

ORDINANCE #2009-10

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING THE MUNICIPAL CODE OF THE CITY OF DORAL BY ADOPTING A CODE OF CONDUCT FOR ALL ELECTED OFFICIALS, BOARD MEMBERS AND CITY EMPLOYEES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Doral finds it to be in the best interests of its citizenry to adopt a code of conduct for all elected officials and board members; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. The Municipal Code of the City of Doral is hereby amended by adopting comprehensive procedures governing City Council meetings as follows:

Sec. . Code of conduct for all elected officials and board members.

(a) Declaration of policy. High moral and ethical standards among public officials, both elected and appointed, and public employees are essential to gain and maintain the confidence of the public because such confidence is essential to the conduct of free government. They are the agents of the people and hold their positions for the benefit of the people. The proper operation of democratic government requires that public officials be independent and impartial when establishing policy and that their positions never be used for personal gain.

All elected and appointed officials, City employees, and others who participate in the City's government are required to subscribe to this chapter and the conflict of interest and code of ethics ordinance codified as subsection 2-11.1 of the Code of Miami-Dade County. All elected and appointed officials, City employees, and others who participate in the City's government are required to understand how those ordinances apply to their specific responsibilities. All elected and appointed officials shall receive a copy of this section and certify to the City Clerk that they will subscribe to the standards delineated in the code when carrying out their responsibilities.

(b) Definitions. Below is a list of terms with their associated meanings. The following terms shall for purposes of interpreting this code of conduct shall have the meanings indicated below:

Attitude. The manner in which one shows one's dispositions, opinions, and feelings.

Behavior. External appearance or action; manner of behaving; carriage of oneself.

Civility. Politeness, consideration, courtesy.

Conduct. The way one acts; personal behavior.

Courtesy. Politeness connected with kindness.

Decorum. Suitable; proper; good taste in behavior.

Grandstanding. Utilizing public meeting time ostentatiously and hampering the efficient conduct of business.

Manners. A way of acting; a style, method, or form; the way in which things are done.

Point of order. An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration.

Point of personal privilege. A challenge to a speaker to defend or apologize for comments that a fellow member considers offensive.

Propriety. Conforming to acceptable standards of behavior.

Protocol. The courtesies that are established as proper and correct.

Public disruption. Behavior that disrupts the proceedings in a manner obviously hostile to the purpose of the meeting.

Public official. Any appointed or elected official and specifically includes, but is not limited to, the Mayor and City Council, and all board and committee members.

(c) Minimum standards. This code of conduct is designed to address the manner in which public officials should treat one another, City staff, constituents, and others they come into contact with in representing the City of Doral.

Public officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the

ORDINANCE #2009-10

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING THE MUNICIPAL CODE OF THE CITY OF DORAL BY ADOPTING A CODE OF CONDUCT FOR ALL ELECTED OFFICIALS, BOARD MEMBERS AND CITY EMPLOYEES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Doral finds it to be in the best interests of its citizenry to adopt a code of conduct for all elected officials and board members; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. The Municipal Code of the City of Doral is hereby amended by adopting comprehensive procedures governing City Council meetings as follows:

Sec. . Code of conduct for all elected officials and board members.

(a) Declaration of policy. High moral and ethical standards among public officials, both elected and appointed, and public employees are essential to gain and maintain the confidence of the public because such confidence is essential to the conduct of free government. They are the agents of the people and hold their positions for the benefit of the people. The proper operation of democratic government requires that public officials be independent and impartial when establishing policy and that their positions never be used for personal gain.

All elected and appointed officials, City employees, and others who participate in the City's government are required to subscribe to this chapter and the conflict of interest and code of ethics ordinance codified as subsection 2-11.1 of the Code of Miami-Dade County. All elected and appointed officials, City employees, and others who participate in the City's government are required to understand how those ordinances apply to their specific responsibilities. All elected and appointed officials shall receive a copy of this section and certify to the City Clerk that they will subscribe to the standards delineated in the code when carrying out their responsibilities.

(b) Definitions. Below is a list of terms with their associated meanings. The following terms shall for purposes of interpreting this code of conduct shall have the meanings indicated below:

Attitude. The manner in which one shows one's dispositions, opinions, and feelings.

Behavior. External appearance or action; manner of behaving; carriage of oneself.

Civility. Politeness, consideration, courtesy.

Conduct. The way one acts; personal behavior.

Courtesy. Politeness connected with kindness.

Decorum. Suitable; proper; good taste in behavior.

Grandstanding. Utilizing public meeting time ostentatiously and hampering the efficient conduct of business.

Manners. A way of acting; a style, method, or form; the way in which things are done.

Point of order. An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration.

