

ORDINANCE NO. 2019 - 005

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF
THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING
CHAPTER 14 "MINIMUM PROPERTY MAINTENANCE AND
OCCUPANCY CODE" OF THE CITY OF HALLANDALE BEACH
CODE OF ORDINANCES TO AMEND PROCEDURES FOR THE
DESIGNATION OF UNSAFE STRUCTURES IN THE CITY;
PROVIDING FOR CONFLICT; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CODIFICATION; AND
PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 553.775, Florida Statute provides, "It is the intent of the Legislature that the Florida Building Code and the Florida Accessibility Code for Building Construction be interpreted by building officials, local enforcement agencies, and the commission in a manner that protects the public safety, health, and welfare at the most reasonable cost to the consumer by ensuring uniform interpretations throughout the state and by providing processes for resolving disputes regarding interpretations of the Florida Building Code and the Florida Accessibility Code for Building Construction which are just and expeditious"; and

WHEREAS, enacting procedures regarding the designation of unsafe structures in the City will provide consistency and allow for the speedy removal of unsafe structures which pose a risk to the health and safety of the community; and

WHEREAS, the Mayor and the City Commission have determined that it is in the best interest of the residents of the City to promote the public health, safety, and general welfare by amending Chapter 14 "Minimum Property Maintenance and Occupancy Code" to amend procedures for the designation of unsafe structures in the City.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF HALLANDALE BEACH, FLORIDA:

SECTION 1. The foregoing "Whereas" clauses are hereby incorporated herein.

SECTION 2. Chapter 14 "Minimum Property Maintenance and Occupancy Code" of the Code of Ordinances of the City of Hallandale Beach, Florida is hereby amended to read as follows:

Sec. 14-85. - Designation of unsafe structures.

(a) General.

35 (1) Definitions:

- 36 a. Dilapidated/dilapidation means structures, dwellings, dwelling units, multiple
37 dwellings, apartments, including garages, sheds, and similar accessory
38 buildings and structures and fences which, by reason of inadequate
39 maintenance or abandonment, are a threat to health and safety, or which
40 constitute a fire hazard or are otherwise dangerous to human life or property.
- 41 b. Interested party means a person or entity who has an interest in real estate
42 which is subject to condemnation or demolition proceedings, including the
43 owner of record title, lessees, tenants, or occupants, if any, and any persons of
44 record interest, including mortgagee, contract purchaser, agent with power of
45 attorney, or person claiming an interest under lis pendens or the like.
- 46 c. Lessee means any person who has a possessory interest in any dwelling or
47 structure.
- 48 d. Manmade body of water means, but shall not be limited to, a swimming pool, fish
49 pond, spa or hot tub, but excludes ponds created pursuant to the city, state,
50 federal or regional regulations or by the city for stormwater retention and
51 treatment purposes.
- 52 e. Occupant means any person living, sleeping, cooking, or eating in or having
53 actual possession of a dwelling.
- 54 f. Structure means that which is built or constructed, an edifice or building of any
55 kind, including garages, sheds, and similar accessory buildings and structures
56 and fences, or any piece of work artificially built up or composed of parts joined
57 together in some definite manner. The term "structure" shall be construed as if
58 followed by the words "or part thereof."
- 59 g. Tenant means any person living, sleeping, cooking, or eating in or having
60 actual possession of a dwelling.
- 61 h. Unfit means unsanitary, unsuitable, or improper for the use or occupancy for
62 which it is intended.
- 63 i. Unsafe means structurally unsafe, unstable, inadequately provided with exit
64 facilities, not provided with permanent means of adequately securing all
65 openings against unauthorized entry and deterioration from weather,

66 constituting a fire, constituting a hazard to health or safety due to inadequate
67 maintenance, dilapidation, abandonment, or otherwise dangerous to life or
68 property or to the health, safety, or welfare of the occupants thereof or the
69 surrounding areas.

