



PLANNING COMMISSION MEETING AGENDA

Monday, July 07, 2025 at 6:00 PM
Commission Chambers, 300 Municipal Drive,
Madeira Beach, FL 33708

This Meeting will be televised on Spectrum Channel 640 and YouTube Streamed on the City's Website.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PUBLIC COMMENT**

Public participation is encouraged. If you are addressing the Planning Commission, step to the podium and state your name and address for the record. Please limit your comments to three (3) minutes and do not include any topic that is on the agenda.

Public comment on agenda items will be allowed when they come up.

For any quasi-judicial hearings that might be on the agenda, an affected person may become a party to this proceeding and can be entitled to present evidence at the hearing including the sworn testimony of witnesses and relevant exhibits and other documentary evidence and to cross-examine all witnesses by filing a notice of intent to be a party with the Community Development Director, not less than five days prior to the hearing.

4. **APPROVAL OF MINUTES**
5. **NEW BUSINESS**
6. **OLD BUSINESS**
7. **ADMINISTRATIVE/STAFF PRESENTATION**
8. **PLANNING COMMISSION DISCUSSION**

A. Nonconformance / Open Sky sections in the Code

B. Unfit and Unsafe Structures

C. Dumpster Enclosures

D. Master Plan Update

9. NEXT MEETING

The next meeting is scheduled for Monday, August 4, 2025 at 6:00 p.m.

10. INFORMATIONAL MATERIALS

11. ADJOURNMENT

One or more Elected or Appointed Officials may be in attendance.

Any person who decides to appeal any decision of the Planning Commission with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The law does not require the minutes to be transcribed verbatim; therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. In accordance with the Americans with Disability Act and F.S. 286.26; any person with a disability requiring reasonable accommodation to participate in this meeting should call Jenny Rowan, Community Development Director at 727-391-9951, ext. 244 or email a written request to jrowan@madeirabeachfl.gov.

**THE CITY OF MADEIRA BEACH, FLORIDA
LOCAL PLANNING AGENCY / PLANNING COMMISSION**

Madeira Beach City Hall, Patricia Shontz Commission Chambers

300 Municipal Drive, Madeira Beach, FL 33708

www.madeirabeachfl.gov | 727.391.9951

April 7, 2025 - MINUTES

1. CALL TO ORDER

Chairman Wyckoff called the meeting to order at 6:00 PM.

2. ROLL CALL

Members in Attendance:

Chairman Wyckoff
Commissioner Dillon
Commissioner Meagher
Commissioner Cloud
Commissioner LaRue
Commissioner Connolly

Members Absent:

Commissioner Noble

Staff Representatives:

Andrew Morris, Long Range Planner
Nancy Meyer, City Attorney
Lisa Scheuermann, Board Secretary

3. PUBLIC COMMENTS

Chairman Wyckoff stated that there were no members of the public in the chambers so the public comments announcement can be skipped.

4. APPROVAL OF MINUTES

Minutes from the March 2025 meeting were approved unanimously.

5. NEW BUSINESS

There was no new business.

6. OLD BUSINESS

There was no old business.

7. ADMINISTRATIVE PRESENTATION

Staff from Kimly-Horn presented a Master Plan update.

There will be another workshop in June

Discussion followed. Commissioner Dillon asked if there will be golf cart parking. It was suggested that they send emails to all residents on the city email list.

Other topics covered in the discussion included:

- Speed of storm recovery
- Parking
- Improving Gulf Blvd.
- Resiliency
- Beautification
- Expanding commercially- zoned areas
- Design standards

The commissioners also stated that they would like more input regarding architectural review.

8. NEXT MEETING

The next meeting is scheduled for Monday May 5, 2025, at 6:00 PM.

9. ADJOURNMENT

Chaiman Wyckoff adjourned the meeting at 6:54 PM.

Respectfully submitted:

Michael Wyckoff, Chairman

Date

Lisa Scheuermann, Board Secretary

Date



Memorandum

Meeting Details: July 7, 2025, Planning Commission Meeting
Prepared For: Planning Commission
Staff Contact: Community Development Department
Subject: Nonconformances, Variances, and Open Sky Requirements

Background:

Since Hurricane Helene, there has been an increase in the number of variances and building permits related to elevating an existing residential structure or building a new residential structure on a nonconforming lot. In 2024, city staff received six variance requests. For 2025, city staff has received seven variance requests as of June of 2025. When a property owner applies for a variance, it is a \$1,800 fee for single family, duplexes, and townhomes and a \$2,000 fee for multifamily, tourist dwellings, and commercial. Completing the variance process can add 30 days or more to the permitting process. Additionally, variances must adhere to strict criteria in order to be approved and a variance may not be a viable option on all projects. Property owners do have the right to elevate their existing homes or rebuild after a catastrophic loss; however, many applicants are still running into issues meeting setback requirements especially when rebuilding on a nonconforming sized lot or providing access to an existing structure that has been elevated.

Discussion:

City staff has brought Article III Nonconformances and Section 110-427 Yard regulations—Open sky requirements from the Madeira Beach Code of Ordinances for discussion. The discussion is about what potential amendments could be adopted to help speed up and simplify the rebuilding process or elevating process for property owners. The amendments would be focused on helping property owners elevating their existing homes and property owners that are rebuilding after a catastrophic loss.

Fiscal Impact:

Potentially there could be a reduction in the number of variance applications.

Recommendation(s):

City staff recommends bringing back drafts amendments to revise Article III Nonconformances and Section 110-427 Yard regulations—Open sky requirements in the Madeira Beach Code of Ordinances based on the direction from the Board of Commissioners and Planning Commission (LPA).

Attachments/Corresponding Documents:

- ARTICLE III. NONCONFORMANCES
- Sec. 110-427. Yard regulations—Open sky requirements.

ARTICLE III. NONCONFORMANCES

Sec. 110-91. Purpose and intent.

- (a) It is the intent of this article to provide for the continuance of lawful nonconformities, without unduly restricting the owners ability to maintain or improve their property, but to restrict further investment which would make the nonconformity more permanent. This article is intended to permit lawful nonconforming uses and structures created by the adoption of this Code to continue, until removed by economic or other forces. This article is intended to discourage the continuation of nonconformities as they are incompatible with the provisions of the city comprehensive plan and this Code.
- (b) All rights and obligations associated with a nonconforming status run with the property, are not personal to the present ownership or tenant, and are not effected by a change of ownership or tenancy, unless abandoned.

(Code 1983, § 20-611(A))

Sec. 110-92. Classification.

- (a) Nonconformities are classified as follows:
 - (1) Lots.
 - (2) Uses of land and structures.
 - (3) Structures.
 - (4) Characteristics of use.
- (b) A nonconformity may also be created where lawful public taking or actions pursuant to a court order create violations of the land development regulations.

(Code 1983, § 20-611(B))

Sec. 110-93. Intent concerning nonconforming property, structures and uses.

