

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(L)
10-02-07

ORDINANCE NO. 07-148

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

ORDINANCE AMENDING ARTICLE II, SECTIONS 17-11 THROUGH 17-13, 17-15, 17-17, 17-30 AND 17-30.1; REPEALING SECTION 17-18; CREATING SECTION 17-18A OF THE CODE CONCERNING THE MINIMUM HOUSING STANDARDS; ESTABLISHING A HEARING OFFICER; AMENDING ARTICLE III, SECTIONS 17-46, 17-49, 17-51 THROUGH 17-53, 17-55, 17-57, 17-66 AND 17-67 OF THE CODE; REPEALING SECTION 17-58 OF THE CODE; 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. Section 17-11 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 17-11. Notice of Violation

Whenever the Minimum Housing Enforcement Officer or his assistant finds and determines that there has been a violation of the minimum housing standards established by this article, he shall give notice of such violation to the owner. Such notice shall be in writing, shall specify the violation and shall specify the time for compliance. Such notice shall specify that the violation must be corrected or a building permit for the work required to correct the violation must be obtained from the County or appropriate municipal building and zoning department having jurisdiction within the time specified in the notice and that final compliance must conform to the requirements of the South Florida Building Code. Such notice shall contain an outline of the remedial action which, if taken, will

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.



MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: October 2, 2007

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

SUBJECT: Agenda Item No. 7(L)

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 Manager'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

constitute compliance with the requirements of this article. Such notice shall inform the owner of the right to apply to the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<< for a hearing and review of matters within the notice as provided in Sections 17-17 and 17-18>>a<< herein. Such notice shall also inform the owner that failure to comply will result in enforcement action as provided in Section 17-15 or Chapter 8CC of this Code. Such notice shall be served upon the owner. Such notice shall be deemed to be properly served and binding upon the property involved if a copy is served by certified mail return receipt requested, addressed to the owner's last known address. If the owner cannot be served by certified mail, a copy of the notice shall be posted in a conspicuous place on the facilities or premises involved. Such notice shall state the date of posting.

Section 2. Section 17-12 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-12. Notice as final order.

Any notice of violation provided for in Section 17-10 hereof shall automatically become a final order in the event that no written appeal from the notice of violation is filed with the >>Hearing Officer<< ~~[[Minimum Housing Appeals Board]]~~ within >>twenty (20)<< ~~[[ten (10)]]~~ days after the date of service of the notice of violation.

Section 3. Section 17-13 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-13. Recording of final order.

Whenever a notice of violation has become a final order, or whenever the violations specified in the notice have not been corrected within the time specified in the notice, the Minimum Housing Enforcement Officer shall file a copy of such final order or other appropriate instrument indicating that violations of the minimum housing standards established by this article exist upon the property involved, in the office of the Clerk of the Circuit Court of Miami-Dade County, Florida, who shall cause the same to be recorded among the public records of Miami-Dade County,

in an appropriate book provided for such purpose. The recordation of such final order or other appropriate instrument as herein provided shall constitute constructive notice to any subsequent purchasers, transferees, grantees, mortgagors, mortgagees, lessees, lienors, and all persons having, claiming or acquiring any interest in the property described therein, or affected thereby. When the violations specified in the said final order shall have been corrected and all costs of enforcement as provided hereinafter are paid, the Minimum Housing Enforcement Officer shall have recorded a certificate certifying that the violations have been corrected and cancelling the final order. All such final orders shall contain the proper legal description of the property involved. The cost of recording the original final order and the certificate of cancellation shall also be recoverable as costs from the owner of record of the property prior to recording the certificate of cancellation. Any person acquiring any interest in or to property described in a final order after recordation thereof shall be bound by the provisions thereof, and shall take the property subject to the requirements set forth in the final order. All such persons acquiring an interest in or to property for which a final order has been recorded under this section shall comply with the requirements thereof, and shall be subject to all of the other provisions of this article. Provided, however, that if the time for appeal from the final order as provided in Sections 17-12 and 17-17 has not run as of the time of conveyance, the new owner or transferee of an interest in or to property shall have ~~[[ten (10)]]~~ >>twenty (20)<< days from the date upon which the transfer of property interest is effective as to him within which to appeal the final order to the >>Hearing Officer<< ~~[[Minimum Housing Appeals Board]]~~. If an appeal of the final order has been perfected but a final decision of the >>Hearing Officer<< ~~[[Minimum Housing Appeals Board]]~~ has not been rendered, the new owner or transferee may exercise all of the rights of appeal which would have been accorded to the prior owner or transferor.

Section 4. Section 17-15 of the Code of Miami-Dade County, Florida, is

hereby amended to read as follows:

Sec. 17-15. Remedies for enforcement; consent agreements; hindering or obstructing Minimum Housing Enforcement Officer.

* * *

(d) The Minimum Housing Enforcement Officer or his assistant, may, in the Minimum Housing Enforcement Officer's or his assistant's discretion, terminate an investigation or an action commenced under the provisions of this article upon execution of a written consent agreement between the Minimum Housing Enforcement Officer or his assistant and the record owner of the land which is the subject of the investigation or action. The consent agreement shall provide written assurance of voluntary compliance with all the applicable provisions of this article by the record owner. The consent agreement shall provide the following: Repayment of costs >>to<< [[øf]] the County for investigation, enforcement, and litigation, including attorneys' fees; and remedial or corrective action. The consent agreement may, in the discretion of the Minimum Housing Enforcement Officer upon agreement of the owner, provide for compensatory damages, punitive damages and civil penalties. An executed written consent agreement shall neither be evidence of a violation of this article nor shall such agreement be deemed to impose limitations upon any investigation or action by the Minimum Housing Enforcement Officer or his assistant, in the enforcement of this article. The consent agreement shall not constitute a waiver of or limitation upon the enforcement of any federal, State or local laws and ordinances. Executed written consent agreements are hereby deemed to be lawful orders of the Minimum Housing Enforcement Officer or his assistant. Each violation of any of the terms and conditions of an executed written consent agreement shall constitute a separate offense under this article by the owner who executed the consent agreement, his respective officers, directors, agents, servants, employees and attorneys; and by those persons in active concert or participation with any of the foregoing persons and who receive actual notice of the consent agreement punishable in

accordance with the provisions of Section 17-15 of this chapter and Chapter 8CC of this Code. Each day during any portion of which each such violation occurs constitutes a separate offense under this article. Decisions and actions of the Minimum Housing Enforcement Officer or his assistant, pursuant to Section 17-15(c) of this Code and written consent agreements executed thereunder, shall not be subject to appeal to or review by the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<< pursuant to Section 17-17 of the Code of ~~[[Metropolitan]]~~ Miami-Dade County, Florida.

* * *

Section 5. Section 17-17 of the Code of Miami-Dade County, Florida, is

hereby amended to read as follows:

Sec. 17-17. Appeals from actions or decisions of Minimum Housing Enforcement Officer.

>>(a)<<Any person aggrieved by any action or decision of the Minimum Housing Enforcement Officer may appeal to the >>Clerk of the Courts<< ~~[[Minimum Housing Appeals Board]]~~ by filing with the >>Clerk of the Courts<< ~~[[board]]~~ within ~~[[ten (10)]]~~ >>twenty (20)<< days after the date of the action or decision complained of, a written notice of appeals which shall set forth concisely the action or decision appealed from and the reasons or grounds for the appeal. >>This appeal provision shall not apply to any citation issued in accordance with Chapter 8CC.<< The ~~[[Board]]~~ >>Clerk<< shall set such appeal for hearing at the earliest possible date, and cause notice thereof to be given to the appellant and the Minimum Housing Enforcement Officer. ~~[[Failure of the appellant to appear at a duly noticed hearing shall be deemed a waiver of the right to a hearing and an admission of the acts specified in the notice of violation.~~

~~The administrative hearing shall be open to the public. The proceedings at the hearing shall be recorded and may be transcribed at the expense of the person requesting the transcript.~~

~~The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if the Board finds it competent and reliable, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence. 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 in civil actions. 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.~~

~~Each person shall have the following rights~~

~~A reasonable amount of time to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.~~

~~The Board shall hear and consider all facts material to the appeal and render a decision promptly. The Board may affirm, reverse or modify the action or decision appealed from, provided that the Board shall not take any action which conflicts or nullifies any of the provisions of this article. The Board shall specifically state in its decision the date by which compliance must be made. The decision of the Board shall be final, and no rehearing or reconsideration shall be considered.]]~~

- >>(b) The administrative hearing shall be open to the public. The proceedings at the hearing shall be recorded and may be transcribed at the expense of the person requesting the transcript.

- (c) Any person who has been served with notice of violation shall elect either to pay the enforcement costs in the manner indicated on the notice, and correct the violation within the time specified on the notice (if applicable); or

- (d) Request an administrative hearing before a Hearing Officer to appeal the decision of the Minimum Housing Enforcement Officer which resulted in the issuance of the notice of violation.
- (e) Appeal by administrative hearing of the notice of violation shall be accomplished by filing a request in writing to the address indicated on the notice, no later than twenty (20) calendar days after the service of the notice, whichever is earlier.
- (f) Upon receipt of a named property owner's timely request for an administrative hearing, the Clerk of the Court shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as possible or as mandated in the specified Code Section which is enforced pursuant to this chapter.
- (g) The Clerk of the Court shall send a notice of hearing by first class mail to the property owner at his last known address. The notice of hearing shall include but not be limited to the following:
 - (1) Name of the Minimum Housing Enforcement Officer who issued the notice.
 - (2) Factual description of alleged violation.
 - (3) Date of alleged violation.
 - (4) Section of the Code allegedly violated.
 - (5) Place, date and time of the hearing.
 - (6) Right of the property owner to be represented by a lawyer.
 - (7) Right of property owner to present witnesses and evidence.
 - (8) Notice that failure of property owner to attend hearing shall result in enforcement costs and administrative costs being assessed against him or her.

- (9) Notice that requests for continuances will not be considered if not received by the Hearing Officer at least fifteen (15) calendar days prior to the date set for hearing.
- (h) The Clerk of the Court shall schedule hearings upon the request of the appellant. No hearing shall be set sooner than twenty (20) calendar days from the date of service of the notice of violation.
- (i) All testimony shall be under oath. Assuming proper notice, a hearing may proceed in the absence of the property owner.
- (j) The Clerk of the Court shall provide clerical and administrative personnel as may be reasonably required by each Hearing Officer for the proper performance of his duties.
- (k) Each case before a Hearing Officer shall be presented by the head of the enforcing agency or his designee.
- (l) The hearing need not be conducted in accordance with the formal rules relating to evidence and witnesses. Any relevant evidence shall be admitted if the Hearing Officer finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
- (m) Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.
- (n) The Hearing Officer shall make findings of fact based on evidence of record. The Hearing Officer shall make findings of fact immediately upon conclusion of the hearing. Once commenced, no hearing shall be deferred, however, the property owner shall have the option to request a reschedule of the hearing. A request to reschedule the hearing shall only be considered prior to the commencement

of the testimony and presentation of evidence. In order to make a finding upholding the Minimum Housing Enforcement Officer's decision, the Hearing Officer must find that a preponderance of the evidence indicates that the property owner was responsible for the violation of the relevant Section of the Code as charged.

- (o) If the property owner is found guilty of the violation, he shall pay the reasonable costs of the administrative hearing and the costs and expenses of the enforcing agency for investigation, enforcement, testing, or monitoring. The costs and expenses of the enforcing agency for investigation, enforcement, testing, or monitoring shall be calculated and submitted to the Hearing Officer, to be attached to the final order for amount owed, in standard format as prescribed by departmental administrative orders approved and amended from time to time by the Board of County Commissioners or the local municipal governing board. All costs of enforcement shall be paid within thirty (30) days of the date of the administrative hearing unless an alternate timeframe is established by the enforcing agency.
- (p) The fact-finding determination of the Hearing Officer shall be limited to whether the violation alleged did occur and, if so, whether the person named in the civil violation notice can be held responsible for that violation. Based upon this fact-finding determination, the Hearing Officer shall either affirm or reverse the decision of the Minimum Housing Enforcement Officer as to the responsibility of the named property owner for the Code violation. If the Hearing Officer affirms the decision of the Minimum Housing Enforcement Officer, the Hearing Officer shall determine a reasonable time period within which correction of the violation must be made, provided however, that such time period shall be no more than thirty (30) days. If the Hearing Officer reverses the decision of the Minimum Housing Enforcement Officer and finds the named property owner not responsible for the Code violation alleged in the civil violation notice, the named property owner shall not be

liable for the payment of any administrative costs, absent reversal of the Hearing Officer's findings. If the decision of the Hearing Officer is to affirm, then the following elements shall be included:

- (1) Amount of enforcement costs of the enforcing agency.
 - (2) Administrative costs of hearing.
 - (3) Date by which the violation must be corrected to prevent imposition of continuing violation penalties (if applicable).
- (q) The Hearing Officer shall have the power to:
- (1) Adopt procedures for the conduct of hearings.
 - (2) Subpoena property owners and witnesses for hearings; subpoenas may be served by the Miami-Dade County Police Department or by the staff of the Hearing Officer.
 - (3) Subpoena evidence.
 - (4) Take testimony under oath.
- (r) (1) A Hearing Officer shall postpone and shall not conduct a hearing if the named property owner, prior to the scheduled hearing date, files with a duly authorized County board of appropriate jurisdiction, an administrative appeal concerning the interpretation or application of any technical provisions of the Code Section allegedly violated. However, once an issue has been determined by a Hearing Officer in a specific case, that issue may not be further reviewed by a County board in that specific case. A named property owner waives his right to administrative appeal to other County boards if the property owner does not apply for such appeal prior to the property owner's

administrative appeal hearing before the Hearing Officer.