70 i. Unsanitary means, but is not limited to, inadequate or malfunctioning water or
71 plumbing system(s), sanitary facilities, or waste disposal systems, and
72 infestation within or around a structure of insects, rodents, or other pests.

73 (2) All structures deemed as unsafe structures by the building official shall be
74 processed in accordance with the Florida Building Code.

75 Buildings or structures that are, or hereafter shall become, unsafe, unsanitary or
76 deficient, and dilapidated facilities, with inadequate means of egress, or which
77 constitute a fire or windstorm hazard, or are otherwise dangerous to human life or
78 public welfare by reason of illegal or improper use, occupancy or maintenance, or
79 which have been substantially damaged by the elements, acts of God, fire,
80 explosion or otherwise, shall be deemed unsafe structures and a permit shall be
81 obtained to demolish the structure, or where specifically allowed by this article, to
82 bring the building into compliance with the applicable codes as provided herein.

83 (3) Incomplete buildings commenced without a permit or for which the permit has
84 expired, or completed buildings commenced without a permit or for which the permit
85 has expired, prior to completion and no certificate of occupancy has been issued,
86 shall be presumed and deemed unsafe and a permit shall be obtained to demolish
87 the structure or bring the building into compliance with the applicable codes as
88 provided herein.

89 (4) Buildings which meet the physical criteria of unsafe structures, set forth in this
90 section, and are ordered to be repaired by the building official or the unsafe
91 structures board, in the manner more particularly set forth below, which are not
92 completed or repaired and brought into full compliance with the building code within
93 the reasonable time allowed by the building official or the unsafe structures board,
94 will be demolished.

95 (5) Swimming pools that contain stagnant water are deemed unsanitary and dangerous
96 to human life and the public welfare. If the stagnant water is not removed and all
97 repairs made and brought into full compliance with the building code within a

reasonable time, as allowed by the building official, then these swimming pools will be demolished and filled in.

(6) Buildings or structures subject to the recertification requirements of the Florida Building Code or Broward County Amendments to the Florida Building Code which the owner fails to timely respond to the notice of required inspection or fails to make all required repairs or modifications found to be necessary resulting from the recertification inspection by the deadline specified in the Code or any written extension granted by the building official will be demolished.

(b) Physical criteria.

(1) A building shall be deemed a fire hazard and/or unsafe when any of the following criteria are met:

- a. It is vacant, unguarded and open at doors or windows.
- b. There is an accumulation of debris or other material therein representing a hazard of combustion.
- c. The building condition creates hazards with respect to means of egress and fire protection as provided herein for the particular occupancy.
- d. It meets the criteria of a vacant and abandoned property under section 14-13 of this Code or under chapter 39 of the Broward County Code.

(2) A building, or part thereof, shall be presumed to be unsafe when any of the following conditions are found to exist

- a. There is a failure, hanging loose or loosening of any siding, block, brick, or other building material.
- b. There is a deterioration of the structure or structural parts.
- c. The building is partially destroyed.
- d. 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.
- e. The electrical or mechanical installations or systems create a hazardous condition contrary to the standards of the building code.
- f. An unsanitary condition exists by reason of inadequate or malfunctioning sanitary facilities or waste disposal systems.

