

ORDINANCE NO. 240-07-124

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL AMENDING THE CODE OF ORDINANCES, AMENDING CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS, ARTICLE III, UNSAFE STRUCTURES BOARD, AMENDING THE ENTIRE ARTICLE TO ADOPT THE FLORIDA BUILDING CODE, UPDATES SECTIONS AND PROVIDE AUTHORITY TO USE THE BROWARD COUNTY UNSAFE STRUCTURES BOARD TO HEAR CASES; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, DESORAE GILES-SMITH)

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. That the City of Lauderhill Code of Ordinances, Chapter 6, Buildings and Building Regulations, Article III, Unsafe Structures Board, is hereby amended as follows:

ARTICLE III. UNSAFE STRUCTURES BOARD

Sec. 6-40. Unsafe structures board created; composition of board.

(a) ***

(i) In lieu of utilizing the City of Lauderhill Unsafe Structures Board, the City is authorized to contract with the Broward County Unsafe Structures Board to conduct all City of Lauderhill unsafe structure board hearings subject to the provisions contained in the Florida Building Code.

(Ord. No. 060-01-105, § 2, 1-19-06)

Sec. 6-41. Hearings.

(a) ***

(k) Any hearings conducted by the Broward County Unsafe Structures Board shall be held in accordance with the rules, procedures, and timelines as required by the Broward County Unsafe Structures Board in lieu of any provisions herein. The Florida Building Code is hereby adopted and incorporated herein by reference and shall govern in the event of any conflict between the Florida Building Code and the city code provisions for all matters heard before the Broward County Unsafe Structures Board pursuant to this Article III.

(Ord. No. 060-01-105, § 2, 1-19-06)

Sec. 6-42. Powers and duties.

The unsafe structures board shall have the following duties, functions, powers and responsibilities:

- (1) Hear and determine appeals from actions and decisions of the building official pursuant to the provisions of sections 101 and 115 and 117 of the Florida Building Code, as may be amended from time to time. The Florida Building Code Section 116 is hereby adopted and incorporated herein for purposes of this entire Article III.
- (2) Hear and review the application of the building official for review of his action where his decision as indicated in a notice of violation has not been complied with.

- (3) Affirm, modify, withdraw or overrule the decision of the building official upon appeal or on application for review.
- (4) Hear and determine appeals from actions and decisions of the city pursuant to the provisions of the applicable minimum housing code.
- (5) Order the demolition of property when deemed appropriate based upon the individual facts of the case and the particular violation.

The building official is deemed to be, *inter alia*, an authorized agent or employee of the city whose duty it is to assure compliance with the building codes. The building official is therefore authorized to issue uniform code citations for violations pursuant to ~~section 101.3.1 of the Florida Building Code~~. Said violations shall be processed following the procedures set out in section 7½-3, subject to that schedule of penalties.

(Ord. No. 06O-01-105, § 2, 1-19-06; Ord. No. 06O-04-123, § 1, 5-8-06; Ord. No. 11O-12-179, § 1, 1-9-2012)

Sec. 6-43. Conflicts of interest.

No official, board member or employee charged with the enforcement of this division shall have any financial interest, directly or indirectly, in any repairs, corrections, construction or demolition which may be required; nor shall any official, board member or employee give to anyone the location of any property or the names of any owners thereof on which repairs, corrections or demolition have been ordered, except as otherwise directed in this Code, until after the owners have been formally advised, at which time such information shall become a matter of public record.

(Ord. No. 06O-01-105, § 2, 1-19-06)

Sec. 6-44. Described.

- (a) Buildings or structures that are unsafe, unsanitary or deficient in adequate facilities for means of egress, or which constitute a fire or windstorm hazard, or illegal or improper use, occupancy or maintenance, or which do not comply with the provisions of the minimum housing standards, or which have been substantially damaged by the elements, acts of God, fire, explosion or otherwise, shall be deemed unsafe buildings and a permit shall be obtained to demolish the structure or bring the building to comply with the applicable codes.
- (b) Incomplete buildings or structures commenced without a permit or the permit for which has expired, or completed buildings or structures commenced with a permit or the permit for which expired prior to completion and no certificate of occupancy has been issued, shall be presumed and deemed unsafe.
- (c) Unsafe buildings or structures shall be demolished and removed from the premises concerned, or made safe, sanitary and secure in a manner required by the building official and as provided in this section, provided that where replacement, repair, alteration or demolition is required on buildings or structures within the purview of the applicable minimum housing code, the provisions of such Code shall be complied with and shall control.

