

ORDINANCE NO. 2017 - _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF SUNNY ISLES BEACH TO REQUIRE GOOD CAUSE FOR EXTENSIONS OF TIME TO CORRECT CODE VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 14 of the Code of Ordinances of the City of Sunny Isles Beach authorizes the Code Enforcement Department to initiate code enforcement proceedings and issue warning and civil violation notices for violations of the City Code; and

WHEREAS, enforcement procedures are initiated upon the issuance of a warning notice followed by a civil violation notice, in the event correction is not met within the designated time to correct the warning notice; and

WHEREAS, it is within the discretion of the Code Enforcement Department to extend times to correct code violations during either the warning notice or civil violation notice period; and

WHEREAS, Chapter 14 of the City Code does not currently require good cause to be shown in order to grant extension of time to correct underlying code enforcement violations; and

WHEREAS, City staff requests that Chapter 14 of the City Code be amended to require that good cause be shown in order to grant extension of time during the warning or civil violation notice periods in order to ensure timely compliance with the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part by this Ordinance upon adoption hereof.

Section 2. Amendment. Chapter 14 of the City Code is amended to read as follows:

§ 14-6. – Enforcement procedures.

- A. A Code Enforcement Officer is authorized to issue a warning notice of violation, in a form approved by the Department Director, prior to the issuance of a civil violation notice to a person based upon personal investigation, if the officer has reason to believe that the violator has committed a civil infraction in violation of a duly enacted ordinance. The

warning notice of violation shall specify a reasonable time period (warning period), not to exceed 30 calendar days, within which the violator must correct the violation. This determination shall be based on consideration of fairness; practicality; ease of correction, ability to correct; severity of violation; nature, extent, and probability of danger or damage to the public; degree of nuisance to neighborhoods and neighborhood; and other relevant factors relating to the reasonableness of the time period prescribed.

An extension of the deadline for voluntary correction, or a modification of any required corrective action, may be granted by the code enforcement officer or Department Directors if the property owner has, in the opinion of the code enforcement officer, shown good cause for the requested extension. For purposes of this section, "good cause" is defined as unforeseen circumstances beyond the reasonable control of property owner that include, but are not limited to, (i) delays by federal, state or local permitting agencies in issuing permits and/or other regulatory approvals in connection with an alleged code violation that were not within the reasonable control of the property owner, (ii) an "Act of God" such as earthquakes, lightning, cyclones, hurricanes, floods, droughts or such other extreme weather or environmental conditions, unanticipated geological or ground conditions, or other natural calamities and acts of God that cannot be, or be caused to be, prevented, avoided or removed by the property owner, or (iii) financial hardships beyond the control of the property owner.

If the above good cause showing is made, the code enforcement officer or Department Director may, in their sole discretion, grant property owner an extension(s) of time not to exceed ninety (90) calendar days in total from the date of warning notice to correct the code violation. In the event the code violation is not corrected during this extended correction period, the code enforcement officer shall issue a civil violation notice to the property owner. Once a civil violation notice is issued, the property owner may apply for an extension of time for voluntary correction provided they (i) timely requested an administrative hearing before the Special Magistrate to appeal the decision of the code enforcement officer that resulted in the issuance of the civil violation notice and (ii) no more than ninety (90) calendar days total in extensions were previously granted to the property owner to correct the code violation since the initial warning notice. Under no circumstance shall the property owner be granted an extension of time more than ninety (90) calendar days in total to correct a code violation by the code enforcement officer or Department Director. The Special Magistrate may provide additional extensions of time upon the showing of good cause. Nothing in this section shall preclude a code enforcement officer or Department Director from dismissing a violation or citation for lack of sufficient evidence. Notwithstanding any other provisions in this section, the code enforcement officer or Department Director is not required to provide any extension(s) of time or provide extensions where the violation is deemed a life safety violation.

Upon final order of a Special Magistrate, a property owner shall be required to correct the violation within a time period not to exceed twenty four (24) months from the date of the final order, unless unforeseen circumstances beyond the reasonable control of property

owner, such as delays caused by the respective permitting agencies or Acts of God, prevent the property owner from obtaining said permit(s) within this not to exceed twenty four (24) month period. The Special Magistrate may provide additional time if good cause is shown.

- B. If upon reinspection of the violation, which prompted the issuance of the warning notice of violation, said violation has not been corrected, the violator shall be subject to the issuance of a civil violation notice and liable for the associated civil penalties.

- C. If a Code Enforcement Officer has reason to believe that the violation represents a serious threat to the public health, safety or welfare, if the violation is a recurring violation as defined herein, or if the violation is an uncorrectable violation as defined herein, the warning period shall not be applicable and the civil violation notice may issue immediately.

Section 3. 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, clause, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. 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 made a part of the City of Sunny Isles Beach Code; 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, as required.

Section 5. Repealer. All ordinances or part of ordinances in conflict herewith be and the same are hereby repealed

Section 6. Effective Date. This Ordinance shall become effective upon adoption on second reading.

PASSED and ADOPTED on first reading the _____ day of _____ 2017.

PASSED and ADOPTED on second reading the _____ day of _____ 2017.

George H. Scholl, Mayor

ATTEST:

Jane A. Hines, MMC, City Clerk

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Hans Ottinot, City Attorney

Moved by: _____

Seconded by: _____

Vote:

Mayor Scholl

_____(Yes)

_____(No)

Vice Mayor Goldman

_____(Yes)

_____(No)

Commissioner Aelion

_____(Yes)

_____(No)

Commissioner Gatto

_____(Yes)

_____(No)

Commissioner Svechin

_____(Yes)

_____(No)