Point of personal privilege. A challenge to a speaker to defend or apologize for comments that a fellow member considers offensive.

Propriety. Conforming to acceptable standards of behavior.

Protocol. The courtesies that are established as proper and correct.

Public disruption. Behavior that disrupts the proceedings in a manner obviously hostile to the purpose of the meeting.

Public official. Any appointed or elected official and specifically includes, but is not limited to, the Mayor and City Council, and all board and committee members.

(c) Minimum standards. This code of conduct is designed to address the manner in which public officials should treat one another, City staff, constituents, and others they come into contact with in representing the City of Doral.

Public officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the

touchstone that can help guide public officials to take appropriate actions even in the most difficult situations. The City's code of conduct includes the following minimum standards.

(1) Uphold the United States and Florida Constitutions, laws and regulations and the City of Doral's Charter, ordinances and regulations, and never knowingly be a party to their evasion.

(2) Place the City's rules, codes and interests ahead of any group or individual interests or concerns. No public official shall put individual concerns or interests before that of the City and the City's Code of Ordinances, before, during or after making a recommendation or a decision on a pending application.

(3) Seek to find and use the most equitable, efficient, effective and economical means for getting tasks accomplished, and not unnecessarily burdening staff with time consuming, unnecessary or frivolous requests related to personal concerns or individual points of view.

(4) Adopt policies (and programs, as applicable) that support the rights and recognize the needs of all citizens regardless of race, sex, sexual orientation, age, religion, creed, country of origin or disability. Avoid adopting policies (or supporting programs) or engaging in activities that discriminate against or offend individuals because of race, sex, sexual orientation, age, religion, creed, country of origin or disability.

(5) Ensure the integrity of the actions of each board, committee or the City Council by avoiding discrimination through the dispensing of special favors, or unfair privileges to anyone, whether for remuneration or not.

(6) Make no private promises of any kind binding upon the duties of any office, since a public official is a public servant, and should have no private work which can be binding on public duty.

(7) Do not take public positions or engage in any activity that advocates or supports an applicant, group, organization, business or position on any matter or issue that will come before your respective board or committee. No appointed public official shall advocate, lobby, or take any action involving the community or the City Council on an item that has been considered or is to be heard by that appointed public official's board or committee. The appointed board or committee, as a whole, shall issue a recommendation in its official capacity to the City Council. The individual appointed board or committee members shall not advocate to the public, or appear before the City Council on an item upon which their respective board or committee will consider or has considered, as doing so would provide an appearance of undue influence, bias and improper conduct. An appointed public official may only appear before the City Council on matters considered or to be considered by their respective board or committee if specifically invited by the Council to do so. Appointed public officials may, however, appear before the City Council on all other City business.

(8) Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

(9) Expose through appropriate means and channels, corruption, misconduct or neglect of duty whenever discovered.

(10) Adhere to the principle that the public's business should be conducted consistent with the Sunshine law and following the letter and spirit of the Sunshine law by using closed meetings only to deal with certain legal and labor matters as provided under Florida law.

(11) Avoid using a position of public trust to gain access to the media or the dais for the purposes of criticizing colleagues, other public officials, citizens or staff, impugning their integrity or vilifying their personal beliefs.

(12) Make sure, when responding to the media, or to public comments, that a clear distinction is made between personal opinion or belief and a decision made by the applicable board, committee or City Council.

(13) Pledge to honor and uphold these principles, ever conscious that public office (whether appointed or elected) is a public trust.

(d) City meetings.

(1) The Mayor will chair official meetings of the City Council, unless the Vice-Mayor or another Council member is designated as chair of a specific meeting. The chair maintains order, decorum, and the fair and equitable treatment of all speakers, keeps discussion and questions focused on specific agenda item under consideration, and makes parliamentary rulings with advice, if requested, from the City Attorney who acts as an advisory parliamentarian. Chair rulings may be overturned if a Council member makes a motion as an individual and the majority of the Council votes to overrule the chair. These rules of decorum supplement and enhance the City's meeting procedures ordinance found elsewhere in this Code.

(2) Board and committee meetings. The board or committee chairman will chair official meetings of their respective board or committee, unless the vice-chair or another member is designated as chair of a specific meeting. The meeting chair maintains order, decorum, and the fair and equitable treatment of all speakers, keeps discussion and questions focused on the specific agenda item under consideration, and makes parliamentary rulings with advice, if requested, from the board attorney (where applicable) who acts as an advisory parliamentarian. Chair rulings may be overturned if a member makes a motion as an individual and majority of the board votes to overrule the chair.

(e) Rules of decorum.

