ORDINANCE NO. 1360

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 TO UPDATE, ORGANIZE, AND CLARIFY SPECIFIC SECTIONS OF THE CHAPTER, INCLUDING SUBSTANTIVE LEGAL, STYLISTIC AND ORGANIZATIONAL CHANGES, WHILE PROVIDING CONSISTENT USE OF TERMS AND CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") Code of Ordinances ("Code") is a compilation of the governing rules and regulations of the City, carefully arranged and officially promulgated by the Mayor and City Council; and

WHEREAS, the City Code stems from the authority granted by the United States and Florida Constitutions, federal, state and county laws, rules and regulations, the City Charter, and the common law; and

WHEREAS, the periodic review, analysis and rendition of improved versions of the City Code is an essential ingredient in the pursuit of equity, the proper and efficient administration of City services, and the preservation and improvement of the quality of life of all City residents; and

WHEREAS, the Mayor and City Council find that the proposed amendments to Chapter 2 of the City of North Miami Code of Ordinances, advances the health, safety and welfare of all City residents and business community.

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 of 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, to update, organize, and clarify specific Sections of the chapter, including substantive legal, stylistic and organizational changes, while providing consistent use of terms and correction of scrivener's errors, as follows:

CHAPTER 2 - ADMINISTRATION

ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS

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DIVISION 2. BOARD OF TRUSTEES OF THE NORTH MIAMI MUSEUM OF CONTEMPORARY ART (MOCA)

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Sec. 2-64. Finances.

The board of trustees of shall be incorporated and shall have and maintain a nonprofit tax-exempt status. The moneys received by the board of trustees shall be used in the performance of their duties. The board of trustees shall conduct fund-raising projects to assist in the funding of the operational and development costs of MOCA. The city of North Miami shall not be obligated, bound, or indebted for any function or activity of the board of trustees except as approved by the city of North Miami budget ordinance.

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DIVISION 9. NORTH MIAMI AFFORDABLE HOUSING ADVISORY COMMITTEE

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Sec. 2-240. Duties.

(a) Triennially, the advisory committee shall review the established policies, procedures, ordinances, land development regulations, and adopted local government comprehensive plan and shall recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value.

(b) The advisory committee shall submit a report to the city council that includes its recommendations.

(c) Triennially, the advisory committee shall evaluate the implementation of affordable housing incentives in the following areas:

(1) The processing of approvals of development orders or permits, as defined in Section 163.3164(7) and (8), Florida Statutes, for affordable housing projects is expedited to a greater degree than other projects;

(2) The modification of impact fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing;

(3) The allowance of flexibility in densities for affordable housing;

(4) The reservation of infrastructure capacity for housing for very low income persons, low income persons, and moderate income persons;

(5) The allowance of affordable accessory residential units in residential zoning districts;

(6) The reduction of parking and setback requirements for affordable housing;

(7) The allowance of flexible lot configurations, including zero lot line configurations for affordable housing;

(8) The modification of street requirements for affordable housing;

(9) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing;

(10) The preparation of a printed inventory of locally-owned public lands suitable for affordable housing; and

(11) The support of development near transportation hubs and major employment centers and mixed-use developments.

(d) The advisory committee recommendations may also include other affordable housing incentives.

(e) The advisory committee may perform other duties at the request of the city including:

(1) Providing mentoring services to affordable housing partners including developers, banking institutions, employers, and others to identify available incentives, assist with applications for funding requests, and develop partnerships between various parties; and

(2) The creations of best practices for the development of affordable housing in the community.

DIVISION 10. CHARTER SCHOOL AUTHORITY

Sec. 2-249. Charter school authority established; board of directors.

(a) There is established a charter school authority in the city which shall be governed by a board of nine (9) directors, five (5) of whom shall be chosen by the mayor and council, three (3) directors who will be chosen by the city manager, and one (1) director who will be a parent or guardian of a current charter high school student and elected by the other parents/guardians. The three (3) directors to be chosen by the city manager shall have the following educational and/or professional backgrounds and experiences:

(1) One (1) director—education;

(2) One (1) director—business/finance; and

(3) One (1) director—city of North Miami administrator.

(b) Prior to the opening of the charter high school, the council shall appoint a director designated by the board of directors of an officially sanctioned parent teacher association recognized by the city, to serve as the parent/guardian director until an election by the charter high school parent/guardians is held.

