



CARLOS A. GIMENEZ

MAYOR
MIAMI-DADE COUNTY

January 29, 2016

Honorable Tomas Regalado
Mayor
City of Miami
3500 Pan American Drive
Miami, FL 33133

Dear Mayor Regalado:

During our ongoing discussions concerning Minimum Housing standards, you communicated concerns regarding the City of Miami's perceived inability to enforce minimum Housing standards contained in Chapter 17 of the Code of Miami-Dade County (Code) at 6040 NW 12 Avenue, Miami, Florida. Since that time, I understand the City of Miami has successfully sought and obtained injunctive relief from the Circuit Court, and had a receiver appointed by the Court to collect rents and make the necessary repairs to the building for the benefit of the residents.

As we discussed at our meeting in February and through subsequent written correspondence, Chapter 17 was enacted in 1963 and contains a number of obsolete and duplicative references due to its age, with many sections of this Code having been superseded by law by the Florida Building Code and/or explicitly preempted by State Statute. In order to increase its efficacy as a regulatory tool, we have drafted an update, which, if enacted by the Board of County Commissioners, would revise Chapter 17 in its entirety. The revision includes a complete repeal of Article III which applied specifically and solely to the City of Miami, and reportedly caused the City Attorney to believe the City of Miami was without authority to act to enforce the minimum housing standards.

Attached for your review is a draft of this amendment, which we intend to bring to the Board of County Commissioners for action in the coming weeks. This proposed amendment would eliminate the conflicts with the Florida Building Code, and would, in our opinion, alleviate the impediment the City Attorney perceived.

If you have any questions, please do not hesitate to contact or Jack Osterholt, Deputy Mayor/Director, Department of Regulatory and Economic Resources, at 305 375-5695, or me directly.

Sincerely,

A handwritten signature in blue ink, appearing to read "Carlos A. Gimenez", is written over a blue circular stamp.

Enclosure

c: Abigail Price-Williams, County Attorney
Jack Osterholt, Deputy Mayor/Director, Department of Regulatory and Economic Resources
Russel Benford, Deputy Mayor, Office of the Mayor
Michael Liu, Executive Director, Public Housing and Community Development
Lourdes M. Gomez, Deputy Director, Department of Regulatory and Economic Resources
Juliana Salas, Assistant Director/Building Official, Department of Regulatory and Economic Resources

Summary of Modifications Contained in the Proposed Ordinance

- Update, create consistency, and revise obsolete terms for personnel and agencies.
- Emphasize the Article's enforceability by all incorporated and unincorporated jurisdictions in the County.
 - Added a definition of "Authority Having Jurisdiction" (AHJ), establishing oversight applicability for County and Municipality.
- Restrict applicability to buildings of four (4) units or less which are "let" to the public, as other buildings are preempted by State jurisdiction.
 - Added a definition for "let."
- Clarify that enforcement of Florida Building Code (FBC) provisions are beyond the purview of enforcement officers.
 - Require that notification be made to the Building Official for perceived violations of egress and minimum heating requirements.
 - Removed definition and much of the sections which related to egress as being beyond the scope of the enforcement officer.
- Combine requirements pertaining to hotels and hotel units within "rooming house and rooming house unit." The State's Division of Hotels and Restaurants define and regulate hotels.
 - Updated the definition for "rooming house."
 - Removed all duplicative sections relating to hotels, alternatively applying the requirements pertaining to rooming houses.
 - Added exceptions relating to rooming houses and rooming house units in Section 17-23 for those requirements which cannot be imposed on this type of building. This was needed because of the streamlining of the hotel sections, which were struck.
- Create a definition for "Minimum Housing Enforcement Officer" as a supervisory position which may be appointed.
- Update Section 17-7 removing references to the County Manager and the Director of Team Metro.
- Update the powers of the Minimum Housing Enforcement Officer to clarify authority in municipalities.
- Update Section 17-8 (4) to clarify the responsibility, duties, and conditions of the County in providing assistance to federal, State, and municipal agencies.
- Update identification requirements of Section 17-9 for the Minimum Housing Enforcement Officer.
- Include provisions allowing municipalities to enforce Chapter 8cc or "other applicable local enforcement regulations" which may be adopted locally.
- Include "other applicable local enforcement regulations" in numerous relevant sections.
- Modify light and ventilation sections to coincide with FBC requirements.
- Remove Section 17-33 and Section 17-34 as an unnecessary duplication since these functions are currently being performed by the Affordable Housing Advisory Board.
- Renumbered sections as necessary.
- Chapter 17 Article III is a duplication of Article II which was established specifically for the City of Miami. Article III is struck in its entirety, as the amended Article II is applicable countywide, thereby obviating the need for a specific Article devoted to the City of Miami.
- Remove cross-references to Article III from throughout Article II.

Approved _____ Mayor

Agenda Item No.

Veto _____

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING ARTICLE II OF CHAPTER 17 OF THE CODE OF MIAMI-DADE COUNTY RELATING TO MINIMUM HOUSING; REPEALING ARTICLE III OF CHAPTER 17 OF THE CODE OF MIAMI-DADE COUNTY RELATING TO THE CITY OF MIAMI MINIMUM HOUSING STANDARDS; 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. Article II of Chapter 17 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

ARTICLE II. - ~~[[METROPOLITAN]] MIAMI-DADE COUNTY MINIMUM HOUSING STANDARDS~~

Sec. 17-1. - Short title.

