

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Public Safety and Neighborhood Quality of Life Committee Members

FROM: Eric Carpenter, City Manager

DATE: November 6, 2024

TITLE: DISCUSS POSSIBLE SUGGESTED BUILDING DEPARTMENT PROCESSES IN CONNECTION ISSUING BUILDING VIOLATIONS FOR SMALL, OLDER AND/OR HISTORIC BUILDINGS WITH THE GOAL OF REDUCING THE COST AND BURDEN ASSOCIATED WITH CURING BUILDING VIOLATIONS.

RECOMMENDATION

The Administration does not recommend changing current policies regarding building department violation standard operating procedures ("SOP"s) for small, older or historic buildings, or Citywide due to the reasons described in the analysis section of this Committee Memorandum.

BACKGROUND/HISTORY

At the September 11, 2024 Commission Meeting, Commissioner Laura Dominguez referred a discussion to review and possibly suggest building department SOP amendments in connection with issuing Building Violations for small older and historic buildings with the goal of reducing the cost and burden associated with curing Building Violations. Commissioner Kristen Rosen Gonzalez co-sponsored the item. A representative of multiple small older properties in the Flamingo Park neighborhood has suggested changes to City practices regarding the Building Violation process for these buildings.

ANALYSIS

The Miami Beach Building Department may issue code violations in accordance with the City Code, Chapter 14, Division 3, Building Code Violations. This includes enforcement of the Florida Building Code and Miami-Dade County codes.

The Violations Section focuses enforcement on the following areas of concern:

- a) Work done without a permit, including work done without a permit by previous property owners;
- b) Noncompliance with existing Building Re-certification requirements at 25 years and 10 years thereafter; and
- c) Buildings or structures that are, or may become, unsafe.

The Building Department violation section is staffed by Code inspectors who are authorized agents of the municipality. Their duty is to ensure code compliance. This includes two field Code Compliance officers certified by the Florida Association of Code Enforcement (F.A.C.E.), a Senior Code Compliance Officer who is a licensed building inspector, and a section Chief who is licensed and certified in various building code licenses. All are trained and certified to identify and issue code violations.

The process for curing violations depends on the type of violation. In the case of work done without a permit, a permit must be obtained and completed to close the violation. Non-compliance with mandated building re-certification requires completing the re-certification process, obtaining

required engineer reports, and if necessary, obtaining permits and completing any needed repairs. In cases of evidence of an unsafe or deteriorating structure, a privately hired engineer must investigate the issue to determine if the building is safe to occupy.

City building officials cannot perform engineering services due to Florida Statute 553.80, which mandates that building department resources can only be used to enforce the Florida Building Code, not for private property improvements or investigations. Private property owners are responsible for maintaining their property. Additionally, the building department cannot oversee both building regulations and engineering services, as this may create a conflict of interest and result in insufficient oversight potentially harming public safety and trust.

The escalation proceedings for non-compliance with a notice of violation are attached as Exhibit A. The fees for violations charged by the City of Miami Beach are consistent with Miami-Dade County fees, as shown in Exhibit B. While code violations may incur costs for property owners, the priority is protecting the safety and health of the community. Regular building maintenance, inspections, and adherence to building codes all contribute to safer environments.

FISCAL IMPACT STATEMENT

TBD

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on .

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

The City is dedicated to providing guidance to properties needing assistance in curing violations and obtaining permits. Resources available through the County and State are also provided to help properties prepare for hurricanes and save money.

Helping Florida GET READIER for Hurricanes AND Save Money! - My Safe Florida Home (mysafehome.com)

Miami-Dade County Condominium Special Assessment Program Condominium Special Assessment Program [Condominium Special Assessment Program \(miamidade.gov\)](http://miamidade.gov)

Miami-Dade County Home Rehabilitation Programs
https://www.miamidade.gov/global/service.page?Mduid_service=ser1541188139420804

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Is this item related to a G.O. Bond Project?

