

ARTICLE III. - UNSAFE AND UNSANITARY BUILDINGS

DIVISION 1. - GENERALLY

Sec. 14-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building means any structure or part thereof not a dwelling as defined in this section.

Dwelling means any structure or part thereof used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Official means the city building official.

Owner-occupant means the holder of the title in fee simple and every mortgagor of record.

Parties in interest means all individuals, associations and corporations who have interests of record in a dwelling or building and any who are in possession thereof.

Public authority means any housing authority or any officer who is in charge of any department or branch of the government of the city, the county or the state relating to health, fire, building regulations or other activities concerning dwellings or buildings in the city.

(Code 1986, § 31.017(a))

Cross reference— Definitions generally, § 1-2.

Sec. 14-67. - Standard Unsafe Building Abatement Code adopted.

The 1985 edition of the Standard Unsafe Building Abatement Code, as adopted by the Southern Building Code Congress International, Inc., is adopted and made a part of the Code of Ordinances for the purpose of regulating nuisances, dwellings unfit for habitation, and dangerous buildings and providing for the abatement of such conditions.

(Code 1986, § 31.017(b))

Sec. 14-68. - Duties of official.

- (a) The powers conferred upon the building official by this article shall be in addition and supplemental to the powers conferred upon the building official by any other section of this Code or city ordinance.
- (b) The building official shall have such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article. Without limiting the generality of the foregoing, the building official shall have the following powers, in addition to others granted, to:
 - (1) Investigate dwelling and building conditions in the city in order to determine which dwellings therein are unfit for human habitation and which buildings are dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this article.
 - (2) Administer oaths, affirmations and examine witnesses and receive evidence.
 - (3) Enter upon and within premises, dwellings and buildings for the purposes of making examinations and investigations, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.
 - (4) Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purpose of this article.

- (5) Delegate any of his functions and powers under this article to such officers and agents as he may designate.

(Code 1986, § 31.021)

Sec. 14-69. - Examination of dwellings and buildings.

It shall be the duty of the building official to diligently examine all dwellings and buildings located in the city for the purpose of locating and taking action with respect to such dwellings and buildings as appear to be unfit for human habitation and such buildings as appear to be dangerous.

(Code 1986, § 31.022)

Sec. 14-70. - Reports required of employees of fire, police and health departments.

The employees of the fire department, police department and health department shall make a report in writing to the building official of every building or structure which is, may be, or is suspected of being unfit for human habitation or a dangerous building within the terms of this article. Such report shall be delivered to the building official within 48 hours of the discovery of such building or dwelling by the employee of the fire, police or health department.

(Code 1986, § 31.032)

Sec. 14-71. - Conditions rendering dwelling unfit or building dangerous.

The building official shall determine that a dwelling is unfit for human habitation or a building is dangerous if he finds that any of the following conditions exist in such dwelling:

- (1) Interior walls or other vertical structural members which list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside the middle third of its base.
- (2) Supporting members which show 33 percent or more of damage or deterioration, or nonsupporting enclosing or outside walls or coverings which show 50 percent or more of damage or deterioration.
- (3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purposes used.
- (4) Such damage by fire, wind or other causes as endangers the lives, safety or welfare of the occupants or other people in the city.
- (5) Dilapidation, decay, insanitation or disrepair which is likely to cause sickness or disease or to work injury to the health, safety or welfare of the occupants or other people of the city.
- (6) Inadequate facilities for egress in case of fire or panic.
- (7) Defects therein increasing the hazards of fire, accident or other calamities.
- (8) Such lack of adequate ventilation, light, heating or sanitary facilities as endanger the health, morals, safety or general welfare of the occupants or other city residents.
- (9) Violation of any provision of the building regulations or fire prevention laws or ordinances of the state or city.
- (10) Any room, except a bathroom, with window area less than one-tenth of the floor area or with window area of one-tenth or more of the floor area, but which window area cannot be opened so that the openings will equal as much as 1/20 of the floor area.
- (11) A bathroom which does not have at least one outside window which can be opened or does not have other means of adequate ventilation.
- (12) Such relationship to adjoining buildings or dwellings that light or air is inadequate or that a fire hazard exists.

(Code 1986, § 31.023)

Sec. 14-72. - Minimum facilities.

- (a) A dwelling shall be construed by the building official to be unfit for human habitation or a dangerous building, and he shall so find, if the dwelling does not have minimum facilities consisting of the following:
 - (1) Inside running water and an installed kitchen sink.
 - (2) Inside bathing facilities which shall consist of an installed tub or shower.
 - (3) An installed water closet. If the water closet is built on a porch, it shall be enclosed for privacy and from the weather, with running water.
 - (4) Installed electric lighting facilities.
 - (5) Screens provided to effectively cover all outside openings such as windows, doors, etc., with mesh of such fineness as is ordinarily used in dwelling units to prevent the entrance of flies, mosquitoes and other similar pests.
- (b) All of the minimum requirements in subsection (a) of this section shall be constructed and installed in accordance with the applicable sections of this Code or city ordinances.

