

MEMORANDUM

Amended
Agenda Item No. 7(B)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Second Reading: 2-7-23)
December 6, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to
Community Councils and zoning
in the unincorporated area;
amending article IV of chapter
20 and sections 2-11.38 and
33-307 of the Code; revising
provisions relating to removals,
resignations, vacancies and terms
of office for Community Council
and Community Zoning Appeals
Board Members; providing for
zoning applications to be heard
by the Board when a Community
Council, in its capacity as a
Community Zoning Appeals
Board, does not have sufficient
members in office to constitute a
quorum; making technical and
reorganizational changes

Ordinance No. 23-8

- - - -

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator René García and Co-Sponsor Commissioner Kevin Marino Cabrera.



Geri Bonzon-Keenan
County Attorney

GBK/jp

MDC001

Memorandum



Date: February 7, 2023

To: Honorable Chairman Oliver G. Gilbert, III
And Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink, reading "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Community Councils Filling Vacancies

The implementation of this Ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, reading "Jimmy Morales".

Jimmy Morales
Chief Operations Officer

Memorandum



Date: February 7, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Community Councils and Zoning

The proposed ordinance relating to the Community Councils amends Article IV of Chapter 20 and Sections 2-11.38 and 33-307 of the Code of Miami-Dade County pertaining to removals, resignations, vacancies, terms of office and providing for zoning applications to be heard by the Board of County Commissioners under certain circumstances.

The proposed ordinance would streamline the existing process for filling vacancies. The County Commissioner whose district encompasses the greatest total population within the Community Council/Community Zoning Appeals Board ("CZAB") area shall appoint at the time a position becomes vacant an individual that meets the qualifications for holding office. Currently, the appointing Commissioner must wait 90 days before making an appointment, because section 20-43(A)(7) gives the CZAB 90 days from the time a position becomes vacant within which to provide a list of names to the appointing Commissioner for consideration; the only exception is where the CZAB does not have enough members appointed to constitute a quorum. This amendment removes the 90-day period for a CZAB to provide a list of names, which would allow vacancies to be filled in a timelier manner.

In addition, the current term for a CZAB Member appointed to fill a vacancy in an elected seat terminates at the earlier of either the next primary election or the expiration of the term of office of the appointing County Commissioner. Because of this "automatic" termination, certain boards have had difficulty with meeting a consistent quorum. This amendment would permit existing board members to hold office until a successor has been confirmed by either appointment or election. This will maintain the continuity of the boards and help with maintaining quorum.

Furthermore, the ordinance helps maintain quorum and reduces vacancies created by board members running for other elected offices. Currently, section 2-11.38 requires all County board members, including CZAB members, to be deemed to have resigned their seats when they qualify for elected office, which is earlier than when State law would require them to resign to run. This item exempts CZABs from that general requirement, allowing members to remain on the board until State law requires them to resign their seats.

The ordinance also provides an additional change to streamline the public hearing process, by eliminating delays when vacancies remain unfilled. If a CZAB does not have sufficient members to constitute a quorum at the time a zoning application is ready for public hearing, the application shall be scheduled for public hearing directly before the Board of County Commissioners on the next available zoning agenda. The code currently provides for this only when a CZAB has no members appointed, which has occurred rarely.

The implementation of this ordinance will help CZABs maintain quorum, which ultimately reduces unnecessary delays for zoning applications for both homeowners and the development community, as well as for other interested parties who would otherwise have to attend multiple additional meetings only to learn that items will be rescheduled because of a lack of quorum.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: February 7, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Amended
Agenda Item No. 7(B)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(B)
2-7-23

O-23-8
ORDINANCE NO. _____

ORDINANCE RELATING TO COMMUNITY COUNCILS AND ZONING IN THE UNINCORPORATED AREA; AMENDING ARTICLE IV OF CHAPTER 20 AND SECTIONS 2-11.38 AND 33-307 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PROVISIONS RELATING TO REMOVALS, RESIGNATIONS, VACANCIES AND TERMS OF OFFICE FOR COMMUNITY COUNCIL AND COMMUNITY ZONING APPEALS BOARD MEMBERS; PROVIDING FOR ZONING APPLICATIONS TO BE HEARD BY THE BOARD WHEN A COMMUNITY COUNCIL, IN ITS CAPACITY AS A COMMUNITY ZONING APPEALS BOARD, DOES NOT HAVE SUFFICIENT MEMBERS IN OFFICE TO CONSTITUTE A QUORUM; MAKING TECHNICAL AND REORGANIZATIONAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Community Councils and Community Zoning Appeals Boards (CZABs) fulfill various planning and zoning functions in unincorporated Miami-Dade County; and