(Ord. No. 06O-01-105, § 2, 1-19-06)

Sec. 6-45. Physical criteria.

The Florida Building Code Section 116 is hereby adopted and incorporated herein for purposes of this entire Article III.

- (a) A building shall be deemed a fire hazard and/or unsafe when:
 - (1) It is vacant, unguarded and open at doors or windows. (Florida Building Code 116.2.1.1.1).

- (2) There is an unwarranted accumulation of dust, debris or other combustible material therein. (Florida Building Code 116.2.1.1.2).
 - (3) The building condition creates hazards with respect to means of egress and fire protection as provided for in the Florida Building Code for the particular occupancy. (Florida Building Code 116.2.1.1.3).
- (b) A building shall be deemed unsafe when:
- (1) There is a falling away, hanging loose or loosening of any siding, block, brick, or other building material. (Florida Building Code 116.2.1.2.1).
 - (2) There is a deterioration of the structure or structural parts. (Florida Building Code 116.2.1.2.2).
 - (3) The building is partially destroyed. (Florida Building Code 116.2.1.2.3).
 - (4) There is an unusual sagging or leaning out of plumb of the building or any parts of the building and such effect is caused by deterioration or over-stressing. (Florida Building Code 116.2.1.2.4).
 - (5) The electrical or mechanical installations or systems create a hazardous condition contrary to the standards of the Florida Building Code. (Florida Building Code 116.2.1.2.5).
 - (6) An unsanitary condition exists by reason of inadequate or malfunctioning sanitary facilities or waste disposal systems; or which has become so dilapidated, decayed, unsafe, or which utterly fail to provide the amenities essential to decent living such that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare to those living therein. (Florida Building Code 116.2.1.2.6).
 - (7) Swimming pools that contain stagnant water are deemed unsanitary and dangerous to human life and public welfare and shall be presumed and deemed unsafe. (Florida Building Code 116.2.1.2.7)
 - ~~(7)~~(8) By reason of use or occupancy the area, height, type of construction, fire-resistivity, means of egress, ~~stairways, elevators, fire escapes,~~ electrical equipment, plumbing, air conditioning, or other features regulated by the Florida Building Code do not comply with that code for the use and group of occupancy. (Florida Building Code 116.2.1.2.8).
 - ~~(8)~~(9) It has been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or to the general health and welfare of the occupants or the residents of the city.
 - ~~(9)~~(10) There are improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (c) A building, or part thereof, shall be presumed to be unsafe if:
- (1) The construction, installation of electrical, plumbing, or other equipment therein or thereon, or the partial construction or installation of equipment has been commenced or completed without a permit therefore having been obtained or the permit therefore has expired prior to completion and a certificate of occupancy issued. (Florida Building Code 116.2.1.3.1).
 - (2) By reason of illegal or improper use, occupancy or maintenance does not comply with the Florida Building Code, or the code in effect at the time of construction, or the applicable minimum housing code. (Florida Building Code 116.2.1.3.2).

(Ord. No. 060-01-105, § 2, 1-19-06; Ord. No. 060-04-123, § 1, 5-8-06)

Sec. 6-46. Valuation criteria.

The Florida Building Code Section 116.2.2 is hereby adopted and incorporated herein.

- (a) If the cost of alteration, repair and/or replacement of an unsafe building or structure or part thereof exceeds fifty (50) percent of its value, such building shall be demolished and removed from the premises. If the cost

of alteration, repair and/or replacement of an unsafe building or structure or part thereof does not exceed fifty (50) percent of such replacement cost, such building or structure may be repaired and made safe, as provided in section ~~115~~ 116 of the Florida Building Code and in the applicable minimum housing code, as may be amended from time to time.

