



AGENDA ITEM COVER PAGE

File ID: #15910

Ordinance

Sponsored by: Miguel Gabela, Commissioner

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 2/ARTICLE IV/DIVISION 2/SECTION 2-208 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, TITLED "ADMINISTRATION/DEPARTMENTS/PLANNING, BUILDING, AND ZONING DEPARTMENT/NEW PERMITS PROHIBITED, NON-HOMESTEAD PROPERTIES," TO PROVIDE THE ALLOWANCE FOR ISSUANCE OF CERTIFICATES OF USE FOR BUSINESSES UNLESS THERE IS A VIOLATION BY THE BUILDING DEPARTMENT; FURTHER AMENDING SECTION 2-211 TITLED, "DENIAL OR REVOCATION OF CERTIFICATE OF USE," BY LIMITING RESTRICTIONS FOR DENIAL OR REVOCATION OF A CERTIFICATES OF USE; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.



City of Miami

Legislation

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Final Action Date:

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WHEREAS, on July 28, 2022, the City Commission adopted Ordinance No. 14078, prohibiting the issuance of permits for non-homestead properties with outstanding code or building violations pursuant to Section 2-208 of the Code of the City of Miami, Florida, as amended ("City Code"); and

WHEREAS, on October 22, 2020, the City Commission adopted Ordinance No. 13936 which added violations of Chapter 10 of the City Code as well as failure to complete required building Recertifications to be cause to deny or revoke a Certificate of Use pursuant to Section 2-211 of the City Code; and

WHEREAS, these regulations have caused difficulties with tenants and occupants of buildings that are mixed-use or contain multiple individual retail or office spaces obtaining permits due to violations of other tenants or occupants; and

WHEREAS, the City Commission believes a relaxation of the more recent City Code amendments will be in the best interest of the residents and businesses in the City of Miami and still provide life safety protections;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 2, Article IV, Division 2 of the City Code is amended in the following particulars:¹

"CHAPTER 2

ADMINISTRATION

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

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ARTICLE IV. DEPARTMENTS

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DIVISION 2. PLANNING, BUILDING, AND ZONING DEPARTMENT

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Sec. 2-208. New permits prohibited, non-homestead properties.

Permits ~~shall~~may not be issued for a non-homestead property with any outstanding ~~code enforcement violations, Building Department violations, or any relevant city lien or invoice due and owing to the city.~~ Permits required to cure life safety issues, permits which are required to bring outstanding violations into compliance, permits for units within buildings to which such violations or monies owed are not attributable to the permit applicant or permits for any properties owned by a governmental entity are exempted from this prohibition. If a permit required to cure an existing violation has been applied for, with a complete application that is being reviewed by the appropriate department, additional permits may be issued for the property that is the subject of violations or monies owed. Additional permits issued are conditioned to prohibit the issuance of a certificate of occupancy or completion (including temporary or partial certificates of occupancy or completion) until the permit to cure the original outstanding ~~code enforcement~~ Building violation has been finalized and closed and all monies owed, inclusive of costs, to the city are paid. Any exemption listed herein may not be utilized for multi-unit structures wherein the violation has created a life safety issue for either the adjacent units or the structure in its entirety.

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Sec. 2-211. Denial or revocation of certificate of use.

- (a) The zoning administrator shall deny the issuance or renewal of a certificate of use ~~for good cause when there are any outstanding city liens or invoices due and owing.~~
- (b) Denial or Revocation of certificate of use. The zoning administrator ~~shall~~may deny the issuance or renewal, or revoke a certificate of use for any of, but not limited to, the following reasons:
 - (1) The applicant provided a material false statement in the application or in the supplemental or additional statements of fact or studies required by the city.
 - (2) There is a failure to comply with the terms or conditions of the certificate of use.
 - (3) There is a violation of the provisions of this division.
 - (4) The certificate of use holder subsequent to being issued a certificate of use, has been convicted of, or has pled guilty to, a violation of a law of Florida, or ordinance of Miami-Dade County or the city, which violation resulted from actions relating to the terms or conditions of the certificate of use.
 - (5) The certificate of use holder is engaging or has engaged in an activity from the proposed premises that is not in compliance with a zoning ordinance or other city ordinance.
 - (6) The business tax receipt ("BTR") for the certificate of use holder has been denied, suspended or revoked.
 - (7) There is a finding of violation of chapter 10 of the City Code at an Unsafe Structure Panel hearing, including but not limited to failure to obtain a 40-year certification.

where a life safety risk is present as determined by the Unsafe Structures Panel. After a finding of violation with a life safety risk, any current Certificate of Use shall be revoked, however, a property owner may qualify and maintain a Temporary Certificate of Use based upon the following criteria:

- i. A property owner may submit to the Unsafe Structure Panel, at the hearing, a current letter from a Florida licensed structural engineer, under seal, stating the structure is safe for use and occupancy. See Section 10-101(d)(4).
 - ii. Any such report may be rebutted by facts or testimony presented at the Unsafe Structure Panel hearing or by an order of the Building Official pursuant to Section 10-101(f)(1).
 - iii. If the Unsafe Structure Panel accepts the engineer's letter, the property shall be eligible for a Temporary Certificate of Use to be reviewed at 180-day intervals, from the date of the engineer letter, pursuant to Section 7.1.3.7, Miami 21, the City's Zoning Ordinance.
 - iv. If the property owner does not have the required engineer letter at hearing, the Unsafe Structure Panel may allow the letter to be provided within ten (10) days to the Building Department so as to qualify for a Temporary Certificate of Use.
 - v. Any issued Temporary Certificate of Use shall expire either 180 days after issuance or 180-day after the engineer letter is issued, whichever comes first.
 - vi. The Temporary Certificate of Use can be renewed under these terms unless a contrary determination after hearing is made by the Unsafe Structure Panel or an order of the Building Official pursuant to Section 10-101(f)(1).
 - vii. If the required or updated engineer letter is not provided timely, the Temporary Certificate of Use shall be revoked.
- (c) The zoning administrator shall send written notice of the revocation, reason for the revocation and the effective date of the revocation to the holder of the certificate of use at the address of record on file with the city.
- (d) Appeal. If a certificate of use is denied or revoked, the applicant or an aggrieved party who resides, occupies, or owns property within 500 feet of the property may file an appeal with the office of hearing boards within 15 days of the decision to deny or revoke the certificate of use. The appeal shall be heard at the next available regular meeting of the planning, zoning and appeals board. The decision of the planning, zoning and appeals board regarding a certificate of use may be appealed to the city commission by an applicant, an aggrieved party who resides, occupies or owns property within 500 feet of the affected property, or the planning and zoning department.

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Section 3. If any section, part of section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective immediately upon adoption by the City Commission.²

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.

APPROVED AS TO FORM AND CORRECTNESS:


George K. Wysong III, Acting City Attorney 4/16/2024