

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER V “HUMAN RESOURCES” TO ADD SECTION 5-3 “LIVING WAGE REQUIREMENTS FOR CITY EMPLOYEES” TO PROVIDE THAT COVERED CITY EMPLOYEES SHALL BE PAID A LIVING WAGE BEGINNING WITH FISCAL YEAR 2020, SEASONAL EMPLOYEES BEGINNING WITH FISCAL YEAR 2021; PROVIDING FOR IMPLEMENTATION, ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach (“City”) has an interest in protecting the public health, safety and welfare of its residents by establishing certain compensation requirements for its employees; and

WHEREAS, the City has a responsibility when spending public funds to set a community standard that permits its employees to live above the poverty line; and

WHEREAS, setting a minimum compensation level by way of a living wage should allow City employees to support themselves and their families with dignity; and

WHEREAS, sub-poverty level wages do not serve the public interest and place an undue burden on taxpayers and the community, which must further subsidize employers who pay inadequate wages by providing their employees social services such as health care, housing, nutrition, and energy assistance; and

WHEREAS, such compensation requirements have the potential to increase consumer income and thereby decrease the number of employees whose incomes are below the poverty level, invigorate neighborhood business, help reduce blight in the City, and reduce the need for taxpayer-funded subsidies; and

WHEREAS, Florida Statute 218.077(3)(a)(1)-(2) provides that a City is not limited in its ability to establish a minimum wage for employees of the City; and

WHEREAS, the proposed amendment establishes a living wage rate of no less than \$11.33 per hour with health care benefits and \$14.50 per hour with no health benefits offered; and

WHEREAS, the proposed code amendment provides that full-time and part-time City employees will be paid the living wage no later than January 1, 2020, that seasonal employees will be paid the living wage no later than January 1, 2021, that the living wage may be updated by a resolution of the City Commission based upon the U.S. Department of Labor’s Bureau of Labor Statistics; and

WHEREAS, the Mayor and City Commission find it to be in the best interests of the health, safety, and welfare of its residents to amend Chapter V Human Resources to adopt a living wage for city employees.

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

Section 1. The foregoing recitals are true and correct.

Section 2. That Chapter V of the Code of the City of Ordinances of the City of North Miami Beach, Florida, titled “Human Resources” is hereby amended as follows:

Chapter V Human Resources

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Section 5-3 Reserved-Living Wage Requirements for City Employees.

Sec. 5-3.1 Definitions.

City means the government of the City of North Miami Beach or any authorized agents, any board, agency, commission, department, or other entity thereof, or any successor thereto.

Covered employee means anyone employed by the city, except seasonal employees, working full or part time, with or without benefits.

Covered employer means the city.

Health benefits shall, at a minimum, mean health insurance coverage which consists of wellness and preventive care, including maternity, and that provides the services described in F.S. § 408.9091(4)(6) and (7).

Living wage means a wage that is as defined in Section 5-3.2 of this Code. The living wage may be adjusted once annually by an amount equivalent to the cost of living adjustment for Miami-Dade County as published by the United States Department of Labor, Bureau of Labor Statistics. Language so stating will be included in all request for proposals, or other competitive solicitation documents, issued by the city for the procurement of services (unless the living wage provisions are excluded as provided in section 5-3.2 herein).

Seasonal employee means an employee of the city that is appointed to a seasonal position, who has no expectation of continued employment beyond the time period for which they are hired, and are temporary employees of the city.

Sec. 5-3.2 Living wage.

(a) Living wage paid.

(1) Hourly Living Wage Rates are as follows:

- a. Living wage rate with health care benefits. Covered employees must be paid a living wage rate of no less than \$11.33 per hour, in addition to \$3.17 per hour towards health care benefits as described in section 5-3.2(b).

- b. Living wage rate without health care benefits. For seasonal employees, as well as for those covered employees wherein the covered employer does not offer health benefits, the seasonal and covered employee must be paid a living wage rate of no less than \$14.50 per hour.

(2) Covered city employees. For covered employees of the city, the city will begin to pay the living wage beginning with the Fiscal Year 2020 City Budget to be fully implemented by January 1, 2020. Thereafter, the living wage to be paid by the city to its employees shall be subject to adjustments as approved as part of the annual budget process, and when applicable, subject to negotiations within the collective bargaining structure.

