



MEMORANDUM

Agenda Item No. 1(D)2

TO: Honorable Chairperson Barbara Carey- Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: September 9, 2004

FROM: George M. Burgess
County Manager

SUBJECT: Sunset Review of County
Boards for 2004 – Unsafe
Structures Board

RECOMMENDATION

It is recommended that the Board approve the continuation of the Unsafe Structures Board.

BACKGROUND

The Chairperson and its members approved the Annual Sunset Report at its meeting of April 21st, 2004, and staff concurs.


Pedro Hernandez, P.E.
Assistant County Manager

2002-03 BI-ANNUAL REPORT
MIAMI DADE COUNTY
UNSAFE STRUCTURES BOARD

JANUARY 2004

Submitted to:

Mr. George M. Burgess
County Manager
Miami Dade County

**BI-ANNUAL SUNSET REVIEW
MIAMI-DADE COUNTY BOARDS
JANUARY 2004**

I. GENERAL INFORMATION

(1) Name of Board Reporting:

UNSAFE STRUCTURES BOARD

(2) Indicate number of board members, terms of office, and number of vacancies:

The Unsafe Structures Board consists of 13 members who are appointed by the Board of County Commissioners of Miami Dade County, Florida. Refer to Appendix "A"

(3) Identify number of meetings and member's attendance (last 24 months) (Activity from Jan. 1, 2002 through December 31, 2003):

Refer to Appendix "B" for the Committee attendance report.

(4) "What is the source of your funding?"

The Unsafe Structures Board receives its funding through the Board fees collected from the various municipalities who present formal cases.

(5) Attach a copy of the ordinance creating the board and it's bylaws or standard operating procedures.

Refer to Appendix C.

(6) Attach a copy of the Board minutes approving the Sunset review, including a vote of the membership.

Refer to Appendix D.

II. EVALUATION CRITERIA

(1) "Is the Board serving the purpose, for which it was created?"

Yes, the Unsafe Structure Board has meet monthly to review the decision of Building Officials regarding the safety of structures and hear interested parties appeals on these matters. The members met at least once every month over the past two years except for January, February and June of 2002 and May July and December of 2003, when quorum was not obtained. It is the opinion of the members of the Unsafe Structure Board that the board has continued to fulfill its duties as defined in Chapter 8 of the Code of Miami-Dade.

(2) "Is the board serving current community needs?"

Yes, the work of the Unsafe Structure Board has been performed with the full participation of various municipalities and the general public. The process has been a total participatory effort in

which all interested parties have been notified and have been active in the decision-making process. It is the opinion of the members of the Unsafe Structure Board that the needs of our community have been well served.

(3) **"What are the boards' major accomplishments?"**

- (a) Ordered the demolition of 82 structures and the repair of 148 properties during the year 2002 and ordered the demolition of 116 structures and the repair of 283 properties during the year 2003 (Refer to Appendix "E").
- (b) Continued to provide process for safer buildings and structures for the community.

(4) **"Is there any other board, either public or private which would better serve the function of the board?"**

There is no other public or private board acting with the functions of the Unsafe Structure Board.

(5) **"Should the ordinance creating the board be amended to better enable the board to serve the purpose for which it was created?"**

No, the Unsafe Structure Board should remain as an independent board to better serve the interest of the Commission and public at large.

(6) **"Should the board's membership requirements be modified?"**

Yes, it should be modified to change quorum requirements to five members. The current membership quorum requirement of seven is straining for the Board's ability to function, because there are presently only seven members seated at this time. The return to the prior quorum member level of five would assure quorum and fulfill the obligation to the community's needs.

The nomination of new members should be done diligently, whenever there are vacancies, in order to maintain the effectiveness of the Board. Significant numbers of vacancies have lead to difficulty with meeting quorum requirements over the past two years.

(7) **"What is the operating cost of the board, both direct and indirect."**

Direct and indirect cost for the Committee fiscal year 2001-2002 was approximately \$156,280 and \$24,571 respectively. The direct and indirect cost for fiscal year 2002-2003 was approximately \$164,296 and \$33,197 respectively.

(8) **"Describe board's performance measures developed to determine its own effectiveness in achieving its stated goals"**

The Unsafe Structure Board has been addressing efficiently and rapidly all issued related to unsafe structures in Miami Dade. The Board has been operating in full compliance within the authority outlined in Chapter 8 of the Code of Miami-Dade County.

The Unsafe Structures Board measures its effectiveness by the number of structures or cases reviewed and ordered repaired or demolished. Refer to Exhibit "E".

APPENDIX A

APPOINTMENTS
MIAMI-DADE COUNTY
UNSAFE STRUCTURES BOARD

| <u>Members</u> | <u>Category</u> | <u>Commissioner</u> | <u>Term/Expiration</u> |
|------------------------|-----------------------------|----------------------------|-------------------------------|
| Williams, Walter | General Public | Ferguson | (3) 10/31/04 |
| Vera, Jose | General Public | Souto | (3) 10/31/06 |
| Starkweather, James R. | Electrical Contractor | Martinez | (3) 10/31/04 |
| Cueva, James A. | General Public | Morales | (3) 10/31/04 |
| Deeb, Kevin | Real Estate Appraiser | Sosa | (3) 10/31/06 |
| Milian, Alberto | Attorney at Law | Heyman | (3) 10/31/06 |
| Loader, Gordon B. | Plumbing Contractor | Barreiro | (3) 10/31/04 |
| Ramirez, Abel | General Building Contractor | Diaz | (3) 10/31/02 |

| <u>Vacancies</u> | | | <u>Term</u> |
|---|------------------------------|--------------|--------------------|
| Woodard, Harland (Resigned) | Registered Architect | Rolle | (3) |
| Babl-Loy (Resigned) | Real Estate Property Manager | Seijas | (3) |
| Hayes, Orange (Removed due to poor attendance) | General Public | Carey-Shuler | (3) |
| Trowbridge, Mark A. (Resigned) | Social Service | Sorenson | (3) |
| Crooks, Enrique A. (Removed due to poor attendance) | Registered Engineer | Moss | (3) |

APPENDIX B

**2002 Unsafe Structures Board Members Attendance
Meeting Dates**

| Board Member Name | 01/16/02 | 02/20/02 | 03/20/02 | 04/17/02 | 05/15/02 | 06/19/02 | 07/17/02 | 09/18/02 | 10/16/02 | 11/13/02 | 12/11/02 | |
|---------------------|----------------------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|--|
| Babl-Loy, Kathy | RESIGNED ON JULY 19, 2000 | | | | | | | | | | | |
| Childs, Harry | P | P | P | P | P | E | P | NOB | NOB | NOB | NOB | |
| Crooks, Enrique | E | E | E | E | E | E | E | P | P | P | P | |
| Cueva, James | P | P | P | P | P | P | P | P | P | E | P | |
| Hayes, Orange | A | A | A | A | A | A | A | A | A | A | A | |
| Loader, Gordon | E | P | P | P | P | P | P | P | P | P | P | |
| Michelson, Laurence | P | P | P | P | P | E | P | P | P | P | E | |
| Ramirez, Abel | P | E | P | P | P | P | P | P | P | P | E | |
| Starkweather, James | NOB | NOB | NOB | NOB | NOB | NOB | NOB | P | P | P | P | |
| Trowbridge, Mark | NOB | NOB | P | P | P | E | P | P | P | P | P | |
| Vera, Jose | P | P | P | P | P | P | P | P | P | P | P | |
| Williams, Walter | E | E | P | P | P | E | P | P | P | P | P | |

*Unsafe
Structures
Board in
Recess for
August*

Legend:
A - Absent
E - Excused
P - Present
R - Resigned
T - Terminated
NOB - Not Serving at the time

2

2003 Unsafe Structures Board Members Attendance Meeting Dates

| Board Member | 01/22/03 | 02/19/03 | 03/19/03 | 04/19/03 | 04/30/03 | 05/21/03 | 06/11/03 | 06/18/03 | 07/16/03 | August | 09/17/03 | 10/15/03 | 11/19/03 FTAA Week | 12/17/03 |
|---------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|---|----------|----------|--------------------------|----------|
| Crooks, Enrique | E | E | E | E | P | E | P | P | E | <i>Board in Recess for August</i> | P | E | E | T |
| Cueva, James | P | P | P | P | P | E | P | P | E | | P | P | E | E |
| Deeb, Kevin | NOB | P | P | P | P | E | P | P | P | | P | P | E | P |
| Hayes, Orange | A | A | A | A | A | A | A | A | A | | A | T | T | T |
| Loader, Gordon | P | P | P | E | E | E | P | E | E | | P | P | E | P |
| Milian, Alberto | P | E | P | P | P | P | P | P | P | | P | P | E | P |
| Ramirez, Abel | P | P | P | E | P | E | P | P | E | | P | P | E | P |
| Starkweather, James | P | P | P | E | P | E | P | P | P | | P | P | E | P |
| Trowbridge, Mark | P | P | E | P | P | E | P | E | E | | P | E | E | E |
| Vera, Jose | P | P | P | P | P | E | P | P | E | | P | P | E | P |
| Williams, Walter | P | P | P | P | P | E | P | P | P | | P | P | E | E |

Legend:

- A - Absent
- E - Excused
- P - Present
- R - Resigned
- T - Terminated
- NOB - Not Serving at the time

APPENDIX C

Approved _____ Mayor
Veto _____
Over _____

Amended
Substitute
Agenda Item No. 4(A)
7-10-01

..
ORDINANCE NO. 01-112

ORDINANCE REPEALING THE SOUTH FLORIDA BUILDING CODE; CONFORMING BUILDING CODE ADMINISTRATION AND ENFORCEMENT PROVISIONS TO THE REQUIREMENTS OF THE FLORIDA BUILDING CODE; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT OF THE BUILDING CODE THROUGHOUT MIAMI-DADE COUNTY; CONFORMING FUNCTIONS OF BOARD OF RULES AND APPEALS, UNSAFE STRUCTURES BOARD, AND BUILDING CODE COMPLIANCE OFFICE TO REQUIREMENTS OF THE FLORIDA BUILDING CODE; DESIGNATING THAT THE BOARD OF RULES AND APPEALS AS THE COUNTYWIDE REVIEW BOARD TO REVIEW AMENDMENTS TO BUILDING CODE FOR COMPLIANCE WITH THE LAW; ELIMINATING FORMER BUILDING CODE AND PRODUCT REVIEW COMMITTEE; CREATING PRODUCT REVIEW COMMITTEE WITHIN THE BOARD OF RULES AND APPEALS; AMENDING NOTICE REQUIREMENTS TO SIMPLIFY PROCEDURES FOR CASES BEFORE UNSAFE STRUCTURES BOARD; SUPPLEMENTING PERMITTING REQUIREMENTS OF THE FLORIDA BUILDING CODE; DELETING REQUIREMENT OF STATEMENT OF INSPECTION BY ARCHITECTS AND ENGINEERS; PROVIDING FOR CERTIFICATION AND RECERTIFICATION OF BUILDING CODE ENFORCEMENT PERSONNEL; DELETING LOCAL QUALIFICATION REQUIREMENTS FOR CERTAIN CODE ENFORCEMENT PERSONNEL; DELETING LOCAL DISCIPLINARY AUTHORITY RELATING TO CODE ENFORCEMENT PERSONNEL; ESTABLISHING LOCAL PRODUCT APPROVAL; AMENDING AND RESTATING CHAPTER 8 OF THE CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:

10

//

Section 1. The South Florida Building Code is hereby repealed. Chapter 8 of the Code of Miami-Dade County is hereby amended and restated in its entirety as follows:

CHAPTER 8. BUILDING CODE

Article I. Administration

Sec. 8-1. The Building Code. The Florida Building Code, as complemented and supplemented by the Administration (Article I) and Enforcement (Article II) provisions of this Chapter, as amended through local technical amendments (Article III), if any, together with the product approval sections (Article IV of this Chapter) as amended from time to time, is the building code for both the incorporated and unincorporated areas of the County and is hereby adopted as a uniform building code for Miami-Dade County.