- 128 g. By reasons of use or occupancy the area, height, type of construction, fire-
129 resistivity, means of egress, electrical equipment, plumbing, air conditioning or
130 other features regulated by this Code do not comply with this Code for the use and
131 group or occupancy.
- 132 h. The construction, installation of electrical, plumbing or other equipment therein or
133 thereon, or the partial construction or installation of electrical, plumbing or other
134 equipment has been commenced or completed without a permit therefore having
135 been obtained or where the permit has expired prior to completion and the
136 issuance of a certificate of occupancy or certificate of completion.
- 137 i. The construction, installation of electrical, plumbing or other equipment therein or
138 thereon, or the partial construction or installation of electrical, plumbing or other
139 equipment has not been completed.
- 140 j. The building or structure is vacant and abandoned, and covered at doors or
141 windows with materials not previously approved by the building official, or for a
142 period exceeding the maximum limitations set forth in this article.
- 143 k. By reason of illegal or improper use, occupancy or maintenance does not comply
144 with the building code, or the code in effect at the time of construction.
- 145 l. The building or part thereof meets the physical criteria of an unsafe structure set
146 forth above and has not been repaired and brought into compliance with the
147 building code following the expiration of the reasonable periods allowed by the
148 building official, or an unsafe structures board for such repairs.
- 149 (c) Valuation criteria.
- 150 (1) If the cost of completion, alteration, repair and/or replacement of an unsafe building or
151 structure or part thereof exceeds 50 percent of its value, such building shall be
152 demolished by the owner and removed from the premises. If the cost of completion,
153 alteration, repair and/or replacement of an unsafe building or structure or part thereof
154 does not exceed 50 percent of such replacement cost, such building or structure may
155 be repaired and made safe, as provided in the Florida Building Code.
- 156 (2) If the cost of structural repair or structural replacement of an unsafe building or
157 structure or part thereof exceeds 33 percent of the structural value such building or
158 structure or part thereof shall be demolished and removed from the premises; and if

the cost of such structural repairs does not exceed 33 percent of such replacement cost, such building or structure or part thereof may be structurally repaired and made safe, as provided herein.

(3) In order to determine the value of a building or structure and the cost of alterations, repairs and replacement, the guides and standards provided in the Florida Building Code existing buildings shall apply.

(4) An exception to the above percentages may be recognized provided:

- a. The owner of the property has the ways and means to complete the work; and
- b. All imminent danger has been removed from the site; and
- c. All applicable zoning regulations are met; and
- d. All applicable requirements of other departments and agencies are met; and
- e. Criteria noted in the Florida Building Code are followed; and
- f. Any remaining portion of the structure to be used in rebuilding is certified as safe by a registered engineer or architect.

(d) Inspection of unsafe buildings and structures. The building official, on his or her 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 article, the building official shall proceed in the manner set forth in this article.

(e) Emergency action. When in the opinion of the building official, there is actual or immediate danger of the failure or collapse of a building or structure, or there is a health, windstorm or fire hazard, he may order the occupants to demolish, vacate, temporarily close for use or occupancy the rights-of-way thereto, sidewalks, streets or adjacent buildings or nearby area and institute other such temporary safeguards pursuant to Subsection(f) or immediate demolition pursuant to Section 14-86(g), including securing the building or structure or any demolition or partial demolition, as he may deem necessary under the circumstances, and may employ the necessary labor and materials to perform the required work as expeditiously as possible. In such event, the operation of the notice and hearing requirements of this article shall be suspended as reasonably necessary in the opinion of the building official to redress the emergency situation. Costs incurred in the performance of such emergency work shall be paid by the owner of the property and upon the recording in the public records of this county a certificate executed by the building official, certifying the

amount so expended, the same shall become a special assessment lien against the property involved.

(f) Securing unsafe structures.

(1) When a structure is required to be secured, open windows and doors shall be secured with exterior plywood and suitably coated with an appropriate neutral color blending with or harmonizing with the exterior colors of the building so as to be as inconspicuous as possible.

(2) When securing with exterior plywood is not possible because existing structural damage or design features will not support a sound, secure application of plywood or for any other reason, the code inspector shall order securing against access and shall specify the industrial standard method and materials to be installed. Manmade bodies of water must be secured in a manner so as to eliminate any drowning or infection hazard, or must be filled completely with clean fill dirt or sand and adequate drainage provided so that water is not retained, does not accumulate and does not pond.

(3) In default of the owners or other parties of interest repairing or demolishing, removing, or securing of such dwelling or structure, including an accessory building or structure or manmade body of water, within the specified time or such other reasonable time fixed in the notice and order of the code inspector, the code inspector may order vacation of the premises.