(c) All directors shall hold office for an initial term of two (2) years from the first day following appointment. Each director shall hold office until a successor has been duly appointed, except when removed by the council. Any director may be removed at any time by a four-fifths (4/5) vote of the council. Additionally, a director may be removed by a majority vote of the council for failure to comply with the charter contract between the city and the School Board of Miami-Dade County, Florida or any applicable law regulating charter school boards of directors; upon termination of employment as a city of North Miami administrator where required for the director appointment, and at such time as the parent/guardian director no longer has a child enrolled in the charter high school. In cases of vacancies by resignation, removal, or otherwise, the designating entity who originally appointed the director holding that seat may fill such vacancy for the unexpired term, except however that upon the opening of the charter high school, any vacancies for the parent/guardian director shall be filled by a parent/guardian of a current charter high school student elected by the parents/guardians.

(d) The designating entities shall evidence their decisions regarding appointments to the board of the charter school authority, as well, as any actions regarding removal of any of designated board members, by means of a written resolution.

(e) As soon as practical after the council's appointment of its designated directors all duly designated directors shall meet and organize by electing a chairperson, secretary, and treasurer and such other officers as they may deem necessary. All decisions by the board of directors of the charter school authority shall be by majority vote of the entire board.

Sec. 2-250. Delegation of authority over charter school operations.

In accordance with Florida law, the council delegates to the board of directors of the charter school authority management and operational control over the administration of the municipally chartered high school and all other municipally chartered schools, in accordance with the charter contract between the city and the School Board of Miami-Dade County, Florida. This delegation of authority extends to all matters regarding the operation and management of the charter school but does not include the delegation of any taxing authority.

Sec. 2-251. Quorum; by-laws of board; control of expenditures; facilities.

Five (5) members of the charter school authority board of directors shall constitute a quorum. The board of directors may make and adopt such by-laws, subject to city council approval and regulations for the guidance and governance of the charter school as it may deem expedient and to the extent not inconsistent with law or the charter contract. The board of directors shall, in accordance with law and the charter contract, direct expenditures of all state, county and private monies collected, received or donated for purposes of charter school operations as well as such funds as may be specifically budgeted and appropriated by the city council for such purposes. The board of directors of the charter school authority shall have authority over the renting of the

charter school facility and the supervision, care and custody of the grounds, rooms, and buildings constructed, leased or set apart for that purpose.

Sec. 2-252. Charter school funds; use of income.

All funds collected, donated or in any way acquired by or under the authority of the board of directors of the charter school authority in connection with the maintenance or support of the charter school(s) shall be kept for the use of the charter school separate and apart from all other funds of the city and shall not be used or distributed for any other purpose or in any other manner.

Sec. 2-253. Powers of board generally.

(a) The charter school authority board of directors may purchase or lease grounds, erect, lease or occupy appropriate buildings for the use of the charter school; recommend a suitable chief administrator of the charter high school (who may be designated as principal, executive director or otherwise) and assistants for final approval by the council; fix their compensation, negotiate their employment contracts, and remove them from their positions in conformance with their employment contracts and applicable law, including city policies, procedures and regulations; appoint individuals or firms to perform professional services that the board deems necessary to carry out its responsibilities and the spirit and intent of the law in establishing, governing, managing, operating and maintaining a municipal charter high school; fix their compensation, and terminate their services in conformance with their contracts at the pleasure of the board; establish regulations for the governing, management and operations of the charter school as may be deemed necessary for its preservation, proper operation and to maintain its usefulness and efficiency and shall have and exercise such power as may be necessary to carry out the spirit and intent of the law in establishing, promoting and maintaining a municipal charter high school. However, notwithstanding anything to the contrary contained in this code, the charter school authority board of directors shall not have the authority to take any of the following actions without approval from the council:

(1) Amending or surrendering the charter from the School Board of Miami-Dade County, Florida:

(2) Expending funds in excess of ~~twenty-five thousand dollars ($25,000.00)~~fifty thousand dollars ($50,000.00);

(3) Accepting any fees or payments from attendees, except as specifically allowed pursuant to applicable law and the charter contract;

(4) Authorizing payments to members of the charter school authority board of directors (other than reimbursements of travel expenses pursuant to prevailing city policy);

(5) To enter into interlocal agreements with a city-created community redevelopment agency regarding the operation and funding of the school(s) under the city's or authority's jurisdiction;

(6) Final approval of the principal/director of the charter high school and the final

approval of any annual evaluation;

(7) Final approval of the annual budget and the annual financial audit report;

(8) Changes to the adopted budget, except as to interdepartmental transfers and up to the amounts permitted by charter.

(9) Transmitting reports that are required by law or the charter contract to be filed with the school board (e.g., annual budget, annual financial audit report, annual progress report);

(10) Pledging, committing, contracting or obligating the city and/or its resources and assets (including those of the charter high school as a component of the city), except as specified in this article or as otherwise determined by the city.

Sec. 2-254. Reports to council.

The charter school authority board shall, at least quarterly, transmit reports to the council of the condition of the authority and all charter schools, including full financial reporting, such reports as may be deemed appropriate concerning student registration, attendance, and achievements and such additional statistics, information and suggestions as the board may deem of general interest or as the city council may require.