(Code 1986, § 31.024)

Sec. 14-73. - Dangerous buildings.

It is found as a fact that there exist in the city buildings which are dangerous due to dilapidation; due to defects increasing the hazards of fire, accident or other calamities; due to lack of ventilation, light or sanitary facilities; and due to other conditions rendering such buildings unsafe, insanitary or detrimental to the health, safety or morals, or otherwise inimical to the welfare, of the city residents.

(Code 1986, § 31.020)

Sec. 14-74. - Nuisances.

Any building, part of any building, charred parts or remains of any building, or any structure or debris which may be on any premises within the city limits and that may be dangerous to the safety of the people of the city or to adjacent property or that may be a fire menace or that may be injurious to the health of the people or against the sanitary regulations of the city or of the state or the state board of health is declared a nuisance and shall be abated in the manner as provided in division 1 of article II of chapter 26.

(Code 1986, § 31.018)

Cross reference—Nuisances, § 26-31 et seq.

Sec. 14-75. - Existence of dwellings unfit for habitation.

It is found as a fact that there exist in the city dwellings which are unfit for human habitation due to dilapidation; due to defects increasing the hazards of fire, accident or other calamities; due to lack of ventilation, light or sanitary facilities; and due to other conditions rendering such dwellings unsafe or insanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare, of the city residents.

(Code 1986, § 31.019)

Sec. 14-76. - Notification of demolition in historic district.

- (a) If the owner-occupant, agent or person in control of a contributing building in the city historic district seeks to obtain a permit for the demolition of the building or if a building in the historic district is condemned by the building official, it is incumbent upon and required of the building official not to issue such permit for demolition or proceed with the condemnation of such building until the building official gives written notice to the Bahama Conch Community Land Trust, Historic Florida Keys Foundation, Inc., and Old Island Restoration Foundation, Inc., that such building is sought to be voluntarily demolished or that such building has been condemned and will be demolished under the authority and direction of the city commission, and the building official shall publish notice of the proposed demolition in a newspaper of general circulation in the city.
- (b) Upon giving notice to the corporations named in subsection (a) of this section, the corporations or any of them shall have 30 days to advise the building official, in writing, that the corporation intends to negotiate with the owner-occupant, agent or person in control seeking to obtain a permit to demolish the building or the owner-occupant, agent or person in control of the building condemned and offer assistance to the owner-occupant, agent or person in control in the protection of the building for the purpose of removing the building, if voluntarily sought to be demolished, or restoring the building, if condemned, to meet the minimum requirements of the city building code. Upon such notification from the corporation, the building official shall not issue a permit for demolition or proceed with condemnation of such building for a period of 30 days.
- (c) If the corporations show no interest in the building at the expiration of the 30 days, the building official shall either issue the permit to demolish the building or proceed with the condemnation of the building, if so condemned.

(Code 1986, § 31.041)

DIVISION 2. - DETERMINATIONS AND COMPLAINT PROCEDURES

Sec. 14-106. - Issuance of complaint; hearing.

Whenever a petition is filed with the building official by a public authority or whenever it appears to the building official, on his own motion, that any dwelling is unfit for human habitation or any building is dangerous, the building official shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner-occupant of and parties in interest in such dwelling or building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the building official at a place therein fixed within the city, not less than ten days nor more than 30 days after the serving of such complaint. The owner-occupant and parties in interest shall have the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building official.

(Code 1986, § 31.027(a))

Sec. 14-107. - Order to repair, alter or improve building.

If, after such notice and hearing as provided in section 14-106, the building official determines that the dwelling under consideration is unfit for human habitation or the building under consideration is dangerous, he shall state in writing his findings of fact in support of such determination. The building official shall issue and cause to be served upon the owner-occupant thereof an order requiring the owner-occupant, within the time specified therein, to repair, alter or improve such building so as to render it fit for human habitation or to vacate and close the dwelling as a human habitation, or it shall require the owner-occupant within the specified time therein to repair, alter or improve such building so as to render it safe or to vacate and close the building for any and every use.

(Code 1986, § 31.027(b))

Sec. 14-108. - Noncompliance by owner-occupant of dwelling.