This article enacted under and pursuant to the provisions of the Home Rule Charter of Government for Miami-Dade County, Florida, shall be known and may be cited as the "~~[[Metropolitan]]~~ Miami-Dade County Minimum Housing Standards Ordinance."

Sec. 17-2. - Legislative findings.

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.

The >>Miami-Dade<< County >>Board of County<< Commission>>ers<< hereby finds and declares that there presently exist in [[Metropolitan]] Miami-Dade County, Florida, structures >>let<<[[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, insanitary conditions, and overcrowding, constitute a menace to the health, safety, morals, welfare, and reasonable comfort of the citizens and visitors to this metropolitan area. 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.

Sec. 17-3. - Legislative intent.

The intent and purpose of this article is to protect the public health, safety, morals and welfare of all the people of "[[Metropolitan]] Miami-Dade County, Florida, by establishing minimum standards governing the condition, occupancy, and maintenance of dwellings, dwelling units, rooming houses, rooming units and premises >>which are let<<; 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 article, and to set forth a procedure for the granting of variances to the enforcement of the provisions of this chapter in cases of extreme hardship, where the health, safety, welfare and morals of the occupants of a given unit, or the public at large, will not be detrimentally affected, and where literal enforcement of the code would offer no meaningful advantage to the occupants of a unit or to the public at large. The article is hereby declared to be remedial and essential to the public interest, and it is intended that this article be liberally construed to effectuate the purposes as stated above.

Sec. 17-4. - Construction and applicability.

The provisions of this article shall be applicable as a minimum standard in incorporated and unincorporated areas of ~~[["Metropolitan"]]~~ Miami-Dade County, Florida. Every portion of a building ~~>>of four units or less<<~~ or premises used or intended to be ~~>>let<<[[used for any dwelling purpose]]~~, except temporary housing in times of local emergency, disaster or necessity, shall comply with the provisions of this article, 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 article. This article is intended and shall be construed as establishing minimum standards for the initial and continued occupancy of all buildings ~~>>which are let<<~~. 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]]~~ Florida Building Code ~~>>or Chapter 8 of this Code<< [[(Ordinance No. 57-22, as amended)]]~~. In any case where any provision of this article 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, ~~>>or the Code of Federal Regulations<<~~ 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 article, as a minimum standard.]]~~ It shall be the duty and responsibility of municipal departments, officials and employees to enforce the minimum standards prescribed by the provisions of this chapter within the territorial limits of their respective municipalities. ~~>>The provisions of this article shall not apply to enforcement pursuant to ss. 553.79 and 553.80 of the Florida Building Code adopted pursuant to s. 553.73 or Chapter 8 of this Code as applied to construction, repair, alteration, occupancy or maintenance of buildings or structures provided that a building permit is either not required, is required but has not been obtained or has been issued by the county or any municipality.<<~~

Sec. 17-5. - Existing remedies preserved.

Nothing in this article 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 insanitary. This article shall not affect violations of any

other County or municipal ordinance, code or regulations existing prior to the effective date ^[2021] of this article, 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>>.<<

Sec. 17-6. - 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:

(1)

Approval shall mean approved by the ~~[[head]]~~>>Minimum Housing<< ~~[[of the e]]~~>>Enforcement >>Officer<< ~~[[agency]]~~ or ~~[[his]]~~ authorized >>subordinate enforcement officers<< ~~[[representatives]]~~.

>>(2)

Authority Having Jurisdiction shall mean any and all municipal governments within geographic Miami-Dade County, and with respect to unincorporated Miami-Dade County, the Mayor of Miami-Dade County, acting through the Mayor's appointed officers.<<

(>>3<<[[2]])

Basement shall mean that portion of a building having less than one-half 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.

(>>4<<[[3]])

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

(>>5<<[[4]])

Dwelling shall mean any building >>which is let<<, including, to the extent not inconsistent with State or Federal law, a manufactured home or mobile home, 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.

(~~>>6<<[[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.~~

(~~>>7<<[[6]]~~)

~~*Enforcement agency* shall mean the code enforcement unit of the County or municipality therein and responsible for ensuring compliance with applicable codes, ordinances, rules and regulations within the time limits of the law. ~~<< [[the minimum housing enforcement officer of Metropolitan Miami-Dade County and the municipal housing inspector as defined in subsection (15.2)]]~~~~

(~~>>8<<[[7]]~~)

~~*Enforcement officer* shall mean any designated ~~<<~~ employee ~~>>~~ or agent of the County or a municipality therein whose primary duty is the prevention, detection, investigation, and enforcement of violations of laws regulating public health, safety and welfare by enforcing applicable codes, ordinances, rules and regulations enacted by the employing jurisdiction ~~<< [[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.]]~~~~

~~[[7.1)~~

~~*Extreme hardship* shall describe a condition existing in a case before the 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.]~~

>>(9)

Florida Building Code shall mean the unified building code for the State of Florida, adopted by the Florida Building Commission pursuant to Fla. Stat. Section 553.73 et. seq., as the same may be amended from time to time.<<

(>>10<<[[8]])

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

(>>11<<[[9]])

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

(>>12<<[[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 Miami-Dade County.]]~~

(>>13<<[[11.1]])

~~*Hot water* shall mean water >>at a temperature greater than or equal to 110°F (43°C)<< [[heated by a system capable of supplying one hundred forty (140) degrees Fahrenheit water temperature in the amounts of sixteen (16) gallons per bedroom per three (3) hours as set forth in Section 1.17(10) subsection (5) of the Rules and Regulations Governing the Enforcement of the Minimum Housing Standards Ordinance]].~~

[[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.