- (b) If the cost of structural repair or structural replacement of an unsafe building or structure or part thereof exceeds thirty-three (33) percent of the structural value, such building or structure thereof shall be demolished and removed from the premises; and if the cost of such structural repairs does not exceed thirty-three (33) percent of such replacement cost, such building or structure or part thereof may be structurally repaired and made safe, as provided in section ~~115~~ 116 of the Florida Building Code, as may be amended from time to time.
- (c) In order to determine the value of a building or structure and the cost of alterations, repairs and replacement, the guidelines and standards provided in ~~section 101.2~~ of the Florida Building Code Existing Buildings shall apply.
- (d) An exception to the percentages provided in subsections (a) and (b) of this section may be recognized in accordance with Florida Building Code 116.2.2.4, provided that:
 - (1) The owner of the property has the ways and means to complete the work.
 - (2) All imminent danger has been removed from the site.
 - (3) All applicable zoning regulations are met.
 - (4) All applicable requirements of other departments and agencies are met.
 - (5) Criteria noted in Florida Building Code, ~~subsection 3401.8 as referenced in section 117~~ Existing Building is followed.
 - (6) Any remaining portion of the structure to be used in rebuilding is certified as safe by an engineer or architect.
- (e) In all cases where there is a dangerous building in which there is a fire hazard, if the building is existing or was erected in violation of the any city ordinance, state statutes or the Florida Building Code, it shall be demolished.

(Ord. No. 06O-01-105, § 2, 1-19-06; Ord. No. 06O-04-123, § 1, 5-8-06; Ord. No. 11O-12-179, § 2, 1-9-2012)

Sec. 6-47. Inspection of unsafe buildings and structures.

The building official, on his own initiative or as a result of reports by others, shall examine or cause to be examined every building or structure appearing or reported to be unsafe, and if such is found to be an unsafe building or structure as defined in this section or under the Building Code, the building official shall post the property concerned and shall furnish the owner of such building or structure with written notice. The manner of posting and furnishing of written notice is provided in this article.

(Ord. No. 06O-01-105, § 2, 1-19-06; Ord. No. 06O-04-123, § 1, 5-8-06)

Sec. 6-48. Posting of notice.

The building official shall post, but not before fourteen (14) days after the notice of violation provided in this article has been served, a signed notice in a conspicuous location on the building or structure which has been determined to be unsafe. The posted notice shall read substantially as follows: "UNSAFE BUILDING. This building or structure is, in the opinion of the Building Official, unsafe, as defined in Section ~~117~~ 116 of the Florida Building Code. This building SHALL BE VACATED — SHALL NOT BE OCCUPIED. Action shall be taken by the owner as further prescribed by written notice previously served. THIS NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. Date _____."

Any person removing this notice, other than the building official, shall be guilty of a violation of this chapter and upon conviction shall be punished by a fine not exceeding two hundred dollars (\$200.00) or imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment.

(Ord. No. 06O-01-105, § 2, 1-19-06; Ord. No. 06O-04-123, § 1, 5-8-06)

Sec. 6-49. Emergency action.

- (a) When, in the opinion of the building official, there is actual or immediate danger of the failure or the collapse of a building or structure, or there is a health, windstorm or fire hazard, he/she may order the occupants to immediately vacate, or temporarily close for use or occupancy the rights-of-way thereto, sidewalks, streets or adjacent buildings or nearby area and institute such other temporary safeguards, including securing posting and demolition of the building or structure, as he/she may deem necessary under the circumstances, and may employ the necessary labor and materials to perform the required work as expeditiously as possible.
- (b) Costs incurred in the performance of such emergency work shall be paid by the appropriate governmental authority and upon the recording in the public records of this county a certificate executed by the building official certifying the amount so expended and why expended, such costs shall become a lien against the property involved.

(Ord. No. 06O-01-105, § 2, 1-19-06)

Sec. 6-50. Notice of violation.

The building official shall, at least fourteen (14) days prior to posting an unsafe building, give the owner of record of the premises concerned written notice by certified or registered mail, addressed to such person's last known address. If proof of service by registered or certified mail is not completed by signed return receipt, then a copy of the written notice shall be affixed to the structure concerned and such procedure shall be deemed proper service, and the time for compliance stipulated in the notice shall be deemed to commence with the date such notice is so affixed. This written notice shall state the defects which constitute a violation of this section and shall prescribe the action to be taken to comply and the time within which compliance must be accomplished, such time to be ~~fifteen (15)~~ ten (10) business days, subject to reasonable extension, when requested in writing, for reasons which the building official considers justifying an extension of time. All such extensions of time shall be by written approval of the building official. In addition, this written notice will explain the right of appeal of the decision of the building official to the unsafe structures board, and also advise that unless there is compliance with the instructions in the notice of violation or an appeal is filed, that a public hearing before the unsafe structures board will be initiated by the building official after time for compliance has expired.