It is the intent of the land development regulations that these nonconformities shall be considered to be incompatible with the permitted uses within the city districts. Such nonconformities shall not be enlarged or extended in any respect.

- (1) *Nonconforming lots.*
 - a. *Use of single, nonconforming lots for residential districts.* Notwithstanding the maximum density requirements of the comprehensive plan, in residential districts, the single-family and customary accessory structures may be erected, reconstructed, occupied and used on separate nonconforming lots of record which are not in continuous frontage with other lots in the same ownership in accord with other requirements applying in the separate districts.
 - b. *Use of single, nonconforming lots for nonresidential uses.* In other than residential districts, a nonconforming lot of record which is not in continuous frontage with other lots in the same

ownership, may accommodate uses permitted within that district in accordance with other requirements applying in that district.

- c. *Rules concerning combination of contiguous nonconforming lots in same ownership and with continuous frontage.*
 - 1. *Where nonconforming status was created at enactment or amendment of this Code or of the comprehensive plan.* Where more than one nonconforming lot of record in single ownership and with continuous frontage exists, they shall be combined and considered a single zoning lot. The zoning administrator shall authorize their use only when the lot area and lot width requirements for the district in which the lots are located are satisfied. Full setback requirements shall apply to all of the newly created lots.
 - 2. *Combination not required where nonconformity created by public taking or court order.* Where the nonconforming lots were created by public taking action or as a result of a court order, a combining of the individual lots shall not be required.
- (2) *Nonconforming uses.* Nonconforming uses of land shall be brought into conformance as soon as reasonably possible, but may continue provided:
 - a. There shall be no replacement, enlargement, increase in activity or alterations to any nonconforming use, permanent structure or both.
 - b. No such nonconforming use shall be relocated or moved to any portion of the lot other than that occupied at the time that the nonconforming status was created.
 - c. When a nonconforming use is changed, modified or diversified to meet requirements of a conforming use, the building or structure in which the use is located shall conform to the development standards and regulations as set forth in this Code.
 - d. If any nonconforming use, or any portion thereof, ceases for any reason for more than one year (365 days), the grandfather status of the nonconforming use shall terminate and all subsequent uses shall conform to the regulations of the district in which such use is located.
- (3) *Nonconforming structures.* Where a lawful structure exists at the time of the passage or amendment of the land development regulations which could no longer be built under the terms of the land development regulations by reason of restrictions on area, lot coverage, height, or other characteristics of the structure or location on lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a. That any addition, alteration or renovation to the structure shall not increase the degree of nonconformity or result in the conversion of a nonconforming carport, garage, screen enclosure, patio roof, storage area or other non-habitable area into a habitable area unless specifically approved by the special magistrate. Structural changes which decrease the degree of nonconformity shall be permitted. Structures that are nonconforming due solely to their flood elevation may be altered in accordance with the provisions of chapter 94.
 - b. A nonconforming structure or portion thereof, if damaged by fire, natural elements or force to an amount equal to or greater than 50 percent of its current fair market value as of the day immediately preceding such damage, may only be reconstructed in accordance with the provisions of article V of this chapter regarding district regulations for the district in which it is located and the floodplain management regulations established in chapter 94 of this Code or as otherwise provided in section 110-95.
 - c. Should the damage be less than 50 percent of its current fair market value, then repairs may be made under the "grandfathered" zoning district regulations, provided that they shall be made within 18 months after such damage. All repairs must be made to comply with current building

codes and not be in violation of the provisions of the floodplain management regulations and other applicable codes of the city. In the event that the repairs have not been completed within 18 months, the structure shall not be further repaired or rebuilt, except in conformity with the entire requirements of this Code.

- d. Routine repairs and maintenance of nonconforming structures, fixtures, wiring and plumbing, or the repair or replacement of non-load bearing walls shall be permitted.
- e. Owners of nonconforming residential structures in an R-1, R-2 or R-3 zoning district that wish to elevate their existing structure with the lowest habitable floor at or above base flood elevation shall be exempt from the setback provisions of article V of this chapter regarding district regulations, so long as the structure remains within the existing footprint.
- f. In recognition of the narrow lot dimensions and the preexisting development patterns in some older neighborhoods, the following exceptions can be considered by the planning commission for approval for lots of 50 feet in width or less:
 1. Legal nonconforming residential structures in an R-2 or R-3 zoning district with side yard encroachments may extend along the line of the existing encroachment without increasing the depth of the encroachment into the setback as long as a minimum of three feet of setback from the structural wall is retained on one side of the house and a minimum of five feet of clearance remains on the other side of the house (no permanent improvement of any kind, including mechanical equipment or storage units may exist or be placed or installed in the five feet clearance along the entire side of the structure nor can the area be obstructed by landscaping that prevents access across/through the clear area, although the area may be fenced as long as it is accessible by way of a gate). Additionally, the property that is the subject of reduced setbacks must be improved with drainage systems including but not limited to roof gutter systems adequate to carry all runoff and direct it away from the neighboring property in a manner that ensures no impact upon the neighboring property. The required clearance area is not a reduction of setback but a minimum clear path of access between the front and rear yard. Furthermore, extensions along an existing encroachment line can be approved only if the neighbor on the extending encroached side indicates support for the extension by notarized statement. Nothing in this provision can be used to approve the creation of a new nonconformity.
 2. Legal nonconforming uses and structures in an R-1, R-2 or R-3 zoning districts with a front or rear yard setback encroachment may extend the encroachment to an average of that encroachment on lots adjoining and facing it.
 3. Additions of a second floor to legal nonconforming structures in the R-1, R-2 and R-3 districts is permitted as long as the extension/addition does not create any new encroachment, does not violate the height restrictions, provides a minimum of 18" clearance between any building element and the property line, and does not increase the depth into any existing encroachment. Approval of such additions require the neighbor on the side or facing property where the encroachment is proposed to be heightened to indicate by notarized statement their support for the addition.
 4. Approval of such additions require pre-hearing notice to adjoining property owners who may indicate their support for the addition by notarized statement or submittal of written or oral objections prior to or during the planning commission hearing.
 5. Appeals of planning commission approvals may be brought to the city commission by filing a notice of appeal within 30 days of the signed planning commission decision.

- (4) *Nonconforming characteristics of use.* Nonconforming characteristics of use which may include, but not limited to inadequate parking and loading facilities, inappropriate landscaping, lighting, emissions, etc., may continue to operate but shall not be expanded, altered, changed or relocated in such a manner as to increase the degree of nonconformity.

(Code 1983, § 20-611(C); Ord. No. 918, § 6, 12-7-99; Ord. No. 1051, § 1, 8-9-05; Ord. No. 1071, § 3, 2-28-06; Ord. No. 1143, § 1, 1-27-09; Ord. No. 1166, § 1, 8-10-10; Ord. No. 2018-04, § 1, 6-12-18; Ord. No. 2022-20, § 1, 9-14-22)

Sec. 110-94. Nonconforming structures unsafe for reasons other than lack of maintenance.