Sec. 8-2. Incorporation of Florida Building Code. Adoption of Optional Provisions.

The provisions of the Florida Building Code as applicable to High Velocity Hurricane Zones are hereby incorporated by reference. The Florida Building Code will not be repeated or restated in this Chapter except where necessary to provide clarity. The following provisions of the Florida Building Code are hereby adopted and made applicable to Miami-Dade County:

(a) The High Velocity Hurricane Zone roofing requirements with accompanying Roofing Application Standards (RAS) (Florida Building Code Sec. 1512.2).

Exception: The prescriptive BUR requirements in RAS 150 shall not be implemented in Miami-Dade County (Florida Building Code RAS 150).

(b) Appendix A Weight of building materials.

(c) Appendix B Chapter 9B-52, Florida Standard for Passive Radon-Resistant New Residential Building Construction.

(d) Appendix C Chapter 9B-53, Standard for Mitigation of Radon in Existing Buildings.

(e) Appendix D The Secretary of the Interior's Standard for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

(f) Appendix E Chapter 9B-67, Florida Standard for Radon-Resistant New Commercial Building Construction.

- (g) Appendix F Florida Standard for Radon-Resistant New Residential Building Construction.
- (h) Appendix G Florida Standard for Radon-Resistant New Commercial Building Construction.
- (i) Appendix H Florida Standard for Mitigation of Radon in Existing Buildings.

Section 8-3 Definitions.

Unless specifically defined elsewhere in this chapter, the definitions provided in this Section shall apply.

- (a) "Appointing Authority" shall mean any and all municipal governments within geographic Miami-Dade County, and with respect to unincorporated Miami-Dade County, the Board of County Commissioners of Miami-Dade County, acting through its appointed officers.
- (b) "Authority having jurisdiction" as used in the Florida Building Code, shall mean Miami-Dade County, Florida, through its Board of County Commissioners.
- (c) "Building Code" the Florida Building Code as complemented and supplemented by the provisions of this Chapter.
- (d) "Florida Building Code" the unified building code for the State of Florida, adopted by the Florida Building Commission pursuant to Fla. Stat. Section 553.73 et. seq., as the same may be amended from time to time.
- (e) "Field experience" is the experience gained at actual construction sites where the full spectrum of practical situations and problems arising in the trade are found; drafting, estimating, designing, other office work or maintenance or service installations do not satisfy the requirement.

Section 8-4. Board of Rules and Appeals.

- (a) General. The Board of Rules and Appeals is created as the construction regulation board entrusted with overseeing the uniform enforcement of the Building Code and maintaining the proper standard of construction throughout Miami-Dade County. The Board shall have exclusive jurisdiction in both the incorporated and unincorporated areas of Miami-Dade County with respect to its powers, duties and functions.
- (b) Membership. Membership of the Board shall be as follows:

12

13

(1) The Board shall contain 19 members, representing the following disciplines: 2 architects, 2 general contractors, each of whom shall be experienced in residential and commercial construction respectively, 1 roofing contractor, 1 structural engineer, 1 mechanical engineer, 1 electrical engineer, 1 mechanical master or mechanical contractor, 2 representatives of the fire services, 1 electrical master or electrical contractor, 1 plumbing master or plumbing contractor, and 6 non-professional persons. Non-professional persons shall include one representative of the disabled community, one representative of the South Florida Building Trades Council, one person nominated by the Miami-Dade County League of Cities, Inc., one developer and one representative of a homeowner association. The representative of the homeowner association shall be qualified by training or experience to pass on matters pertaining to construction and shall not be related directly or indirectly to the construction industry. With the exception of the representatives of the fire services and the elected official of a municipality nominated by the Miami-Dade County League of Cities, Inc., no member of the Board shall be an officer, agent or employee of the County or any municipality governed by this Code. All members of the Board except the nominee of the Miami-Dade County League of Cities, Inc., shall have been active in their respective profession, trade, or occupation for not less than 10 years.

(2) All members shall be residents of, and have their principal business within Miami-Dade County. The membership of the Board should be representative of the community at large and should reflect the racial, gender, and ethnic make-up of the community.

(3) The members who are architects or engineers shall be qualified by being currently registered in the State of Florida and having practiced as architects or engineers within Miami-Dade County for not less than 10 years immediately preceding their appointment.

(4) The members who are general contractors shall be qualified by having a current certificate and having been certified by the State of Florida or by Miami-Dade County as general contractors for not less than 10 years immediately preceding their appointment. The member who is a roofing contractor shall be qualified by having a current certificate and having been certified by the State of Florida or by Miami-Dade County as a roofing contractor for not less than 10 years immediately preceding his or her appointment.

(5) The members who represent the Fire Service shall be State of Florida currently certified Fire Fighters and shall be qualified by knowledge and expertise in the area of life-safety including but not limited to the rules and regulations of the State Fire Marshall, NFPA 101, the means of egress requirements of the Florida Building Code, and other fire safety codes.

(6) The member nominated by the Miami-Dade County League of Cities, Inc. shall be an elected official of a municipality organized and existing under the laws of the State of Florida.

B

14

(7) The members who are masters shall be qualified by being active in their trade for a period not less than 10 years and having a current certificate as master or contractor issued by Miami-Dade County or by the Florida Construction Industry Licensing Board.

(c) Appointment.

(1) The members of the Board of Rules and Appeals shall be nominated and appointed by the Board of County Commissioners, each to select one (1) member to occupy positions in the Board, with the remaining six (6) members to be nominated and appointed by the Board of County Commissioners as a whole. The Board of County Commissioners may also remove members of the Board.

(2) Board members shall be appointed for a term of 3 years except that to fill a vacancy or to provide continuity of the Board in general, such appointments may be for a term of less than 3 years. No Board member shall serve for more than three full consecutive three-year terms. The Chairman of the Board of Rules and Appeals shall not serve for more than three one-year terms.

(3) A vacancy in the membership of the Board, occurring during a term, shall be filled by appointment of an individual representing the same trade, profession or occupation as the vacating member, who shall also meet the requirements for appointment to the position. Such interim appointment shall be for the remainder of the term.

(4) Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses in the performance of their official duties upon approval of the Board of County Commissioners.

(d) Powers and Duties of the Board.

(1) The Board of Rules and Appeals shall be the board of appeals for decisions of building officials throughout the incorporated and unincorporated areas of Miami-Dade County. The Board shall hear all appeals from the decisions of the Building Official wherein such decision is on matters regulated by the Building Code from any person aggrieved thereby. Application for appeal shall be in writing and addressed to the Secretary of the Board. The Board shall have the power to affirm, modify or reverse the decision of the Building Official wherein such decision is on matters regulated by the Building Official.

(2) The Board shall pass on all matters pertaining to the Building Code and referred to the Board by the Secretary to the Board or any Building Official for interpretation or clarification. The Board of Rules and Appeals may interpret the provisions of the Building Code to cover a special case if it appears that the provisions do not definitely cover the point raised, or that the intent of the provision is not clear, or that ambiguity exists in the

14

15

wording; but it shall have no authority to grant variances where the Building Code is clear and specific.

(3) The Board of Rules and Appeals, upon direction of the Board of County Commissioners, or upon its own initiative, shall conduct investigation into the enforcement of the Building Code, and shall have the power to suspend or revoke any permits issued thereunder, after a hearing at which interested persons may appear and be heard and evidence indicates that the best interests of the public are served by such action, except in regard to the qualification of the applicant for permit.

(4) The Board of Rules and Appeals shall be the local construction regulation board authorized and entitled to deny, suspend, revoke or condition the authority of contractors certified or registered to obtain permits throughout the incorporated and unincorporated area of Miami-Dade County, all in accordance with the provisions of Section 489.113 (4) (b) of the Florida Statutes. The Chairman of the Board shall appoint a panel of at least three (3) Board members to serve as a probable cause panel in connection with those proceedings. The probable cause panel shall conduct a hearing pursuant to notice for the purpose of determining whether the report or complaint of the Secretary to the Board establishes that probable cause exists to support the requisite elements for suspension or revocation of permitting privileges as set forth in this section. If the probable cause panel finds no such cause, the case shall be dismissed without further action of the Board. If the probable cause panel finds cause, it shall instruct the secretary to notify the contractor to appear before the Board not sooner than twenty (20) days from the date of service of the letter to show cause why their permitting privileges should not be suspended or revoked.

(5) The Board of Rules and Appeals may recommend to the elected officials any desired amendments or revisions to the Building Code.

(6) The Board shall have the duty to accept, review and approve or disapprove applications for certification and recertification as a condition of employment or continued employment by any inspection authority regulated by this Code in accordance with Article II of this Chapter. The Board shall also have the authority to suspend or revoke the certification of enforcement personnel for failure to meet the minimum qualifications set forth in Article II below.

(7) The Board shall have the powers as specified in Section 8-5 below "Unsafe Structures."

(8) When it is deemed necessary by the Board, it may request experienced and technical advice on any specific subject or subjects from any qualified person or persons, and such request may be for personal appearance at a specific Board meeting or for written analysis of the specific problem. The Board may establish panels of industry, either standing or temporary, for technical analysis of specific subjects.

15

16

(9) The Board shall, upon application from any person aggrieved hereby, hear appeals of the decisions of its Product Review Committee. The Board shall have the power to affirm those decisions and by two third's (2/3) vote of the Board's members to modify or reverse the decisions of its Product Review Committee.

(10) The Board shall be the countywide review board established in the Florida Building Code to review amendments to the Florida Building Code for a determination of such amendment's compliance with the provisions of law. The Board shall, upon petition by any substantially affected party, conduct a hearing to determine whether the amendment complies with the provisions of the Florida Building Code.

(11) The Board of Rules and Appeals shall review, approve, reject or condition the use of construction products, materials, and assemblies as permitted by law, all in accordance with the administrative order governing product approval to be approved by this Board. The Board of Rules and Appeals may delegate, by rule, its product approval function to a committee of the Board, to be established in accordance with this Section. The Committee shall consist of not fewer than three (3) members of the Board who shall constitute a quorum for product approval decisions if so authorized by the Board.

(12) From the effective date of this Code, the authority of the Board of Rules and Appeals is retained by the Board of County Commissioners. By exception, the authority conferred upon the Board of Rules and Appeals by Section 8-4 (d) (10) relating to challenges of amendments effected by the Board of County Commissioners, shall be exercised solely by the Board of Rules and Appeals.

(e) Conduct of Board Meetings and Hearings.

(1) Meetings of the Board of Rules and Appeals shall be held at the call of the Chairperson and not less frequently than once per quarter. Notice of hearing shall be provided to parties with an interest in the matter at issue.

(2) The Board shall elect a chairperson and vice chairperson and such other officers as may be necessary from among its members. Terms of officers so elected by the Board shall be for one (1) year. A detailed record of all proceedings shall be kept on file in the office of the Secretary to the Board.

(3) The Board may establish rules and regulations for its own procedure.

(4) All hearings shall be open to the public, and any given person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard.

(5) The hearing shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the

conduct of serious affairs, regardless of the existence of any common law or statutory rules that might make improper the admission of such evidence over objection in civil actions.

(6) Witnesses may be sworn and subpoenaed by the Board in a like manner as they are by the court or courts in Miami-Dade County.

(7) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(8) The rules of privilege shall be effective to the same extent that they are now, or hereafter, may be, recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.

(9) A simple majority of the appointed members of the Board shall constitute a quorum. Decisions of the board shall be made by the vote of a majority of members present who constitute a quorum. The Board shall reach decisions without unreasonable or unnecessary delay, but in no event shall a decision be made later than 120 days following the initial hearing on the matter unless a report indicating the reason for an additional delay is provided to the Board of County Commissioners.

(10) Written notice of Board decisions shall be signed by the Secretary and shall be filed with the Secretary and furnished to the appellant within ten days of the Board's action and to other persons appearing before the Board upon request.

