



City of North Bay Village


Administrative Offices

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CITY OF NORTH BAY VILLAGE MEMORANDUM

DATE: November 8, 2011

TO: Mayor Corina S. Esquijarosa
Vice Mayor Connie Leon-Kreps
Commissioner Eddie Lim
Commissioner Frank Rodriguez
Commissioner Paul Vogel

FROM: Robert Daniels
Interim City Manager 

SUBJECT: Code Amendment – Certificate of Re-occupancy Ordinance

RECOMMENDATION:

It is recommended that the City Commission adopt the attached ordinance on first reading. The ordinance proposes to institute a Certificate of Re-occupancy Program where the City would conduct a re-occupancy inspection of residential units. The purpose of the inspection is to ensure that structures originally built and designed as dwelling units with any permitted alterations of residences are still utilized for that purpose.

BACKGROUND:

It has been brought to the attention of the Building Department that unpermitted structures and alterations have been conducted in the City of North Bay Village. The Re-occupancy Certificate Program will help to regulate such activities.

BUDGET IMPACT:

The basic fees would be \$100 per single-family unit and \$200 for the first four multi-family units plus \$10 for each additional unit.

RD:yph

Mayor
Corina S. Esquijarosa

Vice Mayor
Connie Leon-Kreps

Commissioner
Frank Rodriguez

Commissioner
Eddie Lim

Commissioner
Dr. Paul Vogel

11A (1)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORTH BAY VILLAGE BY AMENDING CHAPTER 95 TO CREATE RE-OCCUPANCY CERTIFICATE AND INSPECTION PROCEDURES, SET FEES AND PROVIDE FOR PENALTIES; AMENDING CHAPTER 153 TO SET PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)

WHEREAS, Chapter 152 of the Code of the City of North Bay Village (the "Code") provides for the issuance of a Certificate of Occupancy prior to occupancy of any new structure, including dwelling units; and

WHEREAS, the City Commission finds that most dwelling units are never re-inspected after the original construction is completed and an original Certificate of Occupancy issued; and

WHEREAS, over time residential property owners often complete internal repairs and modifications which may or may not receive permits and inspections and which may allow for the alteration of the use of the dwelling unit; and

WHEREAS, the City Commission finds that inspection of dwelling units upon the purchase or sale of the unit provides an opportunity to ensure compliance with the City's zoning regulations; and

WHEREAS, the City Commission deems it to be in the best interest and welfare of the residents of the City to require an inspection and certificate of re-occupancy upon the purchase or sale of dwelling units.

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS¹:

Section 1. Recitals. Each of the above stated recitals is true and correct and is incorporated herein by this reference.

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¹ Proposed additions to existing City Code text are indicated by an underline; proposed deletions from existing City Code text are indicated by ~~strikethrough~~.

Section 2. City Code Amended. That Chapter 95 "Housing" of the Code is amended by creating Section 95.03 "Certificate of re-occupancy and inspection" to read as follows:

§ 95.03 Certificate of re-occupancy and inspection.

(A) Definitions. The following definitions shall applicable to this Section:

- (1) Owner shall mean the current owner who is transferring the property to another person, party or entity.
- (2) Recipient shall mean the person, party or entity who is receiving the property whether by sale, gift, or other conveyance or transfer.
- (3) Transfer shall mean to sell, give, convey, or otherwise transfer ownership from one person, party or entity to another person, party or entity regardless of whether the parties are in any way related.

(B) Certificate of re-occupancy required.

- (1) This Section shall be administered by the City Manager or his or her designee.
- (2) A certificate of re-occupancy must be obtained prior to the Transfer of any dwelling unit.
- (3) A certificate of re-occupancy for a dwelling unit shall be unique to the Owner and Recipient of a single Transfer transaction. If the Transfer is not completed and there is a change of Recipient, a new re-occupancy application, a new Disclosure Statement, and a new application fee must be filed.
- (4) A certificate of re-occupancy does not constitute any representation or warranty as to the condition or any aspect of such condition of the dwelling unit or other structures on the property for which the certificate is issued. The inspection made in connection with a certificate of re-occupancy is neither a structural, electrical, plumbing nor mechanical inspection and does not represent that the property conforms to the provisions of the Code, including the building and technical codes adopted by the City.