Secs. 2-255—2-275. Reserved.

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ARTICLE IV. CITY DEPARTMENTS AND OFFICES

DIVISION 1. DEPARTMENTS AND OFFICES

Sec. 2-276. Created.

The following departments, units, divisions, and offices are created:

~~(a) City clerk's office.~~

~~The city clerk is elected by the people for a term of four (4) years. The city clerk is empowered to give notice of regular and special council meetings; maintain a journal and record of city council proceedings; hold official city contracts; issue, bill and collect business tax receipts; act as supervisor of all city elections; and perform such other duties as shall be required by city ordinance.~~

~~(c)~~(a) Budget.

The budget office is charged with forecasting the city's revenues and expenditures, and drafting and monitoring the financial guidelines for each fiscal year.

(b) City attorney's office.

The city attorney shall be the chief legal advisor to the city council and all officers, agents, and

employees of the city in all matters relating to their official powers and duties. The city attorney shall represent the city in all legal proceedings.

(c) City clerk's office.

The city clerk is elected by the people for a term of four (4) years. The city clerk is empowered to give notice of regular and special council meetings; maintain a journal and record of city council proceedings; hold official city contracts; issue, bill and collect business tax receipts; act as supervisor of all city elections; and perform such other duties as shall be required by city ordinance.

~~(c)~~(d) City manager's office.

The city manager is appointed by the city council and is the chief administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs and for carrying out policies adopted by the city council.

(e) Code compliance.

The responsibility of code compliance is to investigate and enforce violations of city, county, and state codes, rules, regulations, and laws relating to residential, commercial and industrial properties. Code compliance shall enforce building codes, land development regulations, minimum housing standards, building recertification, residential re-occupancy codes, certificate of use regulations, and business tax regulations as they apply and pertain to the city.

~~(f)~~(f) Community redevelopment agency.

The city's community redevelopment agency strives to eliminate or mitigate the deleterious effects of slum and blighted areas in order to improve the health, safety, morals, and welfare of city residents, in accordance with Part III of Chapter 163, Florida Statutes.

~~(d)~~(g) Community planning and development department.

The community planning and development department partners with residents, organizations, businesses and developers in order to provide housing programs, promote quality planning and development throughout the city, and encourage investment and redevelopment to improve the overall quality of life in the city.

~~(e)~~(h) Finance department.

The finance department handles and records all financial transactions of the city, including the preparation of monthly financial reports, investment of city funds, reconciliation of funds and bank accounts, submission of reports required by regulatory agencies and processing payments to employees and vendors in a timely manner.

~~(r)~~(i) Governmental affairs.

The office of governmental affairs, endeavors to establish and maintain effective governmental relations with public and private entities involved in all areas of municipal government including, but not limited to, grants, development, infrastructure, education, law enforcement, emergency response, transportation, environmental issues, as well as the arts and culture.

~~(m)~~(j) Information technology department.

The Information technology department supports the operations of city administration and functions by the advanced application of technology and communication systems.

~~(p)~~(k) Media relations.

In the interest of creating a positive working relationship with the media, the city of North Miami established this office for the uniform dissemination of information to the public, in the manner established by administrative regulations. All media requests to the city's elected officials, as they pertain to city policies and programs, should be directed to the city public information officer.

~~(k)~~(l) Museum of C~~c~~ontemporary A~~a~~rt.

The museum is dedicated to making contemporary art accessible to diverse audiences through the collection, preservation and exhibition of contemporary art and its historical influences.

~~(g)~~(m) Parks and recreation department.

The parks and recreation department will enhance residents' quality of life by providing recreational programs, special events, and safe and attractive open space, facilities and services for all members of the community.

~~(h)~~(n) Personnel administration.

The office of personnel administration is charged with the responsibility of recruiting, hiring, and retaining competent employees, while providing competitive benefits, in accordance city, county, state, and federal regulations.

~~(i)~~(o) Police department.

The police department provides professional, efficient, and courteous public service by creating a safe environment and improving the quality of life of residents, in an atmosphere of respect, courtesy and integrity.

~~(f)~~(p) Public library.

The public library provides open and free access to information and technology, while fostering independent lifelong learning, personal growth and development, intellectual stimulation and cultural enrichment.

~~(j)~~(q) Public works department.

The public works department exists to enhance the quality of life, health and safety of all residents by rendering proper and efficient services, related to sanitation, streets, water, sewer, storm-water, fleet management, and building maintenance.

~~(n)~~(r) Purchasing department.

The purchasing department supports all city departments and ensures that the procurement of goods and services are in accordance with city code, Florida Statutes and federal law. The department guards the city's reputation of integrity, fairness and equity in the procurement process with all vendors.

~~(o)~~(s) Risk management.

