MEMORANDUM

Agenda Item No. 7(G)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: June 30, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Ordinance creating a section of the Code that establishes guidelines for the classification of structures identified as being used for the production or manufacturing of illegal narcotics or drugs as an unsafe structure

The ordinance was amended by the Housing Community Development Committee to provide the Building Department time to meet the requirements to inspect the properties identified as grow houses by the Miami-Dade County Police Department.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.

R. A. Cuevas, Jr.
County Attorney

RAC/up

Memorandum

MIAMI-DADE COUNTY

Date: June 30, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance establishing guidelines for the classification of structures identified as being used for the production or manufacturing of illegal narcotics or drugs as an unsafe structure

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The ordinance establishing guidelines for the classification of structures identified as being used for the production or manufacturing of illegal narcotics or drugs will have an estimated impact of $17,500 for programming modifications to the current Unsafe Structures automated enforcement system. The modifications to the system are needed to separately track these cases which have different timelines.

Assistant County Manager

fis04009

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: June 30, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 7(G)

Please note any items checked.

	"4-Day Rule" ("3-Day Rule" for committees) applicable if raised
✓	6 weeks required between first reading and public hearing
✓	4 weeks notification to municipal officials required prior to public hearing
	Decreases revenues or increases expenditures without balancing budget
	Budget required
	Statement of fiscal impact required
	Bid waiver requiring County Mayor's written recommendation
	Ordinance creating a new board requires detailed County Manager's report for public hearing
	Housekeeping item (no policy decision required)
	No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(G)
6-30-09

ORDINANCE NO. _____

ORDINANCE RELATING TO THE BUILDING CODE AND UNSAFE STRUCTURES; CREATING A SECTION OF THE CODE OF THE MIAMI-DADE COUNTY, FLORIDA THAT ESTABLISHES GUIDELINES FOR THE CLASSIFICATION OF STRUCTURES IDENTIFIED AS BEING USED FOR THE PRODUCTION OR MANUFACTURING OF ILLEGAL NARCOTICS OR DRUGS AS AN UNSAFE STRUCTURE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Chapter 8 of the Code of Miami-Dade County, Florida, is hereby amended as follows:[1]

Chapter 8
Building Code

Art. I. Administration

* * *

Sec. 8-5 Unsafe Structures.

* * *

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

>>(c) Grow Houses

(1) A building or structure that has been identified by any law enforcement officer as being used to grow or manufacture controlled substances as defined by Chapter 893 of the Florida Statutes or any drugs, as defined in Chapter 499 of the Florida Statute (a "Grow House") shall be presumed to be unsafe if any one of the following criteria has been satisfied:

(i) There is an open and obvious modification or addition to any of the structure's electrical wiring or electrical components, or there exists any exposed wires or exposed electrical components; or

(ii) There is an open and obvious modification or addition to any of the structure's plumbing, and or any discharge of water or other effluent that is not into an ordinarily available drain; or

(iii) The structure's interior walls have been destroyed, moved, or modified in any way. This may be evidenced by marks on the ceiling and or floor that are indicative of a wall having been moved or removed, holes or passages in a wall that are not ordinary and may be unfinished in appearance. This list shall not be considered exhaustive such that any other evidence of walls being destroyed, moved or modified shall be proper; or

(iv) Any exterior window has been modified or covered in such a way, so as to inhibit or reduce egress or which inhibits or prevents normal use for ventilation purposes; this shall not include curtains and other ordinary window coverings; or

(v) Any of the structure's exterior or interior doors have been modified or covered in such a way to prevent or inhibit ingress or egress.

Upon observation of any one of the above criteria, any law enforcement personnel shall be authorized to post and shall post a notice 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 Miami-Dade Police Department, unsafe. THIS BUILDING SHALL BE VACATED--SHALL NOT BE OCCUPIED. The owner should contact the Miami-Dade County Building Department immediately. THIS NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. DATE (insert date posted).

(2) Entry to any structure posted with such a notice shall be prohibited except by an Order issued by a Court of competent jurisdiction, until such time as all necessary inspections listed in (6)(i) have been completed.

(3) Within<< [[~~forty-eight (48)~~]][2] >>twenty-four (24)<< >>hours of the notice being posted by a law enforcement official,<< [[~~building Official must conduct an inspection of the structure and issue a Notice of Violation in accordance with the provisions of this section~~]] >>the Miami-Dade County Police Department shall notify the Building Department of any such notice and violations. Upon receiving such notification from the Miami-Dade County Police Department, the Building Department shall immediately send a Notice of Violation in accordance with the provisions of this section within. This notice shall also state that a Building Official will conduct an inspection of the structure and issue a Notice of Violation within five (5) business days of being notified of any such violations by the Miami-Dade County Police Department.<<

>>(4) All structures that meet any of the criteria from Section (c)(1) and have been posted with the

[2] Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

requisite notice, must be approved by the Building Department based upon all of the following inspections before the structure can be deemed safe for use:

(i) An electrical inspection;

(ii) A plumbing inspection;

(iii) An inspection by a certified mold inspector; and

(iv) An inspection by a structural engineer

Upon completion of the inspections described herein, an inspection report shall be filed with the Building Department for approval. The Director shall proscribe the forms to be used for the inspections described herein and shall be authorized to charge a fee for the review of the inspection reports. Each inspection report shall certify that there is currently no unsafe or hazardous conditions currently existing in the structure, all building code violations corrected and the structure is safe for occupancy. No building deemed unsafe pursuant to this section shall be occupied until the results from the required inspections have been reviewed, and all permits have been obtained to bring the structure back into compliance with the Building Code. Nothing herein shall relieve the owner from the requirement to obtain permits for any repairs required to meet the requirements of this section.<<

* * *

(j) Recovery of cost.

* * *

>>(3) Any other employee, official, or agency who incurs costs while executing any provision within this Section shall create an affidavit stating with fairness and accuracy the items of expense and the date of execution of actions authorized by this Section. That affidavit shall be given to the Building Official responsible for the unsafe structure at issue and filed among his records for that property.<<

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, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. 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 ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Michael B. Nadler

Prime Sponsor: Senator Javier D. Souto