

ORDINANCE NO. 1024-2011

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS REPEALING CHAPTER 33, CONFLICT OF INTEREST; CODE OF ETHICS; LOBBYING OF THE CODE OF ORDINANCES OF THE CITY OF MIAMI SPRINGS, CONTAINING CODE SECTIONS 33-01 THROUGH 33-20; ENACTING NEW CHAPTER 33, CONFLICTS OF INTEREST AND CODE OF ETHICS; ENACTING CODE OF ORDINANCE SECTION 33-01, ADOPTION OF CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE OF MIAMI-DADE COUNTY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; DIRECTIONS TO CODIFIERS; EFFECTIVE DATES.**

**WHEREAS**, upon reviewing Chapter 33 of the Code of Ordinances, it has become apparent that the entire Chapter, with the exception of Ordinance Section 33-20, was enacted in 1973 and never further amended; and,

**WHEREAS**, many of the provisions of the current City Chapter 33 are confusing, out of date, duplications of other county or state ethics provisions, and have never, to the best of anyone's knowledge, served as the basis of an enforcement action or prosecution; and,

**WHEREAS**, both the State of Florida and Miami-Dade County have enacted Conflict of Interest and Code of Ethics legislation; and,

**WHEREAS**, some of the provisions of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance are already applicable to the City of Miami Springs; and,

**WHEREAS** the City Council of the City of Miami Springs has determined that it is both proper and appropriate, and in the best interests of the City and its citizens, to repeal Code of Ordinance Chapter 33, related to conflicts of interest and ethics, and to adopt the

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance for applicability within the City:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA:**

**Section 1:** That Code of Ordinance Chapter 33, Conflict of Interest; Code of Ethics; Lobbying, containing Code of Ordinance Section 33-01 through 33-20, is hereby repealed as follows:

~~Sec. 33-01. Designation; applicability:~~

~~This chapter shall be designated and known as the "City of Miami Springs Conflict of Interest and Code of Ethics Ordinance." This chapter shall be applicable to all City personnel as defined herein, and shall also constitute a minimum standard of ethical conduct and behavior for all City officials and officers, autonomous personnel, quasi-judicial personnel, advisory personnel, departmental personnel, and employees of the City, insofar as their individual relationships with the City are concerned. (Ord. 541, passed 5-14-73)~~

~~Sec. 33-02. Definitions:~~

~~For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively:~~

~~(A) Advisory personnel. The members of the Zoning and Planning Board and advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the City Council.~~

~~(B) Autonomous personnel. The members of authorities, boards, and agencies as 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.~~

~~(C) City Council. The Mayor and the members of the City Council, as duly constituted from time to time:~~

~~(D) Compensation. Any money, gift, favor, thing of value, or financial benefit conferred in~~

~~return for services rendered or to be rendered.~~

~~(E) Controlling financial interest. Ownership, directly or indirectly, of ten percent or~~

more

~~of the outstanding capital stock in any corporation, or a direct or indirect interest of ten percent or more in a firm, partnership, or other business entity:~~

~~(F) Departmental personnel. The City administrator, his department heads, the City Attorney, and all Assistant City Attorneys:~~

~~(G) Employees. All other salaried personnel employed by the City:~~

~~(H) Immediate family. The spouse, parents, and children of the person involved who, at the time in question, reside with the person within a single household:~~

~~(I) Quasi-judicial personnel. The members of the Board of Adjustment, and other boards and agencies of the City as perform quasi-judicial functions:~~

~~(J) Transact any business. The purchase or sale by the City of specific goods or services for a consideration:~~

#### ~~Sec. 33-03. Prohibition on transacting business with the City:~~

~~(A) No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall enter into any contract or transact any business in which he or a member of his immediate family has a financial interest, direct or indirect, with the City or any person or agency acting for the City, and any contract, agreement, or business engagement entered in violation of this section shall render the transaction voidable. Willful violation of this section shall constitute malfeasance in office, and shall effect forfeiture of office or position:~~

~~(B) Waiver:~~

~~(1) The requirements of this section may be waived for a particular transaction only by affirmative vote of two-thirds of the entire City Council, after public hearing. The waiver may be effected only after findings by two-thirds of the entire council that:~~

~~(a) An open-to-all sealed competitive bid has been submitted by a City person as defined in § 33-02(A), (B), and (I); or~~

~~(b) The property or services to be involved in the proposed transaction are unique, and the City cannot avail itself of the property or services without entering a transaction which would violate this section, but for waiver of its requirements; and~~