The office of risk management will implement appropriate measures for evaluating, mitigating and resolving risk exposures and liabilities, while proactively maintaining a safe working environment for employees.

~~(s)~~(t) Utility billing office.

The utility billing office provides billing, collection, and recording services relating to utility customer accounts.

Secs. 2-277 - 2-280. Reserved.

ARTICLE VI. CODE OF ETHICS

DIVISION 1. CONFLICT OF INTEREST

Sec. 2-316. Legislative intent.

(a) *Designation.* This section shall be designated and known as the "City of North Miami Conflict of Interest and Code of Ethics Ordinance." This article shall be applicable to all city personnel as defined below, and shall also constitute a standard of ethical conduct and behavior for all autonomous personnel, quasi-judicial personnel, advisory personnel and departmental personnel. The provisions of the city of North Miami conflict and code of ethics ordinance shall be applied in a cumulative manner. By way of example, and not as a limitation, subsections 2-316(c) and (d) may be applied to the same contract or transaction.

(b) Definitions. For the purposes of this article the following definitions shall be effective:

(1) *Councilmembers* shall refer to the mayor and the members of the city council and city clerk as duly constituted from time to time.

(2) *Autonomous personnel* shall refer to the members of semi-autonomous authorities, boards, and agencies such as the Code Enforcement Board, the Board of Trustees of the Museum of Contemporary Art (MOCA), and others that are entrusted with the day-to-day policy setting, operation and management of certain defined city functions or areas of responsibility, even though the ultimate responsibility for such functions or areas rests with the city council.

(3) *Quasi-judicial personnel/officer* shall refer to the members of the board of adjustment, the planning commission, the code enforcement board or special master(s), nuisance abatement board, and such other individuals, boards and agencies of the city as perform quasi-judicial functions.

(4) *Advisory personnel* shall refer to the members of those city advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the city council.

(5) *Departmental personnel* shall refer to the city manager, deputy and assistant managers, department heads, the city attorney and any deputy and assistant city attorneys.

(6) *Employees* shall refer to all other personnel employed by the city.

(7) *Compensation* shall refer to any money, gift, favor, thing of value or financial benefit conferred in return for services rendered or to be rendered.

(8) *Controlling fFinancial interest* shall refer to source of income or ownership, directly or indirectly, of ten (10) percent or more of the outstanding capital stock in any corporation or a source of income or a direct or indirect interest of ten (10) percent or more in a firm, partnership, or other business entity at the time of transacting business with the city.

(9) *Immediate family* shall refer to the spouse, parents, children, brothers and sisters of the person involved.

(10) *Transact any business* shall refer to the purchase or sale by the city of specific goods or services for consideration and to submitting a bid, a proposal in response to a RFP, a statement of qualifications in response to a request by the city, or entering into contract negotiations for the provision on any goods or services.

(c) *Prohibition on transacting business within the city.* No person included in the terms defined in subsections 2-316(b)(1) through (6) and in subsection 2-316(b)(9) shall enter into any contract or transact any business in which that person or a member of the immediate family has a controlling financial interest, direct or indirect with the city of North Miami or any person or agency acting for the city of North Miami, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Willful violation of this subsection shall constitute malfeasance in office and shall effect forfeiture of office or position. Nothing shall prohibit or make illegal: (1) The payment of taxes, special assessments or fees for services provided by the city government or (2) The purchase of bonds, anticipation notes or other securities that may be issued by the city through underwriters or directly from time to time.

Extension of waiver. The requirements of this subsection may be waived for a particular transaction only by four (4) affirmative votes of the city council after public hearing. A waiver may be given only after findings at a public hearing by four (4) affirmative votes of the city council that:

(1) An open-to-all sealed competitive proposal has been submitted by a city person as defined in subsections 2-316(b)(2), (3) or (4); or

(2) The proposal has been submitted by a person or firm offering services within the scope of practice of architecture, professional engineering, or registered land surveying as defined by the laws of the State of Florida and pursuant to the provisions of the Consultants' Competitive Negotiation Act, and when the proposal has been submitted by a city person defined in subsections 2-316(b)(2), (3) or (4); or

(3) The property or services to be involved in the proposed transaction are unique and the city cannot avail itself of such property or services without entering a transaction which would violate this subsection but for waiver of its requirements; or

(4) That the proposed transaction will be in the best interest of the city.

i. This subsection shall be applicable only to prospective transactions, and the city council may in no case ratify a transaction entered in violation of this subsection.

ii. Provisions cumulative. This subsection shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter.

(d) *Further prohibition on transacting business with the city.* No person included in the terms defined in subsections 2-316(b)(1) through (6) and in subsection 2-316(b)(9) shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which that person or any member of the immediate family has a controlling financial interest, direct or indirect, with the city or any person or agency acting for the city, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable.