(4) All unfit or unsafe structures or manmade bodies of water which have been secured as a result of a notice and order pursuant to this section shall be subject to inspection, and the owner of the dwelling or structure shall be assessed a fee for each and every such inspection. Inspection fees shall be set by resolution of the city commission.

Sec. 14-86. - Action to be taken upon refusal, failure or neglect to remove a violation;
Notice of unsafe structure

(a) ~~Upon the refusal, failure or neglect of the persons served with an order issued by the code enforcement board to remove a violation of a dwelling, dwelling unit, hotel, hotel unit, roominghouse, rooming unit, building or structure, the board's order shall be filed as a lien against the property. If the enforcing officer determines the continuing violation presents an~~

unsafe or unsanitary condition or danger to the public health or safety, the property shall be cited under section 202 of the building code. The property owner will be brought before the unsafe structures board in accordance with such section 202.

(b) If the enforcing officer determines the property requires more immediate action, the enforcing officer may take such emergency action as deemed necessary as prescribed by section 202.5 of the building code. The enforcing officer shall not take such emergency action without first conferring with the city manager and the city attorney. Costs incurred in the performance of such emergency action shall be paid by the appropriate government authority; and upon the recording in the public records of this county, a certificate executed by the enforcing officer, certifying the amount so expended and why expended, shall become a lien against the property involved. The city shall, in such case, be entitled to recover all attorney's fees.

(c) The building code is incorporated by reference as an alternative procedure for demolition of unsafe or unsanitary structures is as follows:

[Notice of unsafe structure.] Upon observation of any one of the above criteria in Section 14-85(b) any city enforcement personnel shall be authorized to post and shall post a notice in a conspicuous location on the building or structure that has been determined to be unsafe.

(1) The posted notice shall read substantially as follows:

UNSAFE BUILDING. This building or structure is, in the opinion of the Building Official, unsafe. THIS BUILDING SHALL BE VACATED--SHALL NOT BE OCCUPIED. The owner should contact the City of Hallandale Beach Building Division immediately. THIS NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. DATE (insert date posted).

(2) Unless otherwise prescribed by the City Official or by an order issued by a court of competent jurisdiction, it shall be unlawful for any person to enter such a dwelling or structure except for the purpose of making required repairs or demolishing it.

(3) No person shall occupy or let to another for occupancy such a posted building or structure except as provided for in this article. If the dwelling or structure is occupied at the time of the posting, the dwelling or structure must be vacated within 24 hours unless otherwise prescribed by the City Official for good and sufficient reasons after the notice is posted. The owner shall immediately begin action to vacate the structure or to bring it into compliance within the time prescribed.

(4) It shall be unlawful for any person to remove or deface the placard which has been posted on an unsafe or unfit dwelling or structure, and the placard shall remain until such time as the City Official requires the placard to be removed.

(5) If, after inspection, the City Official determines that the dwelling or structure is uninhabited, the City Official shall cause to be posted a "No Trespassing" sign to prevent entry into the premises by third parties who might be exposed to the risk of danger created by the unsafe structure. It shall be unlawful for any person to remove or deface the "No Trespassing" sign, and it shall remain until such time as the City Official requires it to be removed.

(6) All structures that meet any of the criteria from subsection (c)(1) above and have been posted with the requisite notice, must be approved by the building division based upon all of the following inspections before the structure can be deemed safe for use:

- a. An electrical inspection by a state certified electrician;
- b. A plumbing inspection by a state licensed plumber; and
- c. An inspection by a state licensed mold inspector; and
- d. An inspection by a state licensed structural engineer; and
- e. An inspection by a state certified pest control operator.

