architecture in the state	
Seven members appointed by a five-sevenths vote of the city commission.	Two citizens at-large, and five members selected from the following categories Law, Architecture, Engineering, Real estate development, Certified public accounting, Financial consultation	Must be either residents of or have their principal place of business in the city.
m ap fix	embers pointed by a re-sevenths te of the city	practical experience in the rehabilitation of historic structures. One registered architect, or

PLANNING BOARD ACTION

At the October 28, 2008 meeting, the Planning Board voted (6-0; one member absent) to recommend to the City Commission adoption of the proposed ordinance, as modified. The Board modified the proposed ordinance by eliminating the principal place of business eligibility for Planning Board appointment and instead requiring that all members must be residents of the City. The modification also requires that the at-large member of the Historic Board who owns or manages property in a historic district must also be a resident of the City. This modification is included in the proposed ordinance.

FISCAL IMPACT

The proposed Ordinance is not expected to have any significant fiscal impact upon the resources of the City.

CITY COMMISSION ACTION

At the December 10, 2008 meeting, the City Commission approved the proposed ordinance on first reading and requested the following modifications:

- 1. Waive residency requirement by 5/7 vote of the City Commission to those members who meet specific board requirements on the HPB and Planning Board.
- 2. One-year residency requirement.
- 3. Historic Preservation Board include 5/7 vote waiver provision.

These amendments have been incorporated into the proposed ordinance.

CONCLUSION

The Administration recommends that the City Commission adopt the proposed ordinance.

Pursuant to Section 118-164(3), when a request to amend the Land Development Regulations **does not** change the actual list of permitted, conditional or prohibited uses in a zoning category, the proposed ordinance may be read by title or in full on at least two separate days and shall, at least **ten days prior** to adoption, be noticed once in a newspaper of general circulation in the City. Immediately following the public hearing at the second reading, the City Commission may adopt the ordinance by a five-sevenths vote.

JMG/TH/JGG/ML

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AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE OF THE CITY OF MIAMI BEACH. FLORIDA BY AMENDING CHAPTER "ADMINISTRATION AND REVIEW PROCEDURES." ARTICLE II, "BOARDS," DIVISION 2, "PLANNING BOARD," BY AMENDING SECTION 118-53, "COMPOSITION," CLARIFYING THAT ONLY A RESIDENT OF THE CITY SHALL BE ELIGIBLE FOR APPOINTMENT; AMENDING DIVISION 4, "HISTORIC PRESERVATION BOARD," SECTION 118-103, "MEMBERSHIP," BY ESTABLISHING THAT EACH OF THE TWO AT-LARGE MEMBERS SHALL RESIDE IN ONE OF THE CITY'S HISTORIC DISTRICTS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Land Use Boards of the City play an important role in carrying out the provisions of the City Code; and

WHEREAS, the Land Use Boards review development applications during public hearings that may have a direct impact on the residents of the City; and

WHEREAS, the City Commission desires to provide for better resident representation in these Land Use Boards; and

WHEREAS, the City Commission makes appointments of individuals to these Land Use Boards; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

<u>Section 1</u>. That Division 2, "Planning Board," Section 118-53, "Composition," is hereby amended as follows:

Section 118-53. Composition.

(a) The Planning Board shall be composed of seven regular voting members. Each regular member shall be appointed with the concurrence of at least four members of the city commission. Each regular voting member shall

- serve for a term of two years. The planning director or designee, and city attorney shall serve in an advisory capacity.
- (b) All regular voting members of the board 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 one registered architect or a member of the facility 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 professional architectural designer or professional urban planner, one developer and one attorney who has considerable experience in land use and zoning issues, and 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:
 - (1) Has earned a college degree in historic preservation;
 - (2) Is responsible for the preservation, revitalization or adaptive reuse of historic buildings; or
 - (3) Is recognized by the city commission for contributions to historic preservation, education or planning.
- (c) No person except a resident of the city, or an individual having their main business interest in the city who has resided in the City for at least one year, shall be eligible for appointment to the Planning Board.
- (d) The City Commission may waive the residency requirements by a 5/7ths 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.
- **Section 2.** That Division 4, "Historic Preservation Board," Section 118-103, "Membership," is hereby amended as follows:

Section 118-103. Membership.