(11) All affected parties shall take immediate action in accordance with decisions of the Board.

(f) Duties of Legal Counsel.

It shall be the duty of the attorney for the Authority having jurisdiction, when so requested, to appear at all hearings before the Board of Rules and Appeals and to represent and advise the Board.

(g) Review of Board Decisions.

Appeals of decisions of the Board within the review jurisdiction of the Florida Building Commission shall be to the Florida Building Commission in the manner prescribed by law. Review of other decisions of the Board shall be to the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, as provided in the Florida Rules of Appellate Procedure for judicial review of administrative action.

Section 8-5. Unsafe Structures

17

18

(a) General.

(1) The Unsafe Structures Board is created to exercise throughout the incorporated and unincorporated areas of Miami-Dade County the powers and duties granted by this Section. The Board shall have exclusive jurisdiction in both the incorporated and unincorporated areas of Miami-Dade County with respect to its powers, duties and functions. The Board shall be entrusted with hearing appeals of decisions of Building Officials declaring structures to be unsafe where there is an immediate danger to the health and safety of the citizens, all in the manner prescribed in this Section.

(2) Buildings or structures that are, or hereafter shall become, unsafe, unsanitary or deficient, facilities with inadequate means of egress, or which constitute a fire or windstorm hazard, or are otherwise dangerous to human life or public welfare by reason of illegal or improper use, occupancy or maintenance, or which have been substantially damaged by the elements, acts of God, fire, explosion or otherwise, shall be deemed unsafe structures and a permit shall be obtained to demolish the structure or where specifically allowed by this section, to bring the building into compliance with the applicable codes as provided herein.

(3) Incomplete buildings commenced without a permit or for which the permit has expired, or completed buildings commenced without a permit or for which the permit has expired, prior to completion and no Certificate of Occupancy has been issued, shall be presumed and deemed unsafe and a permit shall be obtained to demolish the structure or bring the building into compliance with the applicable codes as provided herein.

(4) Buildings which meet the physical criteria of unsafe structures set forth in this section, and are ordered to be repaired by the Building Official or the Unsafe Structures Board, in the manner more particularly set forth below, which are not completed or repaired and brought into full compliance with the Building Code within the reasonable time allowed by the Building Official or the Unsafe Structures Board, shall be presumed and deemed unsafe.

(5) Swimming pools that contain stagnant water are deemed unsanitary and dangerous to human life and public welfare and shall be presumed and deemed unsafe.

(b) Physical criteria.

(1) A building shall be deemed a fire hazard and/or unsafe when:

(i) It is vacant, unguarded and open at doors or windows.

(ii) There is an accumulation of debris or other material therein representing a hazard of combustion.

(iii) The building condition creates hazards with respect to means of egress and fire protection as provided herein for the particular Occupancy.

18

19

- (2) A building, or part thereof, shall be presumed to be unsafe if:
- (i) There is a falling away, hanging loose or loosening of any siding, block, brick, or other building material.
 - (ii) There is a deterioration of the structure or structural parts.
 - (iii) The building is partially destroyed.
 - (iv) There is an unusual sagging or leaning out of plumb of the building or any parts of the building and such effect is caused by deterioration or over-stressing.
 - (v) The electrical or mechanical installations or systems create a hazardous condition contrary to the standards of the Building Code.
 - (vi) An unsanitary condition exists by reason of inadequate or malfunctioning sanitary facilities or waste disposal systems.
 - (vii) By reasons of use or occupancy the area, height, type of construction, fire-resistivity, means of egress, electrical equipment, plumbing, air conditioning or other features regulated by this Code do not comply with this Code for the use and group of occupancy.
- (3) A building, or part thereof, shall be presumed to be unsafe if:
- (i) The construction, installation of electrical, plumbing or other equipment therein or thereon, or the partial construction or installation of electrical, plumbing or other equipment has been commenced or completed without a permit therefor having been obtained or where the permit has expired prior to completion and the issuance of a Certificate of Occupancy or Certificate of Completion.
 - (ii) The construction, installation of electrical, plumbing or other equipment therein or thereon, or the partial construction or installation of electrical, plumbing or other equipment has not been completed.
 - (iii) The building or structure is vacant and abandoned, and covered at doors or windows with materials not previously approved by the Building Official, or for a period exceeding the maximum limitations set forth in this Section.
 - (iv) By reason of illegal or improper use, occupancy or maintenance does not comply with the Building Code, or the code in effect at the time of construction.

(v) ** The building or part thereof meets the physical criteria of an unsafe structure set forth above and has not been repaired and brought into compliance with the Building Code following the expiration of the reasonable periods allowed by the Building Official or the Unsafe Structures Board for such repairs.

(c) Valuation criteria:

(1) If the cost of completion, alteration, repair and/or replacement of an unsafe building or structure or part thereof exceeds 50 percent of its value, such building shall be demolished and removed from the premises. If the cost of completion, alteration, repair and/or replacement of an unsafe building or structure or part thereof does not exceed 50 percent of its value, such building or structure may be repaired and made safe, as provided herein.

(2) For purposes of application of this formula value shall be the estimated cost to replace the building in kind, excluding depreciation. The estimate shall be derived from multiplying the value of the square foot of construction used by the building department of the appointing authority to calculate the applicable permit fee. That estimate shall be broken down on a percentage basis into an estimate of the following critical elements of construction, as applicable: structural, roofing, other building, electrical, plumbing and mechanical ("Valuation of Construction Components"). The cost of completion, alteration, repair or replacement shall be estimated by application of the percentage of deterioration found on site for each of the critical elements of construction to the Valuation of Construction Components for the structure, to arrive at an overall estimated cost to repair the affected structure. The appointing authority shall by administrative order provide a form for the application of the formula set forth above for the various types of construction.

(3) If a building or structure may be repaired and made safe pursuant to the valuation criteria set forth above, and the building or structure is otherwise unsafe in accordance with the physical criteria set forth in this section, the Building Official may order such building or structure to be temporarily secured in the manner and subject to the limitations set forth in this Section. Such building must be completed and brought into full compliance with the Florida Building Code within such time as the Building Official or the Unsafe Structures Board may determine to be reasonable for such completion. If the building or structure is not temporarily secured, completed and brought into full compliance with the Florida Building Code within the reasonable periods allowed, such building or structure shall be demolished and removed from the premises.

(d) Inspection of unsafe buildings and structures:

The Building Official, on his own initiative or as a result of reports by others, shall examine or cause to be examined every building or structure appearing or reported to be unsafe, and if such is found to be an unsafe building or structure as defined in this section, the Building Official shall proceed in the manner set forth in this Section.

20

21

(e) Emergency action:

When in the opinion of the Building Official, there is actual or immediate danger of the failure or collapse of a building or structure, or there is a health, windstorm or fire hazard, he may order the occupants to vacate, temporarily close for use or occupancy the rights of way thereto, sidewalks, streets or adjacent buildings or nearby area and institute such other temporary safeguards, including securing the building or structure, as he may deem necessary under the circumstances, and may employ the necessary labor and materials to perform the required work as expeditiously as possible. In such event, the operation of the notice and hearing requirements of this Section shall be suspended as reasonably necessary in the opinion of the Building Official to redress the emergency situation. Costs incurred in the performance of such emergency work shall be paid by the appropriate governmental authority and upon the recording in the public records of this county a certificate executed by the Building Official, certifying the amount so expended, the same shall become a lien against the property involved.

(f) Unsafe structures meeting valuation criteria for immediate demolition.

(1) The provisions of this Subsection (f) shall apply to structures meeting the valuation criteria for demolition set forth above.

(2) The Building Official shall prepare a notice of violation. The notice shall state in summary form the nature of the defects which constitute a violation of this Section and shall order the structure to be demolished within such time as is reasonable, subject to extension when requested in writing within the reasonable discretion of the Building Official. The notice shall state that the specific details concerning the violations can be obtained in writing from the Building Official upon request. In addition, the notice will explain the right of appeal of the decision of the Building Official to the Unsafe Structures Board, and advise that unless the decision is appealed, the building or structure shall be demolished without further notice.

(3) The notice of violation shall be affixed to the structure concerned. The Building Official shall also affix to the structure notice of the hearing of the Unsafe Structures Board scheduled to consider any appeal of the decision of the Building Official in connection with the structure. The notice of hearing shall be issued by the Secretary of the Unsafe Structures Board advising persons to appear before the board to show cause why the decision of the Building Official should not be carried out. The hearing shall not be scheduled earlier than thirty days following the date of posting of the notice of hearing and notice of violation.

(4) The Building Official shall post a notice bearing his or her facsimile signature in a conspicuous location on the building or structure that has been determined to be unsafe. The posted notice shall read substantially as follows: "UNSAFE BUILDING". This building or structure is, in the opinion of the Building Official, unsafe. "THIS BUILDING SHALL BE VACATED--SHALL NOT BE OCCUPIED." Action shall be taken by the owner as prescribed by written notice. "THIS NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. DATE..."

21

22

(5) Within ten (10) working days of posting the notice of violation and notice of hearing, the Building Official shall send written notice of violation and notice of hearing to the owner and any interested party. For these purposes, the owner shall be the taxpayer as reflected in the most recently certified real property ad valorem tax roll of Miami-Dade County; provided however, where the records of the Dade County Property Appraiser indicate that ownership has changed, the owner shall be the taxpayer as reflected in those records. An interested party shall be the owner and any other person or entity who has previously requested real property ad valorem tax notices with respect to the subject property in accordance with Section 197.344 of the Florida Statutes, as the same may be renumbered or amended from time to time. The notice of violation and notice of hearing shall be sent by certified or first-class mail to all such parties' last known addresses as reflected in the records of the Miami-Dade County Property Appraiser. Failure to receive such notice, or the lack of a signed return receipt shall not invalidate the notice.

(6) Upon expiration of the period of appeal provided in the Notice of Violation, the Building Official may file an appropriate instrument in the Office of the Clerk of the Circuit Court to be recorded in the public records of this County, indicating that the property is in violation of the Building Code. The recording of the notice shall constitute constructive notice of the violation to all concerned, subsequent purchasers, transferees, mortgagees, lessees, grantees and all persons claiming or acquiring interest in the property. In the event that the violation is corrected, the Building Official shall file proof of the same upon payment for fees incurred.

(7) The Building Official shall publish a notice in a newspaper of general circulation once a week for two (2) consecutive weeks. The published notice shall contain the address of the subject property and the names of the owner and any interested party, and state that the subject property has been found to be in violation of the Building Code and subject to demolition. The published notice shall also state the time and place of the hearing scheduled before the Unsafe Structures Board.

(8) The notices provided in this Section are intended to serve as full and effective notice of the hearing and the violations related to the structure. Failure of one form of notice shall not invalidate or impair the full effectiveness of notice provided by other means pursuant to this Section.

(g) Unsafe Structures not meeting the valuation criteria for immediate demolition.

(1) If a building or structure may be repaired and made safe pursuant to the valuation criteria set forth above, and the building or structure is otherwise unsafe in accordance with the physical criteria set forth in this section, the Building Official may order such building or structure to be temporarily secured in the manner and subject to the limitations set forth in this Section. Such building must be completed and brought into full compliance with the Building Code within such time as the Building Official or the Unsafe Structures Board may determine to

22

23

be reasonable for such completion. If the building or structure is not temporarily secured, or once served, not completed and brought into compliance with the Building Code within the reasonable periods allowed, such building or structure shall be demolished and removed from the premises.

(2) The Building Official shall prepare a notice of violation. This written notice shall state in summary form the nature of defects which constitute a violation of this section and shall prescribe the action to be taken to comply and the time within which compliance must be accomplished, such time not to exceed ten (10) days to secure an open structure to the reasonable satisfaction of the Building Official ninety (90) days to obtain permits to repair the structure and one hundred and twenty (120) days bring it into compliance with the Building Code. This notice shall also state that the specific details concerning the violations can be obtained in writing from the Building Official on request. In addition, this notice will explain the right of appeal of the decision of the Building Official to the Unsafe Structures Board, and also advise that unless there is compliance with the directions of the Building Official a case will be commenced before the Unsafe Structures Board after time for compliance has expired, or that the Building Official's order will be enforced.