Upon completion of the inspections described herein, an inspection report shall be filed with the building division for approval. The building official shall prescribe the forms to be used for the inspections described herein and shall be authorized to charge a fee for the review of the inspection reports. Each inspection report shall certify that there is currently no unsafe, hazardous, or unsanitary conditions currently existing in the structure, all building code violations corrected and the structure is safe for occupancy. No building deemed unsafe pursuant to this section shall be occupied until the results from the required inspections have been reviewed, and all permits have been obtained to bring the structure back into compliance with the building code. Nothing herein shall relieve the owner from the requirement to obtain permits for any repairs required to meet the requirements of this section.

(b) Unsafe structures meeting criteria for immediate demolition.

(1) The provisions below shall apply to buildings or structures meeting the criteria for immediate demolition.

285 (2) The building official shall prepare a notice of violation. The notice shall state in
286 summary form the nature of the defects which constitute a violation of this article and
287 shall order the structure to be demolished within such time as is reasonable, subject to
288 extension when requested in writing within the reasonable discretion of the building
289 official. The notice shall state that the specific details concerning the violations can be
290 obtained in writing from the building official upon request. In addition, the notice will
291 explain the right of appeal of the decision of the building official to the unsafe structures
292 board, in its appellate capacity, and advise that unless the decision is appealed, the
293 building or structure shall be demolished without further notice.

294 (3) The notice of violation shall be affixed to the structure concerned. The building official
295 shall also affix to the structure notice of the hearing of the unsafe structures board
296 scheduled to consider any appeal of the decision of the building official in connection
297 with the structure. The notice of hearing shall be issued by the director of the building
298 and code compliance department or his designee for appeals to an unsafe structures
299 board advising persons to appear before the board to show cause why the decision of
300 the building official should not be carried out. The hearing shall be scheduled at the
301 next available unsafe structures board hearing to ratify the action.

302 (4) Within ten working days of posting the notice of violation and notice of hearing, the
303 building official shall send written notice of violation and notice of hearing to the owner
304 and any interested party. For these purposes, the owner shall be the taxpayer as
305 reflected in the most recently certified real property ad valorem tax roll of Broward
306 County; provided however, where the records of the Broward County Property
307 Appraiser indicate that ownership has changed, the owner shall be the taxpayer as
308 reflected in those records. An interested party shall be the owner and any other person
309 or entity who has previously requested real property ad valorem tax notices with
310 respect to the subject property in accordance with Florida Statutes, as the same may
311 be renumbered or amended from time to time. The notice of violation and notice of
312 hearing shall be sent by certified or first class mail to all such parties' last known
313 addresses as reflected in the records of the Broward County Property Appraiser.
314 Failure to receive such notice or the lack of a signed return receipt shall not invalidate
315 the notice.

316 (5) Upon expiration of the period of appeal provided in the notice of violation, the building
317 official may file an appropriate instrument in the office of the clerk of the circuit court to

be recorded in the public records of this county, indicating that the property is in violation of the building code. The recording of the notice shall constitute constructive notice of the violation to all concerned, subsequent purchasers, transferees, mortgagees, lessees, grantees and all persons claiming or acquiring interest in the property. In the event that the violation is corrected, the building official shall file proof of the same upon payment for fees incurred.

(6) The building official shall publish a notice in a newspaper of general circulation once a week for two consecutive weeks. The published notice shall contain the address of the subject property and the names of the owner and any interested party, and state that the subject property has been found to be in violation of the building code and subject to demolition. The published notice shall also state the time and place of the hearing scheduled before the unsafe structures board.

(7) The notices provided in this section are intended to serve as full and effective notice of the hearing and the violations related to the structure. Failure of one form of notice shall not invalidate or impair the full effectiveness of notice provided by other means pursuant to this section.

(c) Unsafe structures not meeting the valuation criteria for immediate demolition.

(1) If a building or structure may be repaired and made safe pursuant to the valuation criteria set forth above, and the building or structure is otherwise unsafe in accordance with the physical criteria set forth in this section, the building official may order such building or structure to be temporarily secured in the manner and subject to the limitations set forth in this Chapter. Such building must be completed and brought into full compliance with the building code within such time as the building official or the unsafe structures board may determine to be reasonable for such completion. If the building or structure is not temporarily secured, or once served, not completed and brought into compliance with the building code within the reasonable periods allowed, such building or structure shall be demolished and removed from the premises.