The remaining provisions of subsection 2-316(c) will also be applicable to this subsection as though incorporated by recitation.

Additionally, no person included in the term defined in subsection 2-316(b)(1) shall vote on or participate in any way in any matter presented to the city council if that person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the city council: (i) Officer, director, partner, counsel, consultant, employee, fiduciary or beneficiary; or (ii) Stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person defined in subsection 2-316(b)(1) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in subsection 2-316(b)(1) who has any of the specified relationships or who would or might, directly or indirectly, realize a profit by the action of the city council shall not vote on or participate in any way in the matter.

(e) *Prohibition on certain business transactions.* No person included in the terms defined in subsections 2-316(b)(1) through (6) and in subsection 2-316(b)(9) shall enter into a business transaction with any person or entity that has a contract with the city of North Miami or any shareholder, partner, officer, director or employee of such contractor, unless the business transaction is an arm's length transaction made in the ordinary course of business. The provisions of this subsection (e) shall not apply to a business transaction between a not-for-profit entity and persons included in the terms in subsections 2-316(b)(1) through (6) and in subsection 2-316(b)(9). As used herein a "shareholder" shall mean any person owning ten (10) percent or more of the outstanding capital stock of any corporation. As used herein, "business transaction" shall mean any contract where persons either sell, buy, deal, exchange, rent, lend or barter real or intangible property, money or any other thing of value, or render services for value.

(f) *Gifts.*

(1) *Definition.* The term "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.

(2) *Exceptions.* The provisions of subsection 2-316(e)(1) shall not apply to:

(a) Political contributions specifically authorized by state law;

(b) Gifts from relatives or members of one's household, unless the person is a conduit on behalf of a third party to the delivery of a gift that is prohibited under paragraph (3);

(c) Awards for professional or civic achievement;

(d) Material such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature.

(e) Gifts made to the North Miami Employee's Assistance Trust Fund, the North Miami Police Athletic League or other recognized not-for-profit organizations.

(3) *Prohibitions.* A person described in subsections 2-316(b)(1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the terms defined in subsections 2-316(b)(1) through (6) or for any person included in the terms defined in subsections 2-316(b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:

(a) An official public action taken, or to be taken, or which could be taken, or an omission or failure to take a public action;

(b) A legal duty performed or to be performed, or which could be performed, or an omission or failure to perform a legal duty;

(c) A legal duty violated or to be violated, or which could be violated by any person included in the term defined in subsection 2-316(b)(1); or

(d) Attendance or absence from a public meeting at which official action is to be taken.

(4) *Disclosure.* Any person included in the term defined in subsections 2-316(b)(1) through (6) shall disclose any gift, or series of gifts from any one person or entity, <u>having a value in excess of one hundred dollars ($100.00)</u>. The disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the city clerk simultaneously with the filing of the form with the Supervisor of Elections of Miami-Dade County and with the Secretary of State.

(g) *Compulsory disclosure by employees of firms doing business with the city.* Should any person included in the terms defined in subsections 2-316(b)(1) through (6) be employed by a corporation, firm, partnership or business entity in which that person or the immediate family does not have a controlling financial interest, and should the corporation, firm, partnership or business entity have substantial business commitments to or from the city or any city agency, or be subject to direct regulation by the city or a city agency, then the person shall file a sworn statement disclosing such employment and interest with the city clerk of the city of North Miami.

(h) *Exploitation of official position prohibited.* No person included in the terms defined in subsections 2-316(b)(1) through (6) shall corruptly use or attempt to use an official position to

secure special privileges or exemptions for that person or others.

(i) *Prohibition on use of confidential information.* No person included in the terms defined in subsection 2-316(b)(1) through (6) shall accept employment or engage in any business or professional activity which one (1) might reasonably expect would require or induce one (1) to disclose confidential information acquired by reason of an official position, nor shall that person in fact ever disclose confidential information garnered or gained through an official position with the city, nor shall that person ever use such information, directly or indirectly, for personal gain or benefit. Confidential information shall include, but not be limited to, any written information which is not subject to disclosure pursuant to Chapter 119, Florida Statutes or any other statutory exemption regarding public records or any oral information which was not discussed at any public meeting.

(j) *Conflicting employment prohibited.* No person included in the terms defined in subsections 2-316(b)(1) through (6) shall accept other employment which would impair independence of judgment in the performance of any public duties.

(k) *Prohibition on outside employment.*

(1) No person included in the terms defined in subsections 2-316(b)(6) [employees] shall receive any compensation for services as an officer or employee of the city from any source other than the city, except as may be permitted as follows:

(a) *Generally prohibited.* No full-time city employee shall accept outside employment, either incidental, occasional or otherwise, where city time, equipment or material is to be used or where such employment or any part is to be performed on city time, unless approved in writing by the city.