Nonconforming structures or portions thereof which are declared unsafe by the building and zoning official or other competent authority, but not because of lack of maintenance, may be repaired and restored except as provided in subsection 110-94(3).

(Code 1983, § 20-611(D))

Sec. 110-95. Reestablishment of uses after an involuntary loss.

- (a) In the event that any residential or hotel/motel structure is damaged greater than 50 percent or destroyed by a hurricane, tornado, fire, flood, wind, storm, natural disaster, or other unintended, involuntary action; it can be repaired or reconstructed in a manner which guarantees that each dwelling unit, tourist unit and all permitted accessory uses can be restored to the same square footage which existed the day immediately preceding such damage.
- (b) Nothing contained herein shall be construed to permit more dwelling units or an increase in square footage of the structure than existed prior to the day immediately preceding such damage. The burden of proof as to what existed prior to the disaster shall rest with the property owner. Each property owner shall provide the city with a site plan, as-built surveys, or architecturally-sealed floor plans. The plans or surveys shall provide enough information to determine the existing legally permitted development on the site prior to the day immediately preceding such damage.
- (c) Local business tax receipt required. Failure to have a current required local business tax receipt, where applicable, in force at the time of declared disaster will prevent this section from applying to that property.

(Ord. No. 1051, § 2, 8-9-05; Ord. No. 1111, § 7, 5-8-07)

Editor's note(s)—Ord. No. 1051, §§ 2, 3, adopted August 9, 2005, added a new § 110-95 and subsequently renumbered the former § 110-95 as § 110-96. The historical notation has been preserved for reference purposes.

Sec. 110-96. Rebuilding after a catastrophic loss.

- (a) *Declaration of disaster area.* A disaster area is any area of major multiple property loss in which the board of commissioners, county board of county commissioners, the governor of the state or the federal government declares the loss a disaster area.
- (b) *Rebuilding regulations.* Rebuilding regulations shall be as follows:
- (1) *Single-family.* May be rebuilt within the same footprint if it complies with all other existing regulatory codes and provisions of the land development regulations.

- (2) *Duplexes and triplexes on a nonconforming lot.* Duplexes [and triplexes] on a nonconforming lot may be rebuilt to existing nonconformity if the new structure complies with required front setback, height, parking requirements and floodplain regulations effective at the time of building permit application.
- (3) *Multifamily in R-1 and R-2 on a nonconforming lot.* Multifamily in R-1 and R-2 on a nonconforming lot shall be the same as duplexes and triplexes, except they must comply with the parking regulations as contained in their pre-damage certificate of occupancy.
- (4) *Multifamily, hotel, motel, motor lodges.* Multifamily, hotel, motel and motor lodges may be rebuilt to same density, height and side setbacks, but must comply with the front setback, the county coastal construction control line, floodplain regulations, fire codes, and parking regulations as contained in their certificate of occupancy and any other requirements effective at the time of building permit application.
- (5) *Commercial.* Commercial may be rebuilt within the same footprint and having the same parking spaces available at the time of disaster, but would have to meet minimum FEMA regulations for elevated structures and/or floodproofing to the required height per the National Flood Rate Insurance Map for its commercial location.
- (6) *Occupational license required.* Failure to have a current required occupational license in force at the time of declared disaster will prevent this section from applying to that property.

(Code 1983, § 20-612; Ord. No. 918, § 7, 12-7-99; Ord. No. 1051, § 3, 8-9-05)

Editor's note(s)—See note at § 110-95.

Sec. 110-97. Redevelopment planning process.

- (a) *Purpose and intent.* It is the intent of this section to provide for the reconstruction of nonconforming residential and transient properties, except for those in an R-1 zoning district, for the purposes of redevelopment provided that the following steps shall be taken prior to the demolition of any units or buildings:
 - (1) *Existing dwelling unit verification.* The verification of the number of existing legal dwelling units and their type shall be through the city manager or designee.
 - (2) *Preliminary site plan review of redevelopment plan.* Preparation by the applicant of a redevelopment site plan for preliminary redevelopment site plan review by the city manager or designee. It must be demonstrated that the site can adequately accommodate the requested number of units by meeting the rebuilding regulations outlined in the process of this section of the Code. The applicant will meet the existing code to the maximum extent possible. This redevelopment site plan shall comply with the site plan requirements of chapter 110, article II, Site plans, of this Code. In addition to the standard site plan review requirements, all redevelopment site plans shall include the dimensions and floor area in square feet of all rooms and units.
 - (3) *Fee.* The application fee shall be the same as the regular site plan review fee found in article III, Community development, section D, Site plan, numbers 2 and 3, as adopted in the most recent edition of the city's fees and collection procedure manual.
 - (4) *Plan review.* The review of the redevelopment Plan shall be through the quasi-judicial public hearing process outlined in chapter 2, Administration, article I, In general, division 2, Quasi-judicial proceedings before the board of commissioners. The notification procedure shall follow subsection 2-503(c), Notification, found in chapter 2, article VIII, Special magistrate, of this Code.

- (5) *Changes in the redevelopment plan.* The redevelopment plan may be amended by mutual consent of the city and applicant, provided the notification and public hearing process of this article are followed.
- (b) *Rebuilding regulations for the redevelopment of existing dwelling units.* The rebuilding regulations for the redevelopment of existing dwelling units except for those in an R-1 zoning district, through the redevelopment planning process shall be as follows:
- (1) *Single-family.* May be rebuilt within the same footprint if it complies with all other existing regulatory codes and provisions of the land development regulations.
 - (2) *Duplexes and triplexes on a nonconforming lot.* Duplexes (and triplexes) on a nonconforming lot may be rebuilt to existing nonconformity if the new structure complies with required front setback, height, parking requirements and floodplain regulations effective at the time of building permit application.
 - (3) *Multifamily on a nonconforming lot.* Multifamily, except for those in an R-1 zoning district, on a nonconforming lot shall be the same as duplexes and triplexes, except they must comply with the parking regulations as contained in their pre-demolition certificate of occupancy.
 - (4) *Multifamily, hotel, motel, motor lodges.* Multifamily, hotel, motel and motor lodges may be rebuilt to same density, height and side setbacks, but must comply with the front setback, the county coastal construction control line, floodplain regulations, fire codes, and parking regulations as contained in their certificate of occupancy and any other requirements effective at the time of building permit application.
 - (5) *Commercial.* Commercial may be rebuilt within the same footprint and having the same parking spaces available at the time a redevelopment plan is sought, but would have to meet minimum FEMA regulations for elevated structures and/or flood proofing to the required height per the National Flood Rate Insurance Map for its commercial location.
 - (6) *Business tax receipt required.* Failure to be current with respect to full payment of the required annual business tax at the time a redevelopment plan is sought will prevent this section from applying to that property.
- (c) *Planning commission and board of commissioners review.* The planning commission shall conduct one public hearing to consider any application to review or change a redevelopment plan. The board of commissioners shall conduct a second public hearing to consider any application to review or change a redevelopment plan. Upon conclusion of the second public hearing, the board of commissioners shall review the proposed redevelopment plan, the recommendations of the city manager or his/her designee, the recommendations of the planning commission and the testimony at the public hearings. The board of commissioners shall thereafter approve, approve with conditions, or deny the application approve or change a redevelopment plan.