(2) The building official shall prepare a notice of violation. This written notice shall state in summary form the nature of 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, in such time not to exceed ten days to secure an open structure to the reasonable satisfaction of the building official, 90 days to obtain permits

350 to repair the structure, and 120 days to bring it into compliance with the building code.
351 This notice shall also state that the specific details concerning the violations can be
352 obtained in writing from the building official on request. In addition, this notice will
353 explain the right of appeal of the decision of the building official to the unsafe structures
354 board, in its appellate capacity and also advise that unless there is compliance with the
355 directions of the building official, a case will be commenced before the unsafe
356 structures after time for compliance has expired, or that the building official's order will
357 be enforced.

358 (3) The notice of violation shall be affixed to the structure concerned.

359 (4) Within ten working days of posting the notice of violation, the building official shall send
360 the written notice of violation to the owner and any interested party, in the same
361 manner provided in above.

362 (5) In the event that the building or structure is not secured or brought into compliance with
363 the requirements of the building code within the periods specified in the notice of
364 violation, and no application for extension is made in the manner set forth in this
365 section, the building official may schedule the case for hearing before the unsafe
366 structures board to secure an order for demolition of the building or structure or to
367 obtain any other appropriate remedy.

368 (6) In the event that the building official schedules a hearing, or in the event that the owner
369 or interested party files a timely appeal of the decision of the building official, the
370 building official, or his or her designee shall issue a notice of hearing which shall be
371 affixed to the property, mailed to the owner and interested party, in the same manner
372 provided in subsection (g) above. Notice of the hearing shall be published in the same
373 manner provided in subsection (g) above.

374 (7) Upon expiration of the period of appeal provided in the notice of violation, if the property
375 has not been secured or permits for repair obtained in the manner stipulated in the
376 notice, the building official may file an appropriate instrument in the public records in
377 the manner provided in subsection (g) above.

378 (8) The periods set forth in the notice of violation for bringing the structure into compliance
379 with the building code may be extended by the building official for one or more
380 additional periods which in the aggregate do not exceed an additional 180 days,
381 provided all of the conditions of this subsection are met. Application for the extension

382 must be made in writing by the interested party to the building official prior to the
383 expiration of the period allowed for compliance, and shall set forth to the reasonable
384 satisfaction of the building official that the extension is warranted by one or more of the
385 following circumstances:

386 a. The interested party has a demonstrated financial hardship that will prevent the
387 interested party from completing a building or structure;

388 b. The interested party has filed a completed zoning hearing application which
389 affects the final completion of the building or structure and which zoning hearing
390 request has not received final approval or rejection from the city or applicable
391 governmental agency, including any or all appeals to court, for circumstances
392 outside of the control for the interested party;

393 c. The building or structure is a multiple dwelling structure as defined in the building
394 code and demolition of any unit comprising that structure compromises the
395 structural integrity of the entire multi-unit structure, where the completion of the
396 structure is outside of the control of the interested party;

397 d. The building or structure is the subject of pending litigation that renders it
398 impossible for the building or structure to be completed;

399 e. The building or structure is the subject of a good faith insurance claim, the
400 proceeds of which are intended to be utilized for repair and completion;

401 f. The building or structure is the subject of a pending sale to be closed within a
402 reasonable time from the date the extension is requested, where the buyer has
403 executed a written commitment to the building official to complete the structure
404 within the applicable extension period.

405 The written application for extension shall further represent to the building official that
406 the building or structure is and has at all times been in full compliance with all of the
407 conditions set forth in this subsection.

