

ORDINANCE NO. 02-07-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA; CREATING CHAPTER \_\_\_\_ RELATING TO UNSAFE BUILDINGS AND STRUCTURES; PROVIDING FOR REPEAL OF SECTION 6-16.2 OF THE CITY CODE RELATING TO THE UNSAFE BUILDINGS AND STRUCTURES AND CONFLICTING CODE PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on January 9, 2001, by Ordinance No. 01-01-01, the City of Marathon (the "City"), adopted the Monroe County Code as it existed on November 30, 1999, as the City's Code (the "City Code") until such time as such provisions were superseded, modified, or repealed by action of the City Council; and

WHEREAS, the City Council desires to modify the provisions of the City Code relating to abatement of unsafe buildings and structures to allow for the appointment of a City Unsafe Structures Board.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:<sup>1</sup>

Section 1. Chapter \_\_\_\_ of the Code of Ordinances is hereby created to read as follows:

CHAPTER \_\_\_\_

UNSAFE BUILDINGS AND STRUCTURES

Sec. \_\_\_\_-1 Standard Unsafe Building Abatement Code adopted.

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Additions to existing text are shown by underline; deletions are shown by ~~strikethrough~~.

The Standard Unsafe Building Abatement Code (1985 edition), developed and promulgated by the Southern Building Code Congress International, Inc., as it may be amended from time to time, is hereby adopted by reference as if fully set forth herein, subject to the amendments set forth herein.

Sec. \_\_\_\_-2. Proceedings are supplemental.

Violations of the Standard Unsafe Building Abatement Code may be prosecuted before the Unsafe Structures Board, or in any manner provided by law. Nothing contained in this Chapter shall prohibit the City from enforcing its Code, resolutions, development orders and development permits by any means including, but not limited to, a notice of violation, a citation, a summons, a notice to appear in the County Court, an arrest, a civil action for injunctive relief, a stop work order or demolition. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of this Code.

Sec. \_\_\_\_-3. Standard Unsafe Building Abatement Code Amended.

Any reference in the Standard Unsafe Building Abatement Code to the "Board of Adjustments and Appeals" shall be read to refer to the Unsafe Structures Board. Any reference in the Standard Unsafe Building Abatement Code to the "Standard Building Code" shall be read to refer to the Florida Building Code or the applicable building code.

Sec. \_\_\_\_-4. Unsafe Structures Board Created.

(a) The Unsafe Structures Board is hereby created as provided in section 105 of the Standard Unsafe Building Abatement Code.

(b) The City Council shall appoint the members of the Unsafe Structures Board by resolution.

Sec. \_\_\_\_-5. Secretary of the Board.

Notwithstanding Section 105.4 of the Standard Unsafe Building Abatement Code, the City Manager, or designee, shall serve as the Secretary to the Unsafe Structures Board.

Sec. \_\_\_\_-6. Building Official.

Notwithstanding Section 105.4 of the Standard Unsafe Building Abatement Code, the Building Official shall present the cases before the Unsafe Structures Board and shall not be an ex officio member of the Unsafe Structures Board.

Sec. \_\_\_\_-7. Legal Counsel.

The City Attorney shall be counsel to the Unsafe Structures Board.

Sec. \_\_\_\_-8. Meetings.

Section 105.5 of the Standard Unsafe Building Abatement Code is amended to read as follows:

The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet at regular intervals, to be determined by the chairman or in any event, the board shall meet as soon as practicable after the notice of appeal has been received.

Sec. \_\_\_\_-9. Section 504 of the Standard Unsafe Building Abatement Code Deleted.

Section 504 of the Standard Unsafe Building Abatement Code and any other references to the hearing examiner in the Standard Unsafe Building Abatement Code are hereby deleted.

Sec. \_\_\_\_-10. Time for filing appeal.

Section 505 of the Standard Unsafe Building Abatement Code is amended to read as follows:

If a party is aggrieved by the decision of the Unsafe Structures Board, nothing in this code shall be construed to deprive the party of seeking redress in the appropriate court. Said appeal must be filed within thirty (30) days from the date of rendition of the board's final decision by filing a petition for writ of certiorari in the Circuit Court in and for Monroe County, Florida, in accordance with the procedure provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure. The review on appeal shall be limited to (1) whether procedural due process was accorded; (2) whether the decision departs from the essential requirements of law; and (3) whether there is competent substantial evidence in the record to support the administrative findings and judgment.

Sec. \_\_\_\_-11 - Section 701 of the Standard Unsafe Building Abatement Code Amended.

