

ORDINANCE NO. 2013-8

AN ORDINANCE AMENDING CHAPTER 24, ARTICLE XV, OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA BY CREATING SECTION 24-176.1 ENTITLED "ADMINISTRATIVE CODE WAIVER PROCESS"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, for many years, numerous properties in the City of North Miami Beach have become non-conforming and in violation of City Code; and

WHEREAS, many of the violations on these properties have existed for years, leaving current owners with the obligation and responsibility to cure the violation or experience financial implications; and

WHEREAS, due to the economy, modernization, and environmental circumstances, many City property owners have allowed hundreds of Code violations to exist and remain on properties located throughout the City; and

WHEREAS, in order to legalize the hundreds of current non-conforming illegal properties throughout the City, the Mayor and City Council are desirous of creating an Administrative Code Waiver Process by appointing professionals from the Building Department, the Community Development Department, and the Code Enforcement Department to hear property owners' requests for Administrative Code Waivers; and

WHEREAS, through this newly created amnesty program, current owners of non-conforming illegal properties will have the opportunity to cure the violations on the numerous properties at minimal expense to the property owners; and

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WHEREAS, this Ordinance was presented and discussed at the publicly noticed Planning and Zoning Board meeting on Monday, June 10, 2013 and received a favorable recommendation and a unanimous vote of 5 to 0; and

WHEREAS, the Mayor and City Council believe that the creation and implementation of the Administrative Code Waiver Process will provide compliance to many properties by taking into account the health, safety and welfare of all the citizens within our community.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. The Code of Ordinances of the City North Miami Beach entitled "Administrative Code Waiver Process" shall be created at Section 24-176.1 to read as follows:

Section 24-176.1 Administrative Code Waiver Process.

A. Membership; Meetings; Approvals and Sunsetting Provision.

An Administrative Code Waiver Process shall be created by the City Manager appointing three (3) City employees representing the Building Department, the Community Development Department and the Code Enforcement Department, who shall meet at least once per month. Meetings shall be open to the public and recorded. Approval of an Administrative Code Waiver shall require a majority vote of the members. The Administrative Code Waiver Process shall be temporary and shall end on December 31, 2016.

B. Procedure: Application Criteria; Fees and Appeals.

Any owner of a single family residential property may apply for an Administrative Code Waiver for violations existing prior to January 1, 2013. Property owners who have received courtesy notices of code violations, will have sixty (60) days from the date of the notice to apply for an Administrative Code Waiver. Failure to apply for an Administrative Code Waiver will result in the property owner having to remove the violation or follow the regular variance procedure outlined in the Code.

Property owners who have not been issued a Code violation may apply for an Administrative Code Waiver at any time up until the process is discontinued. Prior to applying for an Administrative Code Waiver, the property owner must submit an application along with a \$25.00 application fee to the City.

The application shall identify what the waiver is for and should include:

1. The reason for the waiver request.
2. Photos.
3. Copies of any notices of violation issued by the City.
4. How long the violation has existed.
5. Any other documentation the property owner believes is important.

Once the application is received, notice will be sent to all properties within 150 feet of the subject property, allowing those property owners 15 days to respond with any objections. The costs associated with notification is the obligation of the applicant. Once the 15 days have expired, the matter will be scheduled.

C. Conduct of Hearing.

1. The application will be reviewed and the applicant and the public will be allowed to present anything necessary to assist in the requested waiver. A decision at the meeting will be rendered or if additional information is needed, the matter will be continued to the next meeting.
2. If the Administrative Code Waiver is denied, the applicant shall have the right to apply for a variance through the normal variance procedure or directly appeal the panel's decision to the City Council. Any Administrative Code Waiver which is approved shall be filed and recorded by the applicant in the public records of Miami-Dade County with a copy sent to the City for its records.

D. Enforcement.

1. Once a violation is identified, courtesy notices will be issued to the property owner allowing them 60 days to cure the violation or apply for an administrative code waiver.
2. If no action is taken by the property owner within 60 days, a Notice of Violation will be issued and the normal enforcement process will begin. The property will also lose the opportunity to apply for an administrative code waiver.

3. Property owners who apply for an administrative code waiver and are denied will have 60 days to obtain a permit to bring the violation into compliance, appeal the denial to the City Council, or apply for a variance through normal channels. Failure to take any action will result in a Notice of Violation being issued and the normal enforcement process will begin.

E. Types of Violations eligible for Administrative Code Waivers.

The following types of code violations eligible for Administrative Code Waivers shall include but not be limited to:

1. Storage/Tool Sheds;
2. Setback Requirements;
3. Carports;
4. Fence Heights;
5. Driveways;
6. Pervious Area Requirements;
7. Lot Coverage Requirements;
8. Fences and Walls;
9. Gazebos and Pergolas.

F. Evaluation of Administrative Code Waivers Requests.

When evaluating requests for Administrative Code Waivers mitigating factors shall include, but not be limited to the following:

1. Impact on adjacent and nearby properties.
2. Impact on drainage to City right-of-way.
3. Quality of construction and workmanship.
4. Compatibility with primary structure.
5. Condition and maintenance of property.
6. Evidence that the violation(s) existed prior to the applicant's purchase of the property.
7. Evidence the structure, as it now exists, was permitted and approved by the City.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.


Section 4. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 5. It is the intention of the City Council 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 relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this 2nd day of July, 2013.

APPROVED AND ADOPTED on second reading this 6th day of August, 2013.

ATTEST:


PAMELA L. LATIMORE
CITY CLERK
(CITY SEAL)


GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM


DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor and City Council

Note: Proposed additions to existing City Code text are indicated by underline; proposed deletions from existing City Code text are indicated by ~~strikethrough~~.