

**RESIDENTS' RIGHT TO KNOW**

**ORDINANCE NO. 2017-4115**

**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, 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) density, or (vii) 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; or

b. the design and implementation of a streetscape, transit, pedestrian, parking, or area improvement project (other than routine repairs and maintenance); and

(4) any material change to any of the matters listed in subsections (b)(1) through (b)(3) 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, any increase in density, or any increase in floor area ratio. Additionally, a "material increase" shall be defined as any increase in traffic over current levels, required parking, or intensity of uses that the planning 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 hearings.* The city shall ensure that representatives of registered neighborhood associations (and individuals who choose to register) shall have the opportunity at quasi-judicial hearings before the city’s land use boards, or the city commission, to present or rebut evidence relevant to matters that impact residents’ quality of life. 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, shall promptly be made available on the city’s website within three (3) days of filing, 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) *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.
- (g) *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; the number of registered neighborhood associations and individuals registered under the Ordinance that open each targeted notice and whether any links therein are viewed; and any violations and/or complaints received by the city administration with regard to the implementation of the procedures set forth in the Ordinance.

(h) 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 26 day of July, 2017

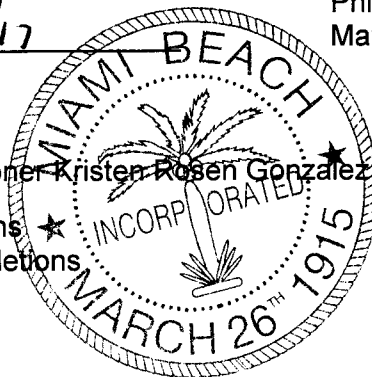
ATTEST:

RA 8/7/17  
Rafael E. Granado  
City Clerk

Philip Levine  
Mayor

(Sponsored by Commissioner ~~Kristen Rosen Gonzalez~~ and Commissioner Michael Grieco)

Underline denotes additions  
~~Strike-through~~ denotes deletions



Philip Levine 7/28/17  
City Attorney Date

NK

# MIAMI BEACH

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

## COMMISSION MEMORANDUM

TO: Mayor Philip Levine  
Members of the City Commission

cc: Raul J. Aguila, City Attorney  
Jimmy L. Morales, City Manager  
Rafael E. Granado, City Clerk

FROM: Commissioner Ricky Arriola

DATE: July 26, 2017

SUBJECT: **Residents' Right to Know Ordinance**

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Attached for consideration by the Mayor and City Commission are my proposed amendments to the Residents' Right to Know Ordinance, which is scheduled for Second Reading/Public Hearing on July 26, 2017.

Proposed amendments to Item R5G – Residents’ Right to Know Ordinance  
July 26, 2017

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**Sec. 2-14. - Residents’ Right to Know.**

\* \* \*

(e) Procedural fairness in quasi-judicial hearings. The city shall ensure that representatives of registered neighborhood associations (and individuals who choose to register) shall have the opportunity at quasi-judicial hearings before the city’s land use boards, or the city commission, to present or rebut evidence relevant to matters that impact residents’ quality of life. ~~This shall include the opportunity to request a time certain for the convenience of the public.~~ 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, shall promptly be made available on the city’s website ~~upon~~ within three (3) days of filing, 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.~~

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# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Raul J. Aguila, City Attorney  
DATE: July 26, 2017

**10:10 a.m. Second Reading Public Hearing**

SUBJECT: RESIDENTS' RIGHT TO KNOW:

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, 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 5/7TH 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.

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### **ANALYSIS**

See memorandum attached.

### **FINANCIAL INFORMATION**

Staff has conducted an analysis of the Resident's Right to Know Ordinance 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 and has concluded that the following tools can be used to disseminate information to residents and meet the requirements of the proposed ordinance:

- ListServe: this is a system used by Communications Department to send out email blasts to users

who sign up. Individuals or neighborhood associations are able to sign up for the distribution list. Staff would use this to disseminate information as needed per the proposed Ordinance.

• MB Resident Connect: this is a tool to stay up-to-date on the topics that matter most to the user. The online system, accessible via the internet at <https://secure.miamibeachfl.gov/mbresidentconnect>, lets users sign up to receive electronic alerts based on keywords of their choosing. When city meeting agendas are published, the user receives an email if one of the keywords they set up is part of the agenda. These keywords may be found within documents from a City Commission meeting or committee meetings, including Finance & Citywide Projects Committee, Land Use & Development Committee, Neighborhood / Community Affairs Committee, and Sustainability & Resiliency Committee; the Planning Board, Design Review Board, Historic Preservation Board, and Board of Adjustments. The system checks for keywords daily and notifies the user via email when a new document containing the keyword is found. The initial alert contains results dating back 30 days.

Considering the use of these existing technology tools, Staff does not initially anticipate a financial impact to departments, however, the need for additional resources will be monitored over time.

### **Legislative Tracking**

Office of the City Attorney

### **Sponsor**

Commissioner Kristen Rosen Gonzalez and Commissioner Michael Grieco

### **ATTACHMENTS:**

#### **Description**

- Memorandum Re Residents Right to Know
- Ordinance



# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY  
RAUL J. AGUILA, CITY ATTORNEY

## COMMISSION MEMORANDUM

**To:** Mayor Philip Levine  
Members of the City Commission  
Jimmy Morales, City Manager

**From:** Raul J. Aguila, City Attorney

**Date:** July 26, 2017

**Subject:** 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, 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.

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Pursuant to the request of Commissioner Michael Grieco and Commissioner Kristen Rosen Gonzalez, attached is an Ordinance amending Chapter 2 of the City Code to create a "Residents' Right to Know" Ordinance. The Ordinance passed on First Reading at the May 17, 2017 City Commission meeting.

The intent of the Ordinance is to supplement any notice and procedural requirements set forth in the City Code or State law that are currently applicable to the City, in order 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, which matters are defined in the Ordinance.

The Residents' Right to Know Ordinance is a groundbreaking proposal that, together with the recent implementation of the MB Resident Connect system,<sup>1</sup> will provide residents with unprecedented targeted electronic notices of specific City actions. The notices contemplated in the Ordinance will require the coordination of the City Administration (especially the Information Technology Department), the City Clerk, and the City Attorney to develop a system and a procedure to implement the Ordinance.

F:\ATTO\KALN\COMMISSION MEMOS\Residents' Right to Know May 17, 2017 (July 26, 2017 - Second Reading).docx

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<sup>1</sup> The MB Resident Connect system, which allows residents to sign up to receive electronic alerts based on keyword searches, may be accessed at <https://secure.miamibeachfl.gov/mbresidentconnect>.