

To: The Honorable Mayor and City Council

From: Arthur H. Sorey, III, Interim City Manager



Date: November 10, 2015

RE: HONOR CODE FOR ELECTED AND APPOINTED CITY POSITIONS AND
CITY EMPLOYEES

RECOMMENDATION

That the Mayor and City Council ordain the amendment of Chapter 2 of the City North Miami Code of Ordinances, to create Section 2-318, establishing and implementing an Honor Code for elected and appointed City positions and City employees.

BACKGROUND

The Miami-Dade County Commission on Ethics and Public Trust has adopted a Resolution calling upon all County officials and employees to raise the standard of ethics in public service by establishing a public service honor code for the prevention of corruption and unethical practices in County government. The Commission also believes that establishing an Honor Code is in the best interest of the citizens of Miami-Dade County.

ATTACHMENT(s)

Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 2 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "ADMINISTRATION", BY AMENDING ARTICLE VI, ENTITLED "CODE OF ETHICS" AT DIVISION 1, ENTITLED "CONFLICT OF INTEREST", TO CREATE SECTION 2-318, ESTABLISHING AND IMPLEMENTING AN HONOR CODE FOR ELECTED AND APPOINTED CITY POSITIONS AND CITY EMPLOYEES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, the first duty of a public servant is to protect the public interest, which requires a higher level of ethical conduct than is acceptable in private-sector affairs; and

WHEREAS, public trust in government institutions is a necessary precondition to the success of a democracy; and

WHEREAS, government, and those who serve in it at all levels, have experienced a loss of public trust and respect; and

WHEREAS, it is the collective duty of all public servants to respond to the public's concerns by redoubling their efforts to honor and serve the public interest by promoting the values of honesty, integrity, leadership and fairness; and

WHEREAS, restoring and maintaining a sense of honor in public service is an important component in fulfilling the goals of the City of North Miami ("City"), as well as the City's commitment to delivering excellence every day to the citizens; and

WHEREAS, the most fundamental way for City officials and employees to address this goal is to support all public servants who both perform their duties honorably and possess the moral courage not to tolerate less than the same from their fellow public servants; and

WHEREAS, the Miami-Dade County Commission on Ethics and Public Trust has adopted a Resolution calling upon all County officials and employees to raise the standard of ethics in public service by establishing a public service honor code ("Honor Code") for the prevention of corruption and unethical practices in County government; and

WHEREAS, the Commission believes that establishing an Honor Code is in the best interests of the citizens of Miami-Dade County; and

WHEREAS, on October 27, 2015, the Mayor and City Council passed and adopted Resolution No. 2015-R113, authorizing the Interim City Manager and Interim City Attorney to develop an Honor Code for elected and appointed City positions and City employees; and

WHEREAS, the Mayor and City Council find the codification and implementation of the proposed Honor Code, will serve the best interests of all City residents.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendment to Chapter 2, City of North Miami Code of Ordinances.

The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 2 of the City of North Miami Code of Ordinances, entitled “Administration”, by amending Article VI, entitled “Code of Ethics” at Division 1, entitled “Conflict of Interest”, to create Section 2-318, establishing and implementing an Honor Code for elected and appointed City positions and City employees, as follows:

CHAPTER 2 – ADMINISTRATION

ARTICLE VI. CODE OF ETHICS

DIVISION 1. CONFLICT OF INTEREST

* * * * *

~~Secs. 2-318 – 2-390. Reserved.~~

Sec. 2-318. Honor code for elected and appointed city officials and city employees.

(a) It shall be the policy of the city that all elected and appointed city officials and city employees shall adhere to this Public Service Honor Code (“Honor Code”). The Honor Code consists of the following minimum standards regarding the responsibilities of all public servants in the city. Violation of any of the mandatory standards listed below may result in enforcement action as provided below.

(b) Each elected and appointed public official and employee of the city shall, when acting in his or her official capacity, comply with the following mandatory standards:

- (1) Serve and protect the public interest above any personal or institutional interest or loyalty; and
- (2) Act as the public's surrogate by protecting it against waste or fraud; and
- (3) Respect and uphold laws, ordinances, resolutions, rules, and regulations that protect the public against abuses in city government by assisting law enforcement and other federal, state, county and local authorities charged with protecting the public trust; and
- (4) Report any information concerning activity which may constitute a crime, of which he or she has personal knowledge, immediately and personally to the State Attorney and the Miami-Dade County Commission on Ethics; and
- (5) Cooperate fully with law enforcement agencies or other official investigative authorities in providing truthful testimony and other relevant information pertaining to any alleged violation of the public trust.

(c) City supervisors shall counsel and encourage employees in their respective departments to report violations of city code, including and any waste, fraud or other abuse of public resources, to the appropriate agency.

(d) The Honor Code shall be enforced as follows:

- (1) The city manager or the city manager's designee may use the administrative process of the city for violations of the Honor Code committed by all appointed officials or employees subject to the authority of the city manager.
- (2) The Ethics Commission shall have jurisdiction over violations of the Honor Code committed by elected city officials and by all other city officials and employees not subject to the administrative authority of the city manager. The Ethics Commission shall follow the procedures outlined in Section 2-1074 of the Miami-Dade County Code in conducting such investigations or hearings. The Ethics Commission may impose a letter of reprimand or letter of instruction following a determination that a violation of the Honor Code has occurred. Such action by the Ethics Commission shall not prevent the city or any department head or supervisor from taking any additional action or imposing any penalty that they are authorized to take or impose.
- (3) Whenever any elected or appointed city official or employee is in doubt as to the proper interpretation or application of the Honor Code as to himself or herself, he or she may request a binding opinion from the Ethics Commission.
- (4) Adherence to the Honor Code by city employees shall be included, wherever appropriate and to the extent legally permissible, in the criteria for evaluations for merit increases, promotions, and professional recognition.
- (5) The Ethics Commission may include the Honor Code in its ethics training programs for city officials and employees.

(e) The city shall not dismiss, discipline, or take any other adverse personnel action against an employee for complying with the Honor Code. Further, the city shall not take any adverse action that affects the rights or interests of any employee in retaliation for the employee's compliance with the Honor Code. If the city takes any of the adverse actions stated in the preceding sentences

as a result of an employee's compliance with the Honor Code, the employee shall be entitled to apply to the city manager and to the Ethics Commission for redress, each of which shall take appropriate steps within their authority and discretion to ensure that no employee is penalized for compliance with the Honor Code.

Sections 2-319—2-390. Reserved.

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Section 2. Conflicts. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word. Sections of this Ordinance which are deleted and intended to be moved into a different Chapter of the Code of the Code of Ordinances, shall continue to remain in full force and effect until the adoption of the relevant Code sections are completed, but in no event later than July 31, 2013.

Section 5. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by _____ vote of the Mayor and City Council on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED by _____ vote of the Mayor and City Council on second reading this _____ day of _____, 2015.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

ROLAND C. GALDOS, ESQ.
INTERIM CITY ATTORNEY

SPONSORED BY: COUNCILMAN GALVIN

Moved by: _____

Seconded by: _____

Vote:

Mayor Dr. Smith Joseph, D.O., Pharm. D.
Vice Mayor Carol Keys, Esq.
Councilman Scott Galvin
Councilman Philippe Bien-Aime
Councilman Alix Desulme

_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.