Section 701 of the Standard Unsafe Building Abatement Code is amended to read as follows:

Whenever a building or structure is repaired or demolished in accordance with the provisions of this code and the cost of such repair or demolition is borne by the City, the City Manager or designee shall notify the Building Official of the name of the Owner of said property, the legal description of the property, and of the City's costs of repairing or demolishing said building or structure. The City shall assess the costs of such repair or demolition as a lien against the property and a notice of lien shall be filed in the official record books of Monroe County and a copy mailed by regular U.S. mail to the owner at the address listed in the property tax records for Monroe County. Notice to the tenant shall be sent to the property address. Mailing of the notice as provided herein is sufficient to establish a presumption that notice was received by the Owner and tenant. A certified copy of a notice of lien may be recorded in the public records and thereafter constitutes a lien on the property repaired or demolished by the City. Upon petition to the circuit court, such notice of lien may be enforced in the same manner as a court judgment by the Sheriffs of this State, including levy against any other real property and the personal property of the owner and tenant, but such order shall not be deemed to be a court judgment except for enforcement purposes. The City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of

any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such state, county and City taxes.

Sec. \_\_\_\_-12. Conflict.

In the event of any conflict between the provisions of this ordinance and the Standard Unsafe Building Abatement Code, the provisions of this ordinance shall control.

\*\*\*

Section 3. Repeal of Conflicting Provisions.

- (a) Section 6-16.2 of the Code of Ordinances is hereby repealed.
- (b) All Code provisions, ordinances, resolutions or parts thereof in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the code of the City of Marathon, Florida, that the sections of the Ordinance may be renumbered or

relettered to accomplish to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6.     Effective Date. This Ordinance shall be effective upon adoption on the second reading.

The foregoing Ordinance as offered by Councilman Greenman, who moved for its adoption. This motion was seconded by Councilman Mearns, and upon being put to a vote, the vote was as follows:

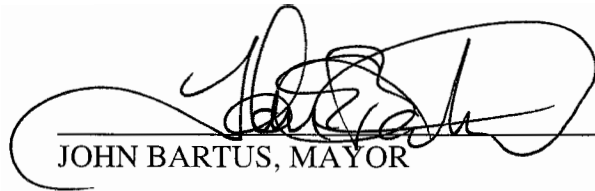
Mayor John Bartus	<u>Yes</u>
Vice Mayor Randy Mearns	<u>Yes</u>
Councilman Frank Greenman	<u>Yes</u>
Councilman John Repetto	<u>Yes</u>
Councilman Pete Worthington	<u>Yes</u>

PASSED on first reading this 11<sup>th</sup> day of June, 2002.

The foregoing Ordinance as offered by Councilman Repetto, who moved for its adoption. This motion was seconded by Councilman Greenman, and upon being put to a vote, the vote was as follows:

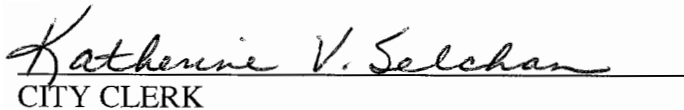
Mayor John Bartus	<u>Yes</u>
Vice Mayor Randy Mearns	<u>Yes</u>
Councilman Frank Greenman	<u>Yes</u>
Councilman John Repetto	<u>Yes</u>
Councilman Pete Worthington	<u>Yes</u>

PASSED AND ADOPTED on second reading this 9th day of July, 2002.



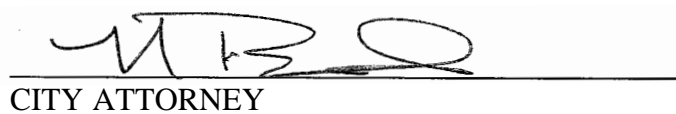
JOHN BARTUS, MAYOR

ATTEST:



KATHERINE V. SELCHAN  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



CITY ATTORNEY

**SCANNED**

7/15/02 #6002 KSR



# STANDARD UNSAFE BUILDING ABATEMENT CODE 1985 EDITION



SBCCI®

FIRST PRINTING

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BY  
SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL, INC.  
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## PREFACE

This code was developed to provide a jurisdiction with a concise set of procedures to effect the elimination of unsafe buildings in a legal and timely manner. The authority having jurisdiction should carefully examine this code to determine compliance with existing local or state laws; any conflicts must be eliminated prior to adoption.

This code is applicable to all occupancies, but is not meant to be substituted for the Standard Housing Code.

This code is designed to work hand in hand with the Standard Building, Plumbing, Mechanical, Gas, Housing and Fire Prevention Codes.