408 (9) Upon receipt of the written application, the building official shall be authorized to
409 extend the date of full completion and compliance with the building code provided:

410 a. The completed written application demonstrates to the reasonable satisfaction of
411 the building official that one or more of the conditions set forth above exist with
412 respect to the building or structure;

b. The building or structure is not open, vacant or abandoned, having been secured at doors and windows in a manner acceptable to the building official; and

c. The interested party has paid all reasonable costs of enforcement.

(10) Any interested party may appeal to the unsafe structures board a decision to grant or deny the extension. Such appeal must be filed within 30 days of the date of mailing of the building official's written notice of his or her decision with respect to the application for extension.

(d) Public hearing.

(1) 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.

(2) The unsafe structures board may order repair, securing, and/or demolition of the structure upon application of the standards set forth in this article. The unsafe structures board may modify, rescind, or uphold the decision of the building official as recited in the notice of violation. The unsafe structures board shall modify or rescind a decision of the building official only upon a finding that the building official was in error in the interpretation or application of the building code. The unsafe structures board shall not exceed the time frames allowed for repair and completion of buildings and structures specifically set forth in this article, except where the work involved reasonably requires such additional time.

(3) The board's order shall be filed as a lien against the property. A copy of the order shall be forwarded to the owner, and all interested parties by registered or certified mail, and a copy thereof posted on the property.

(4) If the owner or interested party fails to comply with the order of the unsafe structures board within the time stipulated therein and such order is to repair, complete or secure the building to make safe, then the building official shall cause such building to be vacated, if occupied; and shall through his employees or through a contractor enforce the order of the unsafe structures board or building official. Buildings shall be secured with concrete block or other materials of the same durability as determined by the building official. Swimming pools shall be secured by fencing or by using another approved method as determined by the building official.

(5) If the order of the unsafe structures board is to demolish the building or structure and to remove or 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. Swimming pools shall be demolished by removal of any stagnant water and any above ground parts of the structure, breaking open the bottom and filling with sand or clean fill level to the existing grade.

(e) Multi-unit structures.

(1) This subsection shall be applicable to all multi-unit structures. As used in this subsection, the term multi-unit structures means all townhouses and other structures which contain units divided by one or more common walls, where the structural integrity of any component unit depends upon the structural integrity of one or more other units in the same structure. In the event that the owner or other interested party fails to comply with any order of the unsafe structures board in connection with any multi-unit structure, then in addition to any other right or remedy contained in this section, the city shall be authorized, but not required, to secure the structure in the manner set forth in this subsection. In addition, and not in derogation of the use of other methods contemplated by this section for enforcing the building code with respect to any structure, multi-unit structures may be secured by performing whatever work the building official may determine is reasonably necessary to preserve the structural integrity, water-tightness, or safety of adjacent units or the surrounding community which work may include, but not be limited to, roofing, windows, and electrical.

(2) The procedure for enforcement of this Code set forth above shall be in addition to, and not in derogation of, other procedures available to the building official pursuant to the building code. The provisions of this subsection are not intended to exonerate any owner or other interested party from compliance with the building code or any order of an unsafe structures board.

(f) Recovery of cost.

(1) All costs incurred pursuant to any of the provisions of this section shall be paid by the owner, interested party, or occupant of the premises on which the violation occurred.

(2) The building official shall file among his or her records an affidavit stating with fairness and accuracy the items of expense and the date of execution of actions authorized by this article.

(3) Any other employee, official or agency who incurs costs while executing any provision within this article shall create an affidavit stating with fairness and accuracy the items of expense and the date of execution of actions authorized by this section. That affidavit shall be given to the building official responsible for the unsafe structure at issue and filed among his or her records for that property.

(4) After three months from the date of filing any liens that remain unpaid, the city may institute a suit in accordance with Florida Statutes to recover such expenses against any liable person or may cause such expenses to be charged against the property on which the violation occurred as a lien or as a special assessment lien collectible according to established procedures.