- (a) The historic preservation board shall be composed of seven members. 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) One at-large member who owns or manages a property or properties located in one of the city's historic districts, and who has demonstrated interest and knowledge in urban design and the preservation of historic buildings.
- (4 <u>3</u>) One <u>Two</u> at-large members who <u>have</u> residesd in one of the City's historic districts <u>for at least one year</u>, and who <u>has have</u> demonstrated interest and knowledge in urban design and the preservation of historic buildings.
- (5 <u>4</u>) An architect registered in the state with practical experience in the rehabilitation of historic structures.
- (6 5) A registered architect, registered landscape architect, professional designer or professional urban planner with practical experience in the rehabilitation of historic structures; or an attorney at law or a licensed engineer who has professional experience and demonstrated interest in historic preservation.
- (7 6) A member of the faculty of a school of architecture in the state, 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) All members of the board except the architect, engineer, landscape architect, professional designer or professional urban planner and university faculty member of the board shall be residents of, or have business interests in, the city; provided, however, that the city commission may waive these this requirements by a 5/7ths vote in the event a person not meeting these 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.

SECTION 3. Repealer.

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

SECTION 4. 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 5. Severability.

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

SECTION 6. Effective Date This Ordinance shall take ef		otion.
PASSED and ADOPTED th	isday of	, 2009.
ATTEST:		MAYOR
CITY CLERK First Reading:	Oity Attorn	APPROVED AS TO FORM AND LANGUAGE & FOR EXECUTION Date
Second Reading: Verified by:		

<u>Underscore</u> denotes new language. <u>Strikethrough denotes deleted language</u>.

Planning Director

Jorge G. Gomez, AICP

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CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on Wednesday, January 28, 2009, to consider the following:

10:15 a.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article III, Section 2-22(5)(a) Thereof Regarding General Requirements For Membership On City Of Miami Beach's Agencies, Boards And Committees, By Providing That When A Vacancy On The City Commission Exists Beyond December 31 Of The Year An Appointing Commission Member Leaves Office, Direct Appointees Of Said Former Commission Member Shall Hold Over Until The Appointment/Election Of The Successor City Commission Member.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

10:20 a.m.

An Ordinance Amending The Land Development Regulations Of The City Code Of The City Of Miami Beach, Florida By Amending Chapter 118, "Administration And Review Procedures," Article II, "Boards," Division 2, "Planning Board," By Amending Section -118-53, "Composition," By Clarifying That Only A Resident Of The City Shall Be Eligible For Appointment; Amending Division 4, "Historic Preservation Board," Section 118-103, "Membership," By Establishing That One Of The At-Large Members Who Must Own Or Manage Property In One Of The Historic Districts Shall Also Reside In The City.

inquiries may be directed to the Planning Department at (305) 673-7550.

10:25 a.m.

An Ordinance Amending City Code Chapter 118, "Administration And Review Procedures," Article VII, "Division Of Land/Lot Split," Section 118-321, "Purpose, Standards And Procedure," By Clarifying That The Review Criteria For Requests For A Division Of Land/Lot Split To Require An Applicant To Submit Massing And Scale Studies Of Possible Structures And Uses On The Lot Or Lots Proposed To Result From Lot Splits; And The Required Opinion Of Title Should Be As Of A Date Not More Than 120 Days Before The Planning Board Meeting.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:35 a.m.

An Ordinance Implementing A Deferred Retirement Option Plan For Members Of The Miami Beach Employees' Retirement Plan Created By Ordinance 2006-3504, As Subsequently Amended; Creating A New Section 2.26, Providing A Definition Of Deferred Retirement Option Plan; Creating A New Section 5.13, Establishing The Deferred Retirement Option Plan And Setting Forth The Features Of The Plan.

Inquiries may be directed to the Human Resources Department at (305) 673-7520.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

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