### METRIC CONVERSIONS

	MULTIPLY	BY	TO GET
Length	inches ft	25.4 0.3048	mm m
Area	sq in sq ft	645.16 0.0929	mm <sup>2</sup> m <sup>2</sup>
Volume	cu in cu ft gal	0.01639 28.3169 3.785	L L L
Mass	lb	0.4536	kg
Mass/unit length	plf (lb/ft)	1.4882	kg/m
Mass/unit area	psf (lb/sq ft)	4.882	kg/m <sup>2</sup>
Mass density	pcf (lb/cu ft)	16.02	kg/m <sup>3</sup>
Force	lb	4.4482	N
Force/unit length	plf (lb/ft)	14.5939	N/m
Pressure, stress, modulus of elasticity	psi psf (lb/sq ft)	6.895 47.88	kPa Pa
Second moment of area	in <sup>4</sup>	416.231	mm <sup>4</sup>
Section modulus	in <sup>3</sup>	16,387.064	mm <sup>3</sup>
Temperature	°F-32 (°F-32) + 273.15	5/9 5/9	°C K
Energy, work, quantity of heat	kWh Btu ft • lb (force)	3.6 1055 1.3558	MJ J J
Power	ton (refrig) Btu/s hp (electric) Btu/h	3.517 1.0543 745.7 0.2931	kW kW W W
Thermal conductance (U value)	Btu/ft <sup>2</sup> • h • °F	5.6783	W/m <sup>2</sup> • K
Thermal resistance (R value)	ft <sup>2</sup> • h • °F/Btu	0.1761	m <sup>2</sup> • K/W
Flow	gpm cfm	0.0631 0.4719	L/s L/s
Illuminance	footcandle (lm/sq ft)	10.76	lx (lux)
Velocity (speed)	mph	0.447	m/s
Plane angle	°(angle)	0.01745	rad

### **THE STANDARD CODES**

Standard Amusement Device Code  
Standard Building Code  
Standard Existing Buildings Code  
Standard Fire Prevention Code  
Standard Gas Code  
Standard Housing Code  
Standard Mechanical Code  
Standard Plumbing Code  
Standard Swimming Pool Code  
Standard Unsafe Building Abatement Code

### **CODE-RELATED PUBLICATIONS**

Standard for Proscenium Curtains  
Standard for Existing High Rise Buildings  
Standard for Floodplain Management  
Standard for Soil Expansion  
Standard for Sound Control  
Standard for Textile Wall Covering  
Standard for Roof Tile Test  
Standard for Hurricane Resistant Residential Construction  
Standard Building Code Commentary  
Standard Gas Code Commentary  
Standard Mechanical Code Commentary  
Standard Plumbing Code Commentary  
One and Two Family Dwelling Code Commentary

### **EDUCATION PUBLICATIONS**

Building Official Management  
Building Principles and Code Applications  
Electrical Inspection and Plans Examination  
Electrical Principles and Code Applications (Residential)  
Fire Protection Principles and Code Applications  
Hurricane Resistant Construction  
Legal Aspects of Code Administration  
Mechanical Principles and Code Applications  
One and Two Family Dwelling Inspection  
Plumbing Principles and Code Applications  
Rehabilitation and Housing Principles and Code Applications  
Structural Principles and Code Applications

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## SUPPLEMENT

Flow Chart for the Use with Standard Unsafe Building Abatement Code.

# CHAPTER 1 ADMINISTRATION

## 101 TITLE AND SCOPE

### 101.1 Title

The provisions included within the following chapters and sections shall constitute and be known and may be cited as "The Standard Unsafe Building Abatement Code," hereinafter referred to as "this code."

### 101.2 Code Remedial

This code is hereby declared to be remedial and shall be construed to secure the beneficial interests and purpose; thereof—which are public safety, health and general welfare—through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, demolition, use and occupancy of buildings, structures or premises.

### 101.3 Scope

The provisions of this code shall apply to all unsafe buildings or structures, as herein defined, and shall apply equally to new and existing conditions

### 301.4 Alterations, Repairs or Rehabilitation Work

**101.4.1** Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the Standard Building Code provided that the alteration, repair or rehabilitation work conforms to the requirements of the Standard Building Code for new construction. The building official shall determine, subject to appeal to the Board of Adjustments and Appeals the extent, if any, to which the existing building shall be made to conform to the requirements of the Standard Building Code for new construction.

**101.4.2** Alterations, repairs or rehabilitation work shall not cause an existing building to become unsafe as defined in Section 202.