(C) Application. An application for a certificate of re-occupancy shall include the following:

- (1) An application on a form provided by the City submitted by either the Owner or Recipient;
- (2) Disclosure of the ownership of the property and all parties to the pending Transfer;

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- (3) An original Disclosure Statement, executed by the Owner and Recipient, in the form provided by the City; and
 - (4) Payment of the appropriate fee.
 - (5) The City shall review the application for completeness.
 - a) If an application is found to be incomplete, the City shall send a notice of intent to deny the application to the applicant with an explanation of the material and/or fee necessary to make the application complete. Such notice shall include a statement that if a completed application and/or the required fee is not submitted within ten days of receipt of the notice by the applicant, the City shall return the application and close the file.
 - b) If the applicant does not return a properly completed application and any required fee, within ten days of receipt by applicant of the notice, the City shall return the application and close the file.
 - (6) No inspection will be completed until the City has received a complete application, original executed Disclosure Statement and the appropriate fee.
- (D) Processing of an application for certificate of re-occupancy. A complete application shall be processed as follows:
- (1) The City shall, within ten (10) business days of receipt of a complete application, inspect the dwelling unit to determine that the unit is used, designed or intended to be used as required by the zoning district regulations applicable to the property and whether the unit conforms to the original layout and any alterations permitted thereafter.
 - (2) If the dwelling is not in conformance with the requirements of this section the City shall provide an itemized list of defaults and/or corrective actions and no certificate of re-occupancy shall be issued unless:
 - a) The applicant makes such repairs, alterations or improvements as are needed to comply with the list of defaults and corrective action; and
 - b) A re-inspection, accompanied by payment of the appropriate re-inspection fee, is completed and the dwelling unit is found to comply with the requirements of applicable zoning district.
 - (3) Failure to complete required repairs, alterations or improvements and request a re-inspection within 60 days shall result in denial of the application.

- (4) If, upon initial inspection, the dwelling unit is found to comply with the requirements of the applicable zoning district, a certificate of re-occupancy shall be issued for the individual unit.
- (5) The certificate of re-occupancy, if issued, shall state that a City inspector has inspected the dwelling and has determined that the dwelling unit is used, designed or intended to be used as required by the zoning district regulations applicable to the property and whether or not the unit conforms to the original layout and any alterations permitted thereafter.
- (6) Upon completion of the transfer of ownership, the certificate of re-occupancy shall be recorded in the Miami-Dade County public records with the deed or other conveyance of title.
- (E) Conditional Certificate of Re-Occupancy. No re-occupancy of a dwelling unit shall be permitted until a certificate of re-occupancy has been issued. However, under circumstances where completion of remedial actions may reasonably extend beyond the date of the Transfer, the City shall have authority to issue conditional certificates of re-occupancy with conditions as follows:
- (1) A conditional certificate of re-occupancy shall include the conditions which must be satisfied in order to obtain a final certificate of re-occupancy.
- (2) A conditional certificate of re-occupancy shall be valid for no more than 60 days, unless extended for a period not to exceed another 60 days to allow for completion of the remedial actions.
- (3) The property shall be re-inspected prior to the expiration of the conditional certificate of re-occupancy and found in compliance with the requirements of this section or the certificate of re-occupancy shall be denied and the property may be subject to additional code enforcement action.
- (4) A conditional certificate of re-occupancy shall not be issued if life-safety violations exist on the property.
- (F) Notice.
- (1) The Owner shall disclose, and the Recipient shall acknowledge, prior to the Transfer, that a certificate of re-occupancy is required by Section 95.03, and the Owner shall include in the contract the following disclosure:

A CERTIFICATE OF RE-OCCUPANCY SHALL BE OBTAINED PRIOR TO ANY TRANSFER, CONVEYANCE, PURCHASE OR SALE OF THIS DWELLING UNIT TO DETERMINE THAT THE UNIT IS USED, DESIGNED OR INTENDED TO BE USED AS REQUIRED BY THE ZONING DISTRICT REGULATIONS APPLICABLE TO THE PROPERTY AND WHETHER THE UNIT CONFORMS TO THE ORIGINAL LAYOUT AND ANY ALTERATIONS PERMITTED THEREAFTER. A CERTIFICATE OF OCCUPANCY IS UNIQUE TO A TRANSFEROR AND TRANSFEREE AND MUST BE OBTAINED PRIOR TO EACH SALE.

A CERTIFICATE OF RE-OCCUPANCY DOES NOT CONSTITUTE ANY REPRESENTATION OR WARRANTY AS TO THE CONDITION OR ANY ASPECT OF SUCH CONDITION OF THE DWELLING UNIT OR OTHER STRUCTURES ON THE PROPERTY FOR WHICH THE CERTIFICATE IS ISSUED. THE INSPECTION MADE IN CONNECTION WITH A CERTIFICATE OF RE-OCCUPANCY IS NEITHER A STRUCTURAL, ELECTRICAL, PLUMBING NOR MECHANICAL INSPECTION AND DOES NOT REPRESENT THAT THE PREMISES CONFORM TO THE PROVISIONS OF THE CODE, INCLUDING THE BUILDING AND TECHNICAL CODES ADOPTED BY THE CITY. INTERESTED PERSONS ARE ADVISED AND ENCOURAGED TO OBTAIN AN INSPECTION OF THE PREMISES IN ORDER TO DETERMINE THE CONDITION AND LEGALITY THEREOF.

(2) Lien letters and responses to lien search inquiries issued by the City Clerk's office shall include a notice that a certificate of re-occupancy is required for transactions involving the Transfer of any dwelling unit.

(G) Exemption. A certificate of re-occupancy shall not be required for the original purchase, sale, conveyance, or transfer of ownership of a newly constructed dwelling unit that has never been occupied and that represents the first transaction since the issuance of the original certificate of occupancy.

