

Building Permit Reprieve Program

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 14 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "BUILDING REGULATIONS," BY AMENDING ARTICLE II, ENTITLED "CONSTRUCTION STANDARDS," BY AMENDING DIVISION IV THEREOF, ENTITLED "2017-2022 BUILDING PERMIT REPRIEVE PROGRAM," TO EXTEND THE DURATION OF THE BUILDING PERMIT REPRIEVE PROGRAM FOR OWNERS OF SINGLE-FAMILY RESIDENTIAL, MULTI-FAMILY RESIDENTIAL, MIXED-USE OR COMMERCIAL PROPERTIES WHO HAVE FAILED TO OBTAIN A BUILDING PERMIT, OR WHO HOLD EXPIRED PERMITS; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AN EFFECTIVE DATE, AND A SUNSET PROVISION.

WHEREAS, the City of Miami Beach has determined that there are numerous property owners in the City who have performed work without a permit; and

WHEREAS, the City desires to ensure that unauthorized work complies with the Florida Building Code, as failure to comply with the Code can result in a life safety issue to the inhabitants of the structure; and

WHEREAS, cost is a concern to many persons who either have expired permits (without a final inspection or permit close-out), or who never applied for a permit in the first place; and

WHEREAS, in many cases, when title to property is transferred, the new owner of the property, unaware of the prior unpermitted work, is left to clean up the permitting issues, and faces double or triple permit fees; and

WHEREAS, on May 1, 2017, in response to the foregoing concerns, the City enacted Ordinance No. 2017-4088, which created a one-year (May 1, 2017 through April 30, 2018) reprieve period for property owners and tenants to come into compliance with the Florida Building Code; and

WHEREAS, on May 16, 2018, and pursuant to Ordinance No. 2018-4192, the Mayor and City Commission extended the reprieve period by one year, through April 30, 2019; and

WHEREAS, on May 9, 2019, and pursuant to Ordinance No. 2019-4262, the Mayor and City Commission extended the reprieve period through April 30, 2020; and

WHEREAS, on December 9, 2020, and pursuant to Ordinance No. 2020-4387, the Mayor and City Commission reinstated the reprieve program, through December 31, 2021; and

WHEREAS, on January 20, 2022, and pursuant to Ordinance No. 2022-4462, the Mayor and City Commission extended the reprieve period through December 31, 2022' and

WHEREAS, the Mayor and City Commission now desire to extend the reprieve period once again, through December 31, 2026; and

WHEREAS, the amendments set forth in this Ordinance are necessary to accomplish all of the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. That Division IV of Article II of Chapter 14 of the City Code, entitled "Building Regulations," is hereby amended as follows:

CHAPTER 14

BUILDING REGULATIONS

* * *

ARTICLE II. CONSTRUCTION STANDARDS

* * *

DIVISION 4. 2017-2022 2026 BUILDING PERMIT REPRIEVE PROGRAMSec. 14-85. *Intent of reprieve program.*

The city desires to extend the building permit reprieve (amnesty) program, which was reinstated on May 1, 2020, through the period ending on December 31, ~~2022~~ 2026. Reprieve shall be provided to those property owners, or designees of property owners, who voluntary apply for reprieve. Nothing herein shall preclude the building official from assessing fees or penalties for work performed without a permit, or work performed in violation of any provision of the Florida Building Code, Florida Fire Prevention Code, or the city's land development regulations. Nothing herein shall be construed to excuse an applicant from compliance with the Florida Building Code, Florida Fire Prevention Code, or the city's land development regulations. Sec. 14-86. Fees.

A property owner who has applied for reprieve pursuant to this division will be assessed only those fees (in effect at the time of the permit application) associated with new permits or the re-issuance of permits. Fees associated with work performed without permits, or without inspections, as delineated in division 1, sections 14-61 through 14-67, and appendix A of this Code, will not be assessed to the reprieve applicant. The fee for processing applications and to conduct any testing pursuant to this division shall be set forth in appendix A of this Code.

Sec. 14-87. Guidelines and requirements of the reprieve program.

- (a) *Existing buildings.*
 - (1) An existing building under Chapter 34 of the Florida Building Code includes any building or structure built with proper permits and completed with all mandatory inspections and for which a certificate of completion or occupancy has been issued; any building or structure, including any part thereof as well as any addition or repair, that was constructed without proper permits in which the work performed commenced prior to December 31, 2022 ~~December 31, 2024~~; or any building or structure constructed pursuant to permits obtained under the Florida Building Code, which expired without certificates of completion or occupancy having been issued.