(3) The notice of violation shall be affixed to the structure concerned.

(4) Within ten (10) working days of posting the notice of violation, the Building Official shall send the written notice of violation to the owner and any interested party, in the same manner provided in Subsection (f) (5) above.

(5) In the event that the building or structure is not secured or brought into compliance with the requirements of the Building Code within the periods specified in the notice of violation, and no application for extension is made in the manner set forth in this Section, the Building Official may schedule the case for hearing before the Unsafe Structures Board to secure an order for demolition of the building or structure or to obtain any other appropriate remedy.

(6) In the event that the Building Official requests that the Secretary to the Board schedule a hearing, or the owner or interested party files a timely appeal of the decision of the Building Official, the Secretary to the Board shall issue a notice of hearing which shall be affixed to the property, mailed to the owner and interested party, in the same manner provided in Subsections (f) (3) and (f) (5) above. Notice of the hearing shall be published in the same manner provided in Subsection (f) (7) above.

(7) Upon expiration of the period of appeal provided in the Notice of Violation, if the property has not been secured or permits for repair obtained in the manner stipulated in the notice, the Building Official may file an appropriate instrument in the Office of the Clerk of the Circuit Court in the manner provided in Subsection (f)(6) above.

23

24

(8) The periods set forth in the Notice of Violation for bringing the structure into compliance with the Building Code may be extended by the Building Official for one or more additional periods which in the aggregate do not exceed an additional 180 days provided all of the conditions of this Subsection are met. Application for the extension must be made in writing by the interested party to the Building Official prior to the expiration of the period allowed for compliance, and shall set forth to the reasonable satisfaction of the Building Official that the extension is warranted by one or more of the following circumstances:

- (i) The interested party has a demonstrated financial hardship that will prevent the interested party from completing a building or structure;
- (ii) The interested party has filed a completed zoning hearing application which affects the final completion of the building or structure and which zoning hearing request has not received final approval or rejection from the applicable governmental agency, excluding any or all appeals to Court, for circumstances outside of the control for the interested party;
- (iii) The building or structure is a multiple dwelling structure as defined in the Building Code and demolition of any unit comprising that structure compromises the structural integrity of the entire multi-unit structure, where the completion of the structure is outside of the control of the interested party.
- (iv) The building or structure is the subject of pending litigation or foreclosure action that renders it impossible for the building or structure to be completed;
- (v) The building or structure is the subject of a good faith insurance claim, the proceeds of which are intended to be utilized for repair and completion;
- (vi) The building or structure is the subject of a pending sale to be closed within a reasonable time from the date the extension is requested, where the buyer has executed a written commitment to the Building Official to complete the structure within the applicable extension period.

The written application for extension shall further represent to the Building Official that the building or structure is and has at all times been in full compliance with all of the conditions set forth in this Subsection .

(9) Upon receipt of the written application, the Building Official shall be authorized to extend the date of full completion and compliance with the Building Code provided:

- (i) The completed written application demonstrates to the reasonable satisfaction of the Building Official that one or more of the conditions set forth above exist with respect to the building or structure; and

24

25

- (ii) The building or structure is not open, vacant or abandoned, having been secured at doors and windows in a manner acceptable to the Building Official.
- (iii) The interested party has paid all reasonable costs of enforcement.
- (10) Any interested party may appeal to the Unsafe Structures Board a decision to grant or deny the extension. Such appeal must be filed within 30 days of the date of mailing of the Building Official's written notice of his or her decision with respect to the application for extension.
- (h) Public hearing:
- (1) On the day established in the notice of public hearing the Unsafe Structures Board shall review all pertinent evidence and hear all testimony from the Building Official, the owner and other parties in interest and their respective witnesses.
- (2) The Board may order repair, securing, and/or demolition of the structure upon application of the standards set forth in this Section. The Board may modify, rescind, or uphold the decision of the Building Official as recited in the Notice of Violation. The Unsafe Structures Board shall modify or rescind a decision of the Building Official only upon a finding that the Building Official was in error in the interpretation or application of the Building Code. The Board shall not exceed the time frames allowed for repair and completion of buildings and structures specifically set forth in this Section except where the work involved reasonably requires such additional time.
- (3) Such order shall be entered in the minute book of the Unsafe Structures Board within 3 days after such public hearing and a copy of such order shall be forwarded to the owner, and all interested parties by registered or certified mail, and a copy thereof posted on the premises.
- (4) If the owner or those responsible shall fail to comply with the order of the Unsafe Structures Board within the time stipulated therein and such order is to repair, complete or secure the building to make safe, then the Building Official shall cause such building to be vacated, if occupied; and shall through his employees or through a contractor enforce the order of the Unsafe Structures Board or Building Official. Buildings shall be secured with concrete block or other materials of the same durability as determined by the Building Official. Swimming pools shall be secured by fencing or by using another approved method as determined by the Building Official.
- (5) If the order of the Unsafe Structures Board is to demolish the building or structure and to remove the salvage, contents, debris and abandoned property from the premises, and the owner or those responsible shall have failed to comply with such order, then the Building Official may do so. Swimming pools shall be demolished by removal of any stagnant water and

25

26

any above ground parts of the structure, breaking open the bottom and filling with sand or clean fill level to the existing grade.

(6) The Building Official may either sell to the highest bidder or bidders for cash the salvage and the contents of such building or other structure so demolished which have not been removed by the owner of the land or require the demolition contractor to dispose of the salvage and the contents of the structure demolished.

(i) Multi-Unit Structures

(1) This Subsection shall be applicable to all multi-unit structures. As used in this Subsection, the term multi-unit structures means all townhouses and other structures which contain units divided by one or more common walls, where the structural integrity of any component unit depends upon the structural integrity of one or more other units in the same structure. In the event that the owner or other interested party fails to comply with any order of the Unsafe Structures Board in connection with any multi-unit structure, then in addition to any other right or remedy contained in this Section, Miami-Dade County or any municipality with jurisdiction over such structure shall be authorized, but not required, to secure the structure in the manner set forth in this Subsection. In addition, and not in derogation of the use of other methods contemplated by this Section for enforcing the Building Code with respect to any structure, multi-unit structures may be secured by performing whatever work the Building Official may determine is reasonably necessary to preserve the structural integrity, watertightness, or safety of adjacent units or the surrounding community, which work may include, but not be limited to roofing, windows, and electrical.

(2) The procedures for enforcement of this Code set forth above shall be in addition to, and not in derogation of, other procedures available to the Building Official pursuant to the Building Code. The provisions of this subsection are not intended to exonerate any owner or other interested party from compliance with the Building Code or any order of the Unsafe Structures Board.

(j) Recovery of cost:

(1) All costs incurred pursuant to any of the provisions of this Section shall be paid by the owner or occupant of the premises on which the violation occurred.

(2) The Building Official shall file among his records an affidavit stating with fairness and accuracy the items of expense and the date of execution of actions authorized by this Section.

(3) The enforcing agency may institute a suit to recover such expenses against any liable person or may cause such expenses to be charged against the property on which the violation occurred as a lien or as a special assessment collectible according to established procedures.

26

27

(4) Except with respect to a lien imposed in accordance with Paragraph (3) of this Subsection, nothing in this Section shall be construed as placing a lien upon property that supersedes the lien of any mortgage on such property executed and recorded prior to the existence of a lien for enforcement costs.

(5) Any lien imposed pursuant to this Subsection shall be a lien prior in dignity to all liens, excepting county tax liens and liens of equal dignity with the county tax liens.

(6) Liens created pursuant to this Section may be discharged and satisfied by paying to the appointing authority the amount specified in the notice of lien, together with interest thereon from the date of the filing of the lien computed at the rate of twelve (12) percent per annum, together with the administrative costs, filing and recording fees and fees paid to file a satisfaction of the lien in the public records. When any such lien has been discharged, the appointing authority shall promptly cause evidence of the satisfaction and discharge of such lien to be recorded in the public records.

(7) The remedies and procedures for recovery of costs provided in this Subsection shall be in addition to and not in derogation of other provided in the Building Code or otherwise provided by law.

(k) Unsafe Structures Board:

The Unsafe Structures Board is hereby created, consisting of 13 members who shall be appointed by the Board of County Commissioners of Miami-Dade County, Florida.

(1) **Qualification of Members:** Members of the Board shall be permanent residents of Miami-Dade County who possess outstanding reputations for civic activity, interest, integrity, responsibility, and business or professional ability. The composition of the Board shall include a registered Engineer, a registered Architect, a General Building Contractor, an Electrical Contractor, an attorney, a Plumbing Contractor, a Real Estate Appraiser, a real estate Property Manager, and a citizen with experience and background in the field of social problems.

(2) **Terms of Office:** All appointments shall be for the term of 3 years, provided, however, that the term, in all instances, shall continue until a successor is appointed and qualified. Appointments to fill any vacancy on the Board shall be for the remainder of the unexpired term.

(3) **Organization of the Board:**

(i) The members of the Board shall elect a Chairman and a Vice Chairman and such other officers as may be deemed necessary or desirable, who shall serve

27

28-

at the will of the Board. Election of officers shall be held at the first meeting of February and such officers shall hold office for one year.

(ii) Five members of the Board shall constitute a quorum necessary to hold a meeting or take any action.

(iii) A majority vote of the membership present and voting at a duly constituted meeting of the Board shall be sufficient to overrule, modify or affirm any action or decision of the Building Official or to take any other action within the scope of the powers and duties of the Board.

(iv) Members shall serve without compensation; but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval by the appointing authority.

(v) No member of the Board shall sit as a voting member in any hearing on a matter in which he has a personal or financial interest.

(vi) The Director of the Miami-Dade County Building Code Compliance Office, or his designee, shall be the Secretary of the Board but shall have no vote.

(vii) The Chairman or the Secretary may call meetings of the Board, and meetings of the Board may be called by written notice signed by three members of the Board.

(viii) Minutes and records shall be kept of all meetings of the Board and all meetings shall be public.

(ix) All hearings shall be open to the public, and any person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard in person, or through his attorney.

(x) Witnesses may be sworn and subpoenaed by the Board in a like manner as they are subpoenaed by the court or courts in Miami-Dade County

(xi) The hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

28

(xii) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(xiii) The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions; and irrelevant and unduly repetitious evidence shall be excluded.

(xiv) The Board may establish rules and regulations for its own procedure.

(xv) The Secretary of the Board shall provide adequate and competent clerical and administrative personnel and such technical or scientific personnel as may be reasonably required by the Board for the proper performance of its duties, subject to budget limitations. The Secretary shall maintain a record of all proceedings, including but not limited to a court reporter's transcript of the proceeding, and may clarify the same as a true copy and make a reasonable charge therefor; provided, the court reporter shall certify the copy of his or her transcript.

(xvi) The Secretary of the Board shall provide a regular meeting place for the Board.

(4) Duties and Powers of the Board: The Board shall have the following duties, functions, powers and responsibilities:

(i) Hear and determine appeals from actions and decisions of the Building Official pursuant to the provisions of this Section.

(ii) Hear and review the application of the Building Official for the review of his or her action where his or her decision as indicated in a Notice of Violations has not been complied with.

(iii) Affirm, modify or reverse the decision of the Building Official upon appeal or on application for review.

(iv) The Board, through its Secretary, shall transmit the record with all exhibits, instruments, papers, and transcripts of its proceedings to the appointing authority in the event that authority shall wish to consider the matter.

(5) Duties of Legal Counsel. It shall be the duty of the attorney for the Authority having jurisdiction, when so requested, to appear at all hearings before the Unsafe Structures Board and to represent and advise the Board.