- (2) Upon exhaustion of a timely filed administrative appeal and finalization of the administrative order by such board, the Hearing Officer may exercise all powers given to him by this chapter. The Hearing Officer shall not, however, exercise any jurisdiction over such alleged Code violations until the time allowed for court appeal of the ruling of such board has lapsed or until such further appeal has been exhausted.
- (3) The Hearing Officer shall be bound by the interpretations and decisions of duly authorized County boards concerning the provisions of the codes within their respective jurisdictions. In the event such a board decides that an alleged violation of the Code is not in accordance with such board's interpretation of the Code provision on which the violation is based, the Hearing Officer shall not be empowered to proceed with the enforcement of the violation.

(s)<< Any person aggrieved by any decision of the >>Hearing Officer<< ~~[[Board]]~~ on appeal taken to it, including, but not limited to, the Minimum Housing Enforcement Officer, may apply to the Circuit Court of Miami-Dade County for review by writ of certiorari in accordance with the applicable Florida Appellate Rules. For such purposes, the ~~[[Secretary]]~~ >>Clerk<< of the >>Court<< ~~[[Board]]~~ shall make available for public inspection and copying the record of each such decision to be reviewed; provided, such ~~[[secretary]]~~ >>clerk<< may make a reasonable charge commensurate with the costs, in the event he/she is able to and does furnish copies of all or portions of such ~~[[board's]]~~ records. Prior to certifying a copy of any record or any portion thereof, the >>clerk<< ~~[[secretary]]~~, or ~~[[her]]~~ designee, shall make all necessary corrections in order that the copy is a true and correct copy of the record, or those portions thereof

requested, and shall make a charge of not more than actual copying costs per page, instrument, or exhibit; provided the charges here authorized are not intended to repeal or amend any fee or scheduled fees otherwise established.

Section 6. Section 17-18 of the Code of Miami-Dade County, Florida, is

hereby repealed as follows:

~~[[Sec. 17-18. Minimum Housing Appeals Board.~~

~~The Metropolitan Miami Dade County Minimum Housing Appeals Board is hereby created and established. The Board shall consist of thirteen (13) members appointed by the Board of County Commissioners.~~

- ~~(A) *Qualifications of members.* Members of the Board shall be permanent residents and electors of Miami-Dade County, who possess outstanding reputations for civic pride, interest, integrity, responsibility and business or professional ability. Appointments shall be made by the County Commission.~~
- ~~(B) *Terms of office.* In order that the terms of office of all members of the Board shall not expire at the same time, the initial appointments to the Board shall be as follows: Two (2) members shall be appointed for the term of one (1) year; two (2) members shall be appointed for the term of two (2) years; and five (5) members shall be appointed for the term of three (3) years. Thereafter all appointments shall be for the term of three (3) years. Appointments to fill any vacancy on the Board shall be for the remainder of the unexpired term.~~
- ~~(C) *Organization of the Board.* The members of the Board shall elect a Chairman and such other officers as may be deemed necessary or desirable, who shall serve at the will of the Board. No less than four (4) members shall constitute a quorum necessary to hold a meeting or take any action. A majority vote of the Board quorum as defined above shall be necessary to overrule any decision of the Minimum~~

~~Housing Enforcement Officer, except that no less than five (5) members shall be required to vote affirmatively to grant a continuing variance. Members shall serve without compensation, but shall be entitled to be reimbursed for necessary expenses incurred in the performance of their official duties, upon approval by the County Commission.~~

~~(D) *Meetings of the Board.* Meetings of the Board shall be held monthly or more frequently if necessary to hear and dispose of the pending appeals. Notice of the time and place of meetings shall be given to all parties scheduled to be heard. The Chairman may call an emergency meeting of the Board, and meetings may also be called by written notice signed by three (3) members of the Board. Minutes shall be kept of all meetings of the Board. All meetings shall be public. The County Manager 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. The County Manager shall provide a regular meeting place for the Board.~~

~~(E) *Duties and powers of the Board.* The Board]] The shall have the following duties, functions, powers and responsibilities:~~

~~(1) Hear and determine appeals from actions and decisions of the Minimum Housing Enforcement Officer in accordance with the provisions of Sections 17-17 and 17A-15.~~

~~(2) The Board shall have the power and authority to hear and pass upon appeals from decisions of the Minimum Housing Enforcement Officer as provided in Sections 17-17, 17-57 and Chapter 17A.~~

~~(3) (a) The Board shall not have the power or authority to grant applications for variances to this code, except under the following circumstances:~~

- 1 ~~When the Board specifically finds, upon a showing by the applicant, that an extreme hardship as defined in Section 17-6 or 17A-5 exists; and~~

 - 2 ~~When the Board finds that such hardship circumstance is one (1) in which the granting of a variance will not detrimentally affect the health, safety, morals or welfare of the occupants or the public.~~
- (b) ~~When the Board finds that the application for variance meets the requirements of subsection (a) above, the Board may determine that such variance is necessary for a period of one (1) year or less and in that event the Board shall recite the exact date on which the variance shall terminate and by which compliance shall be effected.~~
- (c) ~~When the Board finds that the application for variance meets the requirements of subsection (a) above, and further finds that such hardship variance should be granted for a period of greater than one (1) year, it shall grant a "continuing variance." Such continuing variance shall be granted only if favorably voted upon by the Board as provided for in Section 17-18(C). Such variance shall apply only to the code violations specifically considered and favorably voted upon by the Board. Such continuing variance shall remain in effect for only so long as those conditions which the~~

~~shall attach to each such variance are complied with. The conditions which shall attach to such continuing variance shall include, but not be limited to:~~

- ~~1. That the ownership of the particular unit involved shall remain unchanged; or, in the alternative, the may grant a continuing variance which shall run with and attach to the property so long as the usage thereof remains unchanged;~~
- ~~2. That the occupancy and usage of said unit shall remain unchanged;~~
- ~~3. That no structural modification or alteration affecting that portion or portions of the unit which is the subject of this variance shall be made except such modification or alteration which is necessary to accomplish compliance with this article or Chapter 17A;~~
- ~~4. That failure to comply with the conditions upon which said variance has been granted shall require the Enforcement Officer to file a notice of violation in accordance with the provisions of subsection (d) hereof, which shall cause the existence of any such continuing variance to be reviewed for a determination of whether such variance should be revoked by the~~

~~Minimum Housing Appeals Board;~~

- ~~5. Other such conditions deemed necessary by the Board based upon its consideration of the facts and circumstances of each case; and~~
- ~~6. That said unit shall be annually inspected by the Minimum Housing Enforcement Officer to determine the compliance with the conditions of the variance and to determine that changes have not taken place which shall cause a dangerous threat to the health, safety, morals or welfare of the occupant of said unit or to the public at large.~~

- ~~(d) If the Minimum Housing Enforcement Officer shall, after the annual or periodic inspection provided for in subsection c) 6, above, determine that the conditions attached to any continuing variance have not been complied with, the Officer shall provide written notice of such violation to the owner of the premises concerned of the violation of any condition and schedule the matter for hearing before the Minimum Housing Appeals Board. At such meeting, the person served with notice of a violation shall have the burden of showing the Board why such variance should not be terminated. Issuance of a civil violation notice in accordance with the requirements of Chapter 8CC of~~

~~this Code will satisfy the notice requirement hereunder.~~

- (e) ~~Notwithstanding the provisions of Section 17-13 or Section 17A-11, any variance granted by the Minimum Housing Appeals Board for extreme hardship shall be recorded as a final order, upon being granted by the Board. The recording of any such variance shall include a list of all conditions which the Board shall have attached and a list of the specific violations for which the Board has granted the variance. Any other variance granted by the Hearing Officer Minimum Housing Appeals Board]] shall continue to be recorded as provided by Section 17-13 or Section 17A-11.~~

- (4) ~~To adopt, revise and amend from time to time appropriate rules and regulations reasonably necessary for the implementation, effective enforcement, administration, and interpretation of the provisions of this article and Chapter 17A and the minimum housing standards and vacant housing structure standards prescribed therein, and to provide for the effective and continuing establishment and enforcement of reasonable minimum housing standards and vacant housing structure standards within the framework of this chapter and Chapter 17A. No such rules and regulations shall be adopted or become effective (including amendments) until after a public hearing has been held by the Minimum Housing Appeals Board pursuant to notice published at least ten (10) days prior to the hearing, and until such rules and regulations have been approved by the County Commission and filed with the Clerk of the County Commission. When approved by the County Commission and filed with~~

~~the Clerk, such rules and regulations shall have the force and effect of law.~~

- (5) ~~To make continuing studies and periodic reports and recommendations for the improvement of minimum housing standards and vacant housing structure standards for Metropolitan Miami-Dade County, and to work in cooperation with all federal, State and local agencies interested in said standards and the elimination of slums and blighted areas. To publicize the importance of adequate minimum housing standards and vacant housing structure standards, to hold and conduct public hearings, discussions, forums and institutes, and arrange programs for the presentation of information by experts in the field of housing and slum clearance, and to visit and study housing programs conducted in other metropolitan areas.]]~~

Section 7. Section 17-18a of the Code of Miami-Dade County, Florida, is hereby created as follows:

>>Section 17-18a. Hearing Officer.

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

- (A) Hear and determine appeals from actions and decisions of the Minimum Housing Enforcement Officer in accordance with the provisions of this Chapter.
- (B) The Hearing Officer shall have the power and authority to hear and pass upon appeals from decisions of the Minimum Housing Enforcement Officer as provided in Sections 17-17, 17-57 and Chapter 17A and Chapter 17B.<<

Section 8. Section 17-30 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 17-30. Designation of dwellings, hotels and rooming houses, unfit for human habitation and procedures for placarding.

* * *

(c) One (1) which because of its general condition or location is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

* * *

Any person whose property has been placarded as unfit for human habitation may request and shall be granted a hearing on the matter before the >>Hearing Officer<< [~~Minimum Housing Appeals Board~~].

* * *

Section 9. Section 17-30.1 of the Code of Miami-Dade County, Florida, is

hereby amended as follows:

Sec. 17-30.1. Exceptions.

The provisions of this article shall not be applicable to migrant labor camps, as defined by Section 381.422, Florida Statutes, or to tourist or trailer camps, as defined by Section 513.01, Florida Statutes, which hold valid, current licenses issued by the Florida State Board of Health. The provisions of this article shall not be applicable to temporary housing, as defined in Section 17-6(24) of this article, or to temporary housing utilized for dwelling purposes in times of local emergency, disaster, or urgent necessity, as determined by the [~~Minimum Housing Appeals Board~~] >>Hearing Officer<<. The provisions of this article shall be applicable to all other dwellings, housing and buildings used or intended for use for human habitation.

Section 10. Section 17-46 of the Code of Miami-Dade County, Florida, is

hereby amended as follows:

Sec. 17-46. Definitions.

In construing the provisions of this article, where the context will permit and no definition is provided herein, the definitions provided in Chapter 4 of the South Florida Building Code shall apply. The following words and phrases when used in this article shall have the meanings ascribed to them in this section:

* * *

(7.1) Extreme hardship shall describe a condition existing in a case before the >>Hearing Officer<< ~~[[Board]]~~ when a dwelling or dwelling unit does not fully comply with the provisions of the minimum housing code but is structurally sound and does not have safety deficiencies, and when the repair of such structure, in order to assure compliance with the code, would result in great economic hardship to the owner or the occupant of said unit, with commensurately little benefit to the owner or occupant and to the public at large.

* * *

Section 11. Section 17-49 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 17-49. Same--Identification of Minimum Housing Enforcement Officer; conflict of interest.

* * *

No official, >>Hearing Officer<< ~~[[board-member]]~~ or employee charged with the enforcement of this law shall have any financial interest, directly or indirectly, in any repairs, corrections, construction or demolition which may be required.

Section 12. Section 17-51 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 17-51. Notice of violations.

