

ORDINANCE NO. 31-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 32, "DEPARTMENTS, BOARDS AND COMMISSIONS" OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTION 32.15, "DEFINITIONS" BY REVISING THE DEFINITION OF A CITY BOARD, SECTION 32.17, "GROUNDS FOR REMOVAL"; BY PROVIDING FOR THE REMOVAL OF BOARD MEMBERS WITHOUT CAUSE, REPEALING SECTION 32.18, "PROCEDURE" AND READOPTING SAME, AS REVISED IN ORDER TO AMEND THE GROUNDS FOR THE REMOVAL OF BOARD MEMBERS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 32 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach desires to amend its Code of Ordinances relating to the removal of appointed Members of City Boards; and

WHEREAS, the purpose of this Ordinance is to revise the City policy to provide that any appointed Members of City Boards serve at the pleasure of the City Commission and may be removed by a majority vote of the City Commission; and

WHEREAS, the City Commission finds that this ordinance serves a municipal purpose and deems the amendment contained herein to be in the best interest of the health, safety and welfare of the residents and citizens of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That Chapter 32, "Departments, Boards and Commissions", Section 32.15, "Definitions, of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended to read as follows:

Sec. 32.15. - DEFINITIONS.

For the purposes of this Section, the following definitions shall apply:

Abandonment of Office. Includes, but is not necessarily limited to, failure to attend three (3) consecutive regular meetings or any five (5) regular meetings ~~over the course of any calendar year of a City Board~~ during the twelve (12) month period immediately preceding the most recent absence.

City Board. Any of the Regulatory or Advisory Boards; and Committees ~~and Commissions~~ of the City.

Conduct Unbecoming a Member. ~~Any conduct by a Member, which in the opinion of the City Commission, is inappropriate or unsuitable and which has a tendency to adversely affect, lower, or destroy City Commission respect or confidence in the ability of the Member to perform his or her duties as a Member of the City Board or conduct which brings disrepute or discredit to the City Board.~~

Member. Any person who is a member of any City Board; ~~whether they are~~ appointed by the City Commission ~~or elected.~~

Section 3. That Chapter 32, “Departments, Boards and Commissions”, Section 32.17(B), “Grounds for Removal”, of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended to read as follows:

Sec. 32.17. - GROUND FOR REMOVAL OF CITY BOARD MEMBERS.

- (A) *Abandonment of Office.* Except as may be otherwise provided by law, special act or City ordinance, in the event of Abandonment of Office by a Member of a City Board, a notice of removal shall automatically be issued by the City Manager or designee. The removal shall be effective as of the date of the notice.
- (B) All City Board Members serve at the pleasure of the City Commission and may be removed with or without cause at any time by a majority vote of the City Commission, unless otherwise provided by the Charter or Florida Statutes. The City Commission may remove a City Board Member for: (i) Conduct Unbecoming a Member (ii) violation of any provision of the applicable Statute, County or City code of ethics governing the conduct of officials (iii) malfeasance; misfeasance; neglect of duty; or inability to perform his or her official duties or (iv) conviction of a felony or misdemeanor. The City Commission may suspend an elected City Board Member for: (i) Conduct Unbecoming a Member (ii) an arrest for a felony, or arrest for a misdemeanor related to the duties of office; or (iii) an indictment or information regarding the commission of a misdemeanor, or felony. The City Board Member shall

~~be advised of the basis for his or her removal or suspension, provided reasonable notice, and an opportunity for a hearing in accordance with the procedures provided in Section 32.17.~~

- (C) The vacancy of ~~either an appointed or elected~~ a City Board Member shall be filled in the same manner as the original selection.

Section 4. That Chapter 32, “Departments, Boards and Commissions”, Section 32.18, “Procedure”, of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended to read as follows:

Sec. 32.18. - PROCEDURE.

- (A) *Notice of Removal.* ~~Except as provided in subsection (C) below, a~~ A notice of removal shall be served upon the City Board Member ~~sought to be~~ who has been removed upon the direction of a majority of the City Commission. The notice of removal shall be prepared by the City Attorney and signed by ~~at least one member of the City Commission, and shall specify the grounds for removal~~ the Mayor, or the City Manager if so directed by the City Commission. In the event of Abandonment of Office, the notice of removal shall automatically be issued by the City Manager, or designee.
- (B) *Service of Notice.* The notice of removal shall be served by personal delivery or by ordinary first class mail. Service shall be accomplished as soon as is practicable after the City Commission directs service of the notice of removal or, in the event of Abandonment of Office, after the City Manager or designee issues the notice of removal. ~~The notice shall include a statement that the Member has the right to request a hearing before the City Commission, and that the request for a hearing must be received by the City Clerk on or before a date to be specified in the notice, which shall be seven (7) days from the date of service if the notice is personally served, or ten (10) days from the date of mailing if the notice is served by mail.~~
- ~~(C) *Grounds for Automatic Removal.* If the ground(s) for removal is Abandonment of Office, the notice of removal shall automatically be issued by the City Manager or his designee. In such cases, subsection (D) below shall not be applicable, but the person removed may request reappointment at any time.~~
- ~~(D) *Hearing; Decision of City Commission.*~~
- ~~(1) Upon the timely request of the Member for a hearing before the City Commission, the Commission shall set a date, time and place for a~~

~~hearing and direct the City Clerk to give the member notice of the hearing.~~

- ~~(2) At the hearing, the Member will have an opportunity to respond, to present evidence and arguments on all issues involved, and to conduct cross-examination. The Member may appear in person at the hearing or be represented by legal counsel or some other representative as the member chooses.~~
- ~~(3) The decision of the City Commission may be to either remove, to suspend, to reprimand or to absolve the Member.~~

(E) *Effective Date of Removals.*

- (1) ~~Except as provided in subsection (E)(2) below, the effective date of rRemoval of a City Board Member shall have be immediately effect upon the vote of a majority of the City Commission. after the expiration of the time in which the Member has the right to request a hearing before the City Commission, or any later date which the City Commission may provide, unless the Member timely requests a hearing before the City Commission. If the Member timely requests a hearing, and if the City Commission decides to remove the Member upon the conclusion of the hearing, the removal shall take effect immediately unless the City Commission specifies a later date. If a Member timely requests a hearing but withdraws the request prior to the hearing, the effective date shall be the date on which the request is withdrawn.~~
- (2) ~~If the ground(s) for removal is~~ In the event of Abandonment of Office, the removal shall take effect immediately upon issuance of the notice by the City Manager or his designee.

Section 5. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 6. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 7. That this ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____
day of _____, 2017.

ATTEST

MAYOR

City Clerk

First Reading_____

Second Reading_____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

R. Max Lohman, City Attorney