WHEREAS, each Community Council and CZAB for a given area is comprised of the same seven members, six of whom are elected within the council area and one who is appointed; and

WHEREAS, from time to time, vacancies occur on the Community Councils and CZABs, and section 20-43 of the County Code provides a process for filling vacancies to both elected and appointed positions on these boards; and

WHEREAS, over time, the current process for filing vacancies has proved to be confusing and overly complicated and has had certain unintended consequences relating to board member terms and vacancies; and

WHEREAS, for example, the Code currently ends the terms of office for board members who were appointed to fill a vacancy upon the earlier of the next primary election or the expiration of the term of office for that position on the Community Council and does not authorize such members to hold over until a replacement is elected or appointed, which means that if no one runs for election for such seat, the seat becomes vacant at an unnecessarily early point in time to the detriment of the Community Council's ability to achieve quorum and hear applications; and

WHEREAS, the Code also currently extends the time a seat may remain vacant because the County Commissioner authorized to fill vacancies on a particular Community Council must wait up to 90 days for the Community Council to furnish a list of names of potential appointees, unless the Community Council does not have enough members to constitute a quorum; and

WHEREAS, Community Councils with a bare quorum in office may have difficulty assembling a quorum for any individual meeting to conduct business and furnish such a list of names to the appointing County Commissioner, which leads to delays in the filling of vacancies and in hearing applications and, ultimately, increases the likelihood that applications will instead advance to this Board for hearing, as provided in the zoning procedure rules; and

WHEREAS, to streamline the process and make it easier to navigate for County Commissioners when filling vacancies and for Community Council and CZAB members in understanding the length of their terms and actions that may affect them, this Board wishes to revise the County Code provisions relating to the filling of such vacancies; and

WHEREAS, these changes will serve the public interest and help ensure that Community Councils and CZABs have sufficient members to achieve quorum and to serve the community as intended; and

WHEREAS, this Board wishes to provide for zoning applications to be heard by the Board when a CZAB does not have sufficient members in office to constitute a quorum, which will serve the community by providing for the consideration of such applications without unnecessary and costly delays owing to vacancies; and

WHEREAS, in addition, this Board wishes to make certain organizational changes to the relevant Code provisions to enhance readability and ensure that various sections contain the necessary cross-references to other portions of the Code, including portions relating to the filling of vacancies,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-11.38 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-11.38. Membership on boards.

- >>(a) Residency requirement.<< All members of County boards shall be permanent residents and electors of Miami-Dade County unless the Board of County Commissioners, by a two-thirds vote of its membership, waives this requirement, and should have reputations for integrity and community service.
- >>(b) Demonstrated interest.
- (i) All<< ~~[[In addition, all]]~~ board members should have demonstrated an interest in the field, activity>>₁<< or sphere covered by the board.
- >>(ii)<< Each board shall include at least one ~~[[4]]~~ person whose livelihood does not depend on the area regulated, administered>>₁<< or dealt with by the board.

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

>>(c) Vacancy for cessation of residency.

(i)<< Unless the Board of County Commissioners by two-thirds [~~(2/3)~~] vote of its membership waives the residency requirement, any member of County boards who ceases to be a resident of Miami-Dade County during the term of his or her office shall immediately advise the County Commissioner who nominated or appointed the board member and the Clerk of the Board of County Commissioners >>(the “Clerk”)<<.

>>(ii)<< Upon being advised by the Clerk of such circumstances, the Board of County Commissioners shall declare the position to be vacant and shall promptly fill the same pursuant to the provisions of section 2-11.38.1.

>>(d) Considerations for board membership.