* * *

[[E]](c)[[F]] Such notice shall contain an outline of the remedial action which, if taken, will constitute compliance with the requirements of this article. Such notice shall inform the owner of the right to apply to the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<< for a hearing and review of matters within this notice as provided in Sections 17-57 and 17-58. Such notice may also inform the person or persons to whom it is directed that failure to comply may result in enforcement action as provided for in Section 17-55 or Chapter 8CC of this Code. Such notice shall be served upon the owner. Such notice shall be deemed to be properly served and binding upon the property involved if a copy is served by certified mail return receipt requested, addressed to the owner's last known address, or if the owner cannot be served by certified mail, a copy of the notice shall be posted in a conspicuous place on the facilities or premises involved. Such notice shall state the date of posting.

Section 13. Section 17-52 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-52. Notice as final order.

Any notice of violation provided for in Section 17-51 hereof shall automatically become a final order in the event that no written appeal from the notice of violation is filed with the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<< within >>twenty (20)<< ~~[[ten (10)]]~~ days after the date of service of the notice of violation.

Section 14. Section 17-53 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-53. Recording of final order.

Whenever a notice of violation becomes a final order, or whenever the violations specified in the notice have not been corrected within the time specified in the notice, the Minimum Housing Enforcement Officer shall file a copy of such final order or other appropriate instrument indicating that violations of the minimum housing standards

established by this article exist upon the property involved, in the office of the Clerk of the Circuit Court of Miami-Dade County, Florida, who shall cause the same to be recorded among the public records of Miami-Dade County, in an appropriate book provided for such purpose. The recordation of such final order or other appropriate instrument as herein provided shall constitute constructive notice to any subsequent purchasers, transferees, grantees, mortgagors, mortgagees, lessees, lienors, and all persons having, claiming or acquiring any interest in the property described therein, or affected thereby. When the violations specified in the said final order shall have been corrected, and all costs of enforcement as provided hereinafter are paid, the Minimum Housing Enforcement Officer shall have recorded a certificate certifying that the violations have been corrected and canceling the final order. All such final orders shall contain the proper legal description of the property involved. The cost of recording the original final order and the certificate of cancellation shall also be recoverable as costs from the owner of record of the property prior to recording the certificate of cancellation. Any person acquiring any interest in or to property described in a final order after recordation thereof shall be bound by the provisions thereof, and shall take the property subject to the requirements set forth in the final order. All such persons acquiring an interest in or to property for which a final order has been recorded under this section shall comply with the requirements thereof, and shall be subject to all of the other provisions of this chapter. Provided, however, that if the time for appeal from the final order as provided in Sections 17-52 and 17-57 has not run as of the time of conveyance, the new owner or transferee of an interest in or to property shall have ten (10) days from the date upon which the transfer of property interest is effective as to him within which to appeal the final order to the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<<. If an appeal of the final order has been perfected but a final decision of the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<< has not been rendered, the new owner or transferee may exercise all of the rights of appeal which would have been accorded to the prior owner or transferor.

Section 15. Section 17-55 of the Code of Miami-Dade County, Florida, is

hereby amended to read as follows:

Sec. 17-55. Remedies for enforcement consent agreements; hindering or obstructing Minimum Housing Enforcement Officer.

* * *

- (d) The Minimum Housing Enforcement Officer or his assistant, may, in the Minimum Housing Enforcement Officer's or his assistant's discretion, terminate an investigation or an action commenced under the provisions of this chapter upon execution of a written consent agreement between the Minimum Housing Enforcement Officer or his assistant and the record owner of the land which is the subject of the investigation or action. The consent agreement shall provide written assurance of voluntary compliance with all the applicable provisions of this chapter by the record owner. The consent agreement shall provide the following: Repayment of costs of the County for investigation, enforcement, and litigation including attorneys' fees; and remedial or corrective action. The consent agreement may, in the discretion of the Minimum Housing Enforcement Officer upon agreement of the owner, provide for compensatory damages, punitive damages and civil penalties. An executed written consent agreement shall neither be evidence of a violation of this chapter nor shall such agreement be deemed to impose any limitations upon any investigation or action by the Minimum Housing Enforcement Officer or his assistant, in the enforcement of this chapter. The consent agreement shall not constitute a waiver of or limitation upon the enforcement of any federal, State or local laws and ordinances. Executed written consent agreements are hereby deemed to be lawful orders of the Minimum Housing Enforcement Officer or his assistant. Each violation of any of the terms and conditions of an executed written consent agreement shall constitute a separate offense under this chapter by the owner who executed the consent agreement, his respective officers, directors, agents,

servants, employees and attorneys; and by those persons in active concert or participation with any of the foregoing persons and who receive actual notice of the consent agreement punishable in accordance with the provisions of Section 17-55 of this chapter and Chapter 8CC of this Code. Each day during any portion of which each such violation occurs constitutes a separate offense under this chapter. Decisions and action of the Minimum Housing Enforcement Officer or his assistant, pursuant to Section 17-55(c) of this Code and written consent agreements executed thereunder, shall not be subject to appeal to or review by the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<< pursuant to Section 17-57 of the Code of ~~[[Metropolitan]]~~ Miami-Dade County, Florida.

* * *

Section 16. Section 17-57 of the Code of Miami-Dade County, Florida, is

hereby amended to read as follows:

Sec. 17-57. Appeals from actions or decisions of Minimum Housing Enforcement Officer.

>>(a)<<Any person aggrieved by any action or decision of the Minimum Housing Enforcement Officer may appeal to the >>Clerk of the Courts<< ~~[[Minimum Housing Appeals Board]]~~ by filing with the >>Clerk of the Courts<< ~~[[board]]~~ within ~~[[ten (10)]]~~ >>twenty (20)<< days after the date of the action or decision complained of, a written notice of appeals which shall set forth concisely the action or decision appealed from and the reasons or grounds for the appeal. >> This appeal provision shall not apply to any citation issued in accordance with Chapter 8CC.<< The ~~[[Board]]~~ >>Clerk<< shall set such appeal for hearing at the earliest possible date, and cause notice thereof to be given to the appellant and the Minimum Housing Enforcement Officer. ~~[[The Board shall hear and consider all facts material to the appeal and render a decision promptly. The Board may affirm, reverse or modify the action or decision appealed from, provided that the Board shall not take any action which conflicts~~

~~or nullifies any of the provisions of this article. The Board shall specifically state in its decision the date by which compliance must be made. The decision of the Board shall be final, and no rehearing or reconsideration shall be considered. Any person aggrieved by any decision of the Board on appeal taken to it, including but not limited to, the Minimum Housing Enforcement Officer, may apply to the Circuit Court of Miami Dade County for a review thereof by writ of certiorari in accordance with the applicable Florida Appellate Rules.]]~~

- >>(b) The administrative hearing shall be open to the public. The proceedings at the hearing shall be recorded and may be transcribed at the expense of the person requesting the transcript.
- (c) Any person who has been served with notice of violation shall elect either to pay the enforcement costs in the manner indicated on the notice, and correct the violation within the time specified on the notice (if applicable); or
- (d) Request an administrative hearing before a Hearing Officer to appeal the decision of the Minimum Housing Enforcement Officer which resulted in the issuance of the notice of violation.
- (e) Appeal by administrative hearing of the notice of violation shall be accomplished by filing a request in writing to the address indicated on the notice, no later than twenty (20) calendar days after the service of the notice, whichever is earlier.
- (f) Upon receipt of a named property owner's timely request for an administrative hearing, the Clerk of the Court shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as possible or as mandated in the specified Code Section which is enforced pursuant to this chapter.

- (g) The Clerk of the Court shall send a notice of hearing by first class mail to the property owner at his last known address. The notice of hearing shall include but not be limited to the following:
- (1) Name of the Minimum Housing Enforcement Officer who issued the notice.
 - (2) Factual description of alleged violation.
 - (3) Date of alleged violation.
 - (4) Section of the Code allegedly violated.
 - (5) Place, date and time of the hearing.
 - (6) Right of the property owner to be represented by a lawyer.
 - (7) Right of property owner to present witnesses and evidence.
 - (8) Notice that failure of property owner to attend hearing shall result in enforcement costs and administrative costs being assessed against him.
 - (9) Notice that requests for continuances will not be considered if not received by the Hearing Officer at least fifteen (15) calendar days prior to the date set for hearing.
- (h) The Clerk of the Court shall schedule hearings upon the request of the appellant. No hearing shall be set sooner than twenty (20) calendar days from the date of service of the notice of violation.
- (i) All testimony shall be under oath. Assuming proper notice, a hearing may proceed in the absence of the property owner.
- (j) The Clerk of the Court shall provide clerical and administrative personnel as may be reasonably required by each Hearing Officer for the proper performance of his duties.

- (k) Each case before a Hearing Officer shall be presented by the head of the enforcing agency or his designee.
- (l) The hearing need not be conducted in accordance with the formal rules relating to evidence and witnesses. Any relevant evidence shall be admitted if the Hearing Officer finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
- (m) Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.
- (n) The Hearing Officer shall make findings of fact based on evidence of record. The Hearing Officer shall make findings of fact immediately upon conclusion of the hearing. Once commenced, no hearing shall be deferred, however, the property owner shall have the option to request a reschedule of the hearing. A request to reschedule the hearing shall only be considered prior to the commencement of the testimony and presentation of evidence. In order to make a finding upholding the Minimum Housing Enforcement Officer's decision, the Hearing Officer must find that a preponderance of the evidence indicates that the property owner was responsible for the violation of the relevant Section of the Code as charged.
- (o) If the property owner is found guilty of the violation, he shall pay the reasonable costs of the administrative hearing and the costs and expenses of the enforcing agency for investigation, enforcement, testing, or monitoring. The costs and expenses of the enforcing agency for investigation, enforcement, testing, or monitoring shall be calculated and submitted to the Hearing Officer, to be attached to the final order for amount owed, in standard format as prescribed by departmental administrative orders approved and amended from

time to time by the Board of County Commissioners or the local municipal governing board. All costs of enforcement shall be paid within thirty (30) days of the date of the administrative hearing unless an alternate timeframe is established by the enforcing agency.

- (p) The fact-finding determination of the Hearing Officer shall be limited to whether the violation alleged did occur and, if so, whether the person named in the civil violation notice can be held responsible for that violation. Based upon this fact-finding determination, the Hearing Officer shall either affirm or reverse the decision of the Minimum Housing Enforcement Officer as to the responsibility of the named property owner for the Code violation. If the Hearing Officer affirms the decision of the Minimum Housing Enforcement Officer, the Hearing Officer shall determine a reasonable time period within which correction of the violation must be made, provided however, that such time period shall be no more than thirty (30) days. If the Hearing Officer reverses the decision of the Minimum Housing Enforcement Officer and finds the named property owner not responsible for the Code violation alleged in the civil violation notice, the named property owner shall not be liable for the payment of any administrative costs, absent reversal of the Hearing Officer's findings. If the decision of the Hearing Officer is to affirm, then the following elements shall be included:

- (1) Amount of enforcement costs of the enforcing agency.
- (2) Administrative costs of hearing.
- (3) Date by which the violation must be corrected to prevent imposition of continuing violation penalties (if applicable).

- (q) The Hearing Officer shall have the power to:
 - (1) Adopt procedures for the conduct of hearings.
 - (2) Subpoena property owners and witnesses for hearings; subpoenas may be served by the Miami-Dade County Police Department or by the staff of the Hearing Officer.
 - (3) Subpoena evidence.
 - (4) Take testimony under oath.
- (r) (1) A Hearing Officer shall postpone and shall not conduct a hearing if the named property owner, prior to the scheduled hearing date, files with a duly authorized County board of appropriate jurisdiction, an administrative appeal concerning the interpretation or application of any technical provisions of the Code Section allegedly violated. However, once an issue has been determined by a Hearing Officer in a specific case, that issue may not be further reviewed by a County board in that specific case. A named property owner waives his right to administrative appeal to other County boards if the property owner does not apply for such appeal prior to the property owner's administrative appeal hearing before the Hearing Officer.
- (2) Upon exhaustion of a timely filed administrative appeal and finalization of the administrative order by such board, the Hearing Officer may exercise all powers given to him by this chapter. The Hearing Officer shall not, however, exercise any jurisdiction over such alleged Code violations until the time allowed for court appeal of the ruling of such board has lapsed or until such further appeal has been exhausted.