(Ord. No. 2012-14, § 1, 12-11-12)

Secs. 110-98—110-120. Reserved.

Sec. 110-427. Yard regulations—Open sky requirements.

- (a) Every part of a required yard (see appropriate section of schedule of use, lot, yard and bulk regulations) must be open to the sky unobstructed, except as otherwise permitted in this Code. The following may encroach into the minimum yard requirements of each lot, provided the required permits have been obtained:
- (1) Roof overhangs not exceeding three feet;
 - (2) Rear yard second floor and above balconies not exceeding four feet;
 - (3) Belt courses and ornamental features shall not project more than four inches from the building wall;
 - (4) Awnings and canopies not exceeding three feet;
 - (5) Arbors and trellises may be placed in the required front or side yard at least ten feet from the property line;
 - (6) Flag poles may be placed in any required yard at least ten feet from any property line;
 - (7) Garden ornaments, including, but not limited to, decorative columns, fountains and birdbaths, which are permanently affixed to the ground may be placed in a required yard at least five feet from any property line;
 - (8) Handicapped ramps, including vertical guardrails, meeting the requirements of the Florida Accessibility Code for Building Construction, may be placed in any required yard at least five feet from the property line;
 - (9) Recreation and children's playground equipment permanently affixed to the ground, excluding skateboard ramps, may be placed:
 - a. In a non-waterfront rear yard at least ten feet from the property line;
 - b. In a waterfront rear yard at least 20 feet from the property line;

An enclosed clubhouse and elevated structures shall not be considered recreation and children playground equipment;
 - (10) Light posts not to exceed six feet in height may be placed in a required front yard at least ten feet from the property line; and shall be in compliance with section 110-502;
 - (11) Ancillary equipment such as: filters and pumps for swimming pools and spas, lawn irrigation pumps and propane gas tanks may be placed in the required side yard setback by 50 percent of the required side yard distance;
 - (12) Chimneys, attached to the dwelling, may be placed three feet into the required setback; and
 - (13) Walkways and paths may encroach into the minimum yard requirement so long as they stay within the ISR requirements.
- (b) Permitted to encroach into the required yard setbacks and exempt from permitting.
- (1) Temporary holiday displays or patriotic displays may be placed within any yard setback;
 - (2) Mailboxes installed in conformance with U.S. Postal Regulations, if not permitted on the residential structure by the U.S. Postal Service;
 - (3) Recreation and children's playground equipment, not permanently affixed to the ground; and
 - (4) Garden ornaments, not permanently affixed to the ground.
- (c) Prohibited. The following are specifically prohibited in the front setback of any lot or parcel of land:

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- (1) Portable or temporary structures having structural framing members which do not meet or exceed the applicable wind loads of Chapter 16, Florida Building Code are prohibited from all yards.
 - (2) Clothesline or clothesline poles are prohibited in the front yard.
 - (3) Tents, except as approved for a special event under chapter 42 are prohibited in all yards.
 - (d) Any structures permitted in this section to encroach into a minimum yard shall be so permitted notwithstanding any contrary requirement or provision found within chapter 110, article VI, division 4.
- (Code 1983, § 20-503(A); Ord. No. 1155, § 1, 8-11-09; Ord. No. 2022-13, § 1, 5-11-22)



Memorandum

Meeting Details: July 7, 2025 – Planning Commission
Prepared For: Planning Commission
Staff Contact: Community Development Department
Subject: Add Ordinance Language for Unsafe Structures

Background:

In the wake of the 2024 hurricane season, numerous properties throughout our community sustained significant damage. Now, nearly nine months later, many of these structures remain unrepaired and are showing visible signs of further deterioration. These conditions are not only unsightly, but they also pose growing safety concerns for neighboring residents, emergency responders, and the public. Our Code of Ordinances is currently limited, due to lack of definitions and other verbiage, to help enforce corrective actions and consequences.

Discussion:

City staff is bringing forward Chapter 14, Article III, Division 2 – *Structures Unfit for Occupancy* – from the Madeira Beach Code of Ordinances for Commission discussion. Specifically, we are seeking input on potential amendments and expansions to Sections 14-91 through 14-100 that would strengthen our ability to take timely and enforceable action through the code enforcement process. This includes, but is not limited to, adding definitions and distinctions between “unfit” and “unsafe” structures, and developing clearer language that enables staff to make formal determinations more efficiently and expedite the timeline for cases brought before the special magistrate. These improvements would enhance our responsiveness to deteriorating or hazardous properties, thereby better protecting public safety and neighborhood integrity. Additionally, staff recommends considering standards for how such properties are secured—ensuring that materials, colors, and styles used for boarding or fencing do not contribute to visual blight or create further nuisance conditions in the community.

Fiscal Impact:

Adoption of the proposed amendments may authorize the City to allocate funds for the stabilization or demolition of structures deemed unfit for occupancy when the property owner fails to take appropriate action. These expenditures, including all associated administrative and enforcement costs, would be **billed to the property owner** and may be recovered through the placement of a lien on the property if unpaid. The proposed changes may also result in an increase in special magistrate code enforcement cases, requiring additional staff time and administrative resources.

Recommendation(s):

Based on direction from the Board of Commissioners, city staff recommends drafting amendments to strengthen and clarify the provisions of the Madeira Beach Code of Ordinances. These revisions will aim to enhance and expand the effectiveness and enforceability of the “Structures Unfit for Occupancy” code and address any related or subsequent sections that may be impacted by the proposed changes.

Attachments/Corresponding Documents:

- Madeira Beach Code Of Ordinances, Sec(s) 14-91 through 14-100
- Excerpt example from applicable Pinellas County Ordinance
- Excerpt example from applicable Sarasota County Ordinance

Sec. 14-91. Declaration of unfit structure.

Whenever the enforcing authority finds that any structure constitutes a hazard to the safety, health, or welfare of the occupants or to the public because it lacks maintenance or because it lacks the sanitary facilities or equipment or otherwise fails to comply with the minimum provisions of this article, he may declare such structure as unfit for occupancy and order it to be vacated. It shall be unlawful to again occupy such structure until it or its occupation, as the case may be, has been made to conform to the law.

(Code 1983, § 6-221)

Sec. 14-92. Notice denying occupancy—Posting; form.

Any structure declared as unfit for occupancy shall be posted with a placard by the enforcing authority. The placard shall be in substantially the following form:

VIOLATION

By order of the City of Madeira Beach, Florida, this structure is declared unfit for occupancy and ordered vacated. The use of this structure for occupancy is prohibited.

This order is posted pursuant to the Madeira Beach Code of Ordinances.