(i)<< The primary consideration in appointing board members shall be to provide the board with the needed technical, professional, financial, business or administrative expertise.

>>(ii)<< The membership of each board should be representative of the community at large and should reflect the gender, racial, ethnic and cultural make-up of the community.

>>(e) Limits on eligibility to serve on County board.

(i)<< No person shall be eligible to serve on a County board if, at the time of appointment to the County board, the person has filed a lawsuit against the County that is pending at the time of appointment and that challenges a policy set by the Board of County Commissioners, unless the Board of County Commissioners by >>a<< two-thirds [~~(2/3)~~] vote of its membership waives this requirement.

>>(ii)<< No person sitting on a County board may file a lawsuit against the County that challenges a policy set by the Board of County Commissioners without relinquishing his or her seat on the County board unless the Board of County Commissioners by >>a<< two-thirds [~~(2/3)~~] vote of its membership waives this requirement. Any County board member who files such a lawsuit shall immediately notify the County Commissioner who nominated or appointed

the board member and provide that County Commissioner with a copy of the complaint or other pleading initiating such lawsuit.

>>(iii)<< No member of any County board shall become a candidate for elective political office during his or her term. Should any member of a County board qualify as a candidate for elective political office, such qualification shall be deemed a tender of resignation from such board. Any County board member who qualifies as a candidate shall immediately notify the County Commissioner who nominated or appointed the board member. >>It is provided, however, that this paragraph (iii) shall not apply to Community Council or Community Zoning Appeals Board members.

(iv)<< No person shall serve on more than two ~~[(2)]~~ County boards simultaneously, unless the Commission has by unanimous vote approved the appointment after being advised of all other County board(s) upon which the person sits~~[[, provided, however,]]~~>>.

1. It is further provided that<< a person serving on any one of the following boards shall not serve on any other County board simultaneously except as provided by ordinance: Community Council~~[[;]]~~>>and<< Community Zoning Appeals Board; Planning Advisory Board; Citizens' Independent Transportation Trust; Housing Finance Authority; Independent Review Panel; Industrial Development Authority; Health Facilities Authority; Educational Facilities Authority; Commission on Ethics and Public Trust; Environmental Quality Control Trust; and the Public Health Trust.

>>2. In addition<< ~~[[Notwithstanding the foregoing]]~~, a person is prohibited from serving on a County board where such service would violate federal or state law, the Miami-Dade County Home Rule Charter>>₁<< or ~~[[county]]~~ ordinance >>adopted by the Board of County Commissioners<<.

>>3.<< Any person under consideration for nomination or appointment to a County board who is already a member of another County board shall disclose such existing board membership to the nominating or appointing County Commissioner.

>>(f) Request for removal by nominating Commissioner.<< Any Commissioner who has nominated a citizen to a County board as that term is defined in >>section<< ~~[[Section]]~~ 2-11.36 ~~[[of the Code of Miami Dade County]]~~ may at any time, with or without cause, request the Board of County Commissioners to remove said board member from his or her position on a County board and recommend a different person to fill the position. >>It is provided, however, that the removal of a board member from a Community Council or Community Zoning Appeals Board shall be governed by article IV of chapter 20.

(g) Removal for failure to file financial disclosure.

(i)<< Regarding those board members that are required to file financial disclosure with the County's Elections Department, the Executive Director of the Miami-Dade County Ethics Commission (the "Ethics Commission") shall notify such members if they have failed to file the required financial disclosure for the previous calendar year by February 1st of each year.

>>1.<< The notice shall provide that each such member shall have >>30<< ~~[[thirty (30)]]~~ days from the date of the notice to submit proof to the Ethics Commission that financial disclosure has been filed with the Elections Department within such ~~[[thirty (30)]]~~ >>30-<<day period.

>>2.<< Such notice shall also provide that these board members will be removed from the membership roster of the board on the >>31st<< ~~[[thirty-first (31st)]]~~ day from the date of the notice.

>>3.<< A copy of this notice shall be provided to each County Commissioner, the Mayor or

designee, the Clerk ~~>>1.<< [[of the Board (the "Clerk")]]~~ and the County Attorney. In addition, seven days prior to the expiration of the 30-day period, the Executive Director of the Ethics Commission shall provide each County Commissioner with an updated list of those board members who, as of that time, have not submitted proof to the Ethics Commission that their financial disclosure has been filed with the Elections Department.