(l) Judicial Review:

29

30

Any person aggrieved by a decision of the Unsafe Structures Board may seek judicial review of that decision in accordance with the Florida Rules of Appellate Procedure. Any order, requirement, decision or determination of the Unsafe Structures Board shall be reviewed by the filing of a notice of appeal in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in accordance with the procedure and within the time provided by the Florida Rules of Appellate Procedure for the review of the rulings of any commission or board; and such time commences to run from the date that the Board's order, requirement, decision or determination sought to be reviewed is transmitted to the Secretary of the Board. The Secretary, or his duly authorized representative, shall affix to each order, requirement, decision or determination of the Board the date said order, requirement, decision or determination is transmitted. The Secretary to the Board shall be its clerk and shall comply with all requirements of the Florida Rules of Appellate Procedure.

Section 8-8. Building Code Compliance Office.

(a) General. The Building Code Compliance Office is hereby established to ensure that the Building Code is uniformly enforced throughout the incorporated and unincorporated areas of the County, and to perform those duties and functions enumerated in Section 8-8 (b) below. The Chief Building Code Compliance Officer shall be appointed by and shall serve at the will of the County Manager. The Chief Building Code Compliance officer shall serve as Secretary to the Board of Rules and Appeals and the Unsafe Structures Board. The Chief Building Code Compliance Officer shall be chosen on the basis of his/her qualifications and experience in the fields of building construction and the development and enforcement of construction regulations. Such individual shall be a professional engineer licensed to practice in the State of Florida under the provisions of Chapter 471, Florida Statutes; or an architect registered under the provisions of Chapter 481, Florida Statutes. The Chief Building Code Compliance Officer shall be responsible for the implementation of the directives of the Board of Rules and Appeals relating to the Building Code. The Chief Building Code Compliance Officer shall also be responsible for the approval of construction materials and assemblies pursuant to the provisions of the Building Code and the administrative order governing such approvals. The organization and operating procedures of this Office shall be described in administrative orders and regulations of the County Manager. The Manager shall appoint such employees and other personnel, including technical staff in each of the building trades, and sufficient administrative and clerical support to discharge the duties of the office. The salaries and compensation of all personnel, except employees within the classified service, shall be fixed by the Board of County Commissioners upon recommendation of the Manager. The Chief Building Code Compliance Officer shall be exempt from the classified service.

(b) Duties and Functions. The Building Code Compliance office shall perform the following duties and functions throughout the incorporated and unincorporated areas of Miami-Dade County:

30

31

(1) Administrative and legal support for the Board of Rules and Appeals and the Unsafe Structures Board;

(2) Conducting studies and investigations to enable it to recommend appropriate revisions to the Building Code to keep abreast of new developments in building design, construction, and standards;

(3) Dissemination of interpretations and rulings made by the Board of Rules and Appeals and the Florida Building Commission;

(4) Registration, certification, recertification and decertification of construction enforcement personnel;

(5) Codification and writing of amendments to the Florida Building Code.

(6) Providing guidance in the resolution of citizen complaints regarding Building Code violations;

(7) Investigations, preparation and prosecution of enforcement activities pursuant to the Building Code, or actions pursuant to Chapter 8CC of the Code which are governed by the Building Code;

(8) Prevention of any imminent threat of any violation of the Building Code;

(9) Training and testing of building inspectors, plans processors and code compliance officers; and

(10) Approval, disapproval or conditional approval of the local use of construction products, materials and assemblies or alternate construction materials and assemblies in accordance with administrative order of the County Manager to be approved by the Board of County Commissioners.

(11) Determine if a licensee, certificate holder, or registrant licensed under 455, 471, 481, or 489 of the Florida Statute has committed a material violation of the Florida Building Code, and impose fines and penalties in the amount set forth in Section 8-16 of this Chapter and otherwise provided by law.

Section 8-10. Permits.

(a) In addition to the requirements of SECTION 104 (PERMITS) of the Florida Building Code the following shall be required:

(i) To be included drawings as applicable:

31

32

| | |
|-------------------------------|---|
| <u>Site Plan information:</u> | Legal description: Lot dimensions & bearings, easements. |
| <u>Orientation</u> | North arrow |
| <u>Site information:</u> | Street/Water Way Names |
| <u>Site Features:</u> | Existing, to be removed or new. Topographical data; existing & new finish floor elevation of existing and new elements |
| <u>Utilities:</u> | Existing or new (Water Service, meter, sanitary sewer or septic tank, electrical.) |
| <u>Project:</u> | New Buildings or additions to existing. Setbacks. Lowest finish floor elevation. Equipment (pool, a/c, and similar) Other improvements (pool-decks docks paving walks slabs, walls, fences, planters) |

(ii) Minimum information requirements for construction documents:

EXTERIOR ELEVATION INFORMATION

| | |
|--------------------|--|
| <u>Scale:</u> | Same as Plans |
| <u>Dimensions:</u> | Vertical features and horizontal projections. |
| <u>Envelope:</u> | Exterior doors, windows, skylights, hatches, wall finish, roof material & pitch, and similar. Design pressures for wind. |
| <u>Floor:</u> | Elevations above grade & distance between floors. |

BUILDING SECTION AND DETAIL INFORMATION

| | |
|--------------------|---|
| <u>Scale:</u> | 1/4" = 1'-0" Wall Sections. & 3/4" = 1'-0" Main Details, (or metric) |
| <u>Dimensions:</u> | Vertical features and horizontal projections. All structural elements, their size & reinforcing, insulation, connectors, and similar. Wind design pressures for openings |
| <u>Finishes:</u> | Exterior & interior wall finishes and construction roof & ceiling finishes and construction. |
| <u>Schedules:</u> | Items such as footings, slabs, columns, beams, may be coded and listed on a schedule. |

32

33

FLOOR PLAN INFORMATION

(Recommend that same orientation as Site Plan be used)

| | |
|----------------------------|--|
| <u>Scale:</u> | 1/4" = 1'0" minimum for all buildings of less than 500 sq. ft. or equivalent metric scale |
| <u>Dimensions:</u> | All required to define design and required to build. |
| <u>Rooms:</u> | Room names and finishes. |
| <u>Floor:</u> | Floor finishes, elevations, steps, ramps, curbs, dashed outline of structures occurring below this floor. |
| <u>Wall/Partitions:</u> | Materials or construction. Section cuts, fire rated walls or partitions, all structural columns and load bearing partitions. |
| <u>Ceiling:</u> | Attic access, fold down ladders, skylights, dashed outline of structures occurring above this floor. |
| <u>Doors/Windows:</u> | Door type & size, swing, code required hardware; Window type & size egress requirements. |
| <u>Vertical Access:</u> | Stairs with number of risers, elevators, chutes. |
| <u>Equipment/Fixtures:</u> | Indicate & label all kitchen equipment, toilet fixtures, laundry equipment, water heaters, a/c equipment, electrical panels, fireplaces, built in cabinets, and similar. |
| <u>Ventilation:</u> | All through the wall ventilation, (garage vents, dryer vents, exhaust fans Kitchen exhausts, and similar. |
| <u>Schedules:</u> | Items such as finishes, doors, windows, fixed glass, fixtures equipment, partition construction, may be coded and listed on a schedule. |

~~33~~

34

FRAMING PLAN INFORMATION

(Required that same orientation as Floor Plan be used)

| | |
|---------------------|--|
| <u>Scale:</u> | 1/4" = 1'-0" minimum for all buildings of less than 5000 sq. ft |
| <u>Dimensions:</u> | All structural elements, their sizes & reinforcing (rafters, trusses bracing, beams, girders, and similar). Columns occurring below beam level, roof mounted equipment, skylights, hatches, dashed outline of structures below this level, Section cuts, roof chimneys, and similar. |
| <u>Design:</u> | Pressures for wind design. Loads and load transfer calculations required by the Code. |
| <u>Drainage:</u> | Roof slope, drains, gutters, crickets, overflow scupper calculations required by the Code. |
| <u>Material:</u> | Roofing and sheathing material (Including Product Approval Number). |
| <u>Ventilation:</u> | Attic ventilation calculations. |

FOUNDATION PLAN INFORMATION

Recommend that same orientation as Floor Plan be used

| | |
|---------------------|--|
| <u>Scale:</u> | 1/4" = 1'-0" minimum required by all buildings of less than 5000 sq. ft. or equivalent metric scale. |
| <u>Dimensions:</u> | All required. |
| <u>Site:</u> | Topography/fill requirements. |
| <u>Structure:</u> | All structural elements, their size & reinforcing (footings, slabs, filled cells, poured columns, bearing partitions, and similar) Slab elevation depression, changes in level, section cuts, and similar. |
| <u>Underground:</u> | Major slab items (cook-top vents, drainage and/or sanitary lines, and similar. |
| <u>Design:</u> | Soil bearing values, as per geo-technical engineer's reports or based on known soil properties at the site. |
| <u>Schedules:</u> | Items such as footings, slabs, columns, may be coded and listed on corresponding schedules. |

34

35

ELECTRICAL, PLUMBING AND H.V.A.C. INFORMATION

Scale: ¼" - 1'-0" minimum for all buildings of less than 5000 sq. ft. or equivalent metric scale.
 ½" = 1'-0" minimum for designated electrical equipment rooms and elevation shall be provided.

Dimensions Non-typical outlets, fixtures and conditions.

Outlets/Fixtures System: **Electrical** Show all interior & exterior receptacles, fixtures, switches, electrical exhaust and ceiling fans, attic fans, or roof top receptacles, fixtures or equipment, all electrical equipment, (water heaters, a/c equip., pumps, and similar)
Plumbing Show all fixtures, sanitary drainage, vents, water supply, water heaters, and similar.
H.V.A.C. All ducts and diffuser sizes, fan coil and condensing unit location, specifications, and CFM's per outlet.

Service/Panel: Schedules/Riser **Electrical** All items circuited as the code.
 Panel size, all circuits with use, load, wire, breaker and conduit size indicated. Diagram with size of service, meter, ground, disconnect switches, feeders, and panels.
Plumbing Diagram with size of all lines and location of all fixtures and the number of fixtures units of the fixture groups they serve. In commercial work provide isometric drawings of the sanitary drainage, water supply and the storm drainage piping.
H.V.A.C. Equipment may be coded and have their specifications listed on a schedule.

Calculation: **Electrical.** Load calculation per N.E.C.
 H.V.A.C. As required per Energy Code, including heat and cooling load calculations.

(iii) The following written requirements are to be followed by the delegated engineer in preparing his engineering documents on that portion of the project utilizing prefabrication components:

35
36

1. All shop drawings shall be in conformity with the architect or engineer of record framing plans unless prior written approval is obtained from the architect or engineer of record. If re-framing is approved, the architect or engineer of record shall resubmit revised framing plans to the building official after receiving updated plans from the delegated engineer showing all adjustments necessary to safely transmit all applied loads to the foundation.
2. All details and sections required to show the size and connections of all secondary members will be supplied on the delegated engineering plans and shall show all framing, connections and bracing on one or more primary plans.
3. 8-1/2" x 11" cut sheets showing individual member design shall also be furnished to the architect or engineer of record, but it will be necessary to transfer all gravity and uplift loads shown on these cut sheets to the primary plans.

The intent of the above requirements is to provide all information on framing, connections and bracing on one composite set of plans approved by the architect or engineer of record to aid in the review, approval and field inspection for the portion of the property.

(iv) The plans shall include a schedule similar to the one shown below to be filled by the Architect or Engineer of Record.

HVAC DESIGN REQUIREMENTS

| HVAC DESIGN REQUIRES | YES | NO |
|---|-----|----|
| DUCT SMOKE DETECTOR | | |
| FIRE DAMPER(S) | | |
| SMOKE DAMPER(S) | | |
| FIRE RATED ENCLOSURE | | |
| FIRE RATED ROOF/FLOOR CEILING ASSEMBLY | | |
| FIRE STOPPING | | |
| SMOKE CONTROL | | |

(v) Permits shall be required for the following low voltage work: fiber optics, telephone, television, communications, fire alarms, burglar alarms, computer systems, central vacuums and all other systems seventy-seven (77) volts or less.

