NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

Council Report

To: The Honorable Mayor and City Council

From: Aleem A. Ghany, City Manager

Date: ~~June 9, 2015~~ June 23, 2015 (Second Reading)

RE: **PROPOSED ORDINANCE AMENDING CHAPTER 21, OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "CODE COMPLIANCE", BY AMENDING ARTICLE II, ENTITLED "CODE COMPLIANCE PROCEDURES" AT DIVISION 1. ENTITLED "CODE COMPLIANCE NOTICE OF VIOLATION PROCEDURE", SPECIFICALLY AT SECTION 21-20 ENTITLED "FINES; COSTS OF REPAIR" TO INCREASE THE MAXIMUM DAILY FINES FOR CODE VIOLATIONS.**

RECOMMENDATION

That the Mayor and City Council pass and adopt the proposed ordinance to amend Chapter 21 of the North Miami Code of Ordinances entitled "Code Compliance", by amending Article II, entitled "Code Compliance Procedures" specifically at Division 1, entitled "Code Compliance Notice of Violation Procedure", specifically at Section 21-20 entitled "fines; costs of repair" to increase the maximum daily fines for code violations.

BACKGROUND

The City of North Miami has a continuous problem with violations of its codes and ordinances and the current maximum daily fine amounts for code violations have not been a successful deterrent in preventing future violations.

Pursuant to Section 162.09(2)(d) of the Florida Statutes, a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the municipality, an ordinance that gives the special magistrate the authority to impose fines not to exceed $1,000.00 per day per violation for a first violation, $5,000.00 per day per violation for a repeat violation, and up to $15,000.00 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature. The population within the City exceeds the statutory requirement of 50,000 residents.

ATTACHMENT(s)

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 21, OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "CODE COMPLIANCE", BY AMENDING ARTICLE II, ENTITLED "CODE COMPLIANCE PROCEDURES" AT DIVISION 1 ENTITLED "CODE COMPLIANCE NOTICE OF VIOLATION PROCEDURE", SPECIFICALLY AT SECTION 21-20 ENTITLED "FINES; COSTS OF REPAIR" TO INCREASE THE MAXIMUM DAILY FINES FOR CODE VIOLATIONS; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") has a continuous problem with violations of its codes and ordinances and the current maximum daily fine amounts for code violations have not been a successful deterrent in preventing future violations; and

WHEREAS, Chapter 162.09 of the Florida Statutes provides for enhanced code enforcement fines; and

WHEREAS, pursuant to Section 162.09(2)(d) of the Florida Statutes, a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the municipality, an ordinance that gives the special magistrate the authority to impose fines not to exceed $1,000.00 per day per violation for a first violation, $5,000.00 per day per violation for a repeat violation, and up to $15,000.00 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature; and

WHEREAS, the population within the City exceeds the statutory requirement of 50,000 residents; and

WHEREAS, it is the intent of the City to promote, protect, and improve the health, safety and welfare of its citizens by actively seeking compliance from violators of the City's codes; and

WHEREAS, the Mayor and City Council desire to amend the Code of Ordinances to raise the maximum daily fine amount for code violations.

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

Section 1. **Amendments to Chapter 21 Code of Ordinances.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 21, of the City of North Miami Code of Ordinances entitled "Code Compliance", by amending Article II entitled "Code Compliance Procedures" at Division 1 entitled "Code Compliance Notice of Violation Procedure" by amending section 21-20 entitled "Fines; costs of repair", as follows:

CHAPTER 21. CODE COMPLIANCE

* * * * *

ARTICLE II. CODE COMPLIANCE PROCEDURES

* * * * *

DIVISION 1. - CODE COMPLIANCE NOTICE OF VIOLATION PROCEDURE

Section 21-20. - Fines; costs of repair.
(a) The special magistrate, upon notification by the code compliance officer that a previous order of the special magistrate has not been complied with by the set time, or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the special magistrate for compliance or in the case of a repeat violation, for each day the repeat violation continues beginning with the date the repeat violation is found to have occurred by the code compliance officer. In addition, if the violation is a violation described in subsection 21-16(c)(1), the special magistrate shall notify the city manager or city manager's designee, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. If a finding of a violation or repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. A fine imposed pursuant to this section shall not exceed ~~two hundred fifty dollars ($250.00)~~ one thousand dollars ($1,000.00) per day for a first violation and shall not exceed ~~five hundred dollars ($500.00)~~ five thousand dollars ($5,000.00) per day for a repeat violation and, in addition, may include all costs of repairs pursuant to this subsection. If the special magistrate finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed fifteen thousand dollars ($15,000.00) per violation. In determining the amount of the fine, if any, the special magistrate shall consider the following factors:

(1) The gravity of the violation;

(2) Any actions taken by the violator to correct the violation; and

(3) Any previous violations committed by the violator.

(b) The special magistrate may reduce a fine imposed pursuant to this section.

* * * * *

Section 2. **Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

Section 3. **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 4. **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 by a court of competent jurisdiction, 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 5. **Codification.** It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; 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 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 9 day of June, 2015.

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

_____
DR. SMITH JOSEPH
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: COUNCILMAN SCOTT GALVIN

Moved by: _____

Seconded by: _____

Vote:

Mayor Smith Joseph, DO	_____ (Yes)	_____ (No)
Vice Mayor Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilman Scott Galvin	_____ (Yes)	_____ (No)
Councilman Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilman Marie Erlande Steril	_____ (Yes)	_____ (No)

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