(H) Fees. The fees for a certificate of re-occupancy inspection, re-inspection or expedited inspection shall be as follows:

<u>Certificate of re-occupancy after purchase, sale, or occupancy of dwelling unit</u>	<u>Applicable expedited permit fee plus the applicable certificate fee</u>
<u>Certificate of re-occupancy</u>	<u>100.00 per single family unit (detached, attached or condominium)</u>
	<u>200.00 for up to four multifamily units (apartments), plus 10.00 per unit additional unit</u>
<u>Certificate of re-occupancy, re-inspection</u>	<u>50.00 per single family unit (detached, attached or condominium)</u>

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	100.00 up to four multifamily units (apartments), plus 10.00 per additional unit
<u>Certificate of re-occupancy, Expedited review (2 business days)</u>	300.00 per single family unit (detached, attached or condominium)
	600.00 up to four multifamily units (apartments), plus 20.00 per additional unit
<u>Conditional certificate of re-occupancy</u>	500.00 per unit

(I) Expedited Review. An expedited review may be requested by the Applicant, subject to payment of the appropriate fee. Expedited review shall be made within two (2) business days of receipt of a complete application.

(J) Penalty.

(1) It shall be unlawful for any person, firm or corporation to Transfer, purchase, sell, give or otherwise convey the title to any dwelling unit, after _____, without first obtaining a certificate of re-occupancy issued by the City.

(2) It shall be unlawful for any person, firm or corporation to Transfer, purchase, sell, give or otherwise convey the title to any dwelling unit after _____, without first disclosing pursuant to the requirements of this Section, that a certificate of re-occupancy must be obtained pursuant to Section 95.03.

(3) A violation of this Chapter may be enforced against the property owner pursuant to Chapter 162 of the Florida Statutes and Chapter 153 of the City Code and by issuance of a uniform civil violation notice, citation, summons, notice to appear in county court, or by filing an action in civil court for injunctive relief. Penalties for violation of this chapter are further outlined in Section 153.04 of this Code.

Section 3. Amendments to Code. Chapter 153 of the Code is amended to read as follows:

§ 153.04 Schedule of civil penalties.

TABLE INSET:

Section	Description of Violation	Penalty Fee
10.16	Altering Code	\$250.00
***	***	***
95.02	Discriminating against families with children in residential units	100.00
<u>95.03</u>	<u>Transfer, sale, purchase, or occupancy of dwelling unit without obtaining a certificate of re-occupancy</u>	<u>250.00</u>
96.01	Conducting prohibited amusement rides and carnivals	200.00
***	***	***

Section 5. Repeal of Conflicting Provisions. All provisions of the Code of the City of North Bay Village that are in conflict with this Ordinance are hereby repealed.

Section 6. 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, since the legislative intent is that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Inclusion in the Code. It is the intention of the City Commission 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 North Bay Village, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 8. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by _____, seconded by _____.

THE VOTES WERE AS FOLLOW:

Mayor Corina S. Esquijarosa _____
 Vice Mayor Connie Leon-Kreps _____
 Commissioner Eddie Lim _____
 Commissioner Frank Rodriguez _____
 Commissioner Paul Vogel _____

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APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this ___ day of _____ 2011.

The motion to adopt the foregoing Ordinance on final reading was offered by _____, seconded by _____.

FINAL VOTE ON ADOPTION:

Mayor Corina S. Esquijarosa	_____
Vice Mayor Connie Leon-Kreps	_____
Commissioner Eddie Lim	_____
Commissioner Frank Rodriguez	_____
Commissioner Paul Vogel	_____

PASSED AND ENACTED BY THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, THIS _____ DAY OF _____, 2011.

Corina S. Esquijarosa, Mayor

ATTEST:

Yvonne Hamilton, City Clerk

APPROVED AS TO FORM FOR THE USE OF THE CITY OF NORTH BAY VILLAGE ONLY:

City Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

City of North Bay Village Ordinance-Re-Occupancy of dwelling units

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City of North Bay Village

Administrative Offices


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MEMORANDUM City of North Bay Village

DATE: November 1, 2011

TO: Yvonne P. Hamilton, CMC
City Clerk

FROM: Robert Daniels
Interim City Manager 

SUBJECT: Introduction of Resolution

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Resolution:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORTH BAY VILLAGE BY AMENDING CHAPTER 95 TO CREATE RE-OCCUPANCY CERTIFICATE AND INSPECTION PROCEDURES, SET FEES AND PROVIDE FOR PENALTIES; AMENDING CHAPTER 153 TO SET PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY INTERIM CITY MANAGER ROBERT DANILES)

Accordingly, please place the item on the next available agenda.

RD:ypb

Mayor
Corina S. Esquijarosa

Vice Mayor
Connie Leon-Kreps

Commissioner
Frank Rodriguez

Commissioner
Eddie Lim

Commissioner
Dr. Paul Vogel

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