>>4.<< Notwithstanding any provision of the Code or law to the contrary, >>a member removed for failure to file financial disclosure<< ~~[[such member]]~~ shall not hold over in office until a successor is appointed to fill the vacancy caused by the removal of such board member pursuant to this section.

>>5.<< The provisions of this >>subsection<< ~~[[paragraph]]~~ pertaining to removal for failure to file financial disclosure shall not apply to (1) any County board whose members can only be removed by the Governor of the State of Florida and (2) Community Council >>and Community Zoning Appeals Board<< members, whose removal shall be governed by >>article IV of chapter 20<< ~~[[Section 20-43.2]]~~.

>>6.<< Additionally, removal from office is only one penalty for failure to file financial disclosure. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions, for failing to file financial disclosure.

>>(ii)<< Regarding those board members that are required to file financial disclosure with the State Commission on Ethics, the Clerk ~~[[of the Board of County Commissioners (the "Clerk")]]~~ shall determine the names of such persons and shall notify such members of County boards who have failed to file their required financial disclosure for the previous calendar year by February 1 of each year.

>>1.<< The notice shall provide that each such board member has >>30<< ~~[[thirty (30)]]~~ days from the date of the notice to submit proof to the Clerk that financial disclosure has been filed with the State Commission on Ethics within such ~~[[thirty (30) days]]~~ >>30-day<< period.

>>2.<< Such notice shall also provide that these board members will be removed from the membership roster of the board on the >>31st<< ~~[[thirty-first (31st)]]~~ day from the date of the notice.

>>3.<< A copy of this notice shall be provided to each County Commissioner, the Mayor or designee, ~~[[the Clerk of the Board]]~~ and the County Attorney. In addition, seven days prior to the expiration of the 30-day period, the Clerk shall provide each County Commissioner with an updated list of those board members who, as of that time, have not submitted proof to the Clerk that their financial disclosure has been filed with the State Commission on Ethics.

>>4.<< Notwithstanding any provision of the Code or law to the contrary, >>a member removed for failure to file financial disclosure<< ~~[[such member]]~~ shall not hold over in office until a successor is appointed to fill the vacancy caused by the removal of such board member pursuant to this section.

>>5.<< The provisions of this paragraph pertaining to removal for failure to file financial disclosure shall not apply to (1) any County board whose members can only be removed by the Governor of the State of Florida and (2) Community Council >>and Community Zoning Appeals Board<< members, whose removal shall be governed by >>article IV of chapter 20<< ~~[[Section 20-43.2]]~~.

>>6.<< Additionally, removal from office is only one penalty for failure to file financial disclosure. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions, for failure to file financial disclosure.

Section 2. Article IV of Chapter 20 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

ARTICLE IV. - COMMUNITY COUNCILS

* * *

Sec. 20-42. - Community Councils; configuration.

- (A) There shall be no more than ten ~~[[40]]~~ Community Councils>>,<< each of which shall have jurisdiction within its boundary within the unincorporated area.
- >>(1)<< Council areas should be large enough to reasonably accommodate local zoning issues without unduly increasing staffing requirements.
- >>(2)<< The boundaries of Community Councils' jurisdiction, to the extent feasible, shall coincide with those of groupings of Census Designated Places.
- (B) Each Community Council area shall contain no more than six ~~[[6]]~~ subareas.
- >>(1)<< The boundaries of these subareas, to the extent feasible, shall coincide with those of existing election precincts.