- (3) The Hearing Officer shall be bound by the interpretations and decisions of duly authorized County boards concerning the provisions of the codes within their respective jurisdictions. In the event such a board decides that an alleged violation of the Code is not in accordance with such board's interpretation of the Code provision on which the violation is based, the Hearing Officer shall not be empowered to proceed with the enforcement of the violation.
- (s) Any person aggrieved by any decision of the Hearing Officer on appeal taken to it, including, but not limited to, the Minimum Housing Enforcement Officer, may apply to the Circuit Court of Miami-Dade County for review by writ of certiorari in accordance with the applicable Florida Appellate Rules. For such purposes, the Clerk of the Court shall make available for public inspection and copying the record of each such decision to be reviewed; provided, such Clerk may make a reasonable charge commensurate with the costs, in the event he/she is able to and does furnish copies of all or portions of such records. Prior to certifying a copy of any record or any portion thereof, the clerk, or designee, shall make all necessary corrections in order that the copy is a true and correct copy of the record, or those portions thereof requested, and shall make a charge of not more than actual copying costs per page, instrument, or exhibit; provided the charges here authorized are not intended to repeal or amend any fee or scheduled fees otherwise established.<<

Section 17. Section 17-58 of the Code of Miami-Dade County, Florida, is

hereby amended to read as follows:

**Sec. 17-58. ~~[[Housing]]~~ >>Hearing Officer's Additional Duties in City of Miami<<
~~[[Appeals Board]]~~.**

The ~~[[Housing Appeals Board]]~~ >>Hearing Officer<< established by Section 17-17 of the Code of

[[Metropolitan]] Miami-Dade County shall have the following additional duties in the City of Miami:

* * *

(2) The [[Board]] >>Hearing Officer<< shall have the power and authority to hear and pass upon all appeals from the enforcement officer's refusal to grant extension of time for compliance with the provisions of this article and Chapter 17A and notices issued by the Minimum Housing Enforcement Officer. Applications for extensions of time for compliance shall be considered and determined on the basis of the public interest and welfare and not merely on economic benefit to the applicant. Applications shall be granted only when it is established that the requested extension of time for compliance will not be detrimental to the occupants or to the public health, safety and welfare of the public at large.

(3) (a) The [[Board]] >>Hearing Officer<< shall not have the power or authority to grant applications for variances to this code, except under the following circumstances:

1. When the [[Board]] >>Hearing Officer<< specifically finds, upon a showing by the applicant, that an extreme hardship as defined in Section 17-46 or 17A-5 exists; and

2. When the [[Board]] >>Hearing Officer<< finds that such hardship circumstance is one in which the granting of a variance will not detrimentally affect the health, safety, morals or welfare of the occupants or the public.

(b) When the [[Board]] >>Hearing Officer<< finds that the application for variance meets the requirements of subsection (a) above, the [[Board]] >>Hearing Officer<< may determine that such variance is necessary for

a period of one (1) year or less and in that event the ~~[[Board]]~~ >>Hearing Officer<< shall recite the exact date on which the variance shall terminate and by which compliance shall be effected.

- (c) When the ~~[[Board]]~~ >>Hearing Officer<< finds that the application for variance meets the requirements of subsection (a) above, and further finds that such hardship variance should be granted for a period of greater than one (1) year, >>the Hearing Officer<< ~~[[it]]~~ shall grant a "continuing variance." ~~[[Such continuing variance shall be granted only if favorably voted upon by the Board as provided for in Section 17-18(C).]]~~ Such variance shall apply only to the code violations specifically considered and >>approved<< ~~[[favorably voted upon]]~~ by the ~~[[Board]]~~ >>Hearing Officer<<. Such continuing variance shall remain in effect for only so long as those conditions which the ~~[[Board]]~~ >>Hearing Officer<< shall attach to each such variance are complied with. The conditions which shall attach to such continuing variance shall include, but not be limited to:

1. That ownership of the particular unit involved shall remain unchanged; or, in the alternative, the ~~[[Board]]~~ >>Hearing Officer<< may grant a continuing variance which shall run with and attach to the property so long as the usage thereof remains unchanged;

* * *

4. That failure to comply with the conditions upon which said variance has been granted shall require the enforcement officer to file a notice of violation in accordance with the provisions of subsection (d) hereof,

which shall cause the existence of any such continuing variance to be reviewed for a determination of whether such variance should be revoked by the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<<;

5. Other such conditions deemed necessary by the >>Hearing Officer<< ~~[[Board]]~~ based upon its consideration of the facts and circumstances of each case; and

* * *

- (d) If the Minimum Housing Enforcement Officer shall, after the annual or periodic inspection provided for in subsection (c)6 above, determine that the conditions attached to any continuing variance have not been complied with, the officer shall file a notice of violation of the terms of said variance in accordance with the notice provisions of Section 17-51 of this chapter or Section 17A-9 of the Code of ~~[[Metropolitan]]~~ Miami-Dade County, Florida, and the officer shall schedule the matter for hearing before the >>Hearing Officer.<< ~~[[Minimum Housing Appeals Board at the next regularly scheduled meeting. At such meeting, the]]~~ >>The<< person served with the notice of violation shall have the burden of showing the >>Hearing Officer<< ~~[[;]]~~ ~~[[Board]]~~ why such variance should not be terminated.

- (e) Notwithstanding the provisions of Section 17-53 or Section 17A-11, any variance granted by the >>Hearing Officer<< ~~[[Minimum Housing Appeals Board]]~~ for extreme hardship shall be recorded as a final order~~[[, upon being granted by the Board]].~~ The recording of any such variance shall include a list of all conditions which the

~~[[Board]]~~ >>Hearing Officer<< shall have attached and a list of the specific violations for which the >>Hearing Officer<< ~~[[Board]]~~ has granted the variance. Any other variance granted by the ~~[[Minimum Housing Appeals Board]]~~ >>Hearing Officer<< shall continue to be recorded as provided by Section 17-53 or Section 17A-11.

(3) ~~[[To adopt, revise and amend from time to time appropriate rules and regulations reasonably necessary for the implementation, effective enforcement, administration and interpretation of the provisions of this article and Chapter 17A and the minimum housing standards and vacant housing structure standards prescribed therein, and to provide for the effective and continuing establishment and enforcement of reasonable minimum housing standards and vacant housing structure standards within the framework of this article and Chapter 17A. No such rules and regulations shall be adopted or become effective (including amendments) until after a public hearing has been held by the Minimum Housing Appeals Board pursuant to notice published at least ten (10) days prior to the hearing, and until such rules and regulations have been approved by the County Commission and filed with the Clerk of the County Commission. When approved by the County Commission and filed with the Clerk, such rules and regulations shall have the force and effect of law.~~

(5) ~~To make continuing studies and periodic reports and recommendations for the improvement of minimum housing standards and to work in cooperation with all federal, State and local agencies interested in minimum housing standards and vacant housing structure standards and the elimination of slums and blighted areas. To publicize the importance of adequate minimum housing standards and vacant housing structure standards, to hold and conduct public hearings, discussions, forums, and institutes, and arrange~~

~~programs for the presentation of information by experts in the field of housing and slum clearance and to visit and study housing programs conducted in other metropolitan areas.]]~~

Section 18. Section 17-66 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-66. Designation of dwellings, hotels and rooming houses as unfit for human habitation and procedures for placarding.

* * *

- (3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

* * *

Any person whose property has been placarded as unfit for human habitation may request and shall be granted a hearing on the matter before the >>Hearing Officer<< ~~[[Minimum Housing Appeals Board]]~~.

* * *

Section 19. Section 17-67 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 17-67. Exceptions.

The provisions of this article shall not be applicable to migrant labor camps, as defined by Section 381.422, Florida Statutes, nor to tourist or trailer camps, as defined by Section 513.01, Florida Statutes, which hold valid, current licenses issued by the Florida State Board of Health. The provisions of this article shall not be applicable to temporary housing as defined in Section 17-46 of this article nor to temporary housing utilized for dwelling

purposes in times of local emergency, disaster, or urgent necessity, as determined by the Unsafe Structures and >>Hearing Officer<< [~~Housing Appeals Board~~]. The provisions of this article shall be applicable to all other dwellings, housing and buildings and buildings used or intended for use for human habitation.

Section 20. 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 21. 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 22. 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: October 2, 2007

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Terrence A. Smith

Chapter 17 Amendment

- Chapter 17 sets minimum housing standards for residents.
- Minimum Housing Enforcement Officers issue Notices of Violations for non-compliance with Chapter 17.
- Minimum Housing Appeals Board (MHAB) was created in 1968 to hear appeals to decisions made by Minimum Housing Enforcement Officers.
- MHAB heard several cases throughout the years, but was having difficulty hearing cases resulting from a lack of quorum and had not met since 2002.
- MHAB was sunset in 2003 and there has not been an official appeal process in place; Team Metro has been working with residents to resolve issues and achieve compliance.
- The amendment creates a hearing officer mechanism for minimum housing appeals.
- Violators would submit their appeals to the Clerk of the Courts, who schedules the hearings.
- This amendment aligns the appeal process with that of other sections of the Code enforced by Team Metro.
- The amendment is in the best interest of our citizens because it provides for an effective and efficient method of having minimum housing appeals heard.
- Hearing Officers are solicited through an ad in the Miami Herald, Diarios de las Americas, and Miami Times.
- Hearing officers must have had residency in Miami-Dade County for at least six months and reside in the county throughout their appointment.
- Appointment recommendations for Hearing Officers are made by the Hearing Officer Review Board, which consists of employees from the Building Department, Clerk of the Courts, Consumer Services Department, County Attorney's Office, and Team Metro.
- Amendment will have an estimated \$6,300 fiscal impact per year on the department.

3-5-68

ORDINANCE NO. 68-14

ORDINANCE RELATING TO MINIMUM HOUSING STANDARDS WITHIN THE CITY OF MIAMI, FLORIDA, TO BE KNOWN AS THE "METROPOLITAN DADE COUNTY MINIMUM HOUSING STANDARDS ORDINANCE FOR THE CITY OF MIAMI"; DECLARING LEGISLATIVE FINDINGS; DECLARING LEGISLATIVE INTENT; DECLARING PRINCIPLES OF CONSTRUCTION AND APPLICABILITY; PROVIDING FOR THE PRESERVATION OF EXISTING REMEDIES; PROVIDING DEFINITIONS; PROVIDING FOR APPOINTMENT, TERM, EXEMPTION FROM CLASSIFIED SERVICE AND SALARY OF MINIMUM HOUSING ENFORCEMENT OFFICER; PROVIDING THE DUTIES AND POWERS OF THE MINIMUM HOUSING ENFORCEMENT OFFICER; PROVIDING MEANS OF IDENTIFICATION OF MINIMUM HOUSING ENFORCEMENT OFFICER AND ASSISTANTS AND PROHIBITING CONFLICT OF INTEREST; PROVIDING FOR INSPECTION OF DWELLINGS; PROVIDING FOR NOTICE OF VIOLATIONS; PROVIDING THAT NOTICE OF VIOLATION BECOMES A FINAL ORDER IF NOT APPEALED; PROVIDING FOR RECORDING OF FINAL ORDER; PROVIDING FOR RECORDS AND SEARCHES; PROVIDING REMEDIES FOR ENFORCEMENT; PROVIDING POWER TO ACT IN EMERGENCIES; PROVIDING FOR APPEALS FROM ACTIONS OR DECISIONS OF THE MINIMUM HOUSING ENFORCEMENT OFFICER; PROVIDING ADDITIONAL DUTIES FOR UNSAFE STRUCTURES AND HOUSING APPEALS BOARD; PROVIDING MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES; PROVIDING MINIMUM STANDARDS FOR LIGHT AND VENTILATION; PROVIDING REQUIREMENTS RELATING TO THE SAFE AND SANITARY MAINTENANCE OF DWELLINGS AND DWELLING UNITS; PROVIDING MINIMUM SPACE, USE AND LOCATION REQUIREMENTS; PROVIDING FOR RESPONSIBILITIES OF OWNERS AND OCCUPANTS; PROVIDING FOR MAINTENANCE OF NON-DWELLING STRUCTURES AND FENCES; PROVIDING MINIMUM STANDARDS FOR HOTELS AND ROOMING HOUSES; DESIGNATION OF UNFIT DWELLINGS, HOTELS AND ROOMING HOUSES, AND PROCEDURES FOR CONDEMNATION; PROVIDING EXCEPTIONS; PROVIDING FOR JUDICIAL REVIEW; PROVIDING REPEAL CLAUSE; PROVIDING SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING EFFECTIVE DATE

WHEREAS, Section 11 of Article VIII of the Florida Constitution empowers the electors of Dade County, Florida, to adopt, revise, and amend from time to time a Home Rule Charter of government for Dade County, Florida, under which the Board of County Commissioners of Dade County shall be the governing body; and

WHEREAS, Section 11 of Article VIII of the Florida Constitution, subsection (1)(b), provides that said Home Rule Charter may grant full power and authority to the Board of County Commissioners of Dade County to pass ordinances relating to the affairs, property and government of Dade County and do everything necessary to carry on a central metropolitan government in Dade County; and

WHEREAS, Section 11 of Article VIII of the Florida Constitution, subsection (1)(d), provides that said Home Rule Charter may provide a method by which any and all of the functions or powers of any municipal corporation may be transferred to the Board of County Commissioners of Dade County; and

WHEREAS, the electors of Dade County adopted the Home Rule Charter for Metropolitan Dade County by referendum on May 21, 1957; and

WHEREAS, Section 1.01(A)(8) of said Home Rule Charter authorizes the Board of County Commissioners of Dade