**101.4.3** If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of the Standard Building Code for the new occupancy classification as established by the building official

**101.4.4** Repairs and alterations, not covered by the preceding paragraphs of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this code or

in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed; but not more than 25% of the roof covering of a building shall be replaced in any period of 12 months unless the entire roof covering is made to conform with the requirements of the Standard Building Code for new buildings.

### 101.5 Special Historic Buildings and Districts

The provisions of this code relating to the construction alteration, repair, enlargement, restoration, relocation or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such building or structures are judged by the building official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts. The applicant must submit complete architectural and engineering plans and specifications bearing the seal of a registered professional engineer or architect.

### 101.6 Maintenance

All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the Standard Building Code in a building when erected, altered or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings and structures.

## 102 ORGANIZATION

### 103.1 Enforcement Officer

The provisions of this code shall be enforced by the building official.

### 102.2 Restrictions on Employees

An officer or employee connected with the department, except one whose only connection is as a member of a board established by this act, shall not have a financial interest in the furnishing of labor, material or appliances for the construction, alteration, demolition, repair or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with his duties or with the interests of the department.

**102.3 Records**

The building official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.

**103 POWERS AND DUTIES OF THE BUILDING OFFICIAL**

**103.1 Right of Entry**

103.1.1 The building official or his authorized representative may enter any building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this code.

103.1.2 When entering a building, structure or premise that is occupied, the building official shall first identify himself, present proper credentials and request entry. If the building, structure or premise is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the building official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

103.1.3 No person, owner or occupant of any building or premise shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the building official or his authorized agent for the purpose of inspections pursuant to this code. Any person violating this section shall be prosecuted within the limits of the law as established by the proper governing authority.

**103.2 Inspections**

The building official, the fire official and other authorized representatives are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code

**103.3 Requirements Not Covered By Code**

Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this code, shall be determined by the building official.

**103.4 Liability**

Any officer or employee, or member of the Board of Adjustments and Appeals, charged with the enforcement of this code, acting for the applicable governing body in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provision of this code shall be defended by the legal

department of the applicable governing body until the final termination of the proceedings.

**103.5 Reports**

The building official shall annually submit a report to the chief administrator of the decisions rendered by the Board of Adjustments and Appeals during the preceding year. The report shall include a summary of the decisions of the Board of Adjustments and Appeals during said year.

**104 VIOLATIONS AND PENALTIES**

Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of a detailed statement or drawing submitted and approved thereunder, shall be prosecuted within the limits provided by state or local law. Each such person shall be deemed guilty of a separate offense for any violation of any of the provisions of this code, and upon conviction of any such violation such person shall be punished within the limits and as provided by state or local laws.

**105 BOARD OF ADJUSTMENTS AND APPEALS**

**105.1 Appointment**

A Board of Adjustments and Appeals shall be established for the express purpose of providing for the final interpretation of provisions of this code. The board shall consist of five members who are not employees of the jurisdiction having authority and shall be appointed by the chief appointing authority. The composition of the board shall be one engineer, one architect, and three members at large from the construction industry.

**105.2 Term of Office**

Of the members first appointed, two shall be appointed for a term of 1 year, two for a term of 2 years, one for a term of 3 years, and thereafter they shall be appointed for terms of 4 years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made.

**105.3 Quorum**

Three members of the board shall constitute a quorum. In varying the application of any provisions of this code or in modifying an order of the building official, affirmative votes of the majority present, but not less than three affirmative votes, shall be required. A board member shall not act in a case in which he has a personal interest.

**105.4 Records**

The building official shall be an ex-officio member of the





board, act as secretary and shall make a detailed record of all its proceedings. The record shall set forth the reasons for the board's decisions, the vote of each member participating therein, the absence of a member and any failure of a member to vote.

**105.5 Procedures**

The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet at regular intervals, to be determined by the chairman, or in any event, the board shall meet within 10 days after notice of appeal has been received.

**106 VALIDITY**

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this code.



## CHAPTER 2 DEFINITIONS

### 201 GENERAL

#### 201.1 Tense, Gender and Number

For the purpose of this code, certain abbreviations, terms, phrases, words and their derivatives shall be construed as set forth in this section. Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural number includes the singular.

#### 201.2 Words Not Defined

Words not defined herein shall have the meanings stated in the Standard Building Code, Standard Mechanical Code, Standard Plumbing Code, Standard Gas Code, Standard Housing Code or Standard Fire Prevention Code. Words not defined in the Standard Codes shall have the meanings stated in the Webster's Eighth New Collegiate Dictionary, as revised.

### 202 DEFINITIONS

**APPLICABLE GOVERNING BODY** — a city, county, state, state agency or other political government subdivision or entity authorized to administer and enforce the provisions of this code, as adopted or amended.

