

ORDINANCE NO. 4124

**AN ORDINANCE CREATING AMNESTY PERIOD;
CREATING A LIMITED EXCEPTION FROM CIVIL
PENALTIES AND LIENS FOR BUILDING CODE
VIOLATIONS UPON A HOMEOWNER'S COMPLIANCE
WITH THE BUILDING CODE AND/OR ADDITIONAL
CRITERIA; PROVIDING SEVERABILITY, INCLUSION IN
THE CODE, AND AN EFFECTIVE DATE.**

WHEREAS, effective March 1, 2002, the Florida Building Code governs all construction throughout Florida.

WHEREAS, any construction work commenced without a building permit prior March 1, 2002, or commenced under a building permit issued under the South Florida Building Code (SFBC) and has since expired prior to the issuance of a Certificate of Completion or Occupancy must be made to fully comply with the requirements set forth herein; and

WHEREAS, any construction work commenced without a building permit after March 1, 2002, commenced under a building permit and has since expired prior to the issuance of a Certificate of Completion or Occupancy must be made to fully comply with the requirements set forth herein; and

WHEREAS, this Commission wishes to encourage compliance while being mindful of the hardships that result to homeowners from the strict application of the City's system of fines and penalties relating to building code violations; and

WHEREAS, to accomplish these purposes, this Commission wishes to create a limited exception from civil penalties and liens resulting from Building Code violations upon a homeowner's compliance with the Building Code in the manner more particularly set forth below.

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

Section 1: Definitions

Applicant: One who applies and wishes to participate in the Amnesty Relief Program and shall be understood as the person with direct and beneficial ownership of the affected structure, but shall not include a financial institution which has acquired the home through foreclosure.

As-Built Certificates: Documents provided by a professional Florida licensed architect or engineer including a signed and sealed affidavit, stating that the plans and the work completed on the structure complies with the Building Code for Miami-Dade County in effect at the time of construction. The architect or engineer will specify the methodology used to inspect the areas not readily visible (foundation, wall reinforcement, etc.).

As-Built Plans: 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 Building Code for Miami-Dade County in effect at the time of the construction, and indicating in the drawings any work that will need to be done for compliance.

Existing Buildings: Those buildings constructed prior to March 1, 2002, as defined in Chapter 8-11 of Miami-Dade County Code and The Florida Building Code.

Legalization permits: Building or zoning permits issued pursuant to this Ordinance.

Participant: An Applicant who has participated and completed the Amnesty Program.

Permit issued by Affidavit: Permits will be issued by the City's Building Official in accordance with the Florida Building Code §105.14, as amended. Thus, when a permit is issued relying upon an affidavit or when work to be covered by a permit involves installation under conditions which the Building Official opines are hazardous or complex, the Building Official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations must supervise such work. In addition, the architect or engineer shall be responsible for conformity to the permit, provide copies of inspection reports as inspections are performed, and upon completion, make and file with the Building Official written affidavits that the work has been done in conformity to the reviewed plans and with the structural provisions of the technical codes.

Section 2: Upon application of a homeowner, for any construction work commenced without a building permit prior March 1, 2002, or commenced under a building permit issued under the South Florida Building Code (SFBC) and has since expired prior to the issuance of a Certificate of Completion or Occupancy, the City shall waive any and all civil penalties related to the enforcement in connection with a structure, and all liens related to such civil penalties, provided the homeowner satisfies each of the following conditions:

- a. The Applicant shall furnish a set of As-Built Plans, as defined in this Article, of the building or structure;
- b. The Applicant shall furnish an As-Built Certificate satisfactory to the Building Official issued by a Florida registered engineer or architect. The Florida registered engineer or architect will attest via affidavit based on knowledge, belief

and professional judgment, and based on an inspection of the structure, that the structure can be legalized. The As-Built Certificate shall contain a narrative description of the 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 accuracy of the As-Built Certificate provided by an engineer or architect. More particularly, the affidavit will attest that the structure:

1. is structurally sound, and complies with the FEMA zone requirements for minimum floor elevation;
 2. satisfies the requirements of the building and zoning code(s) 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 building and zoning code(s) in effect on that date;
 3. complies with all safety minimum requirements identified below;
 4. complies with the permit application and any plans approved by the Building Official; and
- c. The As-Built Certificate and plans must indicate that the structure will comply with all of the following life-safety minimum requirements of the current Florida Building Code (FBC):
1. Means of egress or escape;
 2. Requirement of shutters;
 3. Residential single station smoke detectors - installed in accordance with NFPA (1999 edition);
 4. Requirement for ground fault interrupters, bathroom and kitchen;
 5. Requirement for full size pressure and temperature relief valve lines on all water heaters;
 6. Handicapped 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.
- d. Prior to issuing the Certificate of Completion or Occupancy, the Building Official shall conduct an inspection to determine whether:
1. The plans submitted reflect the present state of the structure; and
 2. The structure complies with all requirements of the current Building Code identified above; and
 3. The As-Built Certificate represents accurately the condition of the structure.

Section 3. Upon application of a homeowner, any construction work commenced without a building permit after March 1, 2002, commenced under a building permit and has since expired prior to the issuance of a Certificate of Completion or Occupancy must be made to fully comply with the requirements of the Florida Building Code as provided below, the City shall waive any and all civil penalties related to the enforcement in connection with a structure, and all liens related to such civil penalties, provided the homeowner satisfies each of the following conditions:

- a. The Applicant shall furnish a set of As-Built Plans, as defined in this Article, of the building or structure;
- b. The Applicant shall furnish an As-Built Certificate satisfactory to the Building Official issued by a Florida registered engineer or architect. The Florida registered engineer or architect will attest via affidavit based on knowledge, belief and professional judgment, and based on an inspection of the structure, that the structure can be legalized. The As-Built Certificate shall contain a narrative description of the 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 accuracy of the As-Built Certificate provided by an engineer or architect. More particularly, the affidavit will attest that the structure:
 1. is structurally sound, and complies with the FEMA zone requirements for minimum floor elevation;
 2. satisfies the requirements of the building and zoning code(s) 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 building and zoning code(s) in effect on that date;
 3. complies with the permit application and any plans approved by the Building Official.

Section 4. The Amnesty Period shall commence on the effective date of this ordinance and end twelve (12) months thereafter. This ordinance shall not apply in the event that the City Commission has authorized a civil action to collect on the civil

penalties or to foreclose a lien. This ordinance shall not serve as a defense against any such action or against any enforcement action brought by the City.

Section 5. The Building Official is hereby directed to implement the necessary procedures and to develop the necessary documents to give effect this ordinance.

Section 6. All ordinances or portions of the Code of Ordinances of the City of Sweetwater in conflict with the provisions of this ordinance shall be repealed upon the effective date hereof .

Section 7. It is the intention of the Mayor and the City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention codifiers may change the words "ordinance" or "section" to other appropriate words.

Section 8. If any portion of this ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions of the ordinance.

Section 9. This ordinance shall become effective upon its adoption by the City Commission and approval by the Mayor or, if vetoed, upon its reenactment by the City Commission as provided by the Charter of the City of Sweetwater.

PASSED and ADOPTED this 7th day of December, 2015.



ORLANDO LOPEZ, Mayor


JOSE M. DIAZ, Commission President and
Vice Mayor

ATTEST:



MARIE O. SCHMIDT, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


GUILLERMO CUADRA, CITY ATTORNEY

VOTE UPON ADOPTION:

JOSE M. DIAZ, COMMISSION PRESIDENT
JOSE W. BERGOUIGNAN, JR., COMMISSION VICE PRESIDENT
PRISCA BARRETO, COMMISSIONER
MANUEL DUASSO, COMMISSIONER
IDANIA LLANIO, COMMISSIONER
ISOLINA MAROÑO, COMMISSIONER
EDUARDO M. SUAREZ, COMMISSIONER


yes
yes
yes
yes
yes
yes
yes