HEREBY CERTIFY THAT THE ABOVE MICROPHOTOGRAPH IS A TRUE AND CORRECT COPY OF THE ORIGINAL DOCUMENT AND WAS MICROFILMED IN THE MICHIGAN STATE UNIVERSITY LIBRARY

County to establish and administer housing, slum clearance, urban renewal and conservation programs and to cooperate with governmental agencies in the development and operation of these programs; and

WHEREAS, Section 1.01(A) (18) of said Home Rule Charter authorizes the Board of County Commissioners of Dade County to set reasonable minimum standards for all governmental units in the county for the performance of any service or function and to take over and operate any municipal service if the governing body of the municipality requests the county to take over the service by a two-thirds vote of its members; and

WHEREAS, Section 5.02 of said Home Rule Charter provides that each municipality within Dade County, Florida, may provide for higher standards of zoning, service and regulation than those provided by the Board of County Commissioners of Dade County in order that the individual character and standards of each municipality may be preserved for its citizens; and

WHEREAS, the Board of County Commissioners of Dade County has pursuant to the provisions of said Home Rule Charter enacted the "Metropolitan Dade County Minimum Housing Standards Ordinance" codified as Chapter 17 of the Code of Metropolitan Dade County, Florida; and

I HEREBY CERTIFY THAT THE ABOVE MICROFILMED IS A TRUE COPY OF THE ORIGINAL DOCUMENT AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS, AND THAT THE PHOTOGRAPHIC PROCESSES USED FOR MICROFILMING WERE ACCOMPLISHED IN A MANNER AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENT OF THE NATIONAL BUREAU OF STANDARDS-PER-105. MAJEST MICROPHOTODUPLICATIONS

WHEREAS, said Chapter 17 of the Code of Metropolitan Dade County, Florida, establishes minimum housing standards in the incorporated and unincorporated areas of Dade County, Florida; and

WHEREAS, the City of Miami, Florida, has enacted Chapter 24 of the Miami City Code which establishes minimum housing standards in the City of Miami and provides for their enforcement by city officials and for prosecution for their violation in its municipal court; and

WHEREAS, the minimum housing standards established by said Chapter 24 of the Miami City Code are equal to and in several instances higher than the standards established by Chapter 17, Code of Metropolitan Dade County, Florida; and

WHEREAS, the City of Miami acting by and through its duly authorized City Commission has requested Dade County to take over and enforce its minimum housing standards as provided for in Chapter 24 of the Miami City Code, including its minimum housing standards which are higher than the minimum housing standards established in Chapter 17 of the Code of Metropolitan Dade County, Florida; and

WHEREAS, the Miami City Commission, pursuant to Section 1.01(A)(18) of said Home Rule Charter, has by the necessary vote of its members requested Dade County to take over, adopt and enforce minimum housing standards within

the City of Miami which are equal to the minimum housing standards contained in Chapter 24 of the Miami City Code; and

WHEREAS, the Miami City Commission has found and determined in said Chapter 24 of the Miami City Code that the establishment and enforcement of the minimum housing standards contained therein is necessary to protect the public health, safety and welfare by eliminating overcrowding and substandard living conditions; and

WHEREAS, the Board of County Commissioners of Dade County concurs in and adopts this finding and determination by the Miami City Commission; and

WHEREAS, it is in the public interest for Dade County to take over and enforce the minimum housing standards of the City of Miami within the limits of the City of Miami; and

WHEREAS, the most efficient and economical means to accomplish this objective is to enact a county ordinance applicable solely within the limits of the City of Miami which contains the same provisions as those found in Chapter 17 of the Code of Metropolitan Dade County, Florida, except where modification of those provisions is necessary to establish the higher minimum standards provided by Chapter 24 of the Miami City Code and to provide for the

enforcement of those standards by county officials within the territorial limits of the City of Miami,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, as follows:

Section 1. The foregoing recitals are hereby found and declared.

Section 2. Short Title. This Ordinance enacted under and pursuant to the provisions of the Home Rule Charter of Government for Dade County, Florida, shall be known and may be cited as the "Metropolitan Dade County Minimum Housing Standards Ordinance for the City of Miami."

Section 3. Legislative Findings. The county commission hereby finds and declares that there presently exist in the City of Miami, Florida, structures used for human habitation, which are, or may become in the future, substandard with respect to structure, equipment or maintenance. Further that such conditions, together with inadequate provision for light and air, insufficient protection against fire hazards, lack of proper ventilation for heating and cooling, unsanitary conditions, and overcrowding, constitute a menace to the health, safety, morals, welfare, and reasonable comfort of the citizens and visitors of this municipality. It is further found and declared that the existence of such conditions, factors,

or characteristics, if not remedied, will create slum areas requiring large scale clearance, and further that, in the absence of corrective measures, such areas will experience a deterioration of social values, a curtailment of investment and tax revenues, and impairment of economic values. It is further found and declared that the establishment and maintenance of minimum housing standards are essential to the prevention of blight and decay, and the safeguarding of public health, safety, morals and welfare.

Section 4. Legislative Intent. The intent and purpose of this ordinance is to protect the public health, safety, morals and welfare of all the people of the City of Miami, Florida, by establishing minimum standards governing the condition, occupancy, and maintenance of dwellings, dwelling units, rooming houses, rooming units and premises establishing minimum standards governing utilities, facilities, and other physical components and conditions essential to make dwellings, dwelling units, rooming houses, rooming units, and premises safe, sanitary, and fit for human habitation; fixing certain responsibilities and duties of owners, operators, agents, and occupants of dwellings, and dwelling units, rooming houses, and rooming units; authorizing and establishing procedures for the inspection of dwellings, dwelling units, rooming houses, and rooming units, and the condemnation and vacation

of those dwellings, dwelling units, rooming houses, and rooming units unfit for human habitation; and fixing penalties for the violations of the provisions of this ordinance. The ordinance is hereby declared to be remedial and essential to the public interest, and it is intended that this ordinance be liberally construed to effectuate the purposes as stated above.

Section 5. Construction and applicability.

The provisions of this ordinance shall be applicable solely within the territorial limits of the City of Miami, Florida. Every portion of a building or premises used or intended to be used for any dwelling purpose, except temporary housing in times of local emergency, disaster or necessity, shall comply with the provisions of this ordinance, irrespective of when such building shall have been constructed, altered or repaired; and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises, for the construction or repair of the building, or for the installation or repair of equipment or facilities, prior to the effective date of this ordinance. This ordinance is intended and shall be construed as establishing minimum standards for the initial and continued occupancy of all buildings. It is not intended to replace, modify, supersede or diminish the standards established for the construction, repair, alteration or use of buildings, equipment or facilities by the South

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Florida Building Code (Ordinance No. 57-22, as amended).
In any case where any provision of this ordinance is found to be in conflict with a material and controlling provision of zoning regulations, the South Florida Building Code, or any other county or municipal ordinance, code or regulation, or any rules or regulations of the Florida State Board of Health, the provision which establishes the highest standard shall prevail. All county and municipal departments, officials and employees who have the duty, responsibility or authority to issue permits or licenses in regard to the use and occupancy of dwellings, dwelling units, rooming houses, or rooming units, or similar facilities, shall conform to the provisions of this ordinance, as a minimum standard.

Section 6. Existing Remedies Preserved.

Nothing in this ordinance shall be deemed to abolish or impair any existing remedies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe or unsanitary. This ordinance shall not affect violations of any other county or municipal ordinance, code or regulations existing prior to the effective date of this ordinance, and such violations shall be governed and shall continue to be punished to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

Section 7. Definitions. In construing the provisions of this ordinance, where the context will permit and no definition is provided herein, the definitions provided in Chapter 4 of the South Florida Building Code shall apply. The following words and phrases when used in this ordinance shall have the meanings ascribed to them in this section:

(1) Approval shall mean approved by the head of the enforcement agency or his authorized representatives.

(2) Basement shall mean that portion of a building having less than half (1/2) its clear floor-to-ceiling height below the average finished grade of the ground adjoining the building and its ceiling not more than six (6) feet above said grade.

(3) Cellar shall mean that portion of a building having half (1/2) or more than half of its clear floor-to-ceiling height below the average finished grade of the ground adjoining the building.

(4) Dwelling shall mean any building which is wholly or partly used or intended to be used for living, sleeping, cooking and eating, provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.

(5) Dwelling unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used or intended to be used for living, sleeping, cooking and eating.

(6) Enforcing agency shall mean the minimum housing enforcement officer of Metropolitan Dade County.

(7) Enforcing officer shall mean any employee of the enforcing agency charged with the responsibility of making inspections of buildings and premises and issuing violation notices when necessary. The term shall be synonymous with inspecting officer.

(8) Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(9) Habitable area shall mean two (2) or more habitable rooms.

(10) Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets and storage spaces.

(11) Head of enforcement agency shall mean the minimum housing enforcement officer of Metropolitan Dade County.

(12) Hotel shall mean any dwelling or commercial building, or any part of any dwelling or commercial building, containing one (1) or more hotel units in which space is let by the owner or operator on a predominantly temporary basis to three (3) or more persons who are not husband or wife, son or daughter, mother or father, sister

or brother of the owner or operator. Motels and buildings offering dormitory-type sleeping accommodations shall be included in this category.

(13) Hotel unit shall mean any room or group of hotel rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking and eating purposes. Motel units and dormitory-type sleeping accommodations shall be included in this category.

(14) Infestation shall mean the presence of any insects, rodents, vermin, or other pests.

(15) Inspecting officer shall be synonymous with the term enforcing officer as previously defined.

(16) Occupant shall mean any person over one (1) year of age living, sleeping, cooking, eating in, or having actual possession of a dwelling, dwelling unit, hotel unit, or rooming unit.

(17) Operator shall mean any person who has charge, care, or control of a building, or part thereof, in which dwelling units, hotel units, rooming units, or dormitory-type sleeping accommodations are let.

(18) Owner shall mean any person, firm, corporation or other legal entity, who individually or jointly or severally with others, holds the legal or beneficial title to any dwelling, dwelling unit, rooming house, rooming unit, facilities, equipment or premises subject to the provisions

of this ordinance. The term shall include the owner's duly authorized agent, a purchaser, devisee, fiduciary, property holder or any other person, firm, corporation or legal entity having a vested or contingent interest, or in the case of leased premises the legal holder of the lease, or his legal representative. It is intended that this term shall be construed as applicable to the person, firm, corporation or legal entity responsible for the construction, maintenance and operation of the building, facilities or premises involved.

(19) Premises shall mean any occupied or unoccupied building, accessory structure, lot, parcel of land, or any part thereof, used or intended to be used for residential purposes.

(20) Rooming house shall mean any dwelling, or part of any dwelling, containing one (1) or more rooming units in which space is let by the owner or operator on a predominately permanent basis to three (3) or more persons who are not husband or wife, son or daughter, mother or father, sister or brother of the owner or operator. For the purpose of this ordinance, boarding houses are included in this category.

(21) Rooming unit shall mean any room or group of rooms, forming a single habitable unit, used or intended to be used for living and sleeping but not for cooking or eating purposes.

(22) Rubbish shall mean all combustible and non-combustible waste materials except garbage. The term shall include residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass and crockery.

(23) Supplied shall mean paid for, furnished, or provided by or under control of the owner or operator.

(24) Temporary housing shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or in a permanent manner to any utilities system. For the purpose of this ordinance, living quarters for migratory agricultural workers shall be defined as temporary housing.

(25) Meaning of certain words. Whenever the words "dwelling," "dwelling unit," "hotel," "hotel unit," "rooming house," "rooming unit" and "premises" are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof."

Section 8. Minimum housing enforcement officer--
Appointment; term; exempt from classified service; salary.

The minimum housing enforcement officer shall be appointed by and serve at the will of the county manager. Such officer shall be chosen by the county manager on the basis of his qualifications

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and experience in the field of building and housing. The office shall constitute a position exempt from the classified service of the county. The salary for such position shall be fixed by the board of county commissioners, and shall be included in the county budget. The minimum housing enforcement officer shall serve under the administrative supervision of the director of housing and urban development. The county manager shall appoint such assistants to the minimum housing enforcement officer as may be necessary in order that his duties may be properly performed, subject to budget limitations.

Section 9. Same--Duties and powers. The duties, functions, powers and responsibilities of the minimum housing enforcement officer shall include the following:

(1) The enforcement of the provisions of this ordinance and rules and regulations promulgated hereunder, and all county ordinances, codes, rules and regulations pertaining to housing and the use and occupancy of dwellings, and all rules and regulations of the Florida State Board of Health and the Florida Hotel and Restaurant Commission, in cooperation with such state agencies, in the City of Miami.

(2) Investigate complaints, make a continuing study of all housing facilities in the City of Miami, institute actions necessary to abate violations of all county and state regulations governing the use and occupancy of housing facilities, and prosecute proceedings for violations of this ordinance.

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(3) Make appropriate surveys and inspections to determine whether the provisions of this ordinance are being complied with, and whether minimum housing standards are being maintained within the City of Miami.