(3) Seasonal employees. For seasonal employees of the city, the city will begin to pay the living wage beginning with the Fiscal Year 2021 City Budget to be fully implemented by January 1, 2022. Thereafter, the living wage to be paid by the city to its employees shall be subject to adjustments as approved as part of the annual budget process, and when applicable, subject to negotiations within the collective bargaining structure.

(b) Health benefits; eligibility period. For a covered employer to comply with this article by choosing to pay the lower wage scale available when a covered employer also provides a standard health benefit plan, such health benefit plan shall consist of a payment of at least \$3.17 per hour toward the provision of health benefits for covered and seasonal employees and their dependents and shall be approved by the city. The minimum amount of payment for the provision of a health benefit plan on a per-hour basis will be calculated on a maximum of a 40-hour work week.

If the health benefit plan of the covered employer requires an initial period of employment for a new employee to be eligible for health benefits (the "eligibility period"), a covered employer may qualify to pay the living wage rate with healthcare benefits established in section 5-3.2(a)(1)a. for a term not to exceed the new employee's eligibility period, provided the new employee will be paid health benefits upon completion of the eligibility period, which period shall not exceed 90 days.

(c) Indexing. The living wage rate may, by resolution of the city commission, be indexed annually for inflation using the Miami PMSA Consumer Price Index for all Urban Consumers (CPI-U) Miami/Ft. Lauderdale, issued by the U.S. Department of Labor's Bureau of Labor Statistics. Commencing on January 1, 2021, the supplemental health care benefits rate (the per hour rate towards health benefits) may, by resolution of the city commission, be separately indexed annually for inflation using the Miami PMSA Consumer Price Index for all Urban Consumers (CPI-U) for the Miami/Ft. Lauderdale area, for medical care only, as issued by the U.S. Department of Labor's Bureau of Labor Statistics. Notwithstanding the preceding, no annual index shall exceed three percent; nor shall an annual increase exceed the corresponding annual compensation increase (if any) provided to unrepresented (i.e., unclassified) city employees. The city commission may also, by resolution, elect not to index the living wage rate in any particular year, if it determines it would not be fiscally sound to implement same (in a particular year). The determination to index (or not index) the living wage rate shall be considered annually during

the city commission's review and approval of the city's annual operating budget or with a budget amendment.

In the event that the city commission has determined, in any particular fiscal year (or years), to not index the living wage rate, and thereafter determines that making up all or any part of the prior year's (or years') unindexed percentage would not have an adverse fiscal impact upon the city, then the city commission shall also have the right, but not the obligation, to cumulatively index the living wage rate to "make-up" for any deficiencies in the prior year (or years) where there was (were) no increase(s) (the "catch up" election). The "catch-up" election must be approved by resolution, and may only be considered during the city commission's review and approval of the city's annual operating budget.

(d) *Collective bargaining.* Nothing in this article shall be read to require or authorize the City, to reduce wages set by a collective bargaining agreement or as required under any prevailing wage law.

Section 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held invalid by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. All other City ordinances and resolutions or parts thereof in conflict with the provisions of this Ordinance are hereby superseded and repealed.

Section 5. It is the intention of the City Commission of the City of North Miami Beach 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 Beach, Florida. The Sections of this Ordinance may be renumbered or re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section," "Article," or other word as the codifier may deem appropriate.

Section 6. This Ordinance shall be effective ten (10) days after adoption on second reading.

APPROVED on first reading this **28th day of March, 2019.** **substantially revised*

APPROVED on first reading this **18th day of June, 2019.**

APPROVED AND ADOPTED on second reading this **16th day of July, 2019.**

[SIGNATURE PAGE TO FOLLOW]

ATTEST:

ANDRISE BERNARD
CITY CLERK

ANTHONY F. DEFILLIPO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
& LANGUAGE & FOR EXECUTION

SARAH JOHNSTON
CITY ATTORNEY

Sponsored by: Vice-Mayor Michael Joseph

Note: Proposed additions to existing City Code text are indicated by underline and deletions are indicated by ~~striketrough~~.