(1) All public officials shall practice civility and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free

democracy in action. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

(2) All public officials shall honor the role of the chair in maintaining order. It is the responsibility of the chair to keep the comments of Council members or board members on track during public meetings. Public officials shall honor efforts by the chair to focus discussion on current agenda items and to halt nonproductive grandstanding. If there is disagreement about the agenda or the chair's actions, those objections shall be voiced politely and with reason, following procedures outlined in parliamentary procedure.

(3) Avoid personal comments that could offend other persons. If an individual member of the Council, board or committee is personally offended by the remarks of another member the offended public officials shall make notes of the actual words used and call for a "point of personal privilege" that challenges the offending member to justify or apologize for the language used. The chair will maintain control of this discussion.

(4) Demonstrate effective problem-solving approaches. The City Council and each public board and committee has a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

(5) Public officials should refer to one another formally during public meetings by their official titles followed by the individual's last name.

(f) Correspondence signatures.

(1) Public officials do not need to acknowledge the receipt of correspondence, or copies of correspondence, during Council meetings or other official City meetings. City staff will prepare official letters in response to public inquiries and concerns. If correspondence is addressed only to one (1) public official, that public official should check with staff on the best way to respond to the sender. At all times, public officials will make sure to comply with the City's quasi-judicial procedures, comply with the Jennings Rule, and adhere to the state's Sunshine laws.

(2) Public officials are to check with City staff on correspondence before taking action. Before sending correspondence, public officials should check with City staff to see if an official city response has already been sent or is in progress.

(g) Conduct with City staff. Governance of a City relies on the cooperative efforts of all public officials. The City Council sets policy and the City Manager, together with City staff, implements and administers the Council's policies. To allow proper governance and to ensure non-interference with the City Manager's application or implementation of the City Council's policies, public officials shall comply with the following guidelines:

(1) Public officials shall treat all staff as professionals with clear, honest communication that respects the abilities, experience and the dignity of each individual is expected. Public officials shall maintain an attitude of courtesy and consideration toward all colleagues, public officials and staff during all discussions and deliberations.

(2) Questions/inquiries to City staff:

a. General public official communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to public official questions posed outside of normal business hours should be expected no earlier than the next business day.

b. Routine requests for information and inquiries. Public officials may contact staff directly for information made readily available to the general public on a regular basis (e.g., "What are the library's hours of operation?"). Under these circumstances staff shall treat the public official no differently than they would the general public, and the public official shall not use his/her/their elected or appointed status to secure preferential treatment. The City Manager does not need to be advised of such contacts.

c. Nonroutine requests for readily available information. A public official may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., "How many traffic lights are there in the city?").

d. Nonroutine requests requiring special effort. Any public official request or inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the City Manager, (e.g., "Please provide a matrix reconciling data from various traffic and parking studies in Hometown Overlay District"). The City Manager shall be responsible for distributing such requests to his/her staff for follow-up. Responses to such requests shall be copied to all public officials on the board, the City Manager, the City Attorney as appropriate and affected department heads. The procedure outlined in this subsection does not preclude a public official from making a public records request under Chapter 119, Florida Statutes.

e. Meeting requests. Any public official request for a meeting with staff must be directed to the City Manager. When in doubt about the appropriateness of a communication with staff, public officials shall ask the city manager for advice.

f. Public safety restrictions. Under certain circumstances, requests for information regarding operations or personnel of the department of public safety may be legally restricted under state law to protect minors, certain victims and law enforcement officers and their investigations. Accordingly, it shall be the policy of the City of Doral to strictly comply with all applicable legal authorities governing the release of public safety information and records.

(3) Do not disrupt city staff from their jobs. Public officials should not disrupt city staff while they are engrossed in performing their job functions in order to have their individual needs met.

(4) Never publicly criticize an individual employee. Public officials shall never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation.

(5) Public officials shall not become involved in administrative functions. Public officials shall not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

(6) Public officials shall not attend meetings with City staff unless requested by staff. This restriction does not apply to board or committee members sitting in on meetings concerning matters that do not come before their respective boards or committees for consideration.

(7) Requests for staff support shall be made to the City Manager who is responsible for allocating City resources.

(8) Public officials shall not solicit political support from staff. Public officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

(h) Conduct with members of the public.

(1) Make no promises on behalf of the entire body. Public officials will frequently be asked to explain an action of the body or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise action by the body, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

(2) Make no personal comments about other public officials. It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other public officials, their opinions and actions.

(i) Conduct with other public agencies.

(1) Public officials should be clear about representing the City, a board of the City or personal interests. If a public official appears before another governmental agency or organization or meets with the agency representative or staff to give a statement on an issue, the public official must clearly state: 1) if his or her statement reflects personal opinion or is the official stance of the City; 2) whether this is the majority or minority opinion of the body s/he represents. If the public official is representing the City, the public official must support and advocate the official City position on an issue, not a personal viewpoint.