No

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Building

Sponsor(s)

Commissioner Laura Dominguez

Co-sponsor(s)

Commissioner Kristen Rosen Gonzalez

Condensed Title

Discuss Building Dept Processes w/ Issuing Violations for Small/Older and/or Historic Bldgs.

Sec. 14-444. Schedule of violation fines.

The following fines shall apply to the citation of building violations as provided in sections 14-403 and 14-442:

Miami-Dade County Code Violations

| Section | Violation | Fine |
|------------------------|---|----------|
| MC 2-103.21 | Use of fire hydrant without permit | \$200.00 |
| MC 2-103.21 | Use of fire hydrant without meter | 100.00 |
| MC 10-3(a) | No certificate of competency as a master, contractor, subcontractor or qualifying agent | 500.00 |
| MC 10-3(a) | No certificate of competency as a journeyman, maintenance person, installer or other similar tradesman | 200.00 |
| MC 10-22(a) | Contracting for work outside the scope of certificate of competency | 500.00 |
| MC 10-22(b) | Abandonment of job | 500.00 |
| MC 10-22(g) | Failure to fulfill contractual obligations | 500.00 |
| MC 10-22(h)(1) | Aiding and abetting a person not holding a certificate | 500.00 |
| MC 10-22(h)(2) | Allowing a certificate to be used by an unauthorized person | 500.00 |
| MC 10-22(h)(3) | Failure of permit holder to supervise, direct and control a job | 500.00 |
| MC 10-22(h)(4) | Subcontracting work to a person not holding a certificate | 500.00 |
| MC 10-22(i) | Failure to supervise, direct and control all work | 500.00 |
| MC 10-22.1(a) | Working outside the scope of the certificate or acting as a contractor | 500.00 |
| MC 10-22.1(b) | Departure from or disregard of plans or specifications without consent of the qualifying agent | 500.00 |
| MC 10-22.1(d)(1) | Aiding or abetting any person not holding a certificate of competency | 500.00 |
| MC 14-58 | Violation of standards adopted by this chapter | 100.00 |
| MC 14-62 | Refusal to allow inspection | 100.00 |
| MC 24-11(1) | Prohibitions against water discharge. It shall be unlawful for any person to throw, drain, run or otherwise discharge into any of the waters of county, or to cause, permit or suffer to be thrown, run, drained or allowed to seep or otherwise be discharged into such water any organic or inorganic water | 500.00 |
| MC 24-11(3) | Discharges affecting water quality. It shall be unlawful for any person to discharge sewage, industrial wastes, cooling water and solid wastes or any other wastes into the waters of this county, including but not limited to surface water, tidal salt water estuaries or groundwater | 500.00 |
| MC 24-11(9)(a)(1), (2) | Sewer discharge limitations. It shall be unlawful for any person to throw, drain, run or otherwise discharge into a sewer designed to carry stormwater, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharge into such sewer | 500.00 |
| | All other violations of chapter 10, Miami-Dade County Municipal Code | 200.00 |

Florida Building Code Violations

| Section | Violation | Fine |
|--|--|----------|
| Chapter 8 Miami-Dade County Municipal Code | Failure to maintain a building or structure in a safe condition; | \$100.00 |