(15.1)

Means of egress shall mean a continuous path of travel from any point in a building or structure to the open air outside at ground level and consists of three (3) separate and distinct parts:

(a)

The way of exit access,

(b)

The exit, and

(c)

The means of discharge from the exit.

A means of egress comprises the vertical and horizontal means of travel and may include the room space, doorway, corridor, hallway, passageway, stairs, ramps, lobby, escalator, and other paths of travel.

(a)

Exit access shall mean that portion of a means of egress which leads to an entrance to an exit.

(b)

Exit shall mean that portion of a means of egress which is separated from the area of the building from which escape is to be made by walls, floors, doors or other means which

provide the protected path necessary for the occupants to proceed with reasonable safety to the exterior of the building.

Note: An interior aisle, corridor, hallway or other means of travel used to reach an exit door or doorway is not an exit, except where the maximum allowable distance of travel to an exit is exceeded, at which point the aisle or corridor shall be treated as part of an exit or [it] is located, arranged, and enclosed as to constitute an integral part of an exit facility.

(e)

Exit discharge shall mean that portion of a means of egress between the termination of the exit at the exterior of the building and ground level.]]

(15.2)

Municipal housing inspector shall mean a municipal employee designated by the County Manager pursuant to an interlocal agreement to enforce the provisions of this chapter within the territorial limits of a municipality. Any reference to minimum housing enforcement officer in this chapter shall also mean municipal housing inspector except in Section 17-7]]

>>(15)

Let shall mean to allow the use of, contract, convey, demise, grant, grant the occupancy of, lease, lend, make available, rent or rent out real property.

(15.1)

Minimum housing enforcement officer shall mean any designated employee or agent of the County or municipality whose duty it is to supervise subordinate enforcement officers in the enforcement of applicable codes, ordinances, rules and regulations enacted by the County or municipality.<<

(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 >>the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or<< 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 or record 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 article. 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 a taxpayer as defined in Florida Statutes Section 192.001(13), as may be amended from time to time. 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 ~~>>let and<<~~ 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 to ~~>>~~ persons in return for remuneration or for the provision of services or for both, in rooms furnished by the owner or operator ~~<<[[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 code, boarding houses are included in this category]].~~

(21)

Rooming unit shall mean any room or group of rooms, ~~>>~~ within a rooming house ~~<<~~ 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,

rag, 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 structure used for human shelter which is not attached to the ground, to another structure, or in a permanent manner to any utilities system. Manufactured homes or mobile homes shall not be designated as temporary housing. For the purpose of this Code, 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 article, they shall be construed as though they were followed by the words "or any part thereof."

(26)

Any reference in this article to the words "approved," "adequate," "adequately," "properly installed," "properly connected," or "properly constructed," shall have reference to those standards set out in the ~~[[South]]~~ Florida Building Code, the Rules of the State Board of Health, Chapters 5, 15 and 26A of the ~~[[Metropolitan]]~~ Code >>of Miami-Dade County or other applicable local code enforcement regulation<<, and any other enactment of law applicable to the structure or particular portion or system of the structure under inspection by the enforce>>ment<<[[ing]] agency.

Sec. 17-7. - Minimum Housing Enforcement Officer [~~—Office established; appointment; term; exempt from classified service; salary~~].

The ~~[[office and]]~~ position of Minimum Housing Enforcement Officer is hereby created and established. The >>Authority Having Jurisdiction may designate a<<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 qualifications 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 County Manager, and shall be included in the County budget. The Minimum Housing Enforcement~~

~~Officer shall serve under the administrative supervision of the Director of Team Metro.]]~~ The >>Minimum Housing Enforcement Officer<<[[County Manager]] may appoint such >>subordinate enforcement officers<< [[assistants to the Minimum Housing Enforcement Officer]] as may be necessary in order that the duties may be properly performed, subject to budget limitations.

Sec. 17-8. - Same—Powers.

The powers of the Minimum Housing Enforcement Officer shall include the following:

(1)

The enforcement of the provisions of this article and rules and regulations promulgated hereunder, and all County >>or municipal<< ordinances, codes, rules and regulations >>, as applicable<< 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 >>except where preempted<<, in the unincorporated >>and incorporated<< areas of [[Metropolitan]] Miami-Dade County.

(2)

Investigate complaints and institute enforcement actions necessary to abate all violations of County >>or municipal<<regulations >>, as applicable<< governing the use and occupancy of housing [[facilities]] >>premises of four units or less<<. In addition to inspections resulting from complaints, inspections may be made at the request of the owner of the subject property provided such requested inspections are for the purpose of qualifying for participation in a governmental program. The Minimum Housing Enforcement Officer shall have the power and authority to charge and collect fees for making inspections. The fees charged shall be as set forth in the [[Team Metro]] >>applicable duly adopted County or municipal<<fee schedule[[, as established by resolution of the Board of County Commissioners of Miami Dade County, Florida, as amended from time to time]].