(Ord. No. 06O-01-105, § 2, 1-19-06)

Sec. 6-51. Recording of notice of violation.

- (a) If the owner of the property concerned has not complied with the requirements as stated in the notice of violation within the time stipulated or has not appealed the action of the building official as stated in the notice of violation within the time specified, the building official may file an appropriate instrument, to be recorded in the public records of this county, indicating that violations of this section and section ~~415~~ 116 of the Florida Building Code exist upon the property involved.
- (b) The recording of such notice shall constitute constructive notice to all concerned, as well as to any subsequent purchasers, transferees, grantees, mortgagees, lessees and all persons claiming or acquiring interest in such property.

- (c) When the violation specified in the notice of violation has been corrected, the building official shall record with the county a certificate certifying that the violation has been corrected, upon being paid for the recording fees incurred.

(Ord. No. 06O-01-105, § 2, 1-19-06; Ord. No. 06O-04-123, § 1, 5-8-06; Ord. No. 11O-12-179, § 3, 1-9-2012)

Sec. 6-52. Appeal and review.

- (a) The owner or anyone having an interest in a building or structure which has been determined to be unsafe, and concerning which a notice of violation has been served by the building official, may appeal the decision of the building official, as stated in the notice of violation, to the unsafe structures board, if such appeal is filed prior to the expiration of the time allowed for compliance specified in such notice; provided, in no event shall the appeal period be less than ~~fifteen (15)~~ ten (10) business days.
- (b) Such appeal shall be in writing, addressed to the secretary of the unsafe structures board, and shall be in the form of a certified statement, stating the reasons for such an appeal and stating wherein they consider the building official to be in error. Upon receipt of the appeal, the secretary of the board will proceed to notify all parties in interest as to the time and place the unsafe structures board shall conduct a public hearing on the matter. The procedure for the serving of, and the form of, notice is provided in this article or as governed by the Broward County Unsafe Structures Board if they are the entity hearing the matter in lieu of the city.
- (c) The Florida Building Code Section 116.8 is hereby adopted and incorporated herein by reference.

(Ord. No. 06O-01-105, § 2, 1-19-06)

Sec. 6-53. Notice to appear before unsafe structures board.

- (a) When an appeal has been properly filed, or when the public hearing is initiated by the building official, as provided in this article, the secretary of the unsafe structures appeals board shall issue a notice in the board's name, requiring the owner of record and all parties having an interest to appear before the board in person or by an attorney at the time set forth in such notice, but not earlier than ten (10) days after service thereof, and show cause why the decision of the building official should not be carried out. As many alias and pluries notices may be issued as may be necessary.
- (b) Service of such notices shall be by certified or registered mail to the last known address of the party being served, if known; however, failure to receive such notice shall not invalidate the notice, as such notice shall also be perfected by posting the notice on the property and by publishing a copy thereof in a newspaper published in this county, such publication to be for two (2) times one (1) week apart.
- (c) The time for appearing and showing cause as aforesaid, and a description of the property, shall be as set forth in such published notice; provided, such time shall not be less than ten (10) days after the last publication thereof.
- (d) Any person or party who shall not appear and show cause as aforesaid shall be as fully bound by proceedings taken as if he/she had appeared and shown cause.
- (e) The Florida Building Code Section 116.9 is hereby adopted and incorporated herein by reference.

(Ord. No. 06O-01-105, § 2, 1-19-06)

Sec. 6-54. Public hearing; order; disposition.

- (a) On the day established in the notice of public hearing, the unsafe structures board shall review all pertinent evidence and hear all testimony from the building official, the owner and other parties in interest and their respective witnesses.