~~(c) The proposed transaction will be to the best interests of the City:~~

~~(2) These findings shall be spread on the minutes of the council. This section shall be applicable only to prospective transactions, and the council may in no case ratify a transaction entered in violation of this section.~~

~~(C) Provisions cumulative. This section shall be taken to be cumulative, and shall not be construed to amend or repeal any other law pertaining to the same subject matter. (Ord. 541, passed 5-14-73).~~

~~Sec. 33-04. Further prohibition on transacting business with the City:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall enter into any contract or transact any business through a firm, corporation, partnership, or business entity in which he or any member of his 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 section shall render the transaction voidable. The remaining provisions of § 33-03 will also be applicable to this section as though incorporated herein by recitation. (Ord. 541, passed 5-14-73).~~

~~Sec. 33-05. Gifts prohibited:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall, directly or indirectly, solicit, accept, or receive any gift having a value of \$25.00 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties, or was intended as a reward for any official action on his part. No person shall, directly or indirectly, offer or make any gift to any person included in the terms defined in § 33-02, or to any member of his immediate family. (Ord. 541, passed 5-14-73).~~

~~Sec. 33-06. Political contributions:~~

~~No person shall accept as a political contribution a sum in excess of \$50.00 from any one person or organization.  
(Ord. 541, passed 5-14-73).~~

~~Sec. 33-07. Compulsory disclosure by employees of firms doing business with the City:~~

~~Should any person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) be employed by a corporation, firm, partnership, or business entity in which he does not have a controlling financial interest, either himself or through a member of his immediate family, 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 his employment and interest with the Clerk of the City Council. (Ord. 541, passed 5-14-73).~~

~~Sec. 33-08. Exploitation of official position prohibited:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall use or attempt to use his official position to secure special privileges or exemptions for himself or others, except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted, or hereafter to be ordained or adopted, by the City Council. (Ord. 541, passed 5-14-73).~~

~~Sec. 33-09. Prohibition on use of confidential information:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position, nor shall he in fact ever disclose confidential information gained through his official position with the City, nor shall he ever use such information, directly or indirectly, for his personal gain or benefit.~~

~~Sec. 33-10. Conflicting employment prohibited:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall accept other employment which would impair his independence of judgment in the performance of his public duties.  
(Ord. 541, passed 5-14-73).~~

~~Sec. 33-11. Prohibition on outside employment:~~

~~No person included in the terms defined in § 33-02(F) (departmental personnel) and (G) (employees), shall receive any compensation for his services as an officer or employee of the City from any source other than the City with the following exceptions:~~

~~(A) A full-time City employee may accept incidental or occasional outside employment so~~

~~long as the employment is not contrary, detrimental, or adverse to the interest of the City or any of its departments, and the approval required in the following exception is obtained:~~

~~(B) Any outside employment by any full-time City employee must be approved in writing~~

~~by the employee's department head, who shall maintain a complete record of the employment.~~

~~(Ord. 541, passed 5-14-73).~~

~~Sec. 33-12. Prohibited investments:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall have personal investments in any enterprise, either himself or through a member of his immediate family, which will create a substantial conflict between his private interests and the public interest.~~

~~(Ord. 541, passed 5-14-73).~~

~~Sec. 33-13. Certain appearances and payments prohibited:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall appear before any City board or agency, and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, 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 relief from the City or a City agency through the suit in question. (Ord. 541, passed 5-14-73).~~

~~Sec. 33-14. Actions prohibited when financial interests involved:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall participate in any official action directly or indirectly affecting a business in which he or a~~

~~member of his immediate family has a financial interest. A financial interest is defined as a special financial interest, direct or indirect, or as a financial interest as defined in § 769 of the restatement of the law of torts as an investment or something in the nature of an investment. (Ord. 541, passed 5-14-73)~~

~~Sec. 33-15. Acquiring financial interests:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) shall acquire a financial interest in a project, business entity, or property at a time when he believes or has reason to believe that the financial interest will be directly affected by his official actions, or by official actions of the City or City agency of which he is an official, officer, or employee. (Ord. 541, passed 5-14-73).~~

~~Sec. 33-16. Recommending professional services:~~

~~No person included in the terms defined in § 33-02(A), (B), (C), (F), (G), and (I) 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 a recommendation may properly be made when required to be made by the duties of office, and is advanced at a public meeting attended by other City officials, officers, or employees. (Ord. 541,~~