**APPROVED** — approved by the building official or other authority having jurisdiction.

**BUILDING** — any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for 50% of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purpose of this code each portion of a building separated from other portions by a fire wall shall be considered as a separate building.

**BUILDING OFFICIAL** — the officer or other designated authority charged with the administration and enforcement of this code, or his duly authorized representative.

**CHIEF APPOINTING AUTHORITY** — the person or persons designated by the laws of the local governing body as having authority to appoint persons to various boards.

**DEPARTMENT** — the building department or other agency charged with the enforcement of this code.

**OFFICE OF THE RECORDER** — that office, in the local governing body, responsible for recording deeds and other legal documents or actions.

**OWNER** — any person, agent, firm or corporation having a legal or equitable interest in the property.

**STRUCTURE** — that which is built or constructed.

**UNSAFE BUILDING** — any building or structure that has any of the following conditions, such that the life, health, property or safety of its occupants or the general public are endangered:

1. Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.
2. Any means of egress or portion thereof, such as but not limited to fire doors, closing devices and fire resistive ratings, is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.
3. The stress in any material, member or portion thereof, due to all imposed loads including dead load exceeds the stresses allowed in the Standard Building Code for new buildings.
4. The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the Standard Building Code for new buildings.
5. Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Standard Building Code for new buildings.
6. IS for any reason the building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
7. The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
8. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Standard Codes or of a city, county or state law.
9. Any building, structure or portion thereof that is in such a condition as to constitute a public nuisance.
10. Any building, structure or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.



## CHAPTER 3 INSPECTION AND NOTICE OF NONCOMPLIANCE

### 301 ACTION REQUIRED

#### 301.1 General

The building official shall inspect or cause to be inspected any building, structure or portion thereof which is or may be unsafe. After the building official has inspected or caused to be inspected a building, structure or portion thereof and has determined that such building, structure or portion thereof is unsafe, he shall initiate proceedings to cause the abatement of the unsafe condition by repair, vacation or demolition or combination thereof.

### 302 NOTICE

#### 302.1 Content

302.1.1 The building official shall prepare and issue a notice of unsafe building directed to the owner of record of the building or structure. The notice shall contain, but not be limited to, the following information:

1. The street address and legal description of the building, structure or premise.
2. A statement indicating the building or structure has been declared unsafe by the building official, and a detailed report documenting the conditions determined to have rendered the building or structure unsafe under the provisions of this code.
3. A statement advising that if the following required action as determined by the building official is not commenced within or completed by the time specified, the building will be ordered vacated and posted to prevent further occupancy until the work is completed and the building official may cause the work to be done and all costs incurred charged against the property or the owner of record.
  - 3.1. If the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within 60 days and continued to completion within such time as the building official determines. The notice shall also indicate the degree to which the repairs must comply with the provisions of the Standard Building Code, in accordance with 101.4.
  - 3.2. If the building or structure is to be vacated, the notice shall indicate the time within which vacation is to be completed.
  - 3.3. If the building or structure is to be demolished, the notice shall require that the premises be vacated within 60 days, that all required permits

for demolition be secured and that the demolition be completed within such time as determined reasonable by the building official.

4. A statement advising that any person having any legal interest in the property may appeal the notice by the building official to the Board of Adjustment and Appeals; and that such appeal shall be in writing in the form specified in 401 and shall be filed with the building official within 30 days from the date of the notice and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the owner of record and posted on the property in a conspicuous location. A copy of the notice and all attachments thereto shall also be served on any person determined from official public records to have a legal interest in the property. Failure of the building official to serve any person herein required to be served other than the owner of record shall *not* invalidate any proceedings hereunder *nor* shall it relieve any other person served from any obligation imposed on him.

302.1.3 The notice shall be served either personally or by certified mail, postage prepaid, return receipt requested, to each person at the address as it appears on the official public records. If addresses are not available on any person required to be served the notice, the notice addressed to such person shall be mailed to the address of the building or structure involved in the proceedings. The failure of any person to receive notice, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written declaration indicating the date, time and manner in which service was made and signed by the person served on by the return receipt.

#### 302.2 Recording of Notice

If the notice is not complied with nor an appeal filed within the allotted time, the building official shall file in the office of the recorder a certificate describing the property and certifying that the building or structure is unsafe and that the owner of record has been served. This certificate shall remain on file until such time as the conditions rendering the building or

structure unsafe have been abated. At such time, the building official shall file a new certificate indicating that corrective action has been taken and the building or structure is no longer unsafe from that condition.