A penalty is provided in the Madeira Beach Code for any person who alters, defaces or removes this notice or occupies this structure without authorization from the undersigned.

Mayor-Commissioner or City Manager

(Code 1983, § 6-222)

Sec. 14-93. Same—Form and contents.

Whenever the enforcing authority has declared a structure as unfit for occupancy, he shall give notice to the owner of such declaration and placarding of the structure as unfit for occupancy. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the reason or reasons why it is being issued;
- (4) State the time in which to correct the condition;
- (5) State the time occupants must vacate the structure.

(Code 1983, § 6-223)

Sec. 14-94. Same—Service.

Service of notice to vacate shall be as follows:

- (1) By delivery to the owner personally or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
- (2) By depositing the notice in the United States post office addressed to the owner at his last known address with postage prepaid thereon; or

- (3) By posting and keeping posted for 24 hours a copy of the notice in placard form in a conspicuous place on the premises to be vacated.

(Code 1983, § 6-224)

Sec. 14-95. Same—Defacing or unauthorized removal.

No person shall deface or remove the placard from any structure which has been declared or placarded as unfit for human occupancy except by authority in writing from the enforcing authority.

(Code 1983, § 6-225)

Sec. 14-96. Vacating of declared structure.

Any structure which has been declared and placarded as unfit for occupancy by the enforcing authority shall be vacated within a reasonable time as required by the enforcing authority and it shall be unlawful for the owner or operator to allow any person to enter such structure except to repair. No person shall occupy any structure which has been declared or placarded by the enforcing authority as unfit for occupancy after the date set forth in the placard. It shall be unlawful for any person to occupy the structure which has been so declared or placarded after the date set forth.

(Code 1983, § 6-226)

Sec. 14-97. Occupancy of building; removal of placard by enforcing authority.

No structure which has been declared or placarded as unfit for occupancy shall again be used for occupancy until written approval is secured from the enforcing authority. The enforcing authority shall remove such placard whenever the defect or defects upon which the declaration and placarding action were based have been eliminated.

(Code 1983, § 6-227)

Sec. 14-98. Report of notice to vacate.

The enforcing authority shall furnish a copy of each notice to vacate a building to the county health officer or any other designated official of the city concerned therewith.

(Code 1983, § 6-228)

Sec. 14-99. Emergency order.

Whenever the enforcing authority finds that an emergency exists which requires immediate action to protect the health and safety of any person, he may issue an order reciting the existence of the emergency and requiring immediate action be taken as deemed necessary to meet the emergency. Notwithstanding any other provision of this article such order shall take effect immediately. Any person to whom such order is directed shall comply therewith immediately.

(Code 1983, § 6-229)

Sec. 14-100. Persons aggrieved; appeal to court.

Any person aggrieved by the decision of the board of commissioners or by any order issued by the enforcing authority may seek relief therefrom in any court of competent jurisdiction as provided by the laws of this state.

(Code 1983, § 6-230)

Sec. 22-278. Unsafe structures to be secured, repaired, rehabilitated, and/or demolished.

- (a) *Securing repairing, or rehabilitating unsafe structures.* All unsafe structures and nuisances are hereby declared to be in violation of this article and may be secured, repaired, and/or rehabilitated in accordance with the following procedures:
- (1) *Notice.* Whenever the housing official determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, or of any rule or regulation adopted pursuant thereto, the housing official must give notice of an alleged violation to the person or persons responsible therefor. A notice of violation must:
 - a. Be in writing.
 - b. Include a statement of the reason(s) it is being issued.
 - c. Allow, based on the foreseeable tasks to be completed, between seven and 60 days to achieve compliance.
 - d. Advise that, notwithstanding subsection (c) above, where hazards are known to exist within a building or structure that present the potential imminent threat of loss of life or severe property damage, the housing official may take or require immediate corrective action to be taken, including, but not limited to, action taken to alter, upgrade, secure, repair, or remodel any unsafe structure.
 - e. State that if such corrections are not voluntarily completed within the stated time, as set forth in the notice, the housing official is authorized to work with the county attorney to institute legal proceedings charging the owner with a violation of this article, or seek injunctive relief to obtain compliance, or both.
 - f. Contain the provisions of this article providing for hearing and appeal.
 - (2) *Method of notice.* Any written notice required under this subsection will be considered properly served so long as it is sent by certified mail, return receipt requested, and by regular mail.
 - (3) *Failure to comply.* In the event that the owner does not, after due notice has been given and all rights of appeal have been exhausted, comply with the notice to correct violations of such premises, the housing official is authorized to cause such premises to be altered, upgraded, secured, repaired, or remodeled. The housing official will grant extensions where extenuating circumstances are present and/or when additional time is needed to secure permits for work.
 - (4) *Contractors.* The housing official is authorized to implement the provisions of subsection (3) of this section through any available public agency or by contracting with an independent licensed contractor submitting the lowest and best qualified bid for the performance of the necessary work in connection with the correction of violations. All work performed under this section, whether by the county or a contractor working on the county's behalf, will be performed by a person and/or entity licensed to do such work. All applicable certifications and permits required by the county must be obtained from the building department or the department issuing such certifications and permits before any work is commenced.
 - (5) *Assessment of costs and liens.* Costs incurred under subsection (4) of this section will be charged to the owner and will constitute a lien upon the property and may be collected in the manner provided by law.
- (b) *Demolishing unsafe structures.* When, upon re-inspection after any applicable timeframes for compliance granted under this section have expired, an unsafe structure where extreme hazards exist remains in continuous and hazardous noncompliance for 30 calendar days following a court or special magistrate ruling,

order, or judgment setting forth the grounds of noncompliance, the county may demolish said unsafe structure, subject to the processes within this subsection. A special magistrate is hereby authorized to issue an order permitting the county to demolish an unsafe structure following a demolition hearing. The county must be represented by the Pinellas County attorney's office in any hearing seeking demolition to ensure that all appropriate processes, including the notice of a demolition hearing being provided to all property owners, occupants, and interested parties, is met.

- (1) *Notice of demolition hearing.* The county will provide notice of intent to demolish an unsafe structure to all owners and interested parties as shown on a title search by: (i) certified and regular mail, at the address of record listed with the Pinellas County Tax Collector and Pinellas County Property Appraiser; (ii) posting notice at the unsafe structure; and (iii) posting notice on the county's official website. The county will also provide notice to all interested parties shown on the title search at the last address of record shown on the document from which the title search establishes their interest in the real property.

The county will provide notice to any occupants by certified and regular mail at the address of the unsafe structure.

The county's notices of intent to demolish an unsafe structure must be provided by mail and posted at least ten calendar days before a hearing is scheduled to occur.