(vi) Electrical permits shall be required for all appurtenances, apparatus, or equipment used in connection therewith, inside of or attached to any building or structure, lot, or premises.

36
37

(b) The plans examiner shall examine all plans and specifications and if found to comply with the requirements of the Building Code, he or she shall mark the plans "REVIEWED FOR CODE COMPLIANCE".

(c) Upon approval of plans, specifications and application for permit and the payment of the required fee, the Building Official shall issue a weatherproof permit card which shall bear the description of the property, the nature of the work being done, the name of the owner and contractor and other pertinent information: and such card shall be maintained in a conspicuous place on the front of the premises affected thereby during the entire time that the work authorized by the permit is in progress.

Section 8-11. Existing buildings.

(a) The requirements contained in the Florida Building Code, covering the maintenance of buildings, shall apply to all buildings and/or structures now existing or hereafter erected. All buildings and/or structures and all parts thereof shall be maintained in a safe condition, and all devices or safeguards that are required by the Florida Building Code shall be maintained in good working order. Electrical wiring, apparatus and equipment, and installations for light heat or power and low voltage systems as are required and/or regulated by the Building Code, now existing or hereinafter installed, shall be maintained in a safe condition and all devices and safeguard maintained in good working order.

(b) This subsection shall not be construed as permitting the removal or non-maintenance of any existing devices or safeguards unless authorized by the Building Official.

(c) Certificate of inspection for boilers and pressure vessels: A Certificate of Inspection shall be requested from and issued by the Building Official. Certificate of Inspection shall be the authorization to operate such equipment for a limited period as set forth herein:

(1) A Certificate of Inspection for a high-pressure boiler shall be for a period of not more than 6 months.

(2) A Certificate of Inspection for a low-pressure boiler shall be for a period of not more than 12 months.

(3) A Certificate of Inspection for an unfired pressure vessel (operating at pressures in excess of 60 PSI and having a volume of more than 5 cubic feet) shall be for a period of not more than 12 months.

(4) A Certificate of Inspection may, at the discretion of the Building Official, be for a shorter period or such certificate may be rescinded and tests be ordered at any time when in the

opinion of the Building Official, a condition exists making such retesting or reinspection desirable in the interest of safety.

(5) A Certificate of Inspection shall be posted in a conspicuous location to the operator.

EXCEPTION: Boilers requiring inspections and certification by the State of Florida Fire Marshal's Office, Boiler Safety Program.

(f) Recertification of buildings and components:

(i) For the purpose of this Subsection, recertification shall be construed to mean the requirement for specific inspection of existing buildings and structures and furnishing the Building Official with a written report of such inspection as prescribed herein.

(1) Inspection procedures shall conform, in general, with the minimum inspection procedural guidelines as issued by the Board of Rules and Appeals.

(2) Such inspection shall be for the purpose of determining the general structural condition of the building or structure to the extent reasonably possible of any part, material or assembly of a building or structure which affects the safety of such building or structure and/or which supports any dead or designed live load, and the general condition of its electrical systems pursuant to the Building Code.

(ii) (1) All buildings, except single-family residences, duplexes and minor structures as defined below, shall be recertified in the manner described below where such buildings or structures have been in existence for forty (40) years or longer, as determined by the Building Official, who shall at such time issue a Notice of Required Inspection to the building owner.

(2) Subsequent recertification shall be required at ten (10) years interval.

(3) In the event a building is determined to be structurally and electrically safe under the conditions set forth herein, and such building or structure is less than forty (40) years of age, recertification shall not be required for a minimum of ten (10) years from that time, or age forty (40), whichever is the longer period of time.

(iii) Minor buildings or structures shall, for the purpose of this subsection, be buildings or structures in any occupancy group having an occupant load of ten (10) or less, as determined by Table 1003.1 (FBC) Minimum Occupant Load of the Florida Building Code and having a gross area of 2,000 sq. ft. or less.

(iv) (1) The owner of a building or structure subject to recertification shall furnish, or cause to be furnished, within ninety (90) days of Notice of Required

39 ~~38~~

Inspection, a written report to the Building Official, prepared by a Professional Engineer or Architect registered in the State of Florida, certifying that each such building or structure is structurally and electrically safe, or has been made structurally and electrically safe for the specified use for continued occupancy, in conformity with the minimum inspection procedural guidelines as issued by the Board of Rules and Appeals.

(2) Such written report shall bear the impressed seal and signature of the responsible Engineer or Architect who has performed the inspection.

(3) Such Engineer or Architect shall undertake such assignments only where qualified by training and experience in the specific technical field involved in the inspection and report.

(4) Such report shall indicate the manner and type of inspection forming the basis for the report and description of any matters identified as requiring remedial action.

(5) In the event that repairs or modifications are found to be necessary resulting from the recertification inspection, the owner shall have a total of 150 days from the date of Notice of Required Inspection in which to complete indicated repairs or modifications which shall be executed in conformance with all applicable Sections of the Building Code.

(v) When installed on threshold buildings, structural glazing systems, shall be inspected by the owner at 6 months intervals for the first year after completion of the installation. The purpose of the inspection shall be to determine the structural condition and adhesive capacity of the silicone sealant. Subsequent inspections shall be performed at least once every 5 years at regular intervals for structurally glazed curtain wall systems installed on threshold buildings.

Section 8-12. Fees

a) The appointing authority shall establish a permit fee applicable throughout its jurisdiction. Any person desiring a permit to be issued shall, in addition to filing an application therefor and before such permit is issued, pay the required permit fee. The fee schedule to be adopted shall identify the amount of the fee attributed to plans review, initial inspection and reinspection. The appointing authority may impose the fees authorized by law for repeated plans examinations or inspections.

b) Basis of permit fee. The Building Official may require an estimate of cost and/or other descriptive data as a basis for determining the permit fee.

~~39~~ 40

c) **Double fee.** When work for which a permit is required is started prior to the obtaining of said permit, the applicant for a permit shall be required to pay \$100.00 plus double the fee as specified herein as the cost of the permit. The payment of a permit fee shall not relieve any person firm or corporation from fully complying with the requirements of this Code, nor from any other penalties prescribed therein.

d) **Building Code Compliance Fee.** All applications for building permits and premise permits issued pursuant to the Building Code shall be on a form approved by the Board of Rules and Appeals and, in addition to any other fees charged by any County or municipal building official, shall include a Building Code Compliance fee to be determined, assessed and collected in the manner contemplated in this section. The compliance fees paid by permit applicants shall be deposited in a separate County fund and shall be used exclusively for the Building Code Office to pay for the costs of performing its duties and functions.

(e) **Assessment of code compliance fee.** Prior to the issuance of any building permit pursuant to the Building Code, including any premise permit, each building official for Miami-Dade County or any municipality shall assess a code compliance fee in the amount of sixty cents (\$0.60) per one thousand dollars (\$1,000.00) or fractional value of the work to be done under the permit. This code compliance fee shall be in addition to and not in derogation of other fees and costs that may be payable as a condition of obtaining the permit and shall be nonrefundable. For purposes of the calculation of the code compliance fee, the value of the work to be done under the permit shall be determined as follows:

(1) For new construction of and additions to Building Code occupancies, the value of the work shall be sixty-five dollars (\$65.00) per square foot of construction except as noted below.

(2) For Building Code occupancy Groups S1 and F (Storage and Industrial), the value of the work shall be forty-five dollars (\$45.00) per square foot of construction.

(3) For large and unusual projects, including but not limited to stadiums, airports, and water treatment plants, and for miscellaneous permit activity not otherwise provided for in this section, including, but not limited to repair, or alterations, or changes to electrical service, the value of the work shall be the actual cost of such work as determined by the applicant and approved by the Building Official. The applicant shall be responsible for accurate reporting of the value of the work, and the reported value shall be subject to review and verification by the Building Official.

(f) **Exemption.** A permit obtained for an individual trade or specialty shall be exempt from imposition of the code compliance fee provided that the value of the work for which such permit is obtained has already been subjected to the code compliance fee.

(g) **Collection of fee.** The governmental authority issuing a permit pursuant to the Building Code shall be responsible for the collection of the code compliance fee provided for in this

40 41

section prior to the issuance of the permit. Any and all code compliance fees collected by Miami-Dade County and the municipalities shall be paid to the Miami-Dade County Finance Department not later than the fifteenth day of the month following the month of collection by wire transfer or check or through automated clearing house. Notwithstanding the foregoing, in the event that the code compliance fee collected by any municipality shall not exceed one hundred dollars (\$100.00) per month for a continuous period of three (3) months, then the Chief Building Code Compliance Officer, upon request by that municipality, shall permit the municipality to make its remittances and reports to the County on a quarterly basis. In the event that a governmental authority remits the funds on or before the due date set forth above, such authority shall be entitled to retain that portion of the remittance due to Miami-Dade County which represents its costs of collection of this code compliance fee, not to exceed one and one half (1-1/2) percent of the total remittance due for that period. In the event that the remittance is not made when due, the governmental authority shall remit to Miami-Dade County the entire balance of fees collected pursuant to this section to defray Miami-Dade County's additional costs incurred in connection with that government's delay in remitting the amount.

(h) Submission of report. Each governmental authority issuing permits pursuant to the Building Code shall, on or before the fifteenth day of each month or on quarterly basis as may be allowed by the Chief Building Code Compliance officer pursuant to Section 8-9 (f), submit to the Building Code Compliance Officer which shall contain for the applicable period of collection such information as the Chief Building Code Compliance Officer may reasonably require to oversee collection of the code compliance fee. Permit and permit fee collection records of all governmental authorities subject to this section shall be available for audit and review by Miami-Dade County at all times.

Sec. 8-13. Revocation of Permit.

(1) The Building Official may revoke a permit or approval issued under the provisions of this Code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

(2) Whenever the Building Official reasonably believes the work for which a permit has been issued is not being performed in conformity with plans, specifications or descriptions, or approved plans are not being kept at the site, it shall be the duty of the Building Official to notify the contractor, or owner, or their agent, in writing, that the permit is suspended. Written notice shall be mailed or given to the permit holder or his agent, and it shall be unlawful for any person or persons to perform any work in or about the building or structure except such work as may be required for the correction of the expressed violations. And if, in the judgment of the Building Official, there is imminent danger that requires immediate action, the permit may be revoked or suspended verbally and written notice served later.

(3) When a permit has been suspended, it shall not be reinstated until all existing violations have been corrected. Written notice of reinstatement shall be given the permit holder if requested.

41 42

(4) Upon request of the owner and/or permit holder and on investigation by the Building Official to determine that the work has been abandoned or that the contractor is unable or unwilling to complete the contract a second permit may be issued where there is a change of contractor without the initial permit being revoked or suspended. The foregoing will be permitted only when the following stated persons have filed with the Building Official a letter stating the reason for a second permit being required and holding the Building Official harmless from legal involvement. All interested parties shall be notified before action is taken.

(i) Where a prime contractor is the permit holder, the owner shall file such hold-harmless letter.

(ii) Where a subcontractor or specialty contractor is the permit holder, the owner and prime contractor shall both file such hold-harmless letters.

Section 8-14. Cleanup of Site.

Upon completion of the proposed work, the permit holder shall leave the site cleared of rubbish, debris, construction sheds or materials or construction. In the event there has been damage to public property or that rubbish, debris, construction sheds or materials of construction have been left at the site, the Building Official shall refuse to make final inspection and shall notify the permit holder to correct the condition of violation within 5 days. For failure to comply with such notice after such period of 5 days, the permit holder is subject to the penalties specified herein, and the Building Official shall have the clean up work done and public property restored and shall notify the legal authority, who shall institute the necessary action to have the costs placed as a lien against the property in relation to which the permit was issued.

Section 8-15. Material Violations of the Florida Building Code. Fines and Penalties.

