

MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Mariano Fernandez, Building Official



DATE: March 1, 2017

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 14 OF THE CITY CODE, ENTITLED "BUILDING REGULATIONS," AT ARTICLE II, "CONSTRUCTION STANDARDS," TO CREATE DIVISION 3, ENTITLED "BUILDING PERMIT REPRIEVE PROGRAM"; CREATING SECTIONS 14-85 THROUGH 14-87, TO PROVIDE FOR A ONE-YEAR REPRIEVE PROGRAM FOR OWNERS OF SINGLE FAMILY RESIDENTIAL, MULTI-FAMILY RESIDENTIAL, MIXED USE OR COMMERCIAL PROPERTIES WHO HAVE FAILED TO OBTAIN A BUILDING PERMIT(S), OR HAVE EXPIRED PERMITS; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AN EFFECTIVE DATE, AND A SUNSET PROVISION.**

Background:

The City of Miami Beach has determined that there are numerous property owners in the City who have performed work without a permit. 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. Cost is a concern to many persons who either have expired permits, without final inspection, or never applied for a permit in the first place, and often title to the property has transferred, and the new owner of the property, unaware of the unpermitted work, is left to clean up the permitting issues, and facing double or triple permit fees. As a result of the foregoing, the City desires to provide 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. The creation of Division 4, sections 14-85 through 14-87, of the Code, are necessary to accomplish all of the above objectives.

Analysis:

The City desires to create a one-year building permit reprieve (amnesty) program from May 1, 2017 through April 30, 2018. The program will be valid for one year. Reprieve shall be provided to those property owners, or designees of property owners, who voluntarily 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, if such violation is discovered by the building official and his staff. Nothing in the ordinance 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.

Pursuant to section 14-86, a property owner who has applied for amnesty 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 I, sections 14-61 through 14-67, and Schedule A of this Code, will not be assessed to the amnesty applicant. The fee for processing applications and to conduct any testing pursuant to this division shall be set forth in Schedule A of this Code.

Pursuant to proposed Sec. 14-87. - Guidelines and Requirements of the Amnesty Program, (1) existing buildings, 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 May 1, 2017; or any building or structure constructed pursuant to permits obtained under the Florida Building Code, or (2) buildings built without permits, or a certificate of completion or occupancy, or (3) roofing without proper permits, or which expired without certificates of completion or occupancy having been issued can obtain a building permit reprieve if they comply with 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 subsection (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.

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.

Prior to issuing the certificate of completion or occupancy, the building official shall conduct an inspection to determine, to the best of his or her 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.

Please note, that despite the foregoing, the building official shall be authorized to continue to enforce the Florida Building Code. As such, 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.

Fiscal Impact:

Double or triple permit fees for work without a permit, for those applying for a building permit reprieve would not be applicable to the site – if the applicant acts in compliance with the provisions of the draft ordinance. The reduction in cost would assist the current property owner in coming into compliance with the code and would ensure that all life safety requirements for the building are complied with, and that the building is “safe.” The program would not authorize construction that is contrary to the zoning code or life safety codes of the State. There should be no net cost to the City's Building Department.

Recommendation:

Approve on first reading and schedule second reading, public hearing.