### **303 STANDARDS FOR COMPLIANCE**

The following action shall be taken by the building official when ordering the repair, vacation or demolition of an unsafe building or structure.

1. The building shall be ordered repaired in accordance with the Standard Building Code or demolished at the option of the owner
2. If the building or structure poses an immediate hazard to life or to the safety of the public it shall be ordered vacated immediately.

### **304 POSTING OF NOTICE TO VACATE**

Every notice to vacate, in addition to complying with 302, shall be posted at each exit and entrance to the building or structure and shall state:

**THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL.**

Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents to remove such notice without written permission of the building official, or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.

## CHAPTER 4 APPEALS

### 401 RIGHT OF APPEAL

#### 401.1 Filing

Any person entitled to service in accordance with the provisions of Chapter 3 may appeal any action of the building official under this code to the Board of Adjustments and Appeals. Such appeal must be filed in writing with the building official within 30 days from the date of service and must contain at least the following information:

1. Identification of the building or structure concerned by street address or legal description.
2. A statement identifying the legal interest of each appellant.
3. A statement identifying the specific order or section being appealed.
4. A statement detailing the issues on which the appellant desires to be heard.
5. The legal signature of all appellants and their official mailing address.

#### 401.2 Hearing

Upon receipt of an appeal, the board shall as soon as practicable fix a date, time and location for the hearing of the appeal. The hearing date shall not be more than 60 days from the date the appeal was filed with the building official. Written notice of the time and location of the hearing shall be delivered personally or mailed to each appellant at the address on the appeal by certified mail, postage prepaid and receipt requested.

### 402 FAILURE TO APPEAR

Failure of any person to appear at the hearing set in accordance with the provisions of this chapter shall constitute a waiver of his right to an administrative hearing on the notice.

### 403 SCOPE OF HEARING

The hearing shall offer the appellant reasonable opportunity to be heard on only those specific matters or issues raised by the appellant in his appeal. The appellant may appear at the hearing in person or through his attorney or other designated representative.

### 404 STAYING OF NOTICE UNDER APPEAL

Except for a vacation order issued in accordance with 303, enforcement of any notice issued by the building official under the provisions of this code shall be held in abeyance during the course of an appeal.





## CHAPTER 5 RULES OF PROCEDURE FOR HEARING APPEALS

### 501 GENERAL

#### 501.1 Hearing Examiners

The board itself may conduct the appeals hearing or at its discretion may appoint one or more hearing examiners to conduct the appeals hearings. The examiner shall exercise all powers relating to the conduct of hearings until a report is submitted by him to the board.

#### 501.2 Reporting

A permanent record shall be made of all hearings and proceedings using the method of recording designated by the board. A transcript of the proceedings of all hearings shall, upon payment of the prescribed fees, be made available to any person on request.

#### 501.3 Reasonable Dispatch

The board shall proceed with reasonable dispatch to conclude any matter before it, with due regard to the convenience and necessity of the parties involved.

#### 501.4 Form of Notice

501.4.1 The hearing notice shall include but not be limited to the following information:

You are hereby notified that on the \_\_\_\_\_ day of 19 \_\_\_\_\_ at \_\_\_\_\_ o'clock, at \_\_\_\_\_, a hearing will be held before \_\_\_\_\_ to  
THE BOARD OR NAME OF HEARING EXAMINER

consider the appeal from the order of the building official regarding property located at \_\_\_\_\_. You may choose to be represented by counsel. You may present relevant evidence and will be given an opportunity to cross-examine all witnesses. You may request the issuance of subpoenas to compel witnesses to appear and/or for the production of other supporting data or documentation, by filling a written report with \_\_\_\_\_

BOARD OR HEARING EXAMINER

501.4.2 The hearing notice shall be served personally or mailed as required in 302.1.3 at least 15 days prior to the hearing date.

### 502 SUBPOENAS

#### 502.1 Filing

The board or hearing examiner may obtain the issuance and service of subpoenas for the attendance of witnesses or the production of evidence at the hearings. Subpoenas may be issued upon the request of any member of the board, the hearing examiner, or upon the written request of any party involved in the hearing. The issuance and service of subpoenas shall be in accordance with established law.

#### 502.2 Failure To Appear

Any person who refuses, without legal excuse, to respond to any subpoena lawfully issued and served may be prosecuted to the extent established by law.

### 503 PROCEDURES FOR HEARING

#### 503.1 Rules

503.1.1 Hearings shall not be required to be conducted in accordance with the technical rules relating to evidence and testimony.