(a) Upon a determination by the Chief Building Code Compliance Officer, or his or her designee, that a licensee, certificate-holder or registrant licensed under F.S. Chapters 455, 471, 481 or 489 has committed a material violation of the Florida Building Code and failed to correct the violation within the time set forth in the notice provided for in this Section, the Chief Code Compliance Officer shall impose a fine as provided below.

(b) Upon a finding of a material violation the Chief Building Code Compliance Officer, or his or her designee, shall issue a Notice of Material Code Violation, identifying the violator or violators, specifying the nature of the violation and providing a reasonable time for correction. The time for correction shall be established by the officer upon an evaluation of the following factors:

- (1) The likelihood and immediacy of physical harm to persons and/or property.
 - (2) The likelihood and immediacy of significant damage to the performance of a building or its systems.
 - (3) The nature and extent of the required corrections.
 - (4) Any prior notices of the deficiencies constituting the violation.
- (c) The Notice of Material Violation shall also provide that the violation may be disputed by appropriate notice directed to the Chief Building Code Compliance Office.
- (d) The Notice of Material Code Violation shall be posted in the structure and shall be mailed to each violator at the address which appears in the permit documents.
- (e) In the event that the material violation is not cured to the satisfaction of the Chief Building Code Compliance Officer within the time specified, or disputed in the manner set forth above, the Chief Building Code Compliance Officer shall impose a fine per material violation of \$500.00 for the first offense, \$1,000.00 for the second offense, \$2,000.00 for the third offense and \$5,000.00 for each subsequent offense.
- (f) Disputes of violations, collections of fees, and imposition of fines and other penalties, including but not limited to suspension of permitting privileges shall be effected in accordance with the provisions of law.

Section 8-16. Special Hurricane Inspections

- (a) During such periods of time as are designated by the National Weather Service as being a hurricane watch, all furniture, display racks, material and similar loose objects in exposed outdoor locations, shall be lashed to rigid construction or stored in buildings. Orders shall be oral or written and shall be given to any person on the premises most logically responsible for maintenance and such orders shall be carried out before winds of hurricane velocity are anticipated.
- (b) After winds of hurricane velocity are experienced and have subsided, the Building Official shall investigate to determine if damage has occurred to buildings or other structures.
- (c) No building or other structure or assembly or part thereof, which was damaged or collapsed or out of plumb or line shall be repaired or altered or otherwise returned to its original position without inspection and approval by the Building Official.

Section 8-17. Violations and Penalties

- (a) Penalties

43 44

This Section shall apply to all persons and violations not covered by Section 8-15 above. Any person, firm or corporation who shall violate a provision of the Building Code or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the Building Code is committed or continued, and upon conviction of any such violation, such person shall be punishable by a fine of not less than fifty (\$50) dollars nor more than five hundred (\$500) dollars, or by imprisonment not exceeding 60 days, or by both such fine and imprisonment. Any person who violates or fails to comply with a provision of the Building Code shall also be subject to civil fines and penalties established in Chapter 8CC of the Code of Miami-Dade County.

(b) Civil Liability; Attorneys Fees.

(1) Any person who violates a provision of the Building Code or any lawful regulation or written order promulgated under the Building Code is subject to injunction or other equitable relief to enforce compliance with or prohibit the violation of the Building Code. Further, such person is liable to the Building Official or the appointing authority for any damages caused by such violation and for the reasonable costs and expenses incurred by the Building Official or the appointing authority in enforcing the provisions of the Building Code, including but not limited to the costs of enforcement inspections, preparation of enforcement reports, photographs, postage and other demonstrable administrative costs for enforcement and collection. All such sums shall become immediately due and payable upon expenditure by the Building Official or the appointing authority and shall become delinquent if not paid within thirty (30) days after receipt by the violator of the bill of the Building Official or the appointing authority itemizing the enforcement costs incurred in enforcing the provisions of the Building Code. All such delinquent sums shall bear interest at the prevailing rate set forth in the law as payable on judgments and decrees.

(2) Upon the rendition of a judgment or decree by an of the courts of this State against any person in any action to enforce compliance with or prohibit the violation of the provisions of the Building Code, the court shall adjudge or decree against the losing party and in favor of the prevailing party a reasonable sum as fees or compensation for the attorney acting on behalf of the prevailing party. Such fees or compensation shall be included in the judgment or decree rendered in the case. Cessation of the violation of any of the provisions of the Building Code prior to rendition of a judgment or prior to execution of a negotiated settlement, but after an action has been filed by the Building Official or the appointing authority to enforce the provisions of the Building Code, shall be deemed for the purposes of this section the equivalent of a confession of judgment or verdict in favor of the Building Official or the appointing authority, for which attorney's fees shall be awarded as set forth in this section.

(3) All the judicial and administrative remedies in this Section are independent and cumulative.

(4) Nothing in this section shall be construed to permit or require the Building Official or the appointing authority to bring an action on behalf of any private person.

45 44-

ARTICLE II.

[Blank]

ARTICLE III.

[Blank]

Article IV Product Approval

Section 8-40 PRODUCT APPROVALS. Any person desiring to use materials/products used for protection of the envelope of the structure, limited to windows, exterior glazing, wall cladding, roofing, exterior doors, skylights, glass block, siding and shutters shall obtain a high wind velocity zone approval from the Florida Building Commission or shall obtain a local approval from the Building Code Compliance Office.

(a) Local approval of construction products and assemblies.

(1) Any person or firm, not having an approval from the Florida Building Commission and desiring to supply, furnish, manufacture or fabricate construction products or assemblies, to the extent required by the Building Code shall make application for approval to the Building Code Compliance Office, in accordance with the administrative order governing product approval.

(2) The Chief Building Code Compliance Officer shall recommend to the Building Code and Product Review Committee the approval of such materials/products, if it is clear that the standards of the Building Code are at least equaled. If, in the opinion of the Chief Building Code Compliance Officer the standards of the Building Code will not be satisfied by the requested material/product, the Chief Building Code Compliance Officer shall recommend to the Product Review Committee to refuse approval.

(3) The application for local product approval shall be made in accordance with the administrative order governing product approval and shall set forth and describe plant methods, personnel, equipment, control procedure, and such other information as may be required to insure compliance of the product or assembly with the Building Code.

(4) The Building Code Compliance Office may approve such product, plant or manufacturing procedure and issue a Certificate of Competency or recommend to the Building Code and Product Review Committee the issuance of a product approval, as appropriate, after payment of the required fee, upon a finding that such project, plant or manufacturing procedure complies with the Building Code. The Building Code Compliance Office will recommend the establishment of conditions and limitations on the use of any product submitted for approval.

4/6 4/5

(5) Product approvals given by the Building Code Compliance Office shall be valid countywide.

(6) The Building Code Compliance Office may recommend to the Building Code and Product Review Committee to deny, suspend or revoke a product approval or Certificate of Competency upon a finding that a product, plant or procedure does not comply with the Building Code or violates a condition of its approval.

(7) The manufacturer's or fabricator's name or insignia shall be clearly indicated on each prefabricated structural assembly.

(8) Appeal from a decision of the Building Official to refuse to accept a product or assembly, which has been previously approved by the Building Code Compliance Office, shall be to the Product Review Committee, in accordance with the administrative order governing product approval.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Miami-Dade County. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article" or other appropriate word.

Section 4. This ordinance shall become effective for all building permit applications made on or after the effective date of implementation of the Florida Building Code, unless vetoed by the Mayor, and if vetoed shall become effective on that date only upon a veto override by this Board. All active building permit applications made prior to the effective date shall be governed in accordance with the law in existence prior to this ordinance provided the permit application is completed not later than six (6) months after the date of applying for permit.

46

47

Section 5. Any person currently serving as a member in an administrative board affected by this ordinance shall continue to serve until his or her successor is duly appointed and qualified. By exception, the term of members of the Building Code and Product Review Committee shall expire upon the effective date of this ordinance, whereupon its members shall be subject to appointment to the successor committee in accordance with the terms and conditions of this ordinance.

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUL 10 2001

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

lbr

48

~~47~~

STATE OF FLORIDA)
MIAMI-DADE COUNTY) SS:
)

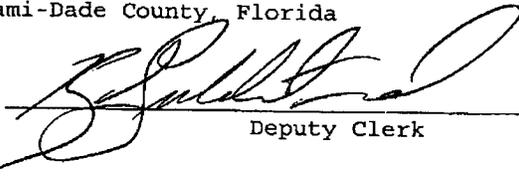
I, HARVEY RUVIN, Clerk of the Circuit Court in and for Miami-Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above foregoing is a true and correct

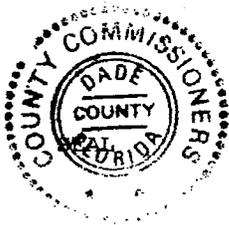
COPY OF ORDINANCE 01-175 PASSED AND ADOPTED BY SAID BOARD OF COUNTY COMMISSIONERS AT ITS MEETING HELD ON OCTOBER 23, 2001 as appears of record.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 16th day of NOVEMBER, 2001.

HARVEY RUVIN, Clerk
Board of County Commissioners
Miami-Dade County, Florida

By


Deputy Clerk



Board of County Commissioners
Miami-Dade County, Florida

The Unsafe Structure Board's general meeting is conducted under the Robert's Rules of Order and the Board may also establish procedural rules and regulations of its own. Chapter 8 Section 8-5 of the Code of Miami-Dade outlines the functions of the Unsafe Structures Board as follows:

- (3) Organization of the Board:
- (i) The members of the Board shall elect a Chairman and a Vice Chairman and such other officers as may be deemed necessary or desirable, who shall serve at the will of the Board. Election of officers shall be held at the first meeting of February and such officers shall hold office for one year.
 - (ii) Seven (7) members of the Board shall constitute a quorum necessary to hold a meeting or take any action.
 - (iii) A majority vote of the membership present and voting at a duly constituted meeting of the Board shall be sufficient to overrule, modify or affirm any action or decision of the Building Official or to take any other action within the scope of the powers and duties of the Board.
 - (iv) Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval by the appointing authority.
 - (v) No member of the Board shall sit as a voting member in any hearing on a matter in which he has a personal or financial interest.
 - (vi) The Director of the Miami-Dade County Building Code Compliance Office, or his designee, shall be the Secretary of the Board but shall have no vote.
 - (vii) The Chairman or the Secretary may call meetings of the Board, and meetings of the Board may be called by written notice signed by three members of the Board.
 - (viii) Minutes and records shall be kept of all meetings of the Board and all meetings shall be public.
 - (ix) All hearings shall be open to the public, and any person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard in person, or through his attorney.
 - (x) Witnesses may be sworn and subpoenaed by the Board in a like manner as they are subpoenaed by the court or courts in Miami-Dade County.
 - (i) The hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rules, which might make improper the admission of such evidence over objection in civil actions.
 - (ii) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
 - (iii) The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions; and irrelevant and unduly repetitious evidence shall be excluded.
 - (iv) The Board may establish rules and regulations for its own procedure.
 - (v) The Secretary of the Board shall provide adequate and competent clerical and administrative personnel and such technical or scientific personnel as may be reasonably required by the Board for the proper performance of its duties, subject to budget limitations. The Secretary shall maintain a record of all proceedings, including but not limited to a court reporter's transcript of the proceeding, and may clarify the same as a true copy and make a reasonable charge therefore; provided, the court reporter shall certify the copy of his or her transcript.

(vi) The Secretary of the Board shall provide a regular meeting place for the Board.

(4) Duties and Powers of the Board:

The Board shall have the following duties, functions, powers and responsibilities:

(i) Hear and determine appeals from actions and decisions of the Building Official pursuant to the provisions of this Section.

(ii) Hear and review the application of the Building Official for the review of his or her action where his or her decision as indicated in a Notice of Violations has not been complied with.

(iii) Affirm, modify or reverse the decision of the Building Official upon appeal or on application for review.

(iv) The Board, through its Secretary, shall transmit the record with all exhibits, instruments, papers, and transcripts of its proceedings to the appointing authority in the event that authority shall wish to consider the matter.