(4) Make inspections of housing premises, facilities and equipment in accordance with procedures prescribed by this ordinance to determine whether the provisions of this ordinance are being complied with, and make recommendations for methods by which minimum housing standards may be more effectively maintained.

(5) Render all possible assistance and technical advice to persons operating and maintaining housing facilities, premises and equipment.

(6) Establish, operate and maintain a continuous program for monitoring and inspection of housing facilities in the City of Miami designed to provide accurate data and information as to whether the minimum standards established by this ordinance are being complied with and whether the level of adequate housing facilities is increasing or decreasing in the City of Miami.

(7) Publish and disseminate information to the public concerning all matters relating to minimum housing standards and the advantages of adequate housing facilities.

(8) Render all possible assistance and cooperation to Federal, state and local agencies and officials in the accomplishment of effective minimum housing standards and controls.

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(9) Make periodic reports concerning the status of minimum housing standards and the enforcement of the provisions of this ordinance, and recommendations concerning the improvement of minimum housing standards and controls.

(10) Perform such other administrative duties as may be assigned by the county manager.

Section 10. Same--Identification of minimum housing enforcement officer; conflict of interest. The minimum housing enforcement officer and all assistants shall be furnished with official identification cards signed by the county manager which identification cards shall contain the name of the officer, his photograph, and pertinent descriptive identifying information, and such other matters designed to facilitate recognition by the public of the status of such official. Upon request, the minimum housing enforcement officer and assistants shall exhibit such identification when entering any dwelling, dwelling unit, rooming house, rooming unit, or premises. The requirements of this section shall not in anywise be construed as relieving the minimum housing enforcement officer or assistants from compliance with the procedures prescribed in this ordinance for making inspections.

No official, board member or employee charged with the enforcement of this law shall have any financial interest, directly or indirectly, in any repairs, corrections, construction or demolition which may be required, nor shall any official,

board member or employee give to anyone the location of any property or the names of owners thereof on which repairs, corrections or demolition have been ordered, except as otherwise hereinafter directed, until after the owners have been formally advised at which time such shall become a matter of public record.

Section 11. Inspection of dwellings. The minimum housing enforcement officer and assistants shall be authorized to make inspections to determine the condition of dwellings, dwelling units, rooming houses, rooming units, and premises in order to safeguard the health, safety, morals and welfare of the public. The minimum housing enforcement officer and assistants shall be authorized to enter any dwelling, dwelling unit, rooming house, rooming unit or premises at any reasonable time, or at such other time as may be necessary in an emergency, for the purpose of performing the duties of such office under this ordinance, in accordance with the procedures herein prescribed. Inspections herein authorized shall be limited to the provisions of this ordinance. Except in emergencies endangering the public health, safety and welfare, the minimum housing enforcement officer and assistants shall enter a dwelling, dwelling unit, rooming house, rooming unit, or premises only upon the prior consent of the owner or occupant, or in accordance with the provisions of this section. When the minimum housing enforcement officer has reason to believe that any dwelling, dwelling unit, rooming house, rooming unit, or premises is in violation of the provisions of this ordinance,

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or when such officer deems it necessary to make an inspection to determine whether a facility is in violation of the minimum housing standards established by this ordinance, such officer shall cause a notice of intention to make an inspection to be served upon the owner or occupant of the facility involved specifying the purpose for making the inspection and the date and approximate hour on which the inspection will be made. Such notice shall be served by personal service or by certified mail or by posting upon the premises in a conspicuous place. Such notice shall be served at least fourteen (14) days prior to the date specified therein for making the inspection. In the event that no objection to such notice is filed in accordance with the provisions of this section, the minimum housing enforcement officer or assistants may make an inspection pursuant to the notice, if the person or persons lawfully occupying the premises or having the legal right of possession consent to the inspection. In the event that said person or persons refuse to consent to the inspection, the minimum housing enforcement officer or assistants may apply to the metropolitan court for the issuance of a search warrant to be served by an officer duly authorized by law to serve search warrants and make arrests for violations of this ordinance. The search warrant shall issue in accordance with the requirements of the United States Supreme Court case of Camara v. Municipal Court of the City and County of San Francisco, 18 L.Ed.2d 930, 87 S.Ct. 1727 (1967) and shall

authorize entry into and inspection of the premises described therein. Any owner, occupant or other affected person may file a written objection to an inspection notice with the county manager at any time within two (2) days prior to the date specified in the notice. Upon receipt of a written objection, the county manager shall review and consider the objections and may approve the inspection, cancel the inspection, or defer the inspection until a subsequent date. The decision of the county manager shall be final in respect to such inspections. When the provisions of this section have been complied with, the owner, operator, agent or occupant of a dwelling, dwelling unit, rooming house, rooming unit or premises shall give the minimum housing enforcement officer or assistants access to such facilities for the purpose of making an inspection thereof. Failure to permit an inspection to be made in compliance with the provisions of this section shall constitute a violation of this ordinance and shall subject the violator to the penalties prescribed herein.

Section 12. Notice of violations. Whenever the Minimum Housing Enforcement Officer finds and determines that there has been a violation of the minimum housing standards established by this ordinance he shall give notice of such violations to the person or persons responsible for such violation. Such notice shall be in writing and in a form approved by the County Manager, and shall specify the violation and shall provide

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time for compliance as specified below unless the circumstances clearly show that the time for compliance specified below is unreasonably short, in which case a reasonable time for compliance shall be provided. Such notice shall be served upon the person or persons responsible for the violation. Such notice shall be deemed to be properly served and binding upon the person or persons responsible for the violation and upon the facilities or premises involved if a copy is served personally or served by certified mail, or if after diligent search and inquiry the person or persons responsible for the violation cannot be found or served by personal service or certified mail, a copy of the notice is posted in a conspicuous place on the facilities or premises involved.

Such notice shall specify that all permits for the work required to correct the violations must be obtained within thirty (30) days after the date of service of the notice, and that required remedial action must be accomplished within sixty (60) days of issuance of said permits and must conform with Chapter 3 of the South Florida Building Code. Such notice may contain an outline of the remedial action which, if taken, will constitute compliance with the requirements of this ordinance. Such notice shall inform the person or persons to whom it is directed of the right to apply to the Unsafe Structures and Housing Appeals Board for a hearing and review of the matters specified in this notice.

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Section 13. Notice as final order. Any notice of violation provided for in section 12 hereof shall automatically become a final order in the event that no appeal from the notice of violation is filed with the unsafe structures and housing appeals board within thirty (30) days after the date of service of the notice of violation.

Section 14. Recording of final order. Whenever a notice of violation has become a final order, or whenever the violations specified in the notice have not been corrected within the time specified in the notice, or any extensions thereof, the minimum housing enforcement officer may file a copy of such final order or other appropriate instrument indicating that violations of the minimum housing standards established by this ordinance exist upon the property involved, in the office of the Clerk of the Circuit Court of Dade County, Florida, who shall cause the same to be recorded among the public records of Dade County, in an appropriate book provided for such purpose. The recordation of such final order or other appropriate instrument as herein provided shall constitute constructive notice to any subsequent purchasers, transferees, grantees, mortgagees, lessees, lienors, and all persons having, claiming or acquiring any interest in the property described therein, or affected thereby. When the violations specified in the said final order shall have been corrected, the minimum housing enforcement officer shall file a certificate certifying that the violations have been corrected and cancelling the

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final order. All such final orders shall contain the proper legal description of the property involved. Any person acquiring any interest in or to property described in a final order after recordation thereof shall be bound by the provisions thereof. All costs of recording final orders and recording cancellations thereof shall be paid by the person responsible for the violation.

Section 15. Records and searches. All records of the minimum housing enforcement officer shall be public. Upon request, the minimum housing enforcement officer shall be required to make a search of the records maintained under his supervision and control and issue certificates concerning violations and as to whether the property involved has been inspected and whether or not any violations have been found to exist in respect thereto. The minimum housing enforcement officer shall have the power and authority to charge and collect reasonable fees for making such searches and certificates.

Section 16. Remedies for enforcement. It shall be unlawful for any person to fail to comply with the minimum housing standards established by this ordinance, or to fail or refuse to comply with the requirements of any final order issued in accordance with the provisions of this ordinance. If any person shall knowingly fail or refuse to obey or comply with, or wilfully violates, any of the provisions of this ordinance, or any lawful final order issued hereunder, such person, upon conviction of such offense, shall be punished by a fine not to

exceed five hundred dollars (\$500.00), or by imprisonment not to exceed sixty (60) days in the county jail, or both in the discretion of the court. Each day of continued violation shall be considered as a separate offense. The provisions of this ordinance and final orders issued in accordance with the provisions of this ordinance may be enforced by mandatory injunction, or other appropriate civil action. The provisions of Section 11-19(b) and Section 11-20(c) of the Code of Metropolitan Dade County, Florida shall not apply to fines collected pursuant to this ordinance.

Section 17. Power to act in emergencies.

Whenever the minimum housing enforcement officer finds that a violation of the provisions of this ordinance exists which requires immediate action to abate a direct and continuing hazard, or immediate danger to the health, safety or welfare of the occupants or the public, such officer with the approval of the county manager may, without prior notice, issue an order citing the violation and directing that such action be taken as may be necessary to remove or abate the hazard or danger. Notwithstanding any other provision of this ordinance, such emergency order shall be effective immediately upon service and shall be complied with immediately, or as otherwise provided.

Section 18. Appeals from actions or decisions of minimum housing enforcement officer. Any person aggrieved by any action or decision of the minimum housing enforcement

I HEREBY CERTIFY THAT THE ABOVE MICROFILM IS A TRUE COPY OF THE ORIGINAL DOCUMENT AND WAS MICROFILMED IN THE RECORDS SECTION OF THE COUNTY OF DADE, FLORIDA. THE MICROFILMING PROCESS WAS USED FOR MICROFILMING IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 118, F.S.

officer may appeal to the unsafe structures and housing appeals board by filing with the board, within fifteen (15) days after the date of the action or decision complained of, a written notice of appeal which shall set forth concisely the action or decision appealed from and the reasons or grounds for the appeal. The board shall set such appeal for hearing at the earliest possible date, and cause notice thereof to be given to the appellant and the minimum housing enforcement officer. The board shall hear and consider all facts material to the appeal and render a decision promptly. The board may affirm, reverse or modify the action or decision appealed from, provided that the board shall not take any action which conflicts or nullifies any of the provisions of this ordinance. The decision of the board shall be final, and no rehearing or reconsideration shall be considered. Any person aggrieved by any decision of the board on appeal taken to it, including but not limited to, the Minimum Housing Enforcement Officer, may apply to the Circuit Court of Dade County for a review thereof by writ of certiorari in accordance with the applicable Florida appellate rules.

Section 19. Unsafe structures and housing appeals board. The unsafe structures and housing appeals board established by the South Florida Building Code shall have the following additional duties in the City of Miami:

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HEREBY CERTIFY THAT THE ABOVE MICROPHOTOGRAPH IS A TRUE COPY OF THE ORIGINAL DOCUMENT.

(a) Hear and determine appeals from actions and decisions of the minimum housing enforcement officer in accordance with the provisions of section 18.

(b) The board shall have the power and authority to hear and pass upon all appeals from the enforcement officer's refusal to grant extension of time for compliance with the provisions of this ordinance and notices issued by the minimum housing enforcement officer. Applications for extension of time for compliance shall be considered and determined on the basis of the public interest and welfare and not merely on economic benefit to the applicant; applications shall be granted only when it is established that the requested extension of time for compliance will not be detrimental to the occupants or to the public health, safety and welfare.

(c) The board shall have the power and authority to hear and pass upon applications for variances or waivers of the provisions of this ordinance. Such applications shall be granted only in instances where the deviations from the minimum housing standards herein provided are of a minor character, and it appears that substantial compliance with the minimum housing standards has been made by the applicant, and that the granting of a variance or waiver would not be detrimental to the occupants or to the public health, safety and welfare.

(d) To adopt, revise and amend from time to time appropriate rules and regulations reasonably necessary for the implementation, effective enforcement, administration and interpretation of the provisions of this ordinance and the

minimum housing standards prescribed herein, and to provide for the effective and continuing establishment and enforcement of reasonable minimum housing standards within the framework of this ordinance. No such rules and regulations shall be adopted or become effective (including amendments) until after a public hearing has been held by the board pursuant to notice published at least ten (10) days prior to the hearing, and until such rules and regulations have been approved by the county commission and filed with the clerk of the county commission. When approved by the county commission and filed with the clerk, such rules and regulations shall have the force and effect of law.

(e) To make continuing studies and periodic reports and recommendations for the improvement of minimum housing standards for the City of Miami, and to work in cooperation with all Federal, State and local agencies interested in minimum housing standards and the elimination of slums and blighted areas. To publicize the importance of adequate minimum housing standards, to hold and conduct public hearings, discussions, forums and institutes, and arrange programs for the presentation of information by experts in the field of housing and slum clearance and to visit and study housing programs conducted in other metropolitan areas.