- >>(2)<< Enclave areas that are fully surrounded by municipal boundaries and are not large enough to be subareas shall be part of the nearest subarea.
- (C) The boundaries and numerical designations of the Community Councils and of the subareas within them are depicted and described in Attachment I attached hereto and incorporated herein by reference [which can be found in the County Clerk's office].
- >>(1)<< These boundaries may be amended from time to time by resolution of the County Commission after public hearing.
- >>(2)<< The names of the Community Councils shall be designated by the respective Community Council.
- (D) Notwithstanding anything in this Code to the contrary, when, as a result of municipal incorporation or annexation, a Community Council does not have enough members in office to act, the Board of County Commission may>>₁<< by resolution after public hearing, reassign the remaining areas of the affected Community Council to a different Community Council and modify the total number of Councils accordingly.
- (E) If a Community Council>> in its capacity as a Community Zoning Appeals Board, does not have sufficient<< ~~[[has no]]~~ elected or appointed members in office >>to constitute a quorum<< at the time an application for zoning action is ready to be noticed for public hearing before that Community Council, such application shall be noticed and scheduled for public hearing directly before the Board of County Commissioners>>₁<< as follows:

Sec. 20-43. Community Councils; membership.

Except as provided >>herein<< ~~[[in subsection (E)]]~~, Community Councils shall have seven ~~[[7]]~~ members, six ~~[[6]]~~ of whom shall be elected at large within the council area and one ~~[[1]]~~ of whom shall be appointed by the Board of County Commissioners>>₁<< as follows:

- (A) >>Requirements for all board members.
- (1) Each board member shall have been a resident elector of the Council area for at least six months, and a resident elector of Miami-Dade County for at least three years, prior to qualifying for election or to appointment, as applicable.

- (2) No board member shall be an elected official of or be employed by Miami-Dade County.
- (3) Any person misrepresenting their residency shall, upon conviction, be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed 60 days in the County jail or both, at the discretion of the court.

(B)<< *Elected* >>board members<< [[~~Council Members~~]].

- (1) >>Subarea residency requirement. Each<< [[~~Elected Council Members shall, for at least six (6) months prior to qualifying, have been resident electors of the council area for which they are qualifying, and, for at least three (3) years prior to qualifying, resident electors of Miami-Dade County. Additionally, each~~]] elected >>board member<< [[~~Council Member~~]] seeking to represent a subarea shall, for three [[(3)]] months prior to qualifying, have been a resident elector of the separate subarea of the council area for which the >>member<< [[~~Member~~]] is qualifying.

>>(2) Proof of residency.<< At the time of qualifying>>,<< candidates shall submit proof of residency for the prescribed period to the supervisor of elections. Proof of residency shall establish that the qualifying candidate has met the residency requirements for the required period. [[~~Any person misrepresenting their residency shall, upon conviction, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County jail or both, at the discretion of the court. No Council Member shall be employed by Miami-Dade County or be a member of the County Commission.~~]]

[[~~(2)~~]] >>(3) Term of office.<< The term of office of >>elected board<< [[~~Community Council~~]] members shall be for four [[(4)]] years[[~~. It is provided, however, that when~~]]>>, subject to the following:

- (a) When<< a Community Council has been modified >>pursuant to section 20-42<< to establish new subareas or at large areas, in the initial election of Council Members, those members representing even-numbered subareas shall >>initially<< serve a two-year term>>,<< and those members representing

odd-numbered subareas or at large areas shall
>>initially<< serve a four-year term>>₁<<
[[~~so as~~]] to create staggered terms. Thereafter
all >>elected members<< [[~~Council~~
~~Members~~]] shall serve four-year terms.

>>(b)<< When a subarea is dissolved and is replaced
by an at large area, the at large representative
shall serve until expiration of the term of
office that was provided for the dissolved
subarea.

>>(c) When<< [[~~It is further provided that when~~]]
a Community Council consisting of one
[[~~(1)~~]] subarea is created>>₁<< in the initial
election three [[~~(3)~~]] seats shall be designated
as two-year terms and three [[~~(3)~~]] seats shall
be designated as four-year terms>>₁<< [[~~so~~
~~as~~]] to provide staggered terms. Thereafter,
all >>elected<< [[~~Council~~]] members shall
serve four-year terms.

[[~~(3)~~]] >>(4) Elections.

(a)<< All elections for Community Council
Members shall be non-partisan. [[~~The initial~~
~~general election for Council Members shall~~
~~be held at the time of the 1996 General~~
~~Election. Subsequent elections of Council~~
~~Members~~]]

>>(b) Board member elections<< shall be held in
each even numbered year, in conjunction
with state primary elections.