| | | |
|---|---|--------|
| | failure to maintain devices or safeguards in good working order | |
| Chapter 8 Miami-Dade County Municipal Code | Failure to remove debris, equipment, sheds or materials | 100.00 |
| Chapter 8 Miami-Dade County Municipal Code | Failure to secure buildings and equipment | 100.00 |
| Chapter 8 Miami-Dade County Municipal Code | Failure to comply with lawful stop work order | 500.00 |
| Florida Building Code, Building 104.6.2 | Failure to obtain a permit | 100.00 |
| Florida Building Code, Building 105.5 | Failure to display a permit card | 50.00 |
| Florida Building Code, Building 105.6 | Failure to obtain mandatory inspection | 250.00 |
| Florida Building Code, Building 106.3 | Unlawfully connecting utility service | 500.00 |
| Florida Building Code, Building, Chapter 11 | Failure to provide required accessibility in compliance with the Florida Americans with Disabilities Accessibility Implementation Act | 50.00 |
| Florida Building Code, Building 3303.2 | Exceeding allowable obstruction of the public right-of-way with construction and/or demolition | 50.00 |
| Florida Building Code, Building 3302 | Allowing materials to obstruct fire hydrant, fire alarm box, manhole, catchbasin and restriction of water flow to gutters | 50.00 |
| Florida Building Code, Building 3305.3 | Failure to provide temporary sidewalk which is properly guarded and not less than four feet wide | 50.00 |
| Florida Building Code, Building 3301.2 | Illegal obstruction of an alley or portion thereof in connection with construction or demolition | 50.00 |
| Florida Building Code, Building 3301.2 | Failure to protect sidewalks and pavements from damage incidental to construction work | 50.00 |
| Florida Building Code, Building 3304.1 | Failure to provide sidewalk and shed | 50.00 |
| Florida Building Code, Building 3305.1 | Failure to provide construction fence | 50.00 |
| Florida Building Code, Building 3301.2 | Failure to prevent the falling of paint or debris over public sidewalks or other places of public use | 50.00 |
| Florida Building Code, Building 105.3 | Failure to obtain boiler inspections | 100.00 |
| Florida Building Code, Plumbing | Unlawful discharge of rainwater or other liquid wastes or allowing | 50.00 |

| | | |
|--|--|--------|
| | same to be disposed onto or across public property or sidewalk | |
| | All other violations of the Florida Building Code and Miami-Dade County Municipal Code | 100.00 |

Florida Building Code, Building, Fire protection code Life Safety Code Violations

| Section | Violation | Fine |
|----------|---------------------------------------|----------|
| NFPA 101 | Any violation of the Life Safety Code | \$200.00 |

Florida Statutes Violations

| Chapter | Violation | Fine |
|---------|---|--|
| 553.509 | Failure to maintain a functioning wheelchair lift—1st Offense within a moving 12-month period | Written warning with explanation of rule |
| 553.509 | Failure to maintain a functioning wheelchair lift—2nd Offense within a moving 12-month period | \$250.00 |
| 553.509 | Failure to maintain a functioning wheelchair lift—3rd Offense within a moving 12-month period | \$500.00 |
| 553.509 | Failure to maintain a functioning wheelchair lift—4th Offense within a moving 12-month period | \$1,000.00 |
| 553.509 | Failure to maintain a functioning wheelchair lift—5th Offense within a moving 12-month period | \$2,000.00 |
| 553.509 | Failure to maintain a functioning wheelchair lift—6th Offense within a moving 12-month period | Suspension of business occupation license pursuant to Chapter 102, City Code |
| 553 | Any violation of accessibility requirements | \$500.00 |

(Ord. No. 2002-3360, § 1, 4-10-02; Ord. No. 2009-3636, § 2, 5-13-08)

MIAMI BEACH

Policies and Procedures

Unsafe Structures

POLICY

The Violation's Section, Unsafe Structures division, issues Notice of Violations and Stop Work Orders to bring properties into compliance with the Florida Building Code.

PROCEDURE

Unsafe Structure Violation

1. A Red Tag Warning is posted at the site to identify Unsafe Building conditions on the property and the City of Miami Beach Police Department is notified.
2. The Red Tag Warning is also mailed certified with a return receipt to the registered owner and is given ten (10) Calendar days to contact the Violations' Section of the Building Department.
3. If the registered owner of the property fails to contact the Violations' Section, an Unsafe Structure Violation is issued, and the City Attorney's office is notified to gather information on all interested parties for the property.
4. Once the list containing the names and addresses of the interested parties of the property is received, a certified letter containing the following information is mailed with a return receipt to the registered owner along with the interested parties of the property:
 - a. Violation number.
 - b. Description of the violation.
 - c. A "10 days to secure the property" notice.
5. Registered owner/interested parties must apply for a permit to repair or demolish within thirty (30) days from the date the violation was issued.
6. If the registered owner/interested parties fail to respond within the allotted time, a "Notice of Violation" is recorded electronically with the Miami Dade County Clerk of Courts.
7. After the notice is recorded, the following occurs simultaneously:
 - a. A letter announcing the Failure to comply with the Unsafe Structures violation, and a notification that a hearing will be scheduled along with a notice to appear before the Unsafe Structures Panel is mailed,