[[~~(3)~~

~~Make appropriate surveys and inspections to determine whether the provisions of this article are being complied with, and whether minimum housing standards are being maintained within municipalities.~~

(4)

~~Make inspections of housing premises, facilities and equipment in accordance with procedures prescribed by this article to determine whether the provisions of this article 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 Metropolitan Miami Dade County designed to provide accurate data and information as to whether the minimum standards established by this article are being complied with and whether the level of adequate housing facilities is increasing or decreasing in Metropolitan Miami Dade County.~~

([7])>>3<<

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

([8])>>4<<

Render all possible assistance and cooperation to federal, State and local agencies and officials in the accomplishment of effective minimum housing standards and controls.

>>(a)

Any municipal *Minimum Housing Enforcement Officer* may seek assistance from the County regarding any individual enforcement action. Such request shall be made in writing expressing the purpose therefor and submitted to the Miami-Dade County *Enforcement Agency*.

(b)

Notwithstanding any provision contained in this Chapter, and at the direction of the Miami-Dade County Mayor or Mayor's designee, the Miami-Dade County *Minimum Housing Enforcement Officer* may be directed to assist, mediate or intercede within the territorial limits of any municipality to ensure the requirements of this Chapter are uniformly enforced

in the event it is determined the municipal *Enforcement Agency* is unable or otherwise fails to enforce this Chapter.

(c)

Recovery of any enforcement costs incurred pursuant to Subsection (4) (a) and (b) shall be in accordance with Section 17-8(2) and Section 17-19 herein.<<

(~~9~~)>>5<<

The Minimum Housing Enforcement Officer shall have the power and authority to charge and collect fees as described in Section 17-8(2) herein for rendering inspection assistance ~~[[in accordance with the Department of Team Metro fee schedule, as established by resolution of the Board of County Commissioners of Miami Dade County, Florida, as amended from time to time]]~~ and to recover the costs of enforcement as provided for in this chapter.

(~~10~~)>>6<<

Make periodic reports >>as may be necessary,<< concerning the status of minimum housing standards and the enforcement of the provisions of this article, and recommendations concerning the improvement of minimum housing standards and controls.

(~~11~~)>>7<<

Perform such other administrative duties as may be assigned by the >>Authority Having Jurisdiction<< ~~[[County Manager]]~~.

Sec. 17-9. - Same—Identification of Minimum Housing Enforcement Officer; conflict of interest.

The Minimum Housing Enforcement Officer and all >>subordinate enforcement officers<< ~~[[assistants]]~~ shall be furnished with official identification cards >>issued by the Authority Having Jurisdiction << ~~[[signed by the County Manager]]~~, which identification cards shall contain the name of the officer, ~~[[his]]~~>>the officer's<< 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 >>enforcement officers<< ~~[[assistants]]~~ shall exhibit such identification when entering any dwelling, dwelling unit, rooming house, rooming unit ~~[[, hotel, hotel unit,]]~~ or premises. The requirements of this section shall not in any wise be construed as relieving the Minimum Housing Enforcement Officer or

>>enforcement officers<< [[assistants]] from compliance with the procedures prescribed in this article 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.

Sec. 17-10. - Authorized inspections.

The Minimum Housing Enforcement Officer and enforce[[ing]]>>ment<< officers shall be authorized to make inspections to determine the condition of dwellings, dwelling units, rooming houses, rooming units[[, hotel, hotel unit,]] and premises in order to safeguard the health, safety, morals and welfare of the public. The Minimum Housing Enforcement Officer and enforce[[ing]]>>ment officers<< shall be authorized to enter any dwelling, dwelling unit, rooming house, rooming unit[[, hotel, hotel 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 article, in accordance with the procedures herein prescribed. Except in emergencies endangering the public health, safety and welfare, the Minimum Housing Enforcement Officer and enforce[[ing]]>>ment<< officers shall enter a dwelling, dwelling unit, rooming house, rooming unit[[, hotel, hotel unit,]] or premises only upon the prior consent of the person lawfully in occupancy thereof or the person having legal right of possession thereof, or in accordance with the provisions of this section. When the Minimum Housing Enforcement Officer or any enforce[[ing]]>>ment<< officer has reason to believe that any dwelling, dwelling unit, rooming house, rooming unit[[, hotel, hotel unit,]] or premises is in violation of the provisions of this article, 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 article, such officer shall request permission to make an inspection from the person lawfully in occupancy thereof or from the person having the legal right to possession thereof. In the event that such person refuses to consent to the inspection, the Minimum Housing Enforcement Officer or enforce[[ing]]>>ment<< officer may apply to the County Court or Circuit Court for the issuance of an inspection warrant to be served by an officer duly authorized by law to serve inspection warrants and make arrests for violations of this article. The inspection 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 Florida Statutes, Sections 933.20—933.30 and shall authorize[[d]] entry into and inspection of the premises described therein. Refusal to permit an inspection pursuant to an inspection

warrant authorized by this section shall constitute a violation of this article and shall subject the violator to the penalties prescribed herein.

Sec. 17-11. - Notice of violations.

Whenever the Minimum Housing Enforcement Officer or ~~[[his]]~~ >>an enforcement officer<< ~~[[assistants]]~~ finds and determines that there has been a violation of the minimum housing standards established by this article, >>the enforcement officer<< ~~[[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>>, as applicable<<. 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 Hearing Officer for a hearing and review of matters within the notice as provided in Sections 17-17 and 17-18a 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 >>or other applicable local code enforcement regulation<<. 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.