- (2) A certificate of completion or occupancy for any existing building constructed without proper permits or permits which expired may be obtained by applying to the building official and fulfilling the following conditions:
 - (A) The owner shall furnish a set of as-built plans of the building or structure;
 - (B) The owner shall furnish an as-built certificate issued by a Florida-registered engineer or architect, in a form that is satisfactory to the building official, which certificate attests that, to the best of the knowledge, belief and professional judgment of the engineer/architect, and based on the engineer/architect's inspection of the structure, the structure:
 - (i) Is structurally sound; and
 - (ii) Satisfies the requirements of the applicable code in effect at the time the work was commenced, indicating the date the work on the structure was commenced from the best available records, and the requirements of the applicable code in effect on that date; and
 - (iii) Complies with all requirements of the current edition of the applicable code identified in subsections (a)(2)(C) and (D); and
 - (iv) Complies with the permit application and plans approved by the building official, if applicable.
 - (C) The owner shall comply with the following life safety requirements of the current edition of the Florida Building Code:
 - (i) Means of egress or escapes;
 - (ii) Requirement of shutters;
 - (iii) Residential single station smoke detectors installed in accordance with NFPA;
 - (iv) Requirement for ground fault interrupters;
 - (v) Requirement for full size pressure and temperature relief valved lines on all water heaters;
 - (vi) Handicapped access requirements;
 - (vii) All gas piping systems shall be bonded to the ground;
 - (viii) Handrails shall be inspected and replaced, if necessary, in full compliance with requirements of the most recent version of the building code.
 - (D) The owner shall comply with the current edition of the Americans with Disabilities Act and the Florida Fire Prevention Code.
- (3) The as-built certificate specified in subsection (a)(2)(B) shall contain a narrative description of the methodology utilized to make the determination set forth in the as-built certificate. In issuing the certificate of completion or occupancy, the building official shall be entitled to rely on the accuracy of the as-built certificate.
- (4) Prior to issuing the certificate of completion or occupancy, the building official shall conduct an inspection to determine, to the best of the building official's ability given the nature of the construction:
 - (A) That the plans submitted reflect the present state of the structure;

- (B) That the construction complies with the edition of the Florida Building Code in effect at the time the work was commenced;
 - (C) That the structure complies with all requirements of the Florida Building Code identified in subsection (a)(2)(C) and (D); and
 - (D) That the as-built certificate accurately represents the conditions of the structure.
- (5) Authority of the building official to enforce the Florida Building Code. Notwithstanding the provisions of this section, the building official may at all times continue enforcement of the applicable code through any authorized means including issuance of a notice of violation, recording of the same, and/or commencement and prosecution of a case before the unsafe structures board. This section shall not be construed to conflict with or supersede, nor shall it serve as a defense to, any enforcement action brought by the building official based on the current requirements of the applicable code.
- (6) The building official shall create a reprieve application form and shall promulgate a procedure for an applicant to seek reprieve pursuant to this division.
- (b) Guidelines for renewal of expired roof permits without a final inspection. Roofing permits issued prior to December 31, 2022 ~~December 31, 2024~~, under the jurisdiction of the Florida Building Code, shall comply with the following guidelines:
- (1) A State of Florida duly licensed architect or engineer may provide an as-built certification letter, signed and sealed, certifying that the roof is in compliance with the Florida Building Code in effect at the time of the roof installation.
 - (2) The as-built letter shall state the approximate date of the roof installation.
 - (3) The as-built letter shall state the product approval number of the approved roofing system and state that the underlayment and the fasteners were visually inspected by plugging the roof. In lieu of plugging of the roof an uplift test is acceptable.
 - (4) An application for the renewal of the roof permit must be submitted by a licensed roof contractor.
 - (5) Upon submittal of the required documents the city's roofing inspector will review the as-built letter for compliance with the Florida Building Code in effect at the time of the roof installation.
 - (6) Upon submittal of the as-built letter and the as-built plans required by this division, all documents will be reviewed for compliance with this division and the applicable codes.

* * *

SECTION 2. Repealer.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 3. Codification.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. Severability.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. Sunset.

As of December 31, 2026, the provisions of this Ordinance shall terminate and be of no force or effect. The codifier is hereby directed to remove the provisions herein from the City Code on December 31, 2026.

SECTION 6. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2023.


ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Alex J. Fernandez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney
FA

11-29-23

Date