

To: The Honorable Mayor and City Council

From: Aleem A. Ghany, P.E., Public Works Director



Date: November 12, 2013

RE: **AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 19 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "UTILITIES", SPECIFICALLY AT ARTICLE III, DIVISION 3 ENTITLED "BACKFLOW PREVENTION", BY AMENDING SECTION 19-81 ENTITLED "INSPECTIONS" TO ALLOW CITY OF NORTH MIAMI TO PERFORM INSPECTIONS AND CERTIFICATIONS OF BACKFLOW PREVENTION DEVICES REQUIRED IN THE CROSS CONNECTION CONTROL PROGRAM, IN ACCORDANCE WITH LOCAL GOVERNMENT PERMITTING REQUIREMENTS, THE U.S. SAFE WATER DRINKING ACT OF 1974, AND THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; PROVIDING FOR CONFLICTS, REPEAL, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

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**RECOMMENDATION**

That the North Miami City Council approve the attached Ordinance to comply with the Florida Department of Environmental Protection (FDEP) and the City of North Miami's Cross Connection Control Program.

**BACKGROUND**

On April 24, 2012, in conjunction with the Cross Connection Control Program ("Program"), the Mayor and City Council of the City of North Miami ("City"), passed and adopted Ordinance No. 1331, assigning the responsibility for the maintenance, replacement and repair of backflow prevention devices to the servicing property owner.

The Program, designed to protect the public health and the City's drinking water system, is mandated by the U.S. Safe Water Act of 1974, the Florida Department of Environmental Protection, and the Miami-Dade County Water and Sewer Department.

To help manage the Program, the City is required to provide the labor, software maintenance, management and related services necessary to install, inspect and certify backflow prevention devices throughout the City's water service area. The fees associated with backflow inspections need to be adjusted in order for the City to manage the program.

The City administration respectfully requests that the Mayor and City Council adopt the proposed amendment, in order to address the changes pertaining to the Program and to allow the City the ability to comply with applicable laws.

## **Attachments**

- 1) Memo
- 2) Propose Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 19 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "UTILITIES", SPECIFICALLY AT DIVISION 3 OF ARTICLE III ENTITLED "BACKFLOW PREVENTION", BY AMENDING SECTION 19-81 ENTITLED "INSPECTIONS", TO ALLOW THE ASSESSMENT OF REASONABLE FEES, RELATED TO THE COST INCURRED BY THE PUBLIC WORKS DEPARTMENT IN THE INSPECTION, TESTING AND CERTIFICATION OF BACKFLOW PREVENTION DEVICES, TO RESPECTIVE CUSTOMERS WITHIN THE CITY'S WATER SERVICE AREA, IN ACCORDANCE WITH LOCAL GOVERNMENT PERMITTING REQUIREMENTS, THE U.S. SAFE DRINKING WATER ACT OF 1974, AND THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; PROVIDING FOR CONFLICTS, REPEAL, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, on April 24, 2012, in conjunction with the Cross Connection Control Program ("Program"), the Mayor and City Council of the City of North Miami ("City"), passed and adopted Ordinance No. 1331, assigning the responsibility for the maintenance, replacement and repair of Backflow Prevention Devices to the servicing property owner; and

**WHEREAS**, the Program, designed to protect the public health and the City's drinking water system, is mandated by the U.S. Safe Drinking Water Act of 1974, the Florida Department of Environmental Protection, and the Miami-Dade County Water and Sewer Department; and

**WHEREAS**, to help ensure compliance with the Program, the City Public Works Department is tasked with the responsibility of inspecting, testing, and certifying all Backflow Prevention Devices throughout the City's water service area, and pass the cost incurred by the City to respective customers benefiting from the use of Backflow Prevention Devices; and

**WHEREAS**, the current fee structure under Section 19-81 of the City Code of Ordinances, was last updated over two (2) decades ago by Ordinance Number 825, which was unanimously adopted by the Mayor and City Council on May 8, 1990; and

**WHEREAS**, the current fee structure is well below the market rate for similar services provided by the private sector and is no longer viable to defray the costs incurred by the City

arising from the duty to inspect, test and certify Backflow Prevention Devices, as mandated by law; and

**WHEREAS**, it is respectfully requested that the Mayor and City Council adopt the proposed amendment in order to ensure compliance with the Program, and thereby, allow the City to fulfill its obligations under applicable federal, state and county laws.

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

**Section 1.** Chapter 19 of the City of North Miami Code of Ordinances, entitled “Utilities”, is hereby amended, specifically at Division 3 of Article III entitled “Backflow Prevention”, by amending Section 19-81 entitled “Inspections”, to allow the assessment of reasonable fees, related to the cost incurred by the Public Works Department in the inspection, testing and certification of Backflow Prevention Devices, to respective customers within the City’s water service area, in accordance with local government permitting requirements, the U.S. Safe Drinking Water Act of 1974, and the Florida Department of Environmental Protection, as follows:

**CHAPTER 19. UTILITIES**

\* \* \* \* \*

**Article III. WATER**

**DIVISION 3. BACKFLOW PREVENTION**

\* \* \* \* \*

**Sec. 19-81. Inspections.**

(a) The city may in conjunction with county environmental regulatory agencies having jurisdiction make periodic inspections of any premises served by the water supply to check for the presence of cross-connections. Any cross-connections found in such inspections shall be ordered removed by the city. If an immediate hazard to health is caused by the cross-connection, water service to the premises shall be discontinued until it is verified that the cross-connection has been removed.

(b) Backflow prevention devices shall be annually inspected, tested and certified by the city at the customer's expense or more often where a successive inspections indicate repeated failure. The annual inspection shall be performed by the city when customers are notified by the city and the city shall perform the backflow certification test at the listed fees:

(1) Backflow certification—2 inches and above .....~~\$100.00~~150.00

(2) Backflow certification— $\frac{3}{4}$  up to 1½ inches .....~~25.00~~\$75.00

No single building shall be charged more than ~~one hundred fifty dollars (\$150.00)~~three hundred dollars (\$300.00) annually for mandatory certifications performed by the city.

(c) Failure of the customer to cooperate in the installation, maintenance, testing or inspection of backflow prevention devices required in this section shall be grounds for the termination of water service to the premises.

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**Section 2.** **Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

**Section 3.** **Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

**Section 4.** **Severability.** If any word, clause, phrase, sentence, paragraph or section of this Ordinance is held to be invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other word, clause, phrase, sentence, paragraph or section of this Ordinance.

**Section 5.** **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.

**Section 6.** **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**PASSED AND ADOPTED** by \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
LUCIE M. TONDREAU  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
REGINE M. MONESTIME  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**Vote:**

Mayor Lucie M. Tondreau	_____ (Yes)	_____ (No)
Vice Mayor Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

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