Section 20. Minimum standards for basic equipment and facilities. No person shall occupy, or let to another for occupancy, any dwelling or dwelling unit, for the purpose of

living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

(1) Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower and water closet, all in good working condition and installed in accordance with the South Florida Building Code. Sink, lavatory, tub or shower shall be supplied with adequate hot and cold water.

(2) Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to an approved water system and sewer system or an approved septic tank installation including an approved absorption bed. No privy shall be constructed or continued in operation after the effective date of this ordinance.

(3) Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition and properly connected to an approved water system and sewer system or an approved septic tank installation including an approved absorption bed.

(4) Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of this section shall be properly connected with both hot and cold water lines.

(5) Every dwelling shall have water heating facilities which are properly installed, maintained in safe and good working condition, and properly connected with the hot water lines required under the provision of the preceding paragraphs. Such water heating facilities shall be capable of supplying on demand to all the required fixtures a continuous supply of hot water, as spelled out below. The following shall be used as a minimum guide:

Where Central Hot Water is Supplied for
Multi-Family Housing Units:

<u>Type of Apartments</u>	<u>Minimum Heater Input*</u>	<u>Minimum Storage Capacity</u>
Efficiencies and 1-bedroom apartments	3,825 Btu per hour per apt.	8 gal. per apt.
2-bedroom apartments	6,680 Btu per hour per apt.	10 gal. per apt.
3-bedroom apartments	9,545 Btu per hour per apt.	12 gal. per apt.

*based on 70% fuel efficiency. If other than oil or gas is used an adjustment for fuel efficiency may be used.

Where dwelling units have individual water heaters, there shall be provided a system capable of supplying 140° water in an amount of 16 gallons per bedroom per three hours.

An adequately designed solar system is acceptable if there is incorporated in the design a thermostatically controlled booster with a Btu input equivalent to that specified above.

Instantaneous or tankless systems are acceptable if they are designed to raise the required volume of water 70° F. The

required volume of water shall be determined by the fixture unit method as set forth in the National Bureau of Standards BMS 66.

All such facilities shall be of an approved type, connected and maintained all as provided in the South Florida Building Code and any fire regulations or ordinances now in existence or adopted subsequent hereto.

(6) Every occupied dwelling unit shall be provided with an installed non-portable cooking facility which shall not be capable of being carried easily by one person, and shall have at least two (2) top burners. Vacant dwelling units shall be provided with utility connections for such facility.

(7) Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers.

(8) Every dwelling structure having one (1) or more dwelling units located above the ground floor, which upper units are occupied or intended for occupancy by one or more persons, shall have a minimum of two (2) paths of egress from each floor which lead to a safe open space at ground level. Each such path of egress shall be easily accessible from every dwelling unit on the specified floor without passing through any other dwelling unit. All exit-ways, paths of egress and stairways shall have grip rails and/or guard rails not less than forty-two inches (42") above stairway treads and shall conform with the provisions of the South Florida Building Code and any applicable fire codes, fire regulations or ordinances now in existence or adopted subsequent hereto.

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(9) In every owner-occupied dwelling unit not intended to be let for occupancy containing heating facilities, such facilities shall be properly installed and maintained in safe and good working condition as provided in the South Florida Building Code and any applicable fire regulations or ordinances now in existence or adopted subsequent hereto.

Every dwelling and dwelling unit which is let or intended to be let for occupancy shall have adequate heating facilities which are properly installed and maintained in safe and good working condition as provided in the South Florida Building Code and any applicable fire regulations or ordinances now in existence or adopted subsequent hereto. Adequate heating facilities are hereby defined as heating sources capable of producing 5 Btu's of input per cubic foot of habitable area.

The use of unsafe heaters or cooking stoves and the use of cooking stoves, including ovens, for heating purposes is hereby prohibited. All such facilities shall be of an approved type, connected and maintained, all as provided in the South Florida Building Code and any fire regulations or ordinances now in existence or adopted subsequent hereto.

Section 21. Minimum standards for light and ventilation. No person shall occupy, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

(1) Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area which provides light to each habitable room shall be not less than ten (10) per cent of the floor area of such room. Whenever exterior walls or other light-obstructing structures are located less than three (3) feet from the window and extend above the ceiling of the room such a window shall not be deemed to face directly to the outdoors and shall not be included in the required minimum total window area. Whenever the only window in a room is a skylight-type window located in the top of such room, the minimum total window area of such skylight shall not be less than fifteen per cent (15%) of the total floor area of the room.

(2) Every habitable room shall be ventilated by openable areas equal to fifty per cent (50%) of the required minimum window area, as set forth in subsection (1) of this section or by equivalent mechanical ventilation as approved by the inspecting officer.

(3) Every bathroom, shower room and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in subsections (1) and (2) of this section, except that no window or skylight shall be required in adequately ventilated bathrooms, shower rooms and water closet compartments equipped with an approved mechanical ventilating system

which automatically becomes operational when the bathroom switch is turned on.

(4) Every door, window or other device opening to outdoor space and used or intended to be used for ventilation shall be provided with an approved type of screen for protection against mosquitos, flies and other insects.

(5) Every opening beneath a dwelling, including basement or cellar windows and crawl space, shall be equipped with an approved type of screening or lattice work to keep out large animals.

(6) Every habitable room of such a dwelling shall contain at least two (2) separate floor or wall-type electrical convenience outlets, or one (1) such convenience outlet and one (1) ceiling-type electric light fixture. Every bathroom, shower room, water closet, compartment and laundry room shall contain at least one properly installed ceiling or wall-type electric light fixture. The switches shall be so located and installed as to avoid the danger of electrical shock.

(7) Every hall and stairway located in a structure used for human habitation shall be provided with not less than one (1) foot-candle of natural light throughtout or with properly installed electric lighting facilities which provide not less than one (1) foot-candle of illumination

throughout and which are controlled by the occupants of the structure and available at all times.

Section 22. Requirements relating to the safe and sanitary maintenance of dwellings and dwelling units.

No person shall occupy, or let to another for occupancy, any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

(1) All foundation walls shall be structurally sound, reasonably rodentproof, and maintained in good repair. Foundation walls shall be considered to be sound if they are capable of bearing imposed loads and are not deteriorated.

(2) Every dwelling unit shall be reasonably weathertight, watertight and rodentproof. Floors, walls, ceilings and roofs shall be capable of affording adequate shelter and privacy and shall be kept in good repair. Windows and exterior doors shall be reasonably weathertight, watertight and rodentproof, and shall be maintained in good working condition. All parts of the structure that show evidence of rot or other deterioration shall be repaired or replaced.

(3) Every inside and outside stairway, porch, and every appurtenance thereto, shall be maintained in a safe condition and be capable of supporting loads which normal use may impose.

(4) Every chimney and smoke pipe, and all flue and vent attachments thereto, shall be maintained in such condition that there will be no leakage or backing up of smoke and noxious gases into the dwelling.

(5) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.

(6) Every plumbing fixture, water pipe, waste pipe and drain shall be maintained in good sanitary working condition, free from defects, leaks and obstructions.

(7) The floor surface of every water closet compartment, bathroom and shower room shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(8) Every supplied facility, piece of equipment, or utility required in this ordinance shall be maintained in a safe and satisfactory working condition. No owner or occupant shall cause any service, facility, equipment, or utility required in this ordinance to be removed from or discontinued for any occupied dwelling or dwelling unit except for such temporary interruption as may be necessary while actual repairs, replacement, or alterations are in process.

Section 23. Minimum space, use and location requirements. No person shall occupy, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein, which does not comply with the following requirements:

(1) Every dwelling unit shall contain a minimum gross floor area of at least one hundred fifty (150) square feet for the first occupant, one hundred (100) square feet for each of the next two occupants, and at least seventy-five (75) square feet for each occupant thereafter. Floor space shall be calculated on the basis of total habitable room area.

(2) In every dwelling unit of two (2) or more habitable rooms, every room occupied for sleeping purposes by one occupant shall have a minimum gross floor area of at least eighty (80) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall have a minimum gross floor area of fifty (50) square feet per occupant. Every room used for sleeping purposes shall have a minimum width of eight (8) feet. Kitchens shall not be used for sleeping purposes. Porches shall not be used as permanent sleeping quarters.

(3) At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet. Any portion of a room having a ceiling height of less than five (5) feet shall not be

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considered in computing the total floor area of such room.

(4) No dwelling or dwelling unit containing two (2) or more sleeping rooms shall be so arranged that access to a bathroom, shower room, or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room or outside the structure, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room, bathroom, shower room, or water closet compartment.

(5) No cellar or basement space shall be used as a habitable room or dwelling unit.

Section 24. Responsibilities of owners and

occupants. No person shall occupy, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein, which does not comply with the following requirements:

(1) Every dwelling unit shall be clean, sanitary and fit for human habitation.

(2) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls, including yards, lawns, courts and driveways. The provisions of this subsection shall also apply to vacant lots and to premises of business establishments located in proximity to dwellings and dwelling units.

(3) Every owner of a building containing three (3) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof. For this purpose, every owner of a building containing three (3) or more dwelling units shall provide the continuing services of a person or persons solely to assure that minimum requirements of maintenance and sanitation as provided by this ordinance are maintained on the premises at all times.

(4) Exterior premises shall be kept free from the excessive growth of weeds, grass and other flora. The term "excessive" shall be interpreted as detrimental to the health, safety, or welfare of the occupants or the public. The provisions of this subsection shall also apply to vacant lots and to the premises of building establishments located in proximity to dwellings and dwelling units.

(5) Every occupant of a dwelling unit shall keep all plumbing fixtures, sanitary facilities, appliances and equipment therein in a clean and sanitary condition and shall exercise reasonable care in the proper use and operation thereof.

(6) Every occupant of a dwelling or dwelling unit shall dispose of rubbish, garbage and other waste materials in an approved sanitary manner. Garbage shall be placed in

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the garbage disposal facilities or storage containers required by this ordinance.

(7) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, vermin, or other pests therein or on the premises. Every occupant of a dwelling unit in a building containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested, except that whenever such infestation is caused by the failure of the owner to carry out the provisions of this ordinance, extermination shall be the responsibility of the owner. In every dwelling containing one (1) or more units, the owner shall exterminate all infestations of any insects, rodents, vermin or other pests therein or on the premises except where such pests are the responsibility of the occupant as provided in the preceding sentence.

(8) Every owner of a dwelling or dwelling unit, shall before renting or sub-letting to another occupant, provide approved door and window screens whenever such screens are required under the provisions of this ordinance and shall repair or replace them when necessary.

(9) Upon commencement of each occupancy, the owner of every dwelling unit which is let for occupancy, furnished, shall initially deliver to the occupant personal property constituting housekeeping equipment, which are operable, clean, safe and sanitary.

(10) Every owner of a dwelling shall grade and maintain the exterior premises so as to prevent the accumulation of stagnant water thereon.

(11) Animals and pets shall not be kept in any dwelling or dwelling unit or on any premises in such a manner as to create insanitary conditions or constitute a nuisance.

(12) No owner shall let for occupancy any dwelling unit that is not provided with adequate heating facilities of an approved type properly installed and maintained in safe and good working condition as provided in the South Florida Building Code and any applicable fire regulations or ordinances now in existence or adopted subsequent hereto.

Section 25. Maintenance of non-dwelling structures and fences. Every accessory structure used for non-dwelling purposes such as a garage, car port, cabana, storage building, etc., and every fence shall comply with the following requirements:

(1) Every foundation, exterior and interior wall, roof, floor, ceiling, window and exterior door shall be structurally sound and maintained in good repair.

(2) Every accessory structure shall be kept in a reasonably clean and sanitary condition free from rodents, insects, and vermin.

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(3) The roof of every accessory structure shall be well drained of rain water.

(4) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating, applied in a workmanlike fashion.

(5) Every plumbing fixture, water pipe, waste pipe and drain shall be maintained in good sanitary working condition, free from defects, leaks and obstructions.

Section 26. Minimum standards for hotels and rooming houses. No person shall operate a hotel or rooming house, or shall occupy or let to another for occupancy, any hotel unit or rooming unit which does not meet with all of the other standards of this ordinance, except as provided by the following requirements:

(1) No person shall operate a hotel or rooming house unless he has complied with all applicable licensing and permit requirements.

(2) Every room occupied for sleeping purposes by one person shall contain at least seventy (70) square feet of floor space and every room occupied for sleeping purposes by more than (1) person shall contain at least fifty (50) square feet of floor space for each occupant thereof. Every room occupied for sleeping purposes shall have a minimum width of eight (8) feet and an average floor to ceiling height of seven (7) feet.