(5) Duties of Legal Counsel.

It shall be the duty of the attorney for the Authority having jurisdiction, when so requested, to appear at all hearings before the Unsafe Structures Board and to represent and advise the Board.

(1) Judicial Review.

Any person aggrieved by a decision of the Unsafe Structures Board may seek judicial review of that decision in accordance with the Florida Rules of Appellate Procedure. Any order, requirement, decision or determination of the Unsafe Structures Board shall be reviewed by the filing of a notice of appeal in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in accordance with the procedure and within the time provided by the Florida Rules of Appellate Procedure for the review of the rulings of any commission or board; and such time commences to run from the date that the Board's order, requirement, decision or determination sought to be reviewed is transmitted to the Secretary of the Board. The Secretary, or his duly authorized representative, shall affix to each order, requirement, decision or determination of the Board the date said order, requirement, decision or determination is transmitted. The Secretary to the Board shall be its clerk and shall comply with all requirements of the Florida Rules of Appellate Procedure.

APPENDIX D

USAFE STRUCTURES BOARD HEARING MINUTES OF APRIL 21ST, 2004

Members Present: James Cueva, C Gordon Loader, VC Abel Ramirez
Jose Vera James Starkweather Kevin Deeb
Alberto Milian

Staff: Theodore Berman, P. E., Deputy Director
Latisha Byrd, Recording Secretary
Daniel Frastai, Assistant County Attorney

Court Reporter: Lorena Ramos, Metro Dade Court Reporter

The regular meeting of the **UNSAFE STRUCTURES BOARD** was called to order at 2:30 P.M. on Wednesday, April 21st, 2004, on the 16th Floor, Conference Room 1605, of the Metro-Dade Flagler Building at 140 W. Flagler Street, Miami-Dade, Florida 33130.

Mr. Cueva announced that the minutes of the March 17th, 2004, Unsafe Structures Board Meeting would be available to review at the next board hearing on Wednesday, May 19th, 2004.

Mr. Berman then called for the list of cases that were agreed upon, uncontested, withdrawn or deferred.

Mr. Berman proceeded to inform the members that the following City of Miami case was **withdrawn** per the Building Official.

City of Miami:

M04-010 1343 NW 1 Street

Mr. Berman then announced that the following Unincorporated Miami-Dade County and City of Miami cases have made **agreements with the Building Official:**

Unincorporated Miami-Dade County Cases:

DC200317957U 1370 NW 72 Street
DC200318134U 16321 SW 102 Place
DC200318660U 1075 NW 140 Street
DC200318753U 2121 NW 45 Street
DC200319029U 5325 NW 29 Court
DC200319587U 14721 Harrison Street
DC200320384U 9520 NW 8 Avenue
DC200320390U 1020 NW 116 Terrace
DC200320519U 1733 NW 81 Street
DC200320523U 1766 NW 89 Terrace
DC200321083U 2448 NW 81 Terrace
DC200421557U 12400 SW 152 Street

City of Miami:

M04-011 1910 SW 17 Street
M04-012 2130 SW 9 Street
M04-015 6915 NW 5 Court

Mr. Berman then announced that the following Unincorporated Miami-Dade County and City of Miami cases were **no show/no contest:**

Unincorporated Miami Dade Cases:

DC2003018681U 11705 SW 184 Street
DC200320387U 9201 NW 8 Avenue
DC200421313U 8851 SW 157 Avenue

City of Miami:

M04-014 3655 Florida Avenue
M04-017 4191 Ingraham Highway

Mr. Berman then announced that the following Unincorporated Miami-Dade County case was **deferred:**

Unincorporated Miami Dade Cases:

DC200320398U 7835 SW 127 Court

City of Miami:

M04-013 2250 SW 34 Avenue
M04-016 1510 NW 19 Terrace

The cases and photographs were submitted to the Board for review was called by Mr. Berman.

Mr. Cueva announced that the board will be reviewing the cases during the period of the discussion of the old business that is listed on the agenda to speed up the process.

Status Report: (Turner Gilford Knight) – 7000 NW 41 Street

Mr. Tom Roberts, Assistant County Attorney requested for extension of the status report because of the significant quantity of work that needed to be completed. He informed the board that they have been in contact with Mr. Charles Danger, Building Official of Miami Dade Building Department and Chief Suarez, Miami Dade Fire Department who have no objection to what they are requesting.

Mr. Jose Perez, Division Manager of Construction Management presented the status report for April to the board. He explained to the board that the biggest issue is the fire alarm which is completed 96% and the work will be finalized at the end of the month, but wanted to extend just to make sure everything was covered to allow ample time for inspections. He further explained to the board that the Smoke Evacuation System was completed 45% and also need more time to complete the work that needs to be done. He also explained that the Smoke Evacuate System contract ended in October 2003 and stated that it is a very complex project than the fire alarms

and that is the reason why an extension is requested. He then explained to the board that once the reports have been approved and agreed upon, they will forward it to Code Compliance.

Mr. Thomas informed the board that the Fire Department had required that they have fire watch at all times to be properly handled. He also informed them that there had been trained personnel on how to operate the system.

Chief Suarez, Miami Dade Fire Department stated that the Fire Department did the fire watch in the beginning, but did not feel comfortable to have his personnel doing so. Mr. Suarez informed the board that the Fire Department talked with the Directors of Corrections Department and they decided to train the GSA Department and Correction Officers in case of an emergency.

Mr. Cueva asked if there were any family members present on behalf of any of the prisoners.

No one replied.

Mr. Milian asked if anyone know if there had been a fire at any of the Correction Facilities in the last 24 months.

Mr. Anthony Dawson, Assistant Director of Miami Dade Corrections replied that he could not answer that because a lot of them have been self extinguish. ie. "trash fire"

Mr. Milian informed the Corrections Department that he is aware of a fire that took place in the last 24 months.

Mr. Dawson informed the board that Metro West had a fire in the last month that was extinguished by staff. He then added that a small fire took place in the kitchen of TGK recently that was also extinguished by staff.

Mr. Milian then asked how many individuals were treated for injuries.

Mr. Dawson replied that there were no serious injuries, but they were taken to the hospital just for precautions.

Mr. Starkweather made a motion to grant the extension of 9 months and retain jurisdiction. Mr. Vera seconded.

Mr. Milian commented that the board hears from property owners who request additional time because of financial situation and how could they allow the county another extension when they put the prisoner's lives in danger. He informed the board that he will not vote for any additional extensions.

Mr. Berman administered a roll call vote as requested by the Chairman.

Motion passed. (Mr. Deeb and Mr. Milian were opposed).

(For a verbatim version, please refer to the transcripts)

55

After the Board reviewed each case file, Mr. Cueva requested a motion to consolidate the withdrawals, agreed and uncontested cases and uphold the decisions of the Building Official. Mr. Starkweather moved to accept the withdrawals, agreed and uncontested cases as called by Mr. Berman. Mr. Vera seconded the motion.

Motion passed unanimously.

(For a verbatim version, please refer to the transcripts)

Mr. Cueva informed those appellants who were able to come to an amicable agreement with the Building Official that the Board had ratified the agreements and they were free to leave.

Clarification of Unsafe Structures Board Order – 1421 NE 163 Street

Mr. Jeff Bartel, Representative of the Mall stated that his presence was to witness the clarification of the Board Order for the 163rd Mall, which was heard at the February 18th, 2004 hearing.

Chief Suarez, Miami Dade Fire Department stated that the question today is whether the fire watch is to be monitored 24 hours 7 days a week by the Fire Department at the Mall. He explained to the board that the code does not require fire watch to protect the property. He further explained that the code requires life safety. He informed the board that the fire watch should be during the operation of the Mall by the Fire Dept.

Mr. Loader moved that the fire watch be monitored by the Fire Department during the operation of the mall hours. Mr. Starkweather seconded the motion.

Chief Pedro Bas informed the board that the Fire Department has access to a radio from the Mall Security. He also informed them that the mall has a security company that monitors after business hours and if an emergency occurs, they will call them on the radio and they feel comfortable with this process.

Mr. Berman administered a roll call vote as requested by the Chairman.

Motion passed. (Mr. Deeb and Mr. Milian were opposed).

(For a verbatim version, please refer to the transcripts)

Bi-Annual Review Report

Mr. Milian moved that the quorum should be reduced to 5 members instead of 7 members due to the amount of members the Unsafe Structures Board currently have to avoid a problem with quorum that they had in the last year. Mr. Starkweather seconded the motion.

Mr. Cueva informed Ms. Charles that Paragraph 6 should be modified.

The Board voted to accept the Bi-Annual Review Report of the Unsafe Structures Board for 2002-03 with the modification. A motion was made by Mr. Cueva to accept the report of the Unsafe Structures Board for 2002-03 and seconded by Mr. Starkweather.

Motion passed unanimously.

(For a verbatim version, please refer to the transcripts)

APPENDIX E

**2002 ANNUAL REPORT OF BOARD DECISIONS RENDERED
BY THE UNSAFE STRUCTURES BOARD**

| ACTIVITY | 01/16/02 | 02/20/02 | 03/20/02 | 04/17/02 | 05/15/02 | 05/29/02 | 07/17/02 | Recess | 09/18/02 | 10/16/02 | 11/13/02 | 12/11/02 | TOTAL |
|------------------------------|-----------|-----------|-----------|-----------|-----------|------------|-----------|-------------------|------------|-----------|-----------|-----------|-------|
| Decisions Rendered: | | | | | | | | | | | | | |
| DEMOLISH | 13 | 11 | 15 | 4 | 12 | 0 | 1 | <i>Unsafe</i> | 2 | 1 | | 1 | 5 |
| REPAIR | 16 | 25 | 11 | 12 | 11 | 1 | 23 | <i>Structures</i> | 2 | 1 | | 1 | 82 |
| DEFERRED | 0 | 3 | 0 | 0 | 0 | 0 | 24 | <i>Board in</i> | 9 | 4 | 10 | 25 | 148 |
| WITHDRAWN | 7 | 2 | 4 | 2 | 2 | 0 | 2 | <i>Recess for</i> | 0 | 2 | 1 | 3 | 11 |
| | | | | | | | 8 | <i>August</i> | 2 | 2 | 4 | 2 | 35 |
| Total Cases per month | 36 | 40 | 19 | 18 | 23 | 115 | 42 | | 120 | 27 | 20 | 53 | |

Total Cases for the Year - 513

58

**2003 ANNUAL REPORT OF BOARD DECISIONS RENDERED
BY THE UNSAFE STRUCTURES BOARD OF**

| ACTIVITY | 01/22/03 | 02/19/03 | 03/19/03 | 04/16/03 | 04/30/03 | 05/21/03 | 06/11/03 | 06/18/03 | 07/16/03 | 09/17/03 | 10/15/03 | 11/19/03 | 12/17/03 | TOTAL |
|------------------------------|---------------------|-----------|-----------|--------------|----------|--------------|-----------|------------|--------------|-----------|-----------|-------------|--------------|-------|
| | Decisions Rendered: | | | 1 | | 0 | | 0 | 0 | | | | | |
| DEMOLISH | 15 | 13 | 20 | No hearing | 0 | No hearing | 24 | 0 | No hearing | 31 | | No hearing | No hearing | 116 |
| REPAIR | 19 | 21 | 27 | Quorum | 1 | Quorum | 44 | 106 | Quorum | 42 | 23 | Obtained | Quorum | 283 |
| DEFERRED | 3 | 0 | 1 | Not obtained | 0 | Not obtained | 4 | 0 | Not obtained | 1 | 1 | Due to FTAA | Not obtained | 10 |
| WITHDRAWN | 2 | 3 | 10 | | 0 | | 5 | 3 | | 7 | 5 | | | 35 |
| Total Cases per month | 34 | 31 | 50 | 37 | 1 | 55 | 37 | 197 | 41 | 68 | 36 | - | 39 | |

Total Cases for the Year - 626

59