- (b) The unsafe structures board may modify, rescind or uphold the decision of the building official as recited in the notice of violation, and may order the owner or persons responsible for the building or structure to vacate, or cause to be vacated forthwith, to make repairs and to take necessary action to secure the building, or to demolish the building or structure and remove the salvage, contents, debris and abandoned property from the premises, all within the time stipulated in the order by the board.
- (c) Such order shall be entered in the minute book of the board within three (3) days after such public hearing, and a copy of such order shall be forwarded to the owner and all parties in interest by registered or certified mail, and a copy thereof posted on the premises.
- (d) If the owner or those responsible shall fail to comply with the order of the board within the time stipulated, and such order is to repair or secure the building to make it safe, then the building official shall cause such building to be vacated, if occupied, and shall, through city's employees or through a contractor making the lowest responsible bid, secure the building or structure.
- (e) If the order is to demolish the building or structure and to remove the salvage, contents, debris and abandoned property from the premises, and the owner or those responsible shall have failed to comply with such order, then the building official may do so thereafter through city employees or through a contractor making the lowest responsible bid.
- (f) The building official may sell to the highest bidders for cash the salvage and the contents of such building or other structure so demolished which have not been removed by the owner of the land. If no bids are received for such salvage or contents, the building official may destroy that for which no bids are received. Advertisement calling for bids shall be published by the building official one time in a newspaper published in the county.
- (g) Any hearings conducted by the Broward County Unsafe Structures Board shall be held in accordance with the rules, procedures, and timelines as required by the Broward County Unsafe Structures Board in lieu of any provisions herein. The Florida Building Code Section 116.10 is hereby adopted and incorporated herein by reference.

(Ord. No. 06O-01-105, § 2, 1-19-06)

Sec. 6-55. Recovery of cost.

- (a) The entire costs of such repair, vacation or demolition shall be paid by the owner or occupant of the premises or by the person who caused or maintained the violation.
- (b) The building official shall file among his/her records an affidavit stating with fairness and accuracy the items of expense and the date of execution of actions authorized by this article.
- (c) The enforcing agency may institute a suit to recover such expenses for repair, vacation or demolition, together with all costs and expenses of collection including a reasonable attorney's fees against any liable person, or may cause such expenses to be charged against the property as a lien or as a special assessment collectible according to established procedures and having been recorded with the county.
- (d) Except with respect to a lien imposed for expenses incurred in demolition, nothing in this article shall be construed as placing a lien upon property which supersedes the lien of any mortgage on such property executed and recorded prior to the existence of a lien authorized in this article. The costs of such said lien imposed shall be a lien prior in dignity to all liens, excepting county tax liens and liens of equal dignity with county tax liens. The lien shall be recorded in the public records of Broward County, Florida. The city may proceed to collect said lien by foreclosure or otherwise. Sale pursuant to a decree of foreclosure may be made by the clerk of the court which enters the decree in the same manner as prescribed for mortgage foreclosures in Florida Statutes.
- (e) The Florida Building Code Section 116.11 is hereby adopted and incorporated herein by reference.

(Ord. No. 06O-01-105, § 2, 1-19-06)

Sec. 6-56. Effect of article on building code.

Nothing contained in this chapter shall be considered as abridging, amending, diminishing or usurping the provisions of the Florida Building Code as amended as the same may relate to unsafe buildings and specifically as set forth in sections 101 and ~~115~~ 116 of such code. The Florida Building Code is hereby adopted and incorporated herein by reference.

(Ord. No. 06O-01-105, § 2, 1-19-06; Ord. No. 06O-04-123, § 1, 5-8-06; Ord. No. 11O-12-179, § 4, 1-9-2012)

Secs. 6-57—6-60. Reserved.

SECTION 2. All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 3. This Ordinance shall take effect upon passage and adoption.

DATED this _____ day of _____, 2023.

PASSED on first reading this _____ day of _____, 2023.

PASSED AND ADOPTED on second reading this _____ day of _____, 2023.

PRESIDING OFFICER

ATTEST:

CITY CLERK

	FIRST READING	SECOND READING
MOTION	_____	_____
SECOND	_____	_____
M. DUNN	_____	_____
D. GRANT	_____	_____
L. MARTIN	_____	_____
S. MARTIN	_____	_____
K. THURSTON	_____	_____