- (2) *Contents of notice.* The county's notice of intent to demolish an unsafe structure must, at a minimum: (i) set forth the date, time, and location of a hearing; (ii) inform all property owners, occupants, and interested parties of their option to obtain and pay for a court reporter to be present to make a transcript for any subsequent appeal; (iii) inform all property owners, occupants, and interested parties that they may be represented by counsel, present and confront witnesses, and testify; (iv) state the county's mailing address for any correspondence concerning the demolition procedures; and (v) state the basis upon which the county seeks a demolition order for the unsafe structure, which must be the same grounds upon which a previous court or special magistrate found the property to be noncompliant.
- (3) *Demolition hearing.* A special magistrate may authorize the county to demolish an unsafe structure if the special magistrate finds that the county has shown, by a preponderance of the evidence, that: (i) a court or special magistrate previously found the property to be in noncompliance for being an unsafe structure, and the unsafe nature of the structure is the basis upon which the county seeks a demolition order; (ii) the property remained in noncompliance as an unsafe structure for 30 continuous days following a court or special magistrate's ruling, order, or judgment, or the amount of time to achieve compliance expressly provided within the ruling, order, or judgment, whichever is greater; (iii) the property owner(s), occupants and all interested parties were provided notice in conformity with all provisions of this division; and (iv) the property has not been brought into compliance with respect to any hazardous violations by the demolition hearing date.

The formal rules of evidence and procedure will not apply at the demolition hearing. Fundamental notions of procedural due process and the essential requirements of the law must be observed. A special magistrate's determination must be supported by competent, substantial evidence, which must be documented in any ruling, order, or judgment denying or granting the county's demolition request. The special magistrate has discretion to admit relevant evidence, irrespective of whether such evidence would be admissible in a court of law. Among other things, each party to the hearing will have the opportunity to: call, direct examine, and cross-examine witnesses under oath; be represented by counsel; introduce relevant evidence; impeach any witness; testify; and submit rebuttal evidence.

Each demolition hearing will be electronically recorded; however, failure of the county to record a hearing will not invalidate the hearing or any orders or rulings issued in relation thereto. The property owner(s), occupants, or any interested parties must take any necessary action, including obtaining a

court reporter, to ensure the creation of a record for purposes of an appeal, should they desire the creation of a record for appeal.

The demolition hearing must not be used as a substitute to an untimely appeal from an earlier ruling, order, or judgment finding a structure to be an unsafe structure. The demolition hearing will only be held to determine if a previously determined unsafe structure is subject to demolition.

- (4) *One-time extension.* At the demolition hearing, the special magistrate may grant a property owner, occupant, or interested party(ies) a one-time extension of up to 30 additional days to achieve compliance concerning an unsafe structure as long as the additional extension will foreseeably result in compliance. The special magistrate will set a date for re-hearing on the county's demolition request before granting a one-time extension.
- (5) *Appeal.* An aggrieved party will have 30 calendar days from the date of a special magistrate's ruling, order, or judgment to seek appellate review by filing a notice of appeal in the circuit court of the sixth judicial circuit.
- (6) *Approval of the Pinellas County Board of County Commissioners.* After a special magistrate has entered an order authorizing the county to demolish an unsafe structure, and once the time period to file an appeal has passed with no notice of appeal having been filed, or after the favorable resolution of an appeal in the county's favor, a demolition request will be submitted to the board of county commissioners for approval.
- (7) *Demolition.* The county is authorized to utilize a licensed contractor to demolish an unsafe structure in accordance with the process in this division.
- (8) *Remaining lot.* The county will cause the lot upon which a recently demolished unsafe structure sat to be properly filled, graded, and seeded with grass seed or sodded as part of a demolition process.
- (9) *Assessment of costs and liens.* Costs incurred under subsections (7), (8), and/or (11) of this section will be charged to the owner and will constitute a lien upon the property and may be collected in the manner provided by law.
- (10) *Foreclosure permitted.* After three months from the recording of a lien pursuant to this division, the county is authorized to foreclose on any lien that remains unpaid, to the extent permitted by applicable law.
- (11) *Emergency demolition.* Where an unsafe structure poses an imminent danger to the public safety, health, or welfare, staff in conjunction with the county attorney's office is authorized to seek an emergency injunction or any other relief available in a court of competent jurisdiction to demolish the unsafe structure. When the county shows that the imminent danger to the public safety, health, or welfare posed by the unsafe structure is such that its immediate removal is the only remedy sufficient to achieve compliance and maintain safety, and the remedies of altering, upgrading, securing, repairing, or remodeling the unsafe structure will not achieve compliance and safety, a court may grant an emergency demolition. The notice and other process provisions of this division, other than the assessment of costs and liens, will not apply where an emergency demolition is sought, instead the notice as required by the formal court process will be sufficient.

(Ord. No. 92-65, § 2(103.3), 10-27-92; Ord. No. 96-12, § 4, 1-16-96; Ord. No. 98-11, § 1, 1-6-98; Ord. No. 06-09, § 2, 1-24-06; Ord. No. 21-06, § 2, 2-23-21)

Editor's note(s)—Ord. No. 21-06, § 2, adopted Feb. 23, 2021, changed the title of § 22-278 from "Condemned dwellings" to "Unsafe structures to be secured, repaired, rehabilitated, and/or demolished" to read as herein set out.

Sec. 22-279. Inspections.

The housing official is authorized to make or cause to be made inspections to determine the condition of dwellings, dwelling units, rooming units, and premises in the interest of safeguarding the health and safety of the occupants of dwellings and of the general public. The county may seek an inspection warrant as provided by state law.

(Ord. No. 92-65, § 2(104), 10-27-92; Ord. No. 21-06, § 3, 2-23-21)

Sec. 22-280. Condemned dwellings.

- (a) *Designation of; procedures.* The designation of dwellings or dwelling units as unfit for human habitation, and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units, will be carried out in compliance with the following procedures:
- (1) *Designation; placarding.* Any dwelling or dwelling unit found to have any of the following defects may be condemned as unfit for human habitation and be so designated and placarded by the housing official:
 - a. One which is so damaged, decayed, dilapidated, insanitary, unsafe, vandalized, or vermin-infested that it creates an imminent 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.
 - (2) *Form and service of notice.* Whenever the housing official has declared a dwelling or multifamily dwelling as unfit for human habitation, as defined in this article, the housing official will give notice to the owners and occupants by certified mail, return receipt requested, and by regular mail.
 - (3) *Vacating of condemned dwelling.* Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the housing official must be vacated as soon as possible, but in no event longer than the period of time specified on the placard, which must be between one and seven days after notice of such condemnation has been given by the housing official to the owner and occupants of the dwelling. Such notice will require the building, structure or portion thereof to be vacated forthwith and not be reoccupied until the specified repairs and improvements are completed, inspected, and approved by the housing official.
 - (4) *Occupancy of dwelling.* No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation may be used for human habitation until approval is secured from, and such placard is removed by, the housing official. The housing official must remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- (b) *Removal of placard.* No person may deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such pursuant to this section, except as provided in subsection (a)(4) hereof.

(Ord. No. 92-65, § 2(107), 10-27-92; Ord. No. 06-09, § 3, 1-24-06; Ord. No. 21-06, § 4, 2-23-21)

Sec. 22-281. Appeals.