503.1.2 The board may grant continuance for good cause

#### 503.2 Evidence

503.2.1 In any proceedings under this chapter any member of the board or the hearing examiner shall have the power to administer oaths and affirmations and to certify official acts.

503.2.2 Oral evidence shall be taken only on oath or affirmation.

503.2.3 Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence. The further use of hearsay evidence shall be limited to that which would be admissible in civil court.

503.2.4 Relevant evidence shall be admitted if it is the type on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil courts.

**503.3 Inspections**

The board or the hearing examiner may inspect any building, structure or premise involved in the appeal during the course of the hearing, provided the following are complied with:

1. Notice of such inspection is given to the parties prior to making the inspection, and
2. The parties are allowed to be present during the inspection, and
3. The inspector states for the record, upon completion of the inspection, the facts observed and any conclusions drawn therefrom.

**504 DECISION PROCEDURE**

**504.1 Board Hearing**

When an appeal is heard before the board itself, any member who did not hear the evidence presented or has not read the entire record of the proceedings shall not vote or take part in the decision.

**504.2 Hearing Before Examiner**

504.2.1 When an appeal is heard before an examiner, the examiner shall within a reasonable time, not to exceed 30 days from the date the hearing is closed, submit in writing a report to the board. Such report shall summarize the evidence submitted and considered and state precisely the examiner's findings, conclusions and recommendations. The report shall also contain a proposed decision that may be adopted by the board. All such reports shall become matters of public record and shall be mailed to each party on the date they are filed with the board.

504.2.2 The board shall set a time, date and location to consider the examiner's report. Such date shall not exceed 30 days from the date of receipt of the hearing examiner's report. Each interested party shall be notified by mail at least 5 days prior to the meeting date by the manner prescribed in 302.1.3.

504.2.3 If the proposed decision is not adopted as provided in Section 504.2.4, the board may decide the appeal upon the entire record before it, with or without taking additional evidence; or the cause may be referred back to a hearing examiner to take additional evidence.

504.2.4 The board may adopt or reject the hearing examiner's proposed decision in whole or in part and may modify the proposed decision.

504.2.5 If the proposed decision is not adopted as provided in 504.2.4, the board may decide the appeal upon the entire record before it, with or without taking additional evidence; or the cause may be referred back to a hearing examiner for additional evidence.

504.2.6 The final decision of the board shall be in writing and shall contain all findings of fact and detailed requirements to be complied with. A copy of the decision shall be delivered to the appellant either personally or by certified mail, postage prepaid, return receipt requested.

504.2.7 The effective date of the board's final decision shall be as stated therein.

**505 RECOURSE**

If the appellant is aggrieved by the decision of the Board of Adjustments and Appeals, nothing in this code shall be construed to deprive him of seeking redress in the civil or other applicable court. Said appeal must be filed within 15 days from the effective date of the board's final decision.

## CHAPTER 6 IMPLEMENTATION

### 601 COMPLIANCE

#### 601.1 Failure To Respond

Any person who, after the order of the building official or the decision of the board becomes final, fails or refuses to respond to the direction of such order, shall be prosecuted to the extent provided for by law.

#### 601.2 Failure To Commence Work

601.2.1 Whenever the required repair, vacation or demolition is not commenced within 30 days after the effective date of any order, the building, structure or premise shall be posted as follows:

**UNSAFE BUILDING  
DO NOT OCCUPY**

It shall be punishable by law to occupy this building or remove or deface this notice  
(Specify the applicable local law and the penalty for violation thereof) building official

City of \_\_\_\_\_

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and nil debris removed from the premise. The cost of repair or demolition shall constitute a lien on the property and shall be collected in a manner provided by law.

601.2.3 Any monies received from the sale of a building or from the demolition thereof, over and above the cost incurred, shall be paid to the owner of record or other persons lawfully entitled thereto.

### 602 EXTENSION OF TIME

The building official may approve one or more extensions of time as he may determine to be reasonable to complete the required repair or demolition. Such requests for extensions shall be made in writing stating the reasons therefor. If the extensions of time, in total, exceed 120 days, they must also be approved by the board which may act without further public hearing.

### 603 INTERFERENCE

No person shall obstruct or interfere with the implementation of any action required by the final notice of the building official or the board. Any person found interfering or obstructing such actions shall be prosecuted to the extent provided for by law.

