

**ORDINANCE NO. 2018-018**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 14 ENTITLED "BUILDINGS AND BUILDING REGULATIONS", AND IN PARTICULAR, ADDING A NEW SECTION 14-9 ENTITLED "BUILDING RELIEF PROGRAM", PROVIDING FOR THE PURPOSE OF THE BUILDING RELIEF PROGRAM; PROVIDING FOR DEFINITIONS; PROVIDING FOR AN APPLICATION PROCESS AND ELIGIBILITY CRITERIA; PROVIDING FOR ENFORCEMENT PROCEDURES; AND PROVIDING FOR FEES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the building permit process creates a permanent record of the work performed and inspections conducted for structural improvements made on any property in compliance with construction standards that protect against structural failure, fire hazards, electric shock and other health risks; and

**WHEREAS**, construction without the benefit of a building permit is one of the most pervasive violations encountered by the City's Building and Code Compliance Department; and

**WHEREAS**, the general purpose and intent of this ordinance is to protect the public's health and well-being, maintain property values, and promote a safe living environment by removing hazardous conditions associated with substandard and unlawful construction through proactive code enforcement.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 14 entitled "Building and Building Regulations", of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

**Chapter 14**

**BUILDINGS AND BUILDING REGULATIONS**

\* \* \*

**Sec. 14-9. - Building relief program.**

(a) Purpose. It is the intent of this program to encourage compliance with the Florida Building Code and all other applicable construction standards by mitigating penalties and fines for all eligible program participants who take conclusive action to correct all work done without the benefit of a building permit and in violation of the Florida Building Code, to buildings or structures on residential properties built prior to the effective date of this ordinance.

(b) Definitions.

Applicant means one who applies to participate in the building relief program.

As-built certificates mean documents provided by a professional Florida licensed architect or engineer including a notarized affidavit, stating that the plans and the work completed on the structure complies with the Florida Building Code in effect at the time of construction. The architect or engineer will specify the testing methodology used to inspect and certify areas not readily visible to the naked eye such as foundation, wall reinforcements, pitches, trusses and framing.

As-built plans means the set of drawings and calculations required for permits at the time of construction. The plans must be prepared by a professional Florida licensed architect or engineer who shall sign and seal the documents and insert a statement in the first page stating that the work complies with the Florida Building Code in effect at the time of the construction, and indicating in the drawings any work that will need to be completed to achieve compliance.

Building official means the City of Hialeah Building Official.

Code means any of the several chapters of the City of Hialeah Code of Ordinances, or any other code, ordinance or rule duly adopted by the city council, including building codes, fire codes or other technical codes that city is authorized to enforce within its jurisdiction.

(c) Application criteria and process.

(1) The building relief program shall be in effect for a period of three years from the effective date of this ordinance, unless extended by ordinance by the city council. All applications for participation in the program must be submitted during this time in order to be considered.

(2) An applicant shall not be eligible to participate in the building relief program if the city has commenced action to enforce the Code, including but not limited to issuance of a notice of civil violation pursuant to chapter 22 of this code, or an action for injunctive relief in a court of competent jurisdiction.

(3) In order to qualify to participate in the building relief program, the applicant must self-report all work done without the required permits in violation of the Florida Building Code to any structure, or any part thereof, or for any addition or repair work, on residential property to buildings, structures or additions existing on the property prior to the effective date of this ordinance and propose a detailed corrective action plan including a reasonable time for completion in compliance with the building relief program and acceptable to the Building Official.

(4) If the Building Official determines that the applicant is eligible to participate in the building relief program, the legalization permits will be issued on the basis of an affidavit by the Building Official in accordance with § 105.14 of the Florida Building Code, as amended. The applicant must comply with the following requirements and conditions:

i. The applicant shall submit to the Building Official a set of as-built plans of the building or structure;

ii. The applicant shall submit an as-built certificate satisfactory to the Building Official issued by a Florida registered engineer or architect. The Florida registered engineer or architect shall inspect the building, structure, or addition proposed to be legalized and provide and attest by affidavit that the building, structure or addition can be legalized. The as-built certificate shall contain a narrative description of the testing methodology used by the engineer or architect tendering the certificate to make the determination that the structure can be legalized. In issuing the certificate of completion or occupancy, the Building Official shall be entitled to rely on the completeness, accuracy and truthfulness of the as-built certificate provided by the engineer or architect. More particularly, the architect or engineer shall attest in the affidavit provided that the structure:

1. Is structurally sound, and complies with the FEMA zone requirements for minimum floor elevation;
2. Complies with the requirements of the Florida Building 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 Florida Building Code in effect on that date;
3. Complies with all current applicable city zoning code regulations;
4. Complies with all minimum life-safety requirements set forth in subparagraph (iii); and
5. Is consistent with the representations made in the permit application and any plans approved by the Building Official.

iii. The as-built certificate and plans shall indicate that the building, structure or addition will comply with all of the following life-safety minimum requirements of the Florida Building Code, as amended:

1. Means of egress or escape;
2. Shutters or protection against high-velocity winds;
3. Residential single station smoke detectors - installed in accordance with National Fire Prevention Act (1999 edition);
4. Requirements for ground fault interrupters, bathroom and kitchen;
5. Requirements for full size pressure and temperature relief valve lines on all water heaters;
6. Handicap access requirements;
7. All gas piping systems shall be bonded to ground;
8. Handrails shall be inspected and replaced, if necessary, in full compliance with requirements of the current building code.

(5) Prior to issuing the certificate of completion or occupancy, the building official shall conduct an inspection to determine that:

- i. The plans submitted reflect the present state of the structure;
- ii. The structure complies with all requirements of the Florida Building Code as required by this section; and
- iii. The as-built certificate represents accurately the actual physical conditions of the building, structure or addition.

(6) The building permit related fees under the building relief program shall be as provided in the current building department fee schedule, as amended from time to time. The city will not assess double permit fees for all the permits issued under the building relief program.

(d) Enforcement. After meeting the eligibility criteria and complying with the requirements set forth in section 14-9 (c), the Building Official shall determine the reasonable amount of time that will take to complete all corrective action to comply with the Florida Building Code. If the applicant fails to complete the corrective action plan and fails to attain compliance with the Florida Building Code within the time period provided by the Building Official, the Building Official may refer the case to the city's code compliance department for enforcement action pursuant to chapter 22, or take any other lawful action to achieve compliance with the code. This section shall not be construed or serve as a defense in any enforcement action initiated by the city nor shall this section preclude the city from enforcing all applicable codes by any lawful means.

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**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.** Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Inclusion in Code.** The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

**Section 5: Severability Clause.**

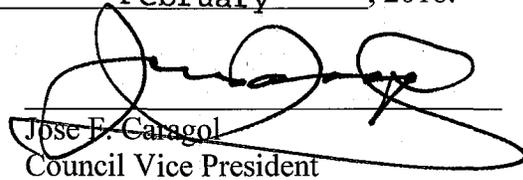
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

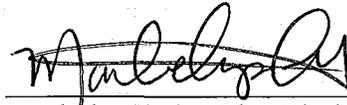
PASSED and ADOPTED this 27 day of February, 2018.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Jose F. Caragol  
Council Vice President

Attest:

Approved on this 5 day of March, 2018.

  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
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Lorena E. Bravo, City Attorney

Ordinance was adopted by a 5-0-2 vote with Councilmembers, Caragol, Zogby, Lozano, Cue-Fuente, and Hernandez voting "Yes" and Casals-Munoz and Garcia-Martinez being absent.

~~Strikethrough~~ indicates deletion. Underline indicates addition.