(b) *When permitted.* A full-time city employee may accept incidental or occasional outside employment so long as such employment is not contrary, detrimental or adverse to the interest of the city or any of its departments and the approval required in subsection 2-316(c) is obtained.

(c) *Approval of department head required.* Any outside employment by any full-time city employee must first be approved in writing by the employee's department head who shall maintain a complete record of such employment.

(2) All full-time city employees engaged in any outside employment for any person, firm, corporation or entity other than the city of North Miami, or any of its agencies or instrumentalities, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from the outside employment. City employee reports shall be filed with the city clerk. The reports shall be available at a reasonable time and place for inspection by the public.

(l) *Prohibited investments.* No person included in the terms defined in subsections 2-316(b)(1) through (6) or a member of the immediate family shall have personal investments in any enterprise which will create a substantial conflict between private interests and the public interest.

(m) *Certain appearances and payment prohibited.*

(1) No person included in the terms defined in subsections 2-316(b)(1), (5) and (6) [council members, departmental personnel and employees] shall appear before any city board or agency and make a presentation on behalf of a third person with respect to any matter, license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation or any gift, directly or indirectly or in any form, for services rendered to a third person, who has applied for or is seeking some benefit from the city or a city agency, in connection with the particular benefit sought by the third person. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the city or a city agency through the suit in question.

(2) No person included in the terms defined in subsections 2-316(b)(2), (3) and (4) [autonomous personnel, quasi-judicial personnel, and advisory personnel] shall appear before the city council or agency on which the person serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any matter, license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation or any gift, directly or indirectly or in any form, for services rendered to a third party, who has applied for or is seeking some benefit from the city council or agency on which such person serves, in connection with the particular benefit sought by the third party. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the city council or agency on which such person serves through the suit in question.

(n) *Actions prohibited when financial interests involved.* No person included in the terms defined in subsections 2-316(b)(1) through (6) shall participate in any official action directly or indirectly affecting a business in which that person or any member of the immediate family has a financial interest. A financial interest is defined in this article as a direct or indirect, investment, equity, or debt.

(o) *Acquiring financial interests.* No person included in the terms defined in subsections 2-316(b)(1) through (6) shall acquire a financial interest in a project, business entity or property at a time when the person believes or has reason to believe that the financial interest may be directly affected by official actions or by official actions by the city or city agency of which the person is an official, officer or employee.

(p) *Recommending professional services.* No person included in the terms defined in subsections 2-316(b)(1) through (4) may recommend the services of any lawyer or law firm, architect or architectural firm, public relations firm, or any other person or firm, professional or otherwise, to assist in any transaction involving the city or any of its agencies, provided that such recommendation may properly be made when required to be made by the duties of office and in advance at a public meeting attended by other city officials, officers or employees.

(q) *Continuing application for two (2) years after city service.*

(1) No person included in the terms defined in subsections 2-316(b)(1), (5) and (6) [council members, departmental personnel and employees] shall, for a period of two (2) years

after his city service or employment has ceased, act as agent or attorney for anyone other than the city in connection with any judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which the city of North Miami or one of its agencies is a party or has a direct and substantial interest, and in which that person participated personally and substantially as an official, officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, receipt of confidential information, investigation, or otherwise, while so employed in city service.

(2) No person who has served as an elected city official, mayor, councilperson or a member of the staff of an elected official, or as city manager, an assistant or deputy to the manager, city attorney, deputy or assistant city attorney, department director or employee shall, for a period of two (2) years after service or employment has ceased, lobby any city officer or employee in connection with any judicial or other proceeding, application, RFP, RFQ, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which the city is a party or has any interest whatever, whether direct or indirect. Nothing contained in this subsection shall prohibit any individual included within the provisions of this subsection from submitting a routine administrative request or application to a city department or agency during the two-year period after service or employment has ceased.

(3) The provisions of subsection 2-316~~(p)~~(q)(2) shall not apply to officials or employees who become employed by governmental entities, 501(c)(3) non-profit entities or educational institutions or entities, and who lobby on behalf of such entities in their official capacities.

(4) The provisions of subsections 2-316~~(p)~~(q)(2) and (3) shall apply to all individuals who leave the city after the effective date of this article [February 9, 1999].

(5) Former officers and employees who have left the city within two (2) years prior to the effective date of this article [February 9, 1999] shall execute an affidavit on a form prepared by the office of the city attorney prior to lobbying any city officer or employee stating that the requirements of this article do not preclude the person from lobbying any officer or employee of the city. The city attorney shall verify the accuracy of each affidavit executed by a former officer or employee.