>>(c)<< The terms of >>elected members<<
[[~~Council Members~~]] shall commence on the
second Tuesday next succeeding the date
provided for the state general election.

>>(d)<< [[~~(4)~~]] All candidates for Community
Councils shall qualify with the Clerk of the
Circuit Court no earlier than the 72nd day and
no later than noon of the 70th day prior to the
date of the election at which he or she is a
candidate, in the manner provided by law or
ordinance. Each candidate shall pay a filing
fee of >>\$100.00<< [[~~one hundred dollars~~
~~(\$100.00)~~]].

>>(e)<< ~~[[5]]~~ All elections for Community Councils shall be canvassed by the County Canvassing Board as provided under the election laws of this state.

>>(f)<< ~~[[6]]~~ The election ballot for ~~[[the Council Member of]]~~ each council area shall contain the names of all qualified candidates for election for Council positions from each subarea and shall instruct the electors to cast one ~~[[4]]~~ vote for the subarea position for which an election is being held.

>>(i)<< The candidate receiving the greatest number of votes shall be duly elected to that Council Seat.

>>(ii)<< If there is a tie vote among the two ~~[[2]]~~ candidates receiving the greatest number of votes, there shall be a run-off election.

>>(g)<< The ballot for any run-off election for a Council Seat shall contain the names of the two ~~[[2]]~~ candidates for the Council Seat who received the most votes >>and<< ~~[[The ballot]]~~ shall instruct electors of the council area to cast one ~~[[4]]~~ vote for each subarea position.

>>(i)<< The candidate for each Council Seat receiving the most votes in such run-off election shall be duly elected to that Council Seat>>, except as provided below<<.

>>(ii) Where a council area has<< ~~[[Provided, however, where there are]]~~ fewer than six ~~[[6]]~~ subareas>>, << ~~[[in a council area]]~~ the number of persons to be elected from each subarea shall be as follows:

>>1.<< ~~[[a]]~~ Where there are five ~~[[5]]~~ subareas the electors of the entire council area shall elect one ~~[[4]]~~ member from each subarea and one ~~[[4]]~~ member at large.

>>2.<< ~~[[b]]~~ Where there are four ~~[[4]]~~ subareas the electors of the entire council area shall

elect one ~~[(1)]~~ member from each subarea and two ~~[(2)]~~ members at large.

>>3.<< ~~[(e)]~~ Where there are three ~~[(3)]~~ subareas the electors of the entire council area shall elect two ~~[(2)]~~ members from each subarea.

>>4.<< ~~[(d)]~~ Where there are two ~~[(2)]~~ subareas the electors of the entire council area shall elect three ~~[(3)]~~ members from each subarea.

>>5.<< ~~[(e)]~~ Where there is one ~~[(1)]~~ subarea there shall be six ~~[(6)]~~ members elected from the subarea.

>>(h)<< Where there is more than one ~~[(1)]~~ position available in a subarea for election, the candidates with the largest number of votes shall be elected to those positions. ~~[[In the event that a subarea election has positions for both expired and unexpired terms, the candidates elected with the least number of votes shall fill the positions for the unexpired terms. It is provided, however, where the number of persons qualifying for a Community Council election is equal to the number of positions both for expired and unexpired terms the candidates filling the unexpired terms shall be determined by lot.~~

(7) ~~Vacancies. The County Commissioner whose district encompasses the greatest total population within the Community Council area, based on population data from the decennial Census, shall fill any vacant Council positions, by the appointment of an individual meeting the qualifications provided in subsection (1) above from a list of one or more names supplied by the Community Council. A person appointed shall serve until the earlier of the following: (1) the next primary election; or (2) expiration of the term of office for which the appointment is made. This limitation on term~~