(2) Correspondence also should be equally clear about representation. City letterhead may be used when the public official is representing the City and the City's official position. A copy of official correspondence should be given to the City Clerk to be filed in the Council office as part of the permanent public record. It is best that City letterhead not be used for correspondence of public officials representing a personal point of view or a dissenting point of view from an official City Council or City board position. However, should public officials use city letterhead to express a personal opinion, the official City position must be stated clearly so the reader understands the difference between the official City position and the minor viewpoint of the public official.

(i) Conduct with boards and councils.

(1) Public officials may generally attend any public meeting, which are always open to any member of the public. There are specific exceptions in the case of quasi-judicial proceedings. If in doubt, the official should seek guidance from the city attorney's office. However, public officials should be sensitive to the way their participation could be viewed as unfairly affecting the process. No public comments by an appointed public official at a the City Council meeting may be made where the board or committee's recommendation is presented, unless that board or committee member is specifically invited to speak by the Mayor or by the Council.

(2) It is inappropriate for a public official to contact a committee, board or Council member to lobby on behalf of businesses or developers. Nor is it acceptable for public officials to contact board or Council members in order to clarify a position taken by their respective committee, board or Council. Any such contact should occur in compliance with this section and the state's Sunshine law requirements.

(i) Council conduct with the media. Public officials are frequently contacted by the media for background and quotes. Most members of the media represent the highest levels of journalistic integrity and ethics and can be trusted to keep their word. But one (1) bad experience can be catastrophic. Words that are not said cannot be quoted. The Mayor is the official spokesperson and representative of the City's position. The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual public official is contacted by the media, the public official should be clear about

whether their comments represent the official City position or a person viewpoint. The public official should choose words carefully and cautiously. Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

(k) Sanctions.

(1) Public disruption. Members of the public who do not follow proper conduct after a warning in a public hearing shall be barred from further testimony at that meeting or removed from the Council chambers.

(2) Inappropriate staff behavior. Public officials should refer to the City Manager any City staff who do not follow proper conduct in their dealings with Council members, board members, other city staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions.

(3) Public officials' behavior and conduct. Public officials who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council. Serious infractions of the code of ethics or code of conduct could lead to other sanctions as deemed appropriate by the Council and as provide under law. Failure of an appointed public official to comply with the City's, County's and State's ethics codes shall result in removal of the public official.

(4) Appointed public officials. Violation of this code by an appointed public official, for a first offense, shall result in sanctions which sanctions may include removal of the appointed public official from the board or committee. A second violation of this code by an appointed public official shall result in removal of that appointed public official from the board or committee.

Sec. . Fair and equal treatment.

(a) Impartiality. No official or employee shall request, use or permit the use of any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.

(b) Use of public property. No official or employee shall use his/her position to request, use or permit the use of any City-owned or City-supported property, vehicle, equipment, material, labor or service for the personal convenience or the private advantage of himself or of any other person. This rule shall not be deemed to prohibit an official or employee from requesting, using or permitting the use of such publicly-owned or publicly-supplied property, vehicle, equipment, material, labor or service which it is the general practice to make available to the public at large or which are provided as a matter of stated public policy for the use of officials and employees in the conduct of official business.

Sec. . Influence of board members by Mayor and Council members, appearance before boards.

The Mayor and Council members of the City are hereby prohibited from:

(a) Attempting directly or indirectly to improperly influence the decision or official act of any member of any board of the City;

(b) Appearing before any such board except upon invitation of a majority of the members of such board; provided, however, that if the Mayor or a Council member shall appear before such board without invitation, he shall be presumed to have a financial or personal interest in any matter which he shall have advocated or espoused before the board and shall be disqualified to vote thereon in his official capacity.

Excepted from the provisions hereof is participation by the Mayor or members of the Council in the acts and deliberation of any board of which they are ex-officio members.

Section 2. Repeal of Conflicting Provisions. To the extent any provisions of the Code, as made applicable to the City through Section 8.03 of the City Charter conflict with this Chapter, those provisions are repealed in its entirety.

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. Inclusion in the Code. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Doral, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective upon adoption on second reading.

The foregoing Ordinance was offered by Councilman Van Name who moved its adoption. The motion was seconded by Vice Mayor DiPietro and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Michael DiPietro	Yes
Councilman Pete Cabrera	No
Councilwoman Sandra Ruiz	No
Councilman Robert Van Name	Yes

PASSED AND ADOPTED on FIRST READING this 11th day of February, 2009.

PASSED AND ADOPTED on SECOND READING this 11th day of March, 2009.



Juan Carlos Bermudez, Mayor

ATTEST:



Barbara Herrera, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



John J. Hearn, City Attorney