- (a) *Grounds for appeal.* When the application of the requirements of this article would appear to cause undue hardship on an owner or when it is claimed that the true intent and meaning of this article or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or a duly authorized agent, may appeal the decision of the housing official.
- (b) *Filing; administrative action.*
- (1) An owner receiving an official notice of violation pursuant to section 22-278 may appeal the decision of the housing official to the board of county commissioners. The notice of appeal shall be in writing and shall be filed within 15 days from the date of the notice of violation. The appeal shall state the location of the property, the date of the notice of violation and the number of such notice. The appeal must state the relief requested, the reasons therefor, and the grounds upon which the appeal is made.
 - (2) No appeal filed later than 15 days after the date of such notice shall be acted upon by the board of county commissioners unless the housing official shall consent thereto.
 - (3) Upon receipt of the written notice of appeal, the board of county commissioners shall direct the county administrator to review all aspects of the appeal. It shall be the duty of the county administrator to review the notice of violation and the appeal with the housing official and the county attorney. The county administrator shall be required to take all reasonable steps to resolve the case in question in a manner which is consistent with the requirements of this article.
 - (4) In the event that administrative action as provided for in subsection (b)(3), above, does not result in a satisfactory resolution of the matter, the county administrator shall inform the board of county commissioners in writing that all administrative remedies have been exhausted.

(Ord. No. 92-65, § 2(105), 10-27-92)

Sec. 22-34. Amendments to certain provisions of the Florida Building Code relating to administration. (FOR CLARITY, ONLY THE APPLICABLE EXCERPT FROM THIS SECTION HAS BEEN PROVIDED BY STAFF)

103.5 Unfit or Unsafe Structures.

All structures that are unsafe or unfit are nuisances and are hereby declared unlawful. They shall be abated by repair, rehabilitation, or demolition and removal in accordance with the procedures set forth in this section. This prohibition may be enforced by any other legal, equitable, or administrative means available to Sarasota County, including code enforcement proceedings under Chapter 162, Florida Statutes.

103.5.1 Definitions. The following definitions apply for purposes of this section:

"Interested Parties" is any individual or organization that has submitted to the Building Official within the past year a written request to be notified with respect to the procedures set forth in this section, identifying a specific property by tax parcel identification number or street address.

"Rehabilitation" means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use.

"Repair" means the replacement of existing work with the same kind of material used in the existing work.

"Structure" means that which is built or constructed. The term "structure" shall be construed as if followed by the words "or part thereof."

"Unfit" means unsanitary, unsuitable or improper for the use or occupancy for which it is intended. Unfit structures include those structures to be used as habitable space that does not meet the minimum requirements for existing buildings as outlined in Chapter 12 and Chapter 34 of the Florida Building Code.

"Unsafe" means structurally unsafe, unstable, inadequately provided with exit facilities, constituting a fire hazard, constituting a hazard to health or safety because of inadequate maintenance, exposure to weather, moisture intrusion, structural decay, dilapidation, obsolescence, abandonment, or otherwise dangerous to the health, safety, or welfare of the occupants thereof or any members of the public.

103.5.2 Authority to Order Vacation, Repair, or Demolition.

- (a) The Building Official is hereby authorized to order the vacation, demolition, and removal of any unfit or unsafe structure, or to order the repair and/or replacement of any part or parts of any structure in the County when such part or parts, by reason of fire, age, decay, moisture intrusion, deterioration, structural defects, improper design, unstable foundation, or termite infestation are dangerous to the occupants thereof, or a menace to public health, or a fire hazard, or is so unsafe as to endanger life or property or to render the use of public streets dangerous.
- (b) In the event the owner of record or other interested parties fail to comply with any condemnation order or compliance agreement within the time therein fixed, the Building Official is authorized to demolish, remove, repair, and/or rehabilitate the unfit or unsafe structure utilizing independent contractors licensed in the State of Florida. The Building Official is also authorized to utilize the services of independent architects, engineers and contractors licensed in the State of Florida to determine the condition of the structure in question, and such costs shall be assessed in the same manner as provided in Section 103.5.9.

103.5.3 Notice of Unfit or Unsafe Structure(s) and Manner of Service.

- (a) When the Building Official verifies the existence of a structure that is unfit or unsafe, the Building Official or his designee shall determine the owner of record of the property upon which the structure is located and shall send a notice to the owner of record as evidenced by the most recent deed recorded

in the public property records, and to all parties whose names appear on the County tax rolls for the parcel of property that the structure is in violation with this section.

- (b) The notice shall describe the unfit or unsafe conditions, and shall indicate that these conditions must be corrected within a reasonable time frame as specified in the notice or else the structure shall be subject to abatement as provided in this section. The notice shall also indicate that a building or demolition permit must be secured prior to the commencement of any corrective work including repair and/or replacement, rehabilitation, or demolition and removal. The reasonable time frame specified in the notice shall supercede the time frames established in Section 104.6.1 of the Sarasota County Building Code.

103.5.4 Placarding Unfit or Unsafe Structures against Human Habitation.

- (a) In addition to sending the Notice to the owner of record and to interested parties, the Building Official shall cause to be posted a notice stating "*This Structure is Unsafe and/or Unfit for Human Habitation*" as defined by Section 103.5.1 at the entrance to the structure. The placard shall remain posted until the required repairs and/or rehabilitation are made or until the structure is demolished.
- (b) Once the structure is posted, it shall be unlawful for any person to enter such a structure except for the purposes of making the required repairs or demolishing it. However, if the structure is occupied at the time of posting, it shall be vacated within fourteen (14) calendar days. Otherwise, no person shall occupy or let to another for occupancy such a placarded structure. The owner shall immediately begin action to vacate the structure and bring it into compliance within the time prescribed. It shall be unlawful for any person to remove or deface the placard that has been posted on an unsafe or unfit building. The placard shall remain until such time as the Building Official orders the placard to be removed.

103.5.5 Extension of Time to Comply with Notice of Unfit or Unsafe Structure(s).

If the owner of record or interested parties are unable to complete the work by the date ordered or to fully comply with the violation notice, they may file a written request to the Building Official stating their reasons, and if justifiable cause is demonstrated as merited by special hardship, unusual difficulty or unique problems such as preserving significant portions and features of a structure of historic or architectural value, the Building Official may grant written reasonable extensions of time.

103.5.6 Condemnation Order and Notice of Intent to Demolish.

- (a) If the unfit or unsafe conditions are not corrected within the specified time indicated on the Notice of Unfit or Unsafe Structure(s), the Building Official shall condemn the unfit or unsafe structure and send a Condemnation Order to the owner of record and other interested parties.
- (b) In addition to sending a Condemnation Order to the owner of record and to interested parties, a copy of the order shall be posted in a conspicuous place upon the unfit or unsafe structure and a Notice of Intent to Demolish shall be recorded with the public records of Sarasota County.
- (c) Ten (10) days prior to authorizing the demolition of any unfit or unsafe structure by County contract, a Notice of Intent to Demolish shall be published in a newspaper of general circulation within Sarasota County. Such notice shall be substantially in the following form:

Notice of Intent to Demolish

Pursuant to Section 22-34(3) of the Sarasota County Code, the owner or other interested parties having failed to either repair or demolish the structure at (address) as ordered by Sarasota County and are hereby notified that Sarasota County will proceed to have the structure demolished on (date), and a lien placed against the property to recover all costs.

