

## ORDINANCE NO. 2022-XX

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER II “STRUCTURE OF CITY GOVERNMENT”, BY SPECIFICALLY AMENDING ARTICLE X “CODE OF ETHICS” TO CREATE A NEW SECTION 2-79.14 ENTITLED “PROHIBITING CONFLICT OF INTEREST IN LAND USE MATTERS”; AUTHORIZING THE CITY CLERK TO TRANSMIT THE ORDINANCE TO THE MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST FOR ENFORCEMENT PURPOSES; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, under Florida law, a municipality has authority to adopt more restrictive ethics regulations to prevent conflict interest in land use matters and related matters; and

**WHEREAS**, in general under Florida and Miami-Dade County Ethics Codes, a city official may not engage any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties or which may tend to impair his or her independence of judgment in the performance of his official duties; and

**WHEREAS**, it is generally held that a public officer has an undivided duty to the public whom he or she serves and is not permitted to place himself or herself in a position which will subject him or her to conflicting duties or expose him or her to temptation of acting other than in the best interests of the public; and

**WHEREAS**, a city official working as listing agent, real estate agent or broker relating to a property that is contingent on approval by the City Commission or any other boards of the City for development purposes creates a conflict of interest or appearance of conflict of interest; and

**WHEREAS**, a city official working as a listing agent, real estate agent, or broker in real estate transactions creates a conflict of interest on its face and financial investment by a city official in a development project also creates a conflict of interest between the official duties of the city officials and his or her private interest; and

**WHEREAS**, the City Commission believes it is in the best interests of the City to approve this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Commission of the City of North Miami Beach, Florida:

**Section 1.** That the recitals and findings contained in the forgoing “whereas” clauses are adopted by reference and incorporated as if fully set forth in this section.

**Section 2.** That Chapter II, entitled “Structure of City Government,” Article X, “Code of Ethics,” Section 2-79.14 entitled “Prohibiting Conflict of Interest in Land Use Matters,” is hereby created to state as follows (underlined is added; ~~stricken through~~ is deleted):

**2-79.14 Prohibiting Conflict of Interest in Land Use Matters.**

(a) For the purposes of this section, the term city official means elected officials, chartered officers, city board or committee members, or any employee of the City. The term financial investment means any investment in the development project, including, but not limited to, purchasing of units. The definitions described in the City's Code of Ethics Section 2-79.2 and the Miami-Dade County 'Conflict of Interest and Code of Ethics Ordinance,' Sec. 2-11.1, are incorporated by reference.

(b) A city official directly involved in the final decision making as to a development approval of a development project or where the city official has reason to believe that she or he may be directly involved in the final decision making as to a development approval of a development project shall not be compensated in the following manner:

1. As a listing agent, real estate agent, or broker or receive any compensation in any real estate transaction or from financial investment in which the sale of the property is contingent on the approval of the City Commission or any other board of the City for development purposes. The term contingent means that the property is presented for review by the City Commission or any other board for development purposes within a year of the sale of the property. This prohibition shall apply to any family member that is used a conduit for the person who is subject to this section.

(c) This section shall not apply to a city official if the city official or any family member was acting as a listing agent, real estate agent or broker before the city official takes office, is appointed to a city board or committee, or is employed by the City or if the financial investment was made before the city official takes office, is appointed to a city board or committee, or is employed by the City.

(d) Upon a determination by the Miami-Dade County Commission on Ethics and Public Trust, a city official is subject to a fine of One Thousand Dollars (\$1,000.00) for each violation of this section.

**Section 3.** That the City Clerk shall provide a copy of this ordinance to the Miami-Dade County Commission on Ethics and Public Trust for enforcement purposes.

**Section 4.** Conflicts. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 5.** Severability. If any clause, section, other part or application of this Ordinance is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Ordinance.

**Section 6.** Codification. Specific authority is given to codify this Ordinance.

**Section 7.** Effective Date. This Ordinance shall become effective ten days after adoption on second reading.

**APPROVED** on this first reading this **24<sup>th</sup> day of March, 2022.**

**APPROVED AND ADOPTED** on second reading this \_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:**

\_\_\_\_\_  
ANDRISE BERNARD, MMC  
CITY CLERK

(CITY SEAL)

\_\_\_\_\_  
ANTHONY F. DEFILLIPO  
MAYOR

APPROVED AS TO FORM, LANGUAGE  
AND FOR EXECUTION

\_\_\_\_\_  
HANS OTTINOT  
INTERIM CITY ATTORNEY

Sponsored by: Commissioner Michael Joseph