If the owner-occupant of a dwelling fails to comply with the order to repair, alter or improve or to vacate and close the dwelling as provided in this division, the building official may cause such dwelling to be repaired, altered or improved or to be vacated and closed. The building official shall cause to be posted on the main entrance of any dwelling so closed a placard with the following statement:

This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.

(Code 1986, § 31.027(c))

Sec. 14-109. - Noncompliance by owner-occupant of building.

If the owner-occupant of a building fails to comply with an order to repair, alter or improve or to vacate and close a building as provided in this division, the building official may cause such building to be repaired, altered or improved or to be vacated and closed. The building official shall cause to be posted on the main entrance of any building so closed a placard with the following statement:

This building is dangerous. It is hereby closed and its use is prohibited.

(Code 1986, § 31.027(d))

Sec. 14-110. - Failure to comply with order to remove or demolish.

If the owner-occupant fails to comply with an order to remove or demolish the dwelling or building, the building official may cause such dwelling or building to be removed or demolished. The duties of the building official set forth in sections 14-108, 14-109 and this section shall not be exercised until the city commission shall have ordered the building official to proceed to effectuate the purposes of this article with respect to the particular property which the building official shall have found to be unfit for human habitation or dangerous and which property shall be described in an ordinance or a resolution of the commission.

(Code 1986, § 31.027(e))

Sec. 14-111. - Costs.

The amount of the cost of such repair, alteration, or improvement or vacating and closing or removal or demolition by the building official pursuant to this division shall be a lien against the real property upon which such cost was incurred. Such cost shall be placed upon the city's tax books against the property and may be collected and such lien may be foreclosed, in the same manner as taxes and tax liens are collected and foreclosed, or by suit, as the city may determine. If the dwelling or building is removed or demolished by the building official, he shall sell the materials of such dwelling or building and shall credit the proceeds of such sale against the cost of removal or demolition, and any balance remaining shall be deposited in the registry of the county circuit court by the building official, to be secured in such a manner as may be directed by such court and disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(Code 1986, § 31.027(f))

Sec. 14-112. - Validity of proceedings.

Failure on the part of any owner-occupant or party in interest to receive or have served upon him any complaint, notice or order provided for in this division shall not affect or invalidate the proceedings with respect to any other owner-occupant or party in interest or any other person.

(Code 1986, § 31.027(g))

Sec. 14-113. - Emergency cases.

In emergency cases where it reasonably appears there is immediate danger to the life or safety of any person or to the safety of other property, unless a dwelling unfit for human habitation or a dangerous building is immediately repaired, demolished or vacated, the building official shall cause the immediate repair or demolition of such dwelling or building. The cost of such repair or demolition shall be recovered and collected as is provided in section 14-111 or the building official may revoke the certificate of occupancy and order vacation of the premises until necessary repairs, etc., render the premises fit for use or habitation.

(Code 1986, § 31.028)

Sec. 14-114. - Service and filing of complaints, notices and orders.

- (a) Complaints, notices or orders issued by the building official pursuant to this division shall be served upon persons either personally or by registered mail. If the whereabouts of any person is unknown and the whereabouts cannot be ascertained by the building official in the exercise of reasonable diligence and the building official shall make an affidavit to that effect, the serving of such complaint, notice or order upon such person may be made by publishing the notice once a week for two successive weeks in a newspaper published in the city, service being deemed complete upon the date of the last publication. A copy of any notice, complaint or order served by publication shall be posted in a conspicuous place on the premises affected by the notice, complaint or order on or before the date of the last publication.
- (b) A copy of such complaint or order shall also be filed by the building official in the office of the clerk of the county circuit court as in cases of lis pendens notice as provided by law.

(Code 1986, § 31.029)

Sec. 14-115. - Unauthorized removal of complaints, notices or orders.

No person without the written consent of the building official shall remove or permit the removal of any complaint, notice or order posted in accordance with sections 14-108 and 14-109.

(Code 1986, § 31.030)

Sec. 14-116. - Failure to comply with order.

If any order issued and served in accordance with this division is not complied with within the time specified therein, the dwelling or building with respect to which the order has been issued is declared to be a public nuisance. It shall be unlawful for any person having knowledge of the issuance of such order to occupy, as a human habitation, or to use such dwelling or building or any part thereof or to suffer or permit the dwelling or building or any part thereof to be occupied as a human habitation or used therefor.

(Code 1986, § 31.031)

Sec. 14-117. - Receiving rentals after finding unfit.

When the building official finds that a dwelling is unfit for human habitation within the meaning of this article and has notified the owner-occupant to such effect and the time limit set by the building official for the correction of defects of vacating the dwelling has expired, no person shall receive rentals for or offer for rent or occupy such dwelling unit as a human habitation.

(Code 1986, § 31.025)