* * *

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

(a)

It shall be unlawful for any person to fail to comply with the minimum housing standards established by this article, or to fail or refuse to comply with the requirements of any final order issued in accordance with the provisions of this article. Each day of continued violation shall be considered as a separate offense.

(b)

If any person shall knowingly fail or refuse to obey or comply with, or willfully violates, any of the provisions of this article, 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.

(c)

The provisions of this article and final orders issued in accordance with the provisions of this article may be enforced by mandatory injunction, or other appropriate civil action. The Minimum Housing Enforcement Officer may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for each violation of any provisions of this article, or any lawful final order issued, in an amount of not more than five thousand dollars (\$5,000.00) per offense. Each day during any portion of which such violation occurs constitutes a separate offense.

(d)

The Minimum Housing Enforcement Officer or [[his assistant]] >>a subordinate enforcement officer<<, may, in the Minimum Housing Enforcement Officer's or [[his assistant's]] >>enforcement officer'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]] >>a subordinate enforcement officer<< 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 the County >>or the municipality, as applicable<< 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]] >>any subordinate enforcement officer<<, 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]]~~ >>any subordinate enforcement officer<<. 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 >>or other applicable local code enforcement regulation<<. 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]]~~ >>any subordinate enforcement officer<<, 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 Hearing Officer pursuant to Section 17-17 of the Code of Miami-Dade County, Florida.

(e)

Any person who hinders, obstructs or resists the Minimum Housing Enforcement Officer or ~~[[his assistant]]~~ >>any subordinate enforcement officer<<in the discharge of his duty as provided in this article, upon conviction thereof in the County Court, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment.

Sec. 17-16. - Power to act in emergencies.

Whenever the Minimum Housing Enforcement Officer finds that a violation of the provisions of this article 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 may, without prior notice, issue an order or civil violation notice pursuant to Chapter 8CC of this Code >>or other applicable local code enforcement regulation<<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 article, such emergency order shall be effective immediately upon service and shall be complied with immediately, or as otherwise provided.

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 by filing with the Clerk of the Courts within 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>>of this Code or other applicable local code enforcement regulation<<. The 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.

(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 >>or
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]]~~ >>Minimum Housing Enforcement Officer<< 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 ~~enforc~~>>ement<<~~[[ing]]~~ agency for investigation, enforcement, testing, or monitoring. The costs and expenses of the ~~enforc~~>>ement<<~~[[ing]]~~ 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 *enforc*>>*ement*<<[[img]] agency.

(2)

Administrative costs of hearing.

(3)

Date by which the violation must be corrected to prevent imposition of continuing violation penalties (if applicable).

* * *

Sec. 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.

Sec. 17-19. - Recovery of enforcement costs.

(a)

The entire costs incurred by the ~~[[Minimum Housing]]~~ Enforcement ~~[[Officer]]~~ ~~>>Agency<<~~ in enforcing the provisions of this article shall be paid by the owner, including but not limited to, the cost of enforcement inspections, preparation of enforcement reports, photographs, title searches, postage and other administrative costs for enforcement and collection. ~~[[The owner of any multi-unit dwelling containing four (4) or more dwelling units, rooming units, or hotel/motel units or combination thereof which is subject to the registration certificate requirements of Section 17-20 of the Code of Metropolitan Miami Dade County shall only be liable for enforcement costs levied and imposed pursuant to this section, if such enforcement costs collectible hereunder exceed the annual registration certificate fee special assessments collected for the building in which such dwelling is contained. The costs of enforcement shall be paid within thirty (30) days of the owner's receipt of Team Metro's bill itemizing the enforcement costs incurred in enforcing the provisions of this article.]]~~

(b)

The ~~[[Minimum Housing]]~~ Enforcement ~~[[Officer]]~~ ~~>>Agency<<~~ shall file among ~~[[his]]~~ ~~>>its<<~~ records a fair and accurate statement of each item of expense with the date of execution of any action authorized by this article.

(c)

~~>>The Authority Having Jurisdiction<<~~ ~~[[Team Metro]]~~ may institute a civil suit to recover such expenses against the property or may cause such expenses to be charged against the real property as a lien, upon recordation of an enforcement lien in the public records of Miami-Dade County, Florida. A lien will remain on the real property after recordation as provided herein until such costs are fully paid and discharged, or barred by law.

(d)

Liens created pursuant to Section 17-19(c) may be discharged and satisfied by paying to the ~~>>~~ Authority Having Jurisdiction ~~<<~~ ~~[[Team Metro]]~~ the

amount specified in the notice of lien, together with interest thereon from the date of the filing of the lien computed at the rate of eighteen (18) percent per annum, together with the administrative costs, filing and recording fees and fees paid to file a satisfaction of the lien in the public records. When any such lien has been discharged, >>the Authority Having Jurisdiction << [[Team Metro]] shall promptly cause evidence of the satisfaction and discharge of such lien to be recorded in the public records. Any person, firm, corporation or legal entity, other than the present owner of the property involved, who pays any such unsatisfied lien shall be entitled to receive an assignment of the lien held by the County >>or municipality<< and shall be subrogated to the rights of the County >>or municipality<< in respect to the enforcement of such lien, as permitted by law.

Secs. 17-20—17-22. - Reserved.

Sec. 17-23. - 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.

>>Exception: Rooming houses and/or rooming units.<<

(2)

Every dwelling unit >>and every rooming house<< 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 ^[2031] of this article.

