

ORDINANCE NO. 2012-11

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER 24, ARTICLE 15 OF THE CITY'S CODE OF ORDINANCES, ENTITLED "OTHER DEVELOPMENT REVIEW PROCEDURES" BY EXTENDING THE EXPIRATION DATE FOR SITE PLAN REVIEW; ADDING AN EXPIRATION DATE FOR CONDITIONAL USE APPROVALS; EXTENDING THE EXPIRATION TIME FOR VARIANCES; 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, even though an applicant receives approval from the City Council for a development project, current City Code renders said approval void if it conflicts with any ordinance passed after the approval but prior to the issuance of a building permit for the project; and

WHEREAS, while applicants often expend many dollars in professional services and public hearing fees, the current City Code adversely affects those applicants who have already received City Council approval, but prior to obtaining a building permit, the Code is changed; and

WHEREAS, the Mayor and City Council believe that applicants have a right to rely on Council's approval and continue to do so even though a building permit has yet to be obtained; and

WHEREAS, while some applicants are able to obtain a building permit within six months as required by current City Code, others are experiencing delays in obtaining permits within that time period due to the backlog at various County departments; and

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WHEREAS, while the current City Code provides for no expiration time-frame for projects granted conditional use approval, the City Council believes that such is warranted in order to put applicants on notice; and

WHEREAS, once applicants receive conditional use approval on a project, under current City Code that approval has no expiration time-frame; and

WHEREAS, the Mayor and City Council is desirous to establish a time-frame for a conditional use to be uniform and consistent with the time-frame for site plan review and approval of variances; and

WHEREAS, on October 17, 2011, the Planning and Zoning Board heard this item at a publicly advertised meeting where it was favorably approved by a vote of 6-0; and

WHEREAS, in order to assist, promote, and entice more development in North Miami Beach, the Mayor and City Council believe that the current Code giving applicants only six (6) months to obtain a building permit for development projects needs to be amended and should be extended to a one-year period.

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. Sec. 24-172 Site Plan Review of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-172 Site Plan Review

(H) *Final Site Plan Approval.* All applications for final site plan approval shall be submitted and reviewed in the following manner:

~~(5) *Ordinance change:* Any change of ordinance or regulatory control occurring after any site plan approval has been granted, but prior to the issuance of a building permit, shall render such approval void to the extent of conflict with such change of ordinance or regulatory control.~~

(Ord. No. 2008-22 § 3, 12/16/08)

(I) *Expiration.* The master building permit from the City must be ~~obtained~~ applied for within ~~six (6) months~~ one (1) year of site plan approval. All extension requests may be extended administratively for good cause for one six (6) month period by the City Manager or designee upon the payment of the appropriate fee, otherwise reapplication is necessary. Such extension must be administratively documented and filed with the appropriate department. This period may be extended by the Mayor and City Council for good cause. (Ord. No. 2008-22 § 3, 12/16/08)

Section 3. Sec. 24-175 Conditional Uses of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-175 Conditional Uses

(C) *Expiration.* A Business Tax Receipt must be obtained within one (1) year of the issuance of a certificate of occupancy or within one (1) year of conditional use approval, whichever is longer. This may be extended administratively for good cause for one six (6) month period by the City Manager or designee. This period may be extended by the Mayor and City Council for good cause.

Section 4. Sec. 24-176 Variances of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-176 Variance

(C) *Variance Review Standards.*

(4) A variance granted under the provisions of this Code shall automatically expire under the following conditions:

(a) If a permit has not been ~~issued~~ applied for within ~~six (6) months~~ one (1) year from the date of granting of a variance (or date of any final court order granting or modifying the variance), in accordance with the specific plans for which that variance was granted, or

(b) If a permit issued within the required time period shall expire or be revoked pursuant to the Florida Building Code, and if the time period for originally obtaining a permit has expired, the variance shall automatically expire. (Ord. No. 94-14, § 2, 6-21-94)

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 7. 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 3rd day of July, 2012.

APPROVED AND ADOPTED on second reading this 7th day of August, 2012.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor & City Council