~~length shall apply to any person appointed by either a Community Council or a County Commissioner, whether appointed prior to or after the effective date of this ordinance. A person elected at such county wide election shall serve for the remainder of the unexpired term. It is provided, however, in the event there is an insufficient number of Community Council Members in office to constitute a quorum, the County Commissioner whose district encompasses the greatest total population within the Community Council area, based on population data from the decennial Census, shall appoint a sufficient number of members necessary to constitute a quorum. Further, should any Community Council fail to supply a list of one or more names for any vacant Council position within ninety (90) days from the date such position becomes vacant or that the names supplied within such time period are not acceptable to the appointing County Commissioner, the County Commissioner whose district encompasses the greatest total population within the Community Council area, based on population data from the decennial Census, shall appoint an individual meeting the qualifications set forth in subsection (1) above to fill such vacancy, except that such County Commissioner may appoint any resident elector within the council area, regardless of whether that elector resides within the subarea represented by the vacant position. In the event any Council Member no longer resides in a Council subarea for a subarea position or Council area for an at large position, that person shall be deemed to have tendered their resignation from such Council; provided, however, any Council Member who, as a result of a modification to the configuration of a Council subarea pursuant to Section 20-42, is no longer qualified to be an elected member of such Council, shall be permitted to complete the~~

~~term of office commenced prior to the
subarea boundary modification.~~

~~(B)]>>(C)<< Appointed >>board members<< [[Council
Members]].~~

(1) The County Commissioners shall appoint one
[[~~(1)~~]] member >>meeting the qualifications
set forth in subsection (A)<< to each
Community Council [[~~following each
election of Council Members. Each~~
~~appointed Community Council Member shall
have been for at least six months prior to
appointment a resident elector of the Council
area, and, for at least three (3) years, a
resident elector of Miami Dade County. No
appointed Council Member shall be
employed by Miami Dade County or be a
member of the County Commission]].~~

>>(2) Each appointed board member<< [[~~These
members~~]] shall be >>selected<<
[[~~appointed~~]] by the County Commissioner
whose district includes the greatest total
population within the Community Council
area, based on population data from the
decennial Census[[~~. Appointments shall be~~]]
>>but shall not take office until<< confirmed
by a majority of the Board of County
Commissioners.

>>(3)<< [[~~(2)~~]] The term of each appointed >>board
member<< [[~~Council Member~~]] shall be
>>until the earlier of the following: (1)<<
four [[~~(4)~~]] years; >>or (2) the selecting
Commissioner<< [[~~provided, however, the
term of each member expires when the
Commissioner who appointed that member~~]]
leaves office. [[~~Each~~]] >>It is provided,
however, that such appointed board<<
member shall hold office until a successor
has been duly appointed, qualified>>and<<
confirmed. [[~~Vacant Council Member
positions shall be filled for the unexpired
term in the same manner as other appointed
Council Members~~]].

- >>(D) *Vacancies.*
- (1) This subsection shall govern the filling of vacancies for elected and appointed positions on Community Councils and Community Zoning Appeals Boards. Article IB of chapter 2 shall not apply to the filling of such vacancies.
 - (2) Where a position becomes vacant, the County Commissioner whose district encompasses the greatest total population within the Community Council area, based on population data from the decennial Census, shall appoint an individual meeting the qualifications provided in subsection (A) above, regardless of whether the appointee resides within the subarea represented by the vacant position.
 - (3) The term of an appointment to a vacant position shall be until the earlier of the following: (1) expiration of the term of office for which the appointment is made; or (2) the Commissioner making the appointment to fill the vacancy leaves office. It is provided, however, that such appointee shall hold office until a successor has been duly appointed, qualified, and confirmed, whether by election or by appointment.

(E)<<[(C)] *Organizational meeting.*

- >>(1)<< The first organizational meeting of each Community Council shall take place on the 30th day, or as soon thereafter as is practical, after the date of the general election.
- >>(2)<< In the event of a tie vote for one [(+)] or more Council seats in the general election>>,<< such Community Council shall meet on the 30th day, or as soon thereafter as is practical, after the date of the run-off election.
- >>(3)<< At the organizational meeting, or as soon thereafter as is practical, each Community Council shall elect a chair and vice-chair from its members who shall serve a one-year term.

>>(F)<< ~~[(D)]~~ *Reimbursements of expenses.* All >>board members<< ~~[[Council—Members]]~~ shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval of the County Commission.