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Policies and Procedures

- with a return receipt, to the registered owner along with the interested parties of the property.
- b. Notice of the hearing will be published in the **Legal Notices'** section of the **Daily Business Review** for two (2) selected days and for (2) two weeks consecutively.
 - c. A fine is assessed on the property.
8. Unsafe Structures Panel hearing is scheduled at the next available date.
 9. To withdraw the case from the hearing, the registered owner or interested parties must proceed with one of the following requisites:
 - a. Obtain all required permits within thirty (30) days from the Violation Compliance date.
 - b. Submit a Compliance Agreement to the Building Department (Compliance Agreement may be downloaded from this [link](#) or be requested at the permit counter of the Building Department)
 - c. Request an extension of the hearing date in writing to the Building Official. Request must be submitted within thirty (30) days from the Violation Compliance date.
 10. If the registered owner/interested parties opt to extend the hearing date, required permits must be obtained prior to the rescheduled hearing date.
 11. Case is heard before Unsafe Structures Panel and a ruling is made.
 12. If the registered owner or interested parties submit a Compliance Agreement, but fail to comply with the agreement, the Building Official shall proceed with the demolition of the structure without further notice.
 13. Fees associated with the demolition will be added to the total fine and an additional lien to recover the associated costs is recorded.

PREPARED BY: Building Department

APPROVED BY:  DATE: 11/15/18
Building Official/Director

Revised: 11-13-2018

C4 B REFERRAL TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS POSSIBLE SUGGESTED BUILDING DEPARTMENT PROCESSES IN CONNECTION ISSUING BUILDING VIOLATIONS FOR SMALL, OLDER AND/OR HISTORIC BUILDINGS WITH THE GOAL OF REDUCING THE COST AND BURDEN ASSOCIATED WITH CURING BUILDING VIOLATIONS.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Commissioner Laura Dominguez

DATE: September 11, 2024

TITLE: REFERRAL TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS POSSIBLE SUGGESTED BUILDING DEPARTMENT PROCESSES IN CONNECTION ISSUING BUILDING VIOLATIONS FOR SMALL, OLDER AND/OR HISTORIC BUILDINGS WITH THE GOAL OF REDUCING THE COST AND BURDEN ASSOCIATED WITH CURING BUILDING VIOLATIONS.

RECOMMENDATION

Please refer a discussion to the Public Safety and Neighborhood Quality of Life Committee ("PSNQLC") to review possible suggested building department standard operating procedures ("SOP") amendments in connection with issuing Building Violations for small older and historic buildings with the goal of reducing the cost and burden associated with curing Building Violations.

A representative of multiple small older properties in the Flamingo Park neighborhood has suggested changes to City practices regarding the Building Violation process for these buildings. I would like the City Administration to be prepared to discuss these suggestions and to provide any independent suggestions that would help ease the burden and cost of compliance.

BACKGROUND/HISTORY

ANALYSIS

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate?
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

Citywide

**Is this a "Residents Right to Know" item,
pursuant to City Code Section 2-17?**

Yes

**Is this item related to a G.O. Bond
Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481,
includes a principal engaged in lobbying? Yes**

If so, specify the name of lobbyist(s) and principal(s): Tabitha Pennington

Department

Office of Commissioner Laura Dominguez

Sponsor(s)

Commissioner Laura Dominguez

Co-sponsor(s)

Commissioner Kristen Rosen Gonzalez

Condensed Title

Ref: PSNQLC - Building Dept Processes w/ Issuing Violations for Small/Older and/or Historic
Bldgs. (Dominguez/Rosen Gonzalez)