### 604 PERFORMANCE OF WORK

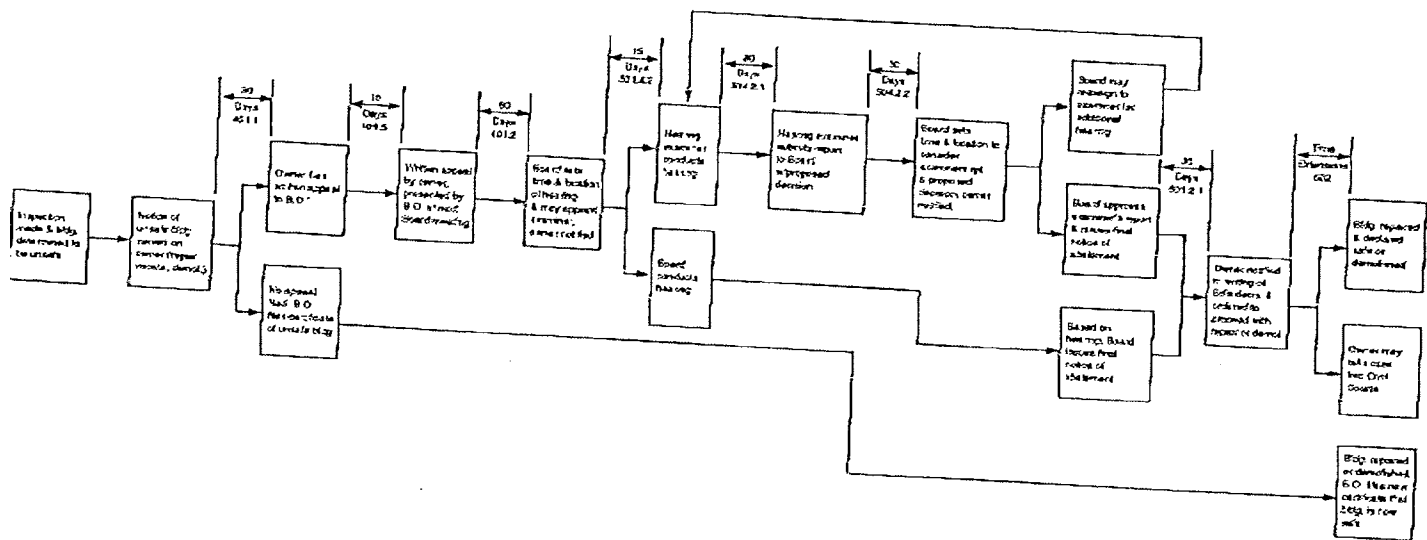
The repair or demolition of an unsafe building as required in the notice by the building official or the final decision by the board shall be performed in an expeditious and workmanlike manner in accordance with the requirements of this code and all other applicable codes and accepted engineering practice standards.



## CHAPTER 7 RECOVERY OF COST OF REPAIR OR DEMOLITION

### 701 GENERAL

Whenever a building or structure is repaired or demolished in accordance with the provisions of this code and the cost of such repair or demolition is borne by the city, county or state, procedures for the budgeting, expenditure and recovery of such funds shall be established.



\* B.O. = building official  
 FLOW CHART FOR USE WITH "STANDARD UNSAFE BUILDING ABATEMENT CODE"  
 Note: This Chart is For Informational Purposes Only and is Not Enforceable.

# MEMORANDUM

*City of Marathon*

**TO:** Mayor, City Council and City Manager

**FROM:** Alexander L. Palenzuela

**DATE:** June 12,2002

**MEETING DATE:** July 9,2002

**SUBJECT:** Ordinance Amending Section 6-16.2 of the Code relating to Unsafe Structures (the "Ordinance")

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**ITEM:**

This Ordinance passed on First Reading at the July 11, 2002 City Council Meeting. The proposed Ordinance deletes the existing provisions of the City Code relating to unsafe structures in order to adopt the appeals procedures set forth in the Standard Unsafe Building Abatement Code and creates an Unsafe Structures Board.

**STATEMENT OF PURPOSE:**

This ordinance is intended to adopt the procedures of the Standard Unsafe Building Abatement Code for appeals of the decisions of the Building Official relating to unsafe structures and to create an Unsafe Structures Board to hear such appeals. Subsequent to the adoption of this ordinance, the Council will be appointing the members of the Unsafe Structures Board via a separate resolution. A draft of the resolution is included with the agenda for informational purposes only. A copy of the Standard Unsafe Building Abatement Code is also included with the agenda.

**ADDITIONAL INFORMATION:**

None.

**BUDGET IMPACT:**

Staff time is required to prepare cases and appear at Board hearings.

**AGENCY IMPACT:**

None.

**STAFF IMPACT:**

A secretary to the Unsafe Structures Board must be appointed.

**RECOMMENDATION:**

At Council's discretion.