>>Exception: Rooming units.<<

(3)

Every dwelling unit >>and every rooming house<< 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.

>>Exception: Rooming units.<<

(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 provisions of subsection (4) of this section and which are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower.

(6)

Every occupied dwelling unit shall be provided with an installed nonportable cooking facility which shall not be capable of being carried easily by one (1) person, and shall have at least two (2) top burners. Vacant dwelling units shall be provided with utility connections for such facility.

>>Exception: Rooming houses and/or rooming units.<<

(7)

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

(8)

Every dwelling [[structure]] and dwelling unit [[of types of construction I, II, III, IV and V as defined by Chapters 17, 18, 19, 20, 21 and 22 respectively of the South Florida Building Code]] shall have >>and maintain the<< means of egress which conform to the >>requirements in effect when the building was constructed. The Minimum Housing Enforcement Officer or subordinate enforcement officers shall immediately report any presumed violation pertaining to means of egress to the Building Official.<< [[standards of Chapter 31

~~of the South Florida Building Code and any applicable fire codes, fire regulations or ordinances now in existence or adopted subsequent hereto. Every dwelling structure of type of construction V, built before December 31, 1957, where the structural and other elements of the building consist primarily of wood, having one (1) or two (2) dwelling units above the ground floor, shall have a minimum of two (2) separate means of egress which are remote from each other or at least one (1) means of egress with stairs that are constructed of either noncombustible materials or made safe by approved fire resistive modifications as may be required. Each such means of egress shall be easily accessible from every dwelling unit on the specified floor without passing through any other dwelling unit. Every dwelling structure of type of construction V, where the structural and other elements consist primarily of wood having three (3) or more dwelling units shall have means of egress which 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.]]~~

(9)

~~[[In every owner-occupied dwelling unit not intended to be let for occupancy containing space 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 space 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]]~~. >> The Minimum Housing Enforcement Officer or subordinate enforcement officers shall immediately report to the Building Official any presumed violation pertaining to space heating facilities as contained in this section. << Adequate heating facilities are hereby defined as follows:

(a)

Permanent space heating equipment capable heating two-thirds of the habitable rooms to a minimum air temperature of seventy (70) degrees Fahrenheit to be measured three (3) feet

above floor when outside temperature is forty five (45) degrees Fahrenheit, or permanent space heating equipment with capacity of five (5) Btu's per hour of input per cubic foot of habitable room space within two-thirds (2/3) of the habitable rooms.

(b)

The five (5) Btu's per hour input standard is based on a heating unit with seventy (70) percent rating of input to output efficiency; an appropriate correction factor will be applied when the proposed heating unit exceeds an input to output efficiency rating of seventy (70) percent. Heating units supplied on the basis of this calculation will otherwise comply with the standards described elsewhere in this subsection.]]

(c)

Permanent heating equipment is defined as heating equipment properly connected to a flue or vent or, if electric, properly installed and permanently connected to an adequately wired and sized branch circuit.

(d)

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.

(e)

Heating equipment shall be installed and maintained in accordance with the provisions of the South Florida Building Code.

(f)

Any calculations necessary for the installation of permanent heating equipment to assure adequate heating capacity as defined in this subsection, shall be made in accordance the standards established in the current edition of the "Heating Ventilating Air Conditioning Guide," published by the American Society of Refrigeration, Heating and Air-Conditioning Engineers, Inc. (ASHRAE).]]

(>>b<<[[g]])

Oil heaters, gas heaters, and wood-stoves must be connected to a properly installed vent ~~[[, said vent conforming to the provisions of the South Florida Building Code]].~~

(>>c<<[[h]])

Electric heaters will be of a type readily fixed into position and must be properly installed and permanently connected to an adequately wired and sized branch-circuit.

(>>d<<[[i]])

Any portable heating devices approved by ~~[[the Underwriters' Laboratories, Inc.]]~~ >>a Nationally Recognized Testing Laboratory (NRTL)<<, or a properly installed fireplace may be used as an accessory heating unit.

(>>e<<[[j]])

Accessory heating units will be deemed to be supplementary to the permanent-heating equipment ~~[[and shall not be considered when calculating the adequacy of the permanently installed heating equipment except as specified in subsection (9)(m)]]~~.

~~[[k]]~~

~~Only those accessory heating units which are acceptable under the provisions of the City of Miami and Miami Dade County Fire Code, the Florida State Hotel and Restaurant Commission regulations, and other regularly adopted regulations will be used.]~~

(>>g<<[[l]])

The use of unsafe heaters or cooking stoves and the use of cooking stoves, including ovens, for heating purposes is hereby prohibited.

~~[[m]]~~

~~The requirements of subsection (9) shall not apply to dwelling units in existence on March 17, 1969, provided that either a gas pipe outlet or an electrical outlet and circuit are present for the use of gas space heaters or portable electrical space heaters.]~~

Sec. 17-24. - Minimum standards for light and ventilation.

>>The Minimum Housing Enforcement Officer or subordinate enforcement officers shall immediately report to the Building Official any presumed violation pertaining to light and ventilation standards as contained in this section.<<

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)

(a)

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) percent 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 (15) percent of the total floor area of the room. Skylights shall not be a substitute for the window requirements in sleeping rooms.]]~~

(b)

Kitchens and dining rooms will be exempt from the requirements of subsection (1)(a) of this section, providing they meet the requirements in subsections (2) ~~[[and (6) of this section]]~~.