(r) *City attorney to render opinions on request.* Whenever any person included in the terms defined in subsections 2-316(b)(1) through (6) and subsections 2-316(b)(9) is in doubt as to the proper interpretation or application of this conflict of interest and Miami-Dade County code of ethics ordinance, or whenever any person who renders services to the city is in doubt as to the applicability of the ordinance, that person may submit to the city attorney a full written statement of the facts and questions. The city attorney shall then render an opinion to such person and shall publish these opinions without use of the name of the person advised unless such person permits the use of a name.

Sec. 2-317. Procedure on complaint of violation.

(a) *Legally sufficient complaint.* Upon a written complaint which alleges the elements of a violation, based substantially upon the personal knowledge of the complainant and signed under

oath or affirmation by the complaining person, and is legally sufficient to state a possible violation of this article, the city attorney ~~and city manager~~ shall submit a copy of the written complaint, if appropriate, to a federal, state, or county agency having proper jurisdiction to investigate ~~jointly investigate any~~the alleged violation. ~~Within five (5) days after receipt of a complaint, a copy shall be sent to the alleged violator.~~

~~(b) *Preliminary investigation.* A preliminary investigation shall be undertaken of each legally sufficient complaint to determine whether there is probable cause to believe that a violation has occurred. If, upon completion of the preliminary investigation, the city attorney finds no probable cause to believe that a violation has been committed, the city attorney shall dismiss the complaint with the issuance of a report to the complainant and the alleged violator. If the city attorney finds from the preliminary investigation probable cause to believe that a violation has been committed, notification, via certified mail, shall be made to the complainant and the alleged violator (otherwise known as the respondent), in writing. The city attorney may conduct such further investigation as deemed necessary. The city manager, upon consultation with the city attorney, may take such personnel action and may enter into such stipulations and settlements as to be just and in the best interest of the citizens of North Miami.~~

~~(c) *Investigations.* Investigations shall be conducted jointly by the city attorney and the city manager, or by any other person or agency so designated by the city attorney. Investigations shall be limited to the allegations of the complaint, but shall include an investigation of all facts and persons materially related to the complaint at issue.~~

~~(d) *Public records.* All proceedings, the complaint, and other records relating to the preliminary investigation shall be subject to the provisions of Section 119, Florida Statutes.~~

~~(e) *Subpoena.* The city attorney shall be empowered to make application to any circuit court of this state which shall have jurisdiction to order witnesses to appear and to produce evidence, if so ordered, or to give testimony touching on the matter in question.~~

~~(f) *Presentation of the case.* The complainant shall present the case first. Respondent may then present a case, rebuttal evidence may be permitted.~~

~~(1) The respondent and the complainant shall have the right to present evidence relevant to the issue, to cross-examine opposing witnesses on any matter relevant to the issue, and to impeach any witness.~~

~~(2) Hearings shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.~~

~~(g) *Resolution of the complaint.* Upon completion of any investigation, the city attorney shall make proposed recommended findings of facts and conclusions of law, and the city manager shall enter a public report and order as to whether any provision of this chapter has been violated. If the city manager finds, based upon clear and convincing evidence in the record, that a violation has been committed, the city manager shall issue an order imposing an appropriate penalty as may be provided in section 1-11 of the city's Code of Ordinances or as provided in~~

~~any statute being enforced. The city manager shall, within sixty (60) days of the filing of a complaint, render a final order disposing of the complaint. If a person fails to comply with an order issued by the city manager, the city manager may make application to the Miami-Dade County Commission on Ethics and Public Trust which shall have jurisdiction over the complaint, or other agency which may have jurisdiction over the complaint. The city manager may also assess a fine and the costs of the investigation.~~

~~(h) *Attorney's fees.* In any case in which the city attorney or anyone designated by the city attorney finds no probable cause to believe that a violation has been committed or determines that the complaining party filed a frivolous or groundless complaint, the city manager may order the complaining party to pay any costs and attorney's fees incurred by the city.~~

~~(i) *Prospective jurisdiction.* Any alleged violation committed before the effective date of this article [February 9, 1999] shall be governed by the applicable city of North Miami, Miami-Dade County and State of Florida Code of Ethics Ordinances, Conflict of Interest Ordinances or Lobbyist Registration and Reporting Ordinances in effect at the time of the alleged violations.~~

~~(j) *Personnel proceeding.* Where an employee of the city of North Miami is alleged to have violated a law within the purview of this article, and based upon the same set of facts, is subject to an ongoing disciplinary action initiated by the city, the city attorney and city manager shall stay consideration of a complaint until the conclusion of the personnel proceeding.~~

~~(k) *Statute of limitations.* No action may be taken on a complaint filed more than one (1) year after the violation is alleged to have accrued.~~

Secs. 2-318 - 2-390. Reserved.

DIVISION 3. LOBBYING

Sec. 2-400. Definitions.

