

9-26-2011



ORDINANCE NO. 1027-2011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE 102-01, RE-OCCUPANCY CERTIFICATION, BY ADDING THERETO PROVISIONS OFFERING AN ADDITIONAL "INFORMATIONAL INSPECTION" FOR PURCHASERS OF RESIDENTIAL PROPERTIES SUBJECT TO RE-OCCUPANCY INSPECTIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE.

WHEREAS, the City has often received comments from new owners of residential properties in the City that are unaware of code violations that existed on their new properties when purchased; and,

WHEREAS, although the City requires re-occupancy certification inspections of residential properties being sold in the City, such inspections are limited to determinations of compliance with the single-family use configuration requirements of the Code of Ordinances; and,

WHEREAS, while no citations may be issued for other code violations observed during the certification inspection process, it is not impermissible to provide "information" of such other violations to prospective residential property purchasers; and,

WHEREAS, this additional inspection process would be cursory in nature, meant only to provide "information" on existing code violations that were readily observable during the certification and property survey review processes, would not constitute any warranty or

guaranty to the prospective residential property owner against other "undiscovered" code violations, and would not be meant to be a substitute for the prospective purchaser's own due diligence inspections of the subject residential property; and,

WHEREAS, by electing to request this additional inspection process, the prospective residential property purchaser would be placed on notice of any readily observable existing code violations on the subject property; and,

WHEREAS, the City Council of the City of Miami Springs has determined that it is in the best interests of the City and its citizens to approve and authorize the proposed amendment in order to provide prospective residential property purchasers in the City with as much pre-closing information as possible regarding the properties being acquired:

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

Section 1: That Code of Ordinance Section 102-01, Re-Occupancy Certification, is hereby amended as follows:

Section 102.01. Re-Occupancy Certification.

- (A) ...
- (B) ...
- (C) ...

- (1) ...
- (2) ...
- (3) ...

(4) Contemporaneously with the filing of the application to initiate the Re-Occupancy Certificate inspection process, the owner/seller shall also file an "Affidavit of Requested Informational Inspection" attesting that the prospective purchaser of the subject property has either accepted or refused the City's offer to conduct an additional "informational only" inspection of the subject property during the certification process. This additional inspection shall be subject to the following limitations and exceptions, to-wit:

- (a) Shall only be cursory in nature.
- (b) Shall identify only readily observable code violations discovered while visiting the subject premises and examining the current property survey.
- (c) Shall not include any records examination or invasive property inspections for other "undiscovered" code violations that may exist.
- (d) Shall not constitute any type of warranty or guaranty to the prospective purchaser of property conditions or code compliance status by the City.
- (e) Is not intended to be a substitute for the prospective purchaser's due diligence inspections of the subject property.

The City shall provide an appropriate affidavit form for this purpose and shall establish the fee for the informational inspection by City Resolution. The form of the Affidavit and the amount of the fee charged for the informational inspection may be amended from time to time as determined to be required by the City. As part of the inspection process, the owner/seller shall provide an accurate survey or sketch of the sale premises which sets forth thereon the location, size and generic identification of each tree located on the property being sold.

(4)(5) Upon receipt of an application for inspection and the payment of the initial inspection fee, along with the properly executed "Affidavit of Requested Information Inspection" (and appropriate fee, if applicable), an authorized representative of the Department of Building, Zoning and Code Enforcement shall inspect the subject property within ten days thereof. The appropriate Re-Occupancy Certificate, along with a listing of other property code violations observed, if any, during any requested "information property inspection", shall be issued should the

subject premises be determined to be in compliance with the single-family residential occupancy regulation of the City Code of Ordinances and that it is designed, configured and being used for single-family residential purposes only. If, however, the subject property is not in full compliance with the foregoing requirements, the Department shall prepare an itemized list of all code and district regulation violations and notify the owner/seller in writing of all corrective action required to obtain the necessary certificate. The aforesaid notice shall also provide that the determination of property noncompliance by the Department may be appealed by filing a written notice of appeal with the City Manager within five days of receipt of said notice of noncompliance. Upon receipt of a written notice of appeal, the City Manager shall conduct an appeal hearing at the earliest possible time. The written appellate decision of the City Manager shall constitute final City action in regard to the determination of the issuance of a Re-Occupancy Certificate. No certificate shall be issued by the Department for any premises until all specified violations have been corrected to the satisfaction of the City.

~~(5)(6)~~ ...

~~(6)(7)~~ ...

~~(7)(8)~~ ...

(D) ...

(E) ...

(F) ...

(G) ...

(H) ...

Section 2: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar as they are in conflict.

Section 3: That the provisions of this Ordinance shall be effective immediately upon adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Miami Springs, Florida this 10th day of October, 2011.

The motion to adopt the foregoing ordinance was offered on second reading by _____, seconded by _____, and on roll call the following vote ensued:

Vice Mayor Espino	" _____ "
Councilman Best	" _____ "
Councilman Lob	" _____ "
Councilwoman Ator	" _____ "
Mayor Garcia	" _____ "

Zavier M. Garcia
Mayor

ATTEST:

Magali Valls, CMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Jan K. Seiden, Esquire
City Attorney

First reading: 09/26/2011
Second reading: 10/10/2011

Words ~~stricken through~~ shall be deleted. Underscored words constitute the amendment proposed. Words remaining are now in effect and remain unchanged.