~~passed 5-14-73).~~

~~Sec. 33-17. Continuing application for two years after City service.~~

~~No person included in the terms defined in § 33-02(C), (F), and (G) (commissioners, departmental personnel and employees) shall, for a period of two 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 or one of its agencies is a party, or has a direct and substantial interest, and in which he participated personally and substantially as an official, officer, or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed in City service. (Ord. 541, passed 5-14-73).~~

~~Sec. 33-18. City Attorney to render opinions on request.~~

~~Whenever any person included in the terms defined in § 33-02(A), (B), (C), (F), (G), (H), and (I) is in doubt as to the proper interpretation or application of this chapter to himself, or whenever any person who renders services to the City is in doubt as to the applicability of this chapter to himself, he may submit to the City Attorney a full written statement of the facts and questions he has. The City Attorney shall then render an opinion to the person, and shall publish these opinions without use of the name of the person advised unless the person requests the use of his name.~~

~~Sec. 33-19. Retroactivity.~~

~~No section or division of this chapter, save and except for those enacted and in effect prior to the date of the enactment of this chapter, shall have applicability to persons included in the terms defined in § 33-02 who were no longer in the service of the City on the effective date of this chapter. (Ord. 541, passed 5-14-73)~~

~~Sec. 33-20. Lobbying ordinance adopted.~~

~~By this provision, the City of Miami Springs hereby adopts in full, the Miami-Dade County Lobbying Ordinance, and all future amendments thereto, contained in County Code of Ordinance § 2-11.1(s).~~

~~For the purposes of this section, all references contained in the aforesaid County Code of Ordinance Section to Miami-Dade County, its ordinances, procedures, personnel, and all other references to the County, are hereby intended and interpreted to mean the City of Miami Springs, its ordinances, procedures and personnel, if applicable. (Ord. 917-04, passed 10-11-04).~~

**Section 2:** That Chapter 33, Conflicts of Interest and Code of Ethics, and Code

of Ordinance Section 33-01, Adoption of Conflict of Interest and Code of Ethics Ordinance of Miami-Dade County, is hereby enacted as follows:

### CHAPTER 33

#### Conflicts of Interest and Code of Ethics

33.01. Adoption of Conflict of Interest and Code of Ethics Ordinance of Miami-Dade County.

- (A) By and through the enactment of this Ordinance, the City of Miami Springs hereby adopts the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, designated as Miami-Dade County Ordinance Section 2-11.1, and all future amendments thereto, for applicability within the City.
- (B) For the purposes of this Ordinance, all references contained in the adopted Miami-Dade County Ordinance to the county, its Ordinances, procedures, personnel and other related matters, are hereby declared to be intended and interpreted to refer to the City of Miami Springs, its Ordinances, procedures, personnel and other related matters, as may be applicable and necessary to accomplish the purpose of this Ordinance.

**Section 3:** That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar as they are in conflict.

**Section 4:** That the codifiers are hereby directed to codify this Ordinance in the proper manner and format of the City of Miami Springs Code of Ordinances

**Section 5:** That the provisions of this Ordinance shall be effective immediately upon adoption by the City Council.

**PASSED AND ADOPTED** by the City Council of the City of Miami Springs,  
Florida this 22 day of AUGUST, 2011.

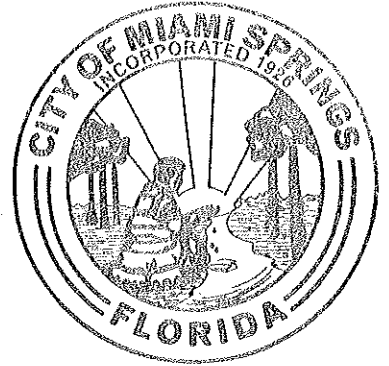
The motion to adopt the foregoing Ordinance was offered by

COUNCILMAN LOB



seconded by COUNCILWOMAN ATOIZ  
and on roll call the following vote ensued:

Vice Mayor Best : Aye  
Councilwoman Ator: Aye  
Councilman Espino : Aye  
Councilman Lob : Aye  
Mayor Garcia: : Aye



Xavier M. Garcia  
ZAVIER GARCIA, MAYOR

ATTEST:

APPROVED AS TO LEGALITY AND FORM:

Magali Valls  
MAGALI VALLS, CMC  
City Clerk

JAN K. SEIDEN  
CITY ATTORNEY

*Words stricken through shall be deleted. Underscored words constitute the amendment proposed. Words remaining are now in effect and remain unchanged.*