(c)

If any two (2) habitable rooms, excluding sleeping rooms, are separated by a common wall and either room lacks the required window ~~[[area]]~~, but meets all three (3) exceptions listed below, such rooms shall be considered in compliance with this subsection:

- (i) The common wall separating the two (2) rooms must provide an opening equal to ~~[[twenty-five (25)]]~~ >>fifty (50) percent of the total wall area.
 - (ii) If the opening so provided is a doorway, it must be unobstructed and ~~>>provides an opening of not less than one-tenth of the floor area of the interior room but not less than 25 square feet~~ <<[[have a minimum width of thirty (30) inches]].
 - (iii) One (1) of the two (2) rooms must provide the required light and ventilation for the total combined floor area of the two (2) rooms.
- (2) Every habitable room shall be ventilated ~~[[by openable areas equal to fifty (50) percent 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 mosquitoes, 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 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 (1) 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) footcandle of]]~~ natural light throughout 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.

Sec. 17-25. - Requirements relating to the safe and sanitary maintenance of dwellings and dwelling units.

>>The Minimum Housing Enforcement Officer or subordinate enforcement officers shall immediately report to the Building Official any building presumed to be unsafe as established by the provisions of this Section or Chapter 8 of this Code.<<

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 code 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 code 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.

~~[(9)~~

~~For these purposes, 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 the minimum requirements of maintenance and sanitation, as provided by this article, are maintained on the premises at all times. The landlord shall provide the tenant with the name, address, and phone number of the person or persons providing the continuing services. Said notice shall be given to the tenant by either posting the notice in a conspicuous place at the~~

building site or by supplying the tenant with the information at the inception of the lease. The landlord is further charged with informing the tenant of any change of name, address, or phone number of the person or persons providing the continuing service.]]

Sec. 17-26. - Minimum space, use and location requirements.

>>The Minimum Housing Enforcement Officer or subordinate enforcement officers shall immediately report to the Building Official any presumed violation pertaining to minimum space standards as contained in this section.<<

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]]~~ >>twenty<<(1)>>2<<[[5]]0) square feet for the first occupant, one hundred (100) square feet for each of the next two (2) 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 >>excluding bathrooms and closets<<.

(2)

~~[[In]]~~ >>E<<[[e]]very dwelling unit ~~[[of two (2) or more habitable rooms]]~~ >> shall have at least one (1) room of not less than one hundred twenty (120) square feet net floor area<<, every >>other habitable<< room ~~[[occupied for sleeping purposes by one (1) occupant]]~~ >>, except the kitchen<<shall have a minimum >>net<< ~~[[gross]]~~ floor area of at least >>seventy<<[[eighty]] (>>7<<[[8]]0) 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 of the floor area of every habitable room >>having a sloped ceiling<<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 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 (1) 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.

Sec. 17-27. - 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.

* * *

(11)

Every owner of a building containing ~~[[three (3) or more]]~~ >> four (4) or fewer << dwelling units shall provide the continuing services of a person or persons solely to assure that the minimum requirements of maintenance and sanitation, as provided by this article, are maintained ~~[[on the premises at all times]]~~. The landlord shall provide the tenant with the name, address, and phone number of the person or persons providing the continuing service. Said notice shall be given to the tenant by either posting the notice in a conspicuous place at the building site or by supplying the tenant with the information at the inception of the lease. The landlord is further charged with informing the tenant of any change of name, address, or phone number of the person or persons providing the continuing service.

Sec. 17-28. - Maintenance of nondwelling structures and fences.

Every accessory structure used for nondwelling 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.

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Sec. 17-29. - >>Reserved<< ~~[[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 code, except as provided by the following requirements:

(1)

No person shall operate a hotel or rooming house unless he has complied with all of the licensing and permit requirements of Metropolitan Miami Dade County.

(2)

Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (70) square feet of floor space and every room occupied for sleeping purposes by more than one (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.

(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 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 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 further, he shall be 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)

Every hotel or rooming structure and hotel or rooming unit of types of construction I, II, III, IV and V as defined by Chapters 17, 18, 19, 20, 21 and 22 respectively of the South Florida Building Code shall have means of egress which conform to the standards of Chapter 31 of the South Florida Building Code and any applicable fire codes, fire regulations or ordinances now in existence or adopted subsequent

hereto. Every hotel or rooming structure of type of construction V, built before December 31, 1957 where the structural and other elements of the building consist primarily of wood, having one (1) or two (2) hotel or rooming units above the ground floor, shall have a minimum of two (2) separate means of egress which are remote from each other or at least one (1) means of egress with stairs that are constructed of either noncombustible materials or made safe by approved fire resistive modifications as may be required. Each such means of egress shall be easily accessible from every hotel or rooming unit on the specified floor without passing through any other hotel, rooming, or dwelling unit. Every hotel or rooming structure of type of construction V, where the structural and other elements consist primarily of wood having three (3) or more hotel, rooming or dwelling units, shall have means of egress which conform with the provisions of the South Florida Building Code and any applicable fire code, 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 insectproof 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 Miami Dade County Health Department within twenty-four (24) hours the name 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 follows:

(a)

Permanent space heating equipment capable of heating two-thirds of the habitable rooms to a minimum air temperature of seventy (70) degrees Fahrenheit to be measured three (3) feet above floor when outside temperature is forty five (45) degrees Fahrenheit, or permanent space heating equipment with capacity of five (5) Btu's per hour of input per cubic foot of habitable room space within two-thirds of the habitable rooms.