>>(G)<< ~~[(E)]~~ *Reassignment of Community Council Members.* When, as a result of incorporation or annexation, subareas or portions thereof are reassigned to a different Community, elected or appointed >>board members<< ~~[[Council Members]]~~ who continue to reside in the unincorporated area, whether at-large or subarea representatives representing the reassigned areas, shall serve as additional members to the reassigned Community Council. The reassigned >>board members<< ~~[[Council—Members]]~~ shall serve until the next ~~[[first]]~~ state primary election.

~~[(F)]~~ >>(H) *Nonvoting members.*<< Community Councils shall have the following nonvoting members when acting as Community Zoning Appeals Boards:

* * *

~~[(G)]~~ >>(I) *Title of office.*<< A Community Council member, whether elected or appointed, shall be referred to as "board member." The terms "councilman," "councilwoman," and "councilperson" shall not be used in reference to such a board member.

Sec. 20-43.1. - Community Councils; >>removal by<< recall.

Any elected member of a Community Council ~~[[or any member appointed by the Community Council pursuant to Section 20-43(A)(7)]]~~ may be removed from office by the electors of the Council area. The procedure for removal by electors shall be as follows:

* * *

- (8) Any vacancy created by recall in a Community Council shall be >>filled in accordance with the provisions of section 20-43 governing vacancies<< ~~[[filled for the remaining term by appointment in the manner prescribed for filling vacant positions]].~~

**Sec. 20-43.2. - Community Councils; removal>>;
resignation<<.**

(A) >>Removal.

(1) Any person appointed to fill a vacancy on a Community Council may be removed, with or without cause, by the Commissioner who made the appointment.

(2)<< Any elected or appointed member of a Community Council may be removed from office for cause by resolution of the Board of County Commissioners.

>>(i)<<The following events shall>>, without limitation,<< be deemed sufficient cause for removal: malfeasance, including failure to file financial disclosure required by law; misfeasance; neglect of duty; drunkenness; incompetence; permanent inability to perform official duties; voting or participating in a matter where the Community Council member has a conflict of interest of any kind, as determined by formal or informal opinion or probable cause finding in an enforcement action by the Miami-Dade County Commission on Ethics and Public Trust or the Florida Commission on Ethics, whichever has jurisdiction; or indictment for crime.

>>(ii)<< If the Miami-Dade Commission on Ethics and Public Trust determines that a Community Council member has a conflict of interest, it shall promptly communicate such finding to the Board of County Commissioners.

- (B) >>Resignation.
- (1) In addition to any act deemed to constitute resignation from a County board pursuant to section 2-11.38, a member who ceases to reside in the applicable subarea for a subarea position, or in the Council area for an at large position, shall be deemed to have resigned from the Community Council, except as provided in this article.
- (2) A member elected to a subarea position shall be permitted to complete the term of office where the cessation of residency is the result of the subarea configuration being modified pursuant to section 20-42 after the member's election.
- (C) Filling of vacancy.<< Any vacancy created by removal >>or resignation<< ~~[[in a Community Council]]~~ shall be >>filled in accordance with the provisions of section 20-43 governing vacancies.<< ~~[[filled for the remaining term by appointment in the manner prescribed for filling vacant positions.~~
- ~~(C)]~~ >>(D) Remedies not exclusive.<< Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions.

* * *

Section 3. Section 33-307 of the Code of Miami-Dade County is hereby amended to read as follows:

**Sec. 33-307 – Community Zoning Appeals Boards –
Term of office**

The >>terms<< ~~[[term]]~~ of office >>for<< ~~[[of the]]~~ members of ~~[[each of]]~~ the Community Zoning Appeals Boards shall be the >>same as the<< terms established >>for<< ~~[[as]]~~ members of Community Councils.
>>Removals, resignations, and vacancies shall be governed

~~by article IV of chapter 20.<< [[In the event a vacancy should occur on a Community Zoning Appeals Board the appropriate Community Zoning Appeals Board may fill the vacancy for the remaining board member's term by appointment pursuant to Section 20-43(A)(7) of the Code.]]~~

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

February 7, 2023

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:

James Eddie Kirtley
Dennis A. Kerbel

Prime Sponsor: Senator René García
Co-Sponsor: Commissioner Kevin Marino Cabrera