For the purposes of this division the following definition shall be effective:

Lobbyist shall refer to all persons, firms, or corporations employed or retained, whether paid or not, by a principal who seeks to encourage the passage, defeat, or modification(s) of; (1) Any ordinance, resolution, action or decision of any councilmember; (2) Any action, decision, recommendation of any city board or committee; or (3) Any action, decision or recommendation of any personnel defined in any manner above, during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the city council, or a city board or committee. The term "Lobbyist," specifically includes the principal as described above, as well as any agent, attorney, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, attorney, officer or employee.

Sec. 2-401. Registration.

All lobbyists shall register with the city clerk within five (5) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to so register shall:

(1) Register on forms prepared by the city clerk;

(2) Pay a registration fee of ~~twenty-five dollars ($25.00)~~two hundred fifty dollars ($250.00); and

(3) State under oath the name and business address of each person or entity which has employed the registrant to lobby, the councilmember or personnel sought to be lobbied and the specific issue on which the lobbyist has been retained to lobby. Any change to any information originally filed, or any additional city councilmember or personnel who are also sought to be lobbied shall require that the lobbyist file an amendment to the registration forms, although no additional fee shall be required for such amendment(s). The lobbyist has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs. If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five (5) percent or more ownership interest in such corporation, partnership, or trust. Separate registration shall be required for each principal represented on each specific issue. Each issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, request for proposal, or public hearing number. The city clerk shall reject any registration statement which does not provide a description of the specific issue on which the lobbyist has been sought to lobby. Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. In addition to the registration fee required above, registration of all lobbyists shall be required prior to January 1st of every even numbered year and the fee for biennial registration shall be ~~one hundred twenty-five dollars ($125.00)~~two hundred fifty dollars ($250.00). Initially, all lobbyists shall register on or before December 31, 1999. In addition to the matters addressed above, every registrant shall be required to state the extent of any business, financial, familial, or professional relationship, or other relationship which gives rise to an appearance of an impropriety, with any current city councilmember or personnel defined above who is sought to be lobbied as identified on the lobbyist registration form filed. The registration fees required by this subsection shall be deposited by the city clerk into the general fund of the city. There shall be no fee required for filing a notice of withdrawal and the city clerk shall waive the registration fee upon a finding of financial hardship, based upon a sworn statement of the applicant.

Sec. 2-402. Registration not required for certain persons.

(a) Any public officer, employee or appointee or any person or entity in contractual privity with the city that only appears in an official capacity, shall not be required to register as a lobbyist.

(b) Any person who only appears in an individual capacity at a public hearing before the city council, planning commission, board of adjustment or other board or committee and has no other communication with the personnel defined in section 2-400 above, for the purpose of self-representation without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item, shall not be required to register as a lobbyist, including but not limited to those who are members of homeowner, neighborhood or business associations. Additionally, any person requested to appear before any city personnel, board or

commission, or any person compelled to answer for or appealing a code violation, a nuisance abatement board hearing, a special master hearing or an administrative hearing shall not be required to register, nor shall any agent, attorney, officer or employee of such person.

Sec. 2-403. Sign-in logs.

In addition to the registration requirements addressed above, all city departments including the offices of the mayor and city council, the offices of the city attorney, city manager and city clerk shall maintain signed "sign-in" logs for all non-city employees or personnel for registration when they meet with any personnel as defined in section 2-400 above.

Sec. 2-404. Publication of logs by city clerk.

Commencing January 31st, 1999, and by January 31st of each year thereafter, the lobbyist shall submit to the city clerk a signed statement under oath listing all lobbying expenditures in the city of North Miami for the preceding calendar year. A statement shall be filed even if there has been no expenditures during the reporting period.

The clerk shall promulgate logs on a quarterly and annual basis reflecting the lobbyist registrations which have been filed.

All members of the city council, and all city personnel defined above, shall be diligent to ascertain whether persons required to register pursuant to this subsection have complied. Councilmembers or city personnel may not knowingly permit themselves to be lobbied by a person who is not registered pursuant to this subsection to lobby the councilmember, or the relevant committee, board or city personnel.

Sec. 2-405. Investigation of violations.

The city attorney and city manager shall jointly investigate any person engaged in lobbying activities who are reported to be in violation of this section. There shall be a report of the results of the investigation to the city council. Any alleged violator shall also receive the results of any investigation and shall have the opportunity to address the findings, if necessary, and submit any written material in defense to the city council. The city council may suspend or prohibit such person from lobbying before the council or any committee, board or personnel of the city.

Secs. 2-406 - 2-414. 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.

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

PASSED AND ADOPTED by a 4-1 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 22nd day of October, 2013.

PASSED AND ADOPTED by a 4-1 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 12th day of November, 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: Keys

Seconded by: Steril

Vote:

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

Additions shown by underlining. Deletions shown by overstriking.