(b)

The five (5) Btu's per hour input standard is based on a heating unit with seventy (70) percent rating of input to output efficiency, an appropriate correction factor will be applied when the proposed heating unit exceeds an input to output efficiency rating of seventy (70) percent. Heating units supplied on the basis of this calculation will otherwise comply with the standards described elsewhere in this subsection.

(c)

Permanent heating equipment is defined as heating equipment properly connected to a flue or vent or, if electric, properly installed and permanently connected to an adequately wired and sized branch circuit.

(d)

Habitable room shall mean a room or enclosed floor space used or intended to be used for living or sleeping purposes, excluding bathrooms, shower rooms, water closet

compartments, laundries, pantries, foyers, connecting corridors, closets and storage spaces.

(e)

Heating equipment shall be installed and maintained in accordance with the provisions of the South Florida Building Code.

(f)

Any calculations necessary for the installation of permanent heating equipment to assure adequate heating capacity as defined in this section shall be made in accordance with the standards established in the current edition of the "Heating Ventilating Air Conditioning Guide," published by the American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc. (ASHRAE).

(g)

Oil heaters, gas heaters, and wood stoves must be connected to a properly installed vent, said vent conforming to the provisions of the South Florida Building Code.

(h)

Electric heaters will be of a type readily fixed into position and must be properly installed and permanently connected to an adequately wired and sized branch circuit.

(i)

Any portable heating device approved by the Underwriters' Laboratories, Inc., or a properly installed fireplace may be used as an accessory heating unit.

(j)

Accessory heating units will be deemed to be supplementary to the permanent heating equipment and shall not be considered when calculating the adequacy of the permanently installed heating equipment except as specified in subsection (14)(m).

(k)

Only those accessory heating units which are acceptable under the provisions of the City of Miami and Miami-Dade County Fire Code, the Florida State Hotel and Restaurant Commission regulations, and other regularly adopted regulations will be used.

(l)

The use of unsafe heaters or cooking stoves and the use of cooking stoves, including ovens, for heating purposes is hereby prohibited.

(m)

The requirements of subsection (14) shall not apply to units or hotel units in existence on March 17, 1969, provided that either a gas pipe outlet or an electrical outlet and circuit are present for the use of gas space heaters or portable electrical space heaters.]]

Sec. 17-30. - Designation of dwellings~~[[, hotels]]~~ and rooming houses >>as Unsafe<<[[, unfit for human habitation and procedures for placarding]].

[[The designation of dwellings, dwelling units, hotels and rooming houses as unfit for human habitation and the procedure for placarding as unfit for human habitation of such unfit dwellings, dwelling units, hotels and rooming 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 Minimum Housing Enforcement Officer or his assistant as unfit for human habitation and shall be so placarded.

(a)

One (1) 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 (1) which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

(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 dwelling, dwelling unit, hotel, hotel unit, rooming house or rooming unit declared unfit for human habitation by the Minimum Housing Enforcement Officer or his assistant 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 deemed to be unfit for human habitation and placarded as such by the Minimum Housing Enforcement Officer or his assistant shall be vacated within thirty (30) days of placarding as ordered by Team Metro and shall not be used for human habitation again until written approval is secured from, and the placard removed by Team Metro. Team Metro shall order the removal of the placard whenever the defect or defects upon which the 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 deemed to be unfit for human habitation and placarded as such by the Minimum Housing Enforcement Officer or his assistant, 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 Hearing Officer.]]~~

~~Where the Minimum Housing Enforcement Officer or >>subordinate enforcement officer<< [[his assistant]] determines that a building [[is]] >>may be<< an unsafe building within the provisions of >>Chapter 8 of this Code or other applicable local unsafe building regulation ,<<[[Section 202 of the South Florida Building Code, he]] >>they<< shall immediately report the matter to the Building Official.~~

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 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.

* * *

[[Sec. 17-33. - Housing cost impact analysis.

~~Prior to the adoption of any ordinance, policy, regulation, or plan provision that will or is likely to affect the cost of housing, the County Manager shall prepare an impact analysis in the form of a written report setting forth the following~~

~~information concerning the proposed ordinance, policy, regulation, or plan provision;~~

- a. ~~The purpose of the proposed action and the anticipated direct and indirect benefits and costs to the parties impacted;~~
- b. ~~The best estimate of the direct or indirect increased cost, if any, on the per unit cost of housing types affected;~~
- c. ~~The effect of the proposed action on public or private employment;~~
- d. ~~Whether the proposed action is necessary to enable the County to obtain state or federal grants or other financing, or is legally mandated;~~
- e. ~~Whether another action could serve the same purpose at less cost to housing; and~~
- f. ~~If the proposed action is deemed necessary, what actions could be taken to mitigate the cost increase to the home buyer.~~

~~Sec. 17-34. -- Mechanism to mitigate cost increases.~~

~~The County Manager, with input from the Director of the Miami Dade Housing Agency, shall establish an appropriate mechanism to assess the impact of any proposed ordinance, policy, regulation or plan provision as well as establish an appropriate mechanism for determining how to best mitigate any related cost increases to home buyers.]]~~

~~* * *~~

Section 2. Article III of Chapter 17 of the Code of Miami-Dade County is hereby repealed in its entirety.

Section 3. 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 4. 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 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Assistant County Attorney