

ORDINANCE No. 2015-42

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING CHAPTER 53, "ADMINISTRATION," OF THE CITY'S LAND DEVELOPMENT CODE BY PROVIDING FOR REVISED PROCEDURES FOR REQUESTING, NOTICING, CONSIDERING, AND GRANTING VARIANCES OF THE LAND DEVELOPMENT CODE; REVISING APPELLATE PROCEDURES FOR APPROVAL OR DENIAL OF THE SAME; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Doral (the "City") desires to have efficient methods by which individuals and entities in the community may seek relief from the City Code of Ordinances; and

WHEREAS, the Mayor and City Council find that the adoption of this Ordinance, which streamlines the procedures for variances of the Land Development Code, to be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made a part of hereof by this reference.

Section 2. Code Amended. The Code of Ordinances of the City of Doral is hereby amended as follows:

CHAPTER 53 – ADMINISTRATION

ARTICLE X – VARIANCES

* * *

DIVISION 2. – VARIANCE PROCEDURE

* * *

Sec. 53-465. - Application for all other variances.

(a) Application for variance shall be made on the appropriate forms provided by the department for that purpose, and shall be accompanied by the appropriate review fee. Except where modified by the specialized procedures above, variances shall be considered as follows:

- (1) Applications for variance shall be submitted in accordance with the adopted critical dates calendar and scheduled for the ~~corresponding local planning agency~~ Council zoning meeting dates.

* * *

Sec. 53-466. - Notification of public hearings.

(a) Except where modified by the specialized procedures noted in this chapter, all variance requests shall be considered at public hearings, which shall be noticed as follows:

- (1) Adjoining owners. The city shall send notices of the proposed variance to the owners of all adjoining properties to the subject property. Such notices shall include the date, time and place of the public hearing before the ~~local planning agency~~ City Council, along with a clear and concise description of the proposed variance. For the purposes of such notification, adjoining properties shall include those properties separated from the subject property by a road, canal, easement, right-of-way, or similar barrier of 500 feet or less in width.

* * *

Sec. 53-467. - Procedure for public hearing.

(a) ~~Local planning agency action. The local planning agency shall consider every variance request at the public hearing noticed in this section. A decision of the local planning agency to vary the application of any provision of this Land Development Code shall specify the variance granted, the conditions upon which it is granted and the reasons therefor.~~

(b) ~~Appeals to city council. Any party aggrieved by a decision of the local planning agency on a requested variance shall have the right to appeal the local planning agency's decision to the city council by filing a written request for appeal with the administrative official, accompanied by the appropriate fee no later than the closure of the fifth business day after the~~

~~rendition of the local planning agency's decision on the requested variance. For the purposes of this section, the term "an aggrieved party" means the applicant, adjoining property owners, or any person sufficiently affected by the action taken so as to have a legally protectible and tangible interest at stake (standing), provided such person was also present at the public hearing and entered testimony into the record. The administrative official shall schedule the appeal for the next available city council agenda and notify the applicant and the appellant.~~

- (a) ~~Appeals to Hearing before city council. At a duly-noticed, public hearing, the city council shall consider all information presented in the variance application and any testimony and/or evidence presenting during the hearing associated therewith, the review criteria established under this Land Development Code for variance requests, and the recommendation of the City staff on the requested variance. An affirmative decision of the city council to vary the application of any provision of this Land Development Code shall specify the variance granted, the conditions upon which it is granted and the reasons therefor.~~
- (c) ~~City council review on appeal. Upon appeal, the city council shall consider all facts presented during the local planning agency hearing, the review criteria established under this Land Development Code for variance requests, and the local planning agency's decision on the requested variance.~~
- (b) Appeal of variances. An aggrieved party may appeal a final decision of the city council on requested and approved variance to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the local planning agency and the city council. An appeal shall be filed within 30 days of the rendition of the decision to be appealed.

* * *

Section 3. Implementation. The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

Section 4. Incorporation into the Code. The provisions of this Ordinance, to the extent appropriate, shall become and be made a part of the Code of Ordinances of

the City of Doral. The City Clerk is authorized to take all actions necessary to incorporate the provisions of this Ordinance into the Code of Ordinances, including, but not limited to, renumbering or relettering sections and to change and that the word “ordinance” may be changes to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intention.

Section 5. 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, clauses, 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 6. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption.

The foregoing Ordinance was offered by Councilmember Cabrera who moved its adoption. The motion was seconded by Vice Mayor Ruiz and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Sandra Ruiz	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED on First Reading this 16 day of September, 2015.

PASSED AND ADOPTED on Second Reading this 21 day of October, 2015.



LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE SOLE USE
OF THE CITY OF DORAL



WEISS, SEROTA, HELFMAN, COLE, & BIERMAN, PL
CITY ATTORNEY