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(3) At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to an approved water system and sewer system or an approved septic tank installation and absorption bed, and in good working condition, shall be supplied for each six (6) persons or fraction thereof residing within a hotel or rooming house, including members of the operator's family whenever they share the use of said facilities. In a hotel or rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half (1/2) the required number of water closets. All water closets, urinals, bathtubs, or showers shall be located within a room or rooms which afford privacy to the user and are not more than one (1) story removed from the hotel or rooming unit of any occupant intended to share the facilities. All such facilities shall be so located within the hotel or rooming house as to be accessible to the occupants of each hotel or rooming unit sharing such facilities without going outside of the building or without going through a dwelling, hotel, or rooming unit of another occupant. Every lavatory basin, bathtub or shower shall be supplied with hot and cold water at all times.

(4) No cellar or basement space shall be used as a habitable room or as a hotel or rooming unit.

(5) The operator of every hotel or rooming house shall change supplied bed linen and towels at least once

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each week and prior to the letting of any room to any occupant. The operator shall be responsible for maintaining all supplied bedding in a clean and sanitary manner.

(6) The operator of every hotel or rooming house shall be responsible for the sanitary maintenance of all walls, floors, ceilings and other parts, and he shall be further responsible for the sanitary maintenance of the entire premises where all of the building is under the control of such operator.

(7) Every window of every hotel or rooming unit shall be supplied with shades, draw drapes, or other devices or materials which, when properly used, will afford privacy to the occupant of the hotel or rooming unit. No cooking shall be permitted in hotel and rooming units which are not equipped with approved kitchen facilities and do not meet minimum dwelling unit standards.

(8) If one or more persons occupy one or more hotel or rooming units located on any floor above the ground floor of any hotel or rooming house, there shall be at least two (2) safe and unobstructed exits from such floor leading to a safe open space at ground level. Each exit shall be easily accessible from every hotel or rooming unit on the specified floor without passing through any other hotel, rooming, or dwelling unit. All exit stairways shall have at least one (1) grip rail not less than forty-two inches

(42") above the stairway treads. Stairways open on both sides shall have such a grip rail on each side. The construction of such egress and stairways shall be in conformance with the South Florida Building Code and any applicable fire regulations or ordinances now in existence or adopted subsequent hereto.

(9) The operator of every hotel or rooming house shall be responsible for keeping the premises free from the accumulation of rubbish at all times.

(10) The operator of every hotel or rooming house shall be responsible for the prompt and sanitary disposal of all garbage through the use of approved mechanical equipment or by placing it in the required containers.

(11) The operator of every hotel or rooming house shall be responsible for providing and hanging all window and door screens.

(12) The operator of every hotel or rooming house shall be responsible for the extermination of any insects, rodents, vermin, or other pests therein and shall be further responsible for such extermination on the entire premises where all of the building within which the hotel or rooming house is contained is leased or rented by the operator. Whenever infestation is caused by failure of the owner to maintain the building in a reasonably insect proof or ratproof condition, extermination shall be the responsibility of the owner.

(13) It shall be the duty of the operator of every hotel or rooming house to report to the Dade County health department within twenty-four (24) hours the names of any person living in the hotel or rooming house who is believed to be afflicted with any communicable disease.

(14) No owner shall let for occupancy any rooming unit or hotel unit that is not provided with adequate heating facilities of an approved type properly installed and maintained in safe and good working condition as provided in the South Florida Building Code and any applicable fire regulations or ordinances now in existence or adopted subsequent hereto. Adequate heating facilities are hereby defined as heating sources capable of producing 5 Btu's of input per cubic foot of habitable area.

(15) The use of unsafe heaters or cooking stoves is prohibited. All such facilities shall be of an approved type properly installed and maintained in safe and good working condition as provided in the South Florida Building Code and any applicable fire regulations or ordinances now in existence or adopted subsequent hereto.

Section 27. Designation of unfit dwellings, hotels and rooming houses, and procedures for condemnation. The designation of dwellings, dwelling units, hotels and rooming houses as unfit for human habitation and the procedure for condemnation and placarding as unfit for human habitation of such unfit dwellings, dwelling units, hotels and rooming

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houses shall be carried out in compliance with the following requirements: Any dwelling, dwelling unit, hotel, hotel unit, rooming house or rooming unit which shall be found to have any of the following defects, shall be designated by the Enforcement Officer as unfit for human habitation and shall be so placarded.

(a) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(b) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

(c) One which because of its general condition or location is unsanitary, or otherwise dangerous to the health or safety of the occupants or of the public.

Any dwelling, dwelling unit, hotel, hotel unit, rooming house or rooming unit declared unfit for human habitation by the Enforcing Agency shall be so designated by posting a placard in a conspicuous place on the structure.

A dwelling, dwelling unit, hotel, hotel unit, rooming house or rooming unit condemned and placarded as unfit for human habitation shall be vacated within thirty (30) days as ordered by the Enforcing Agency and shall not be used for human habitation again until written approval is secured from, and the placard removed by the Enforcing

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Agency. The Enforcing Agency shall order the removal of the placard whenever the defect or defects upon which the condemnation and placarding actions were based, have been eliminated.

No person shall deface or remove the placard from any dwelling, dwelling unit, hotel, hotel unit, rooming house or rooming unit which has been condemned as unfit for human habitation and placarded as such, except as provided in the foregoing subsection.

Any person whose property has been placarded as unfit for human habitation may request and shall be granted a hearing on the matter before the Unsafe Structures and Housing Appeals Board.

Where the Enforcement Officer determines that a building is an unsafe building within the provisions of Section 202 of the South Florida Building Code, he shall immediately report the matter to the Building Official.

Section 26. Exceptions. The provisions of this ordinance shall not be applicable to migrant labor camps, as defined by section 381.422, Florida Statutes, nor to tourist or trailer camps, as defined by section 513.01, Florida Statutes, which hold valid, current licenses issued by the Florida State Board of Health. The provisions of this ordinance shall not be applicable to temporary housing as defined in section 7 of this ordinance nor to temporary housing utilized for dwelling purposes in times of local

emergency, disaster, or urgent necessity, as determined by the unsafe structures and housing appeals board. The provisions of this ordinance shall be applicable to all other dwellings, housing and buildings used or intended for use for human habitation.

Section 29. Judicial review. Any person or persons, jointly or severally, aggrieved by any final action taken or final decision rendered pursuant to the provisions of this ordinance, may seek to have such action or decisions reviewed by the circuit court of Dade County by petition for certiorari in the manner prescribed by the rules of court, provided such person or persons shall have first exhausted the administrative remedies provided for herein.

Section 30. Repeal clause. This ordinance is intended and shall be construed as constituting minimum standards for the City of Miami. To the extent of the minimum housing standards herein provided, all county and municipal ordinances, county and municipal resolutions, municipal charters, special laws applying only to Dade County or any general law which the county commission is authorized by the Constitution to supersede, nullify or amend, and any part of any such ordinance, resolution, charter, or law in conflict with or inconsistent with the minimum housing standards herein established are hereby

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I HEREBY CERTIFY THAT THE ABOVE MICROFILM IS A TRUE COPY OF THE ORIGINAL DOCUMENT AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS, AND THAT THE PHOTOGRAPHIC PROCESSES USED FOR MICROFILMING WERE APPROVED BY THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

repealed and superseded except as authorized by Section 5 of this ordinance.

Section 31. Inclusion in code. It is the intention of the County Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Metropolitan Dade County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the words "ordinance" may be changed to "section," "article," or other appropriate word.

Section 32. Severability. It is intended that if any section, subsection, sentence, clause or provision contained herein is held invalid, the remainder shall not be affected.

Section 33. Effective date. The provisions of this ordinance shall become effective ten (10) days after the date of its enactment.

PASSED AND ADOPTED: MAR 5 1968

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STATE OF FLORIDA)
COUNTY OF DADE)

I, RICHARD P. BRINER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of following denoted ORDINANCE of Dade County, Florida, as appears of record.

ORDINANCE NO. 68-14, adopted by the said Board of County Commissioners at its meeting held on MAY 7, 1968

IN WITNESS WHEREOF, I have hereunto set my hand and official seal
on MAY 16 1968 A.D. 1968

RICHARD P. BRINER, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By /s/ [Signature]
Deputy Clerk

SEAL



BOARD OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

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HEREBY CERTIFY THAT THE ABOVE MICROGRAPH IS A TRUE COPY OF THE ORIGINAL DOCUMENT AND THAT THE SAME IS A TRUE COPY OF THE ORIGINAL DOCUMENT.

Memorandum



(Second Reading 10-02-07)

Date: June 26, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

Agenda Item No. 7(L)

From: George M. Burgess
County Manager

Ordinance 07-148

Subject: Proposed Amendments to Chapter 17 of the Miami-Dade County Code, Pertaining to Minimum Housing

RECOMMENDATION

It is recommended that the Miami-Dade Board of County Commissioners (Board) approve the attached ordinance amending Articles II and III, Sections 17-11 through 17-13, 17-15, 17-17, 17-30 and 17-30.1, 17-46, 17-49, 17-51 through 17-53, 17-55, 17-58, 17-66, and 17-67; repealing Section 17-18 and 17-58 and creating Section 17-58(A) of the Code pertaining to Minimum Housing. The proposed changes will repeal the Minimum Housing Appeals Board and replace it with an appellate review process conducted by a Hearing Officer that will preside over minimum housing cases. It is recommended that this be approved so that there is a viable mechanism for the resolution of appeals of Minimum Housing enforcement actions.

BACKGROUND

In 1968, the Board adopted Miami-Dade County Ordinance No. 68-14 (see attached), which created a 13-member Minimum Housing Appeals Board (MHAB). The purpose of the MHAB was to hear and determine appeals from actions and decisions of the Minimum Housing Enforcement Officer in accordance with the provisions of Section 17-17 of the Code of Miami-Dade County. Its powers applied to cases within the jurisdiction of unincorporated Miami-Dade County and the City of Miami. Members of the MHAB were appointed by the Board of County Commissioners and were to serve a maximum term of three years. In order to hold a meeting, there had to be a quorum, which consisted of four MHAB members. The MHAB was scheduled to meet once a month or more as needed to hear appeals.

During its existence, the MHAB heard several thousand minimum housing cases and granted numerous variances to protect the general safety and welfare of our community. During the 2003 Sunset Review process, Team Metro and MHAB members jointly concluded that it was in the public's best interest to abolish the MHAB. Despite numerous attempts, the MHAB has not been able to achieve a quorum since 2002, resulting in appeals not being heard. Team Metro has been resolving disputes and working with property owners to achieve compliance. The sunseting of the MHAB enabled Team Metro to create an alternative appeal process.

This ordinance would provide for a hearing officer appeal procedure that is parallel to the mechanism set forth in Chapter 8CC of the Code of Miami-Dade County. In addition, the creation of this appellate appeal process aligns the minimum housing compliance process with other Code sections enforced by Team Metro. The establishment of a Hearing Officer streamlines the appeal process and ensures that cases are heard in a timely manner. Under the proposed process, residents will be able to file appeals through the Clerk of the Courts. This process better serves the needs of residents by ensuring that we have an effective and efficient appeal mechanism that enables them to have their cases heard

expeditiously. It is important to note that if a person disagrees with the Hearing Officer's decision, they have the right to challenge the decision through circuit court.

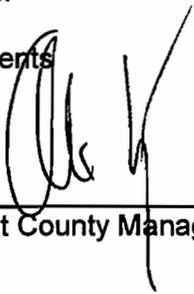
Hearing Officers are recruited through the placement of a solicitation advertisement in the Miami Herald's Neighbor's Section, Diarios de las Americas, and Miami Times. Interested individuals must possess an outstanding reputation for civic pride, interest, integrity, responsibility, and business or professional ability. Candidates must meet the following qualifications or criteria: Residency in Miami-Dade County for at least six months and throughout the duration of the appointment; certification or license as a general contractor, architect, engineer or attorney; possess a Bachelor's Degree and have two years of community service or involvement; consent to a criminal background check; not have any outstanding code enforcement fines or other outstanding funds due to Miami-Dade County; adhere to the Miami-Dade County Code of Ethics; conduct all hearings with decorum; and adhere to all other requirements of the County Code.

Hearing Officer appointment recommendations are made by the Hearing Officer Review Board, which is comprised of Miami-Dade County employees from the Building Department, Clerk of the Courts, Consumer Services Department, County Attorney's Office, and Team Metro. They convene to review the Hearing Officer applications submitted and make appointment recommendations to the County Manager. Appointed individuals may serve for a period of up to two years.

Fiscal Impact

The Minimum Housing Appeals Board members were volunteers appointed by the Board of County Commissioners without compensation. Hearing Officers are compensated through the Clerk of Courts. In addition, the Clerk's Office charges security costs as part of the hearing cost. It is anticipated that approximately 50 Notices of Violation will be appealed each year. As such, Team Metro projects a fiscal impact of \$6,300 per year. This estimate includes the Clerk's cost plus the salary and fringe costs of a Team Metro Minimum Housing Enforcement Supervisor that will represent the department at the hearings.

Attachments



Assistant County Manager