To appeal this notice, interested parties must file an appeal with (contact official, address and telephone number) prior to ten (10) calendar days from the date of the Notice of Intent to Demolish.

103.5.7 Authority to Order Rodent Control.

When the County Health Officer verifies the existence of rodent infestation in a structure that is to be demolished or removed, the Building Official may require that a licensed pest control operator exterminate the rodents using ectoparasite control measures to preclude the migration of rodents.

103.5.8 Condition of Lot after Demolition.

A lot from which a structure is demolished shall be sodded, seeded with grass, or otherwise covered with vegetative landscaping within (5) days of the completion of demolition.

103.5.9 Assessment of Cost of Demolition and Lien on Property.

- (a) The Building Official shall assess the entire cost of demolition and removal including asbestos abatement, the sodding or seeding of the lot, and rodent extermination against the real property in the form of a lien. This lien upon such property shall be superior to all others except property taxes, and shall include all administrative costs including postal expenses, the cost of newspaper publications, and the like.
- (b) When the owner of record or other interested parties have abated the unfit or unsafe structure as a result of having received a violation notice, all costs incurred by the County described in subsection (a) shall be assessed against the property in the form of a lien.
- (c) A lien shall be filed in the County's official record book showing the nature of such lien, the amount thereof and an accurate legal description of the property, including the street address and the date of filing, and shall recite the names of all interested parties notified. Such lien shall bear interest from such date as the rate of ten percent (10%) per annum and may be enforceable if unsatisfied after the expiration of one (1) year from the date of filing as other liens may be enforced by the County.

103.5.10 Authority to Enter into a Compliance Agreement.

- (a) The Building Official is hereby authorized to enter into a compliance agreement with the owner, in a form approved by the County Attorney, for the abatement of the unfit or unsafe structure. Such agreement shall be controlling and will govern the subsequent course of action to abate the unsafe or unfit conditions through repair and/or rehabilitation work. All repair and/or rehabilitation work shall conform to the minimum requirements of the Sarasota County Building Code.
- (b) The compliance agreement shall establish completion dates for the submittal of permit documents and for the completion of the repair and/or rehabilitation work. The compliance agreement shall provide for the demolition and removal of the unfit or unsafe structure by Sarasota County if the completion dates are not met. The cost of demolition and removal shall be assessed on the property in the form of a lien.

103.5.11 Appeal Procedure and Appearance before the Board.

- (a) Appeals may be taken for a Condemnation Order or Notice of Intent to Demolish issued pursuant to this division by any interested party who has been aggrieved, except in emergency cases as set forth in Section 103.5.12. Such party is afforded the right of hearing upon payment of a filing fee established by resolution and a written request for such hearing to the Sarasota County Building Code Board of Adjustments and Appeals (the Board) within ten (10) days of receipt of the Condemnation Order or the Notice of Intent to Demolish.
- (b) A Notice of Appeal hearing by the Board shall be published once in a newspaper of general circulation in the County at least ten (10) days prior to the time and place of hearing. After all present and interested parties are heard concerning the structure, the Board may hear testimony from the public

concerning the status of the structure. The Board may authorize the Building Official to proceed with the demolition and removal of the structure, or the Board may authorize the Building Official to enter into a compliance agreement with the owner of record or with a prospective buyer as provided for in Section 103.5.10.

- (c) Any interested party appearing before the Board may appear in person, by counsel or by an agent.
- (d) The Building Official shall advise the owner of record and interested parties in writing of the Board's action by regular mail.

103.5.12 Authority to Act in Emergencies.

- (a) In cases where there is imminent peril to the public health, safety or welfare, or immediate danger to the life or safety of any person, or where the public is endangered by wind, storm, fire or other natural disasters, or where the structure is in imminent danger of collapse from structural decay, the Building Official shall promptly cause such structure to be made safe or cause its removal. For this purpose, the Building Official and the Fire Marshal may at once enter such a structure or the land on which it stands or abutting land or structures, to perform an inspection with such assistance and at such cost as may be deemed necessary.
- (b) Upon inspection, the Building Official and the Fire Marshal shall jointly determine whether or not the structure requires immediate emergency demolition to maintain the public's health, safety and welfare. A written report will document the results of these inspections.
- (c) The Building Official may order the vacation of adjacent structures and may require the protection of the public by appropriate fencing or such other means as may be necessary, and for this purpose may close a public or private way.
- (d) Upon determination by the Building Official and the Fire Marshal to proceed with demolition, exterior and interior photographs of the structure will be taken when feasible. Written notification of intent to demolish the structure will be sent by certified mail to the owner of record and interested parties. This written notification shall document the cause for demolition. However, failure to effect personal notice upon the owner of record or interested parties shall not prevent the County from demolishing the structure and placing a lien on the property for the County's costs.

103.5.13 Authority to Secure Open and Vacant Structures.

- (a) The Building Official is hereby authorized to secure all open and vacant structures. Before securing any such structure, the Building Official shall notify the current owner of record by certified mail at least five (5) days prior to proceeding. Upon receipt of the notification, the owner of record may secure the structure, or may appeal the determination that a structure is open and vacant by filing with the Building Official a Notice of Appeal to the Building Code Board of Adjustments and Appeals.
- (b) All openings including open windows and doors shall be secured with exterior plywood and suitably coated with an appropriate neutral paint color blending with or harmonizing with the exterior colors of the building so as to be as inconspicuous as possible.
- (c) Where an open and vacant structure is secured by Sarasota County after written notice to the owner of record, the Building Official shall assess the entire cost of securing, including all administrative costs against the property in the form of a lien recorded in the public records of Sarasota County.
- (d) All open and vacant structures that have been secured also shall be subject to inspection and the owner of record shall be assessed a fee for each inspection. For the purpose of ensuring that the structure is locked and secured, inspections will be conducted at thirty (30) day intervals and a fee of \$50.00 for each inspection will be assessed against the property in the form of a lien.

103.5.14 Private Residential Swimming Pool Barriers. In addition to the residential swimming pool barrier requirements in the Florida Building Code, private residential swimming pools shall be completely surrounded by an effective barrier or fence that complies with the requirements of the building code and Chapter 515, Florida Statutes. Enclosures, fences and barriers required for private residential swimming pools shall be maintained in compliance with the applicable building code and Chapter 515, Florida Statutes. No existing enclosure or fence shall be replaced or changed in a manner that reduces its effectiveness as a safety barrier. This provision, including the requirements of Chapter 515, Florida Statutes, shall apply to existing private residential swimming pools.