(5) Liens created pursuant to this section may be discharged and satisfied by paying to the city the amount specified in the notice of lien, together with interest thereon from the date of the filing of the lien computed at the rate of 12 percent per annum, together with the administrative costs, filing and recording fees and fees paid to file a satisfaction of the lien in the public records. When any such lien has been discharged, the city shall promptly cause evidence of the satisfaction and discharge of such lien to be recorded in the public records.

(6) The remedies and procedures for recovery of costs provided in this article shall be in addition to and not in derogation of other provided in the building code or otherwise provided by law.

Sec. 14-87. - Code enforcement board to enforce.

The code enforcement board, pursuant to its authority under this Code, shall have jurisdiction to hear and decide cases in which violations of this chapter are alleged; however, cases concerning unsafe buildings and structures shall be heard and decided by the unsafe structures board.

Section 14-88. - Unsafe Structures Board

The unsafe structures board shall hear unsafe structures cases, and appeals of decisions, of the city building official declaring properties and their structures and accessory structures to be unsafe where there is a danger to the health, safety, and welfare of the citizens in the community, all in the manner prescribed in this article.

507 (1) Composition. The unsafe structures board shall consist of seven individuals who reside
508 or have a principal business in Hallandale Beach. The Commission member shall
509 appoint a member to the unsafe structures board, such members shall serve at the
510 pleasure of the Commission making the appointment. Members of the unsafe
511 structures board shall possess knowledge of the following disciplines:

- 512 a. A registered engineer;
- 513 b. A registered architect;
- 514 c. A general building contractor;
- 515 d. An electrical contractor;
- 516 e. A plumbing contractor; and
- 517 f. A Real Estate Appraiser
- 518 g. A Resident with experience and background in social problems
- 519 h. An attorney at law
- 520 i. A Real Estate Property Manager.

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522 (2) Organization of the unsafe structures boards.

- 523 a. All provisions of Chapter 2, Article III, Division 1, not in conflict herewith shall apply
524 to the unsafe structures board.
- 525 b. A majority vote of unsafe structures board members present and voting shall be
526 sufficient to overrule, modify or affirm any action or decision of the building official
527 or to take any action within the scope of the powers and duties of the board.
- 528 c. No member of an unsafe structures board shall sit as a voting member in any
529 hearing on a matter in which he has a personal or financial interest.
- 530 d. The director of the development services department, or his or her designee, shall
531 assist the unsafe structures board, but shall have no vote.
- 532 e. The director of the building and code compliance department or his or her
533 designee may call and schedule unsafe structures hearings.
- 534 f. Audio record shall be kept of all unsafe structures hearings and all hearings shall
535 be public.

g. All hearings shall be open to the public, and any person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard in person, or through his or her attorney.

h. Witnesses may be sworn and subpoenaed by the unsafe structures board in a like manner as they are subpoenaed by the court or courts in Broward County.

i. The hearings shall be quasi-judicial and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

j. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

k. The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions; and irrelevant and unduly repetitious evidence shall be excluded.

(3) Duties, and powers of the unsafe structures boards. The unsafe structures boards shall have the following duties, functions, powers and responsibilities:

a. Hear and determine appeals from actions and decisions of the building official pursuant to the provisions of this section.

b. Hear and review the application of the building official for the review of his or her action where his or her decision as indicated in a notice of violations has not been complied with.

c. Affirm, modify or reverse the decision of the building official upon appeal or on application for review.

(4) Duties of the city attorney. The city attorney, or his or her designee, shall represent the city before the unsafe structures board, and shall not therefore act as counsel for the board.

(6) Requests for extensions of time. Any owner or authorized representative may seek an extension of the timeframes set forth in an order of the unsafe structures board. Such

request for a hearing to seek such extension must be in writing, directed to the unsafe structures board. The unsafe structures board shall not be authorized to extend any deadline for compliance, set forth in the order, unless the secretary of the unsafe structures board receives the written request for extension prior to the deadline specified in the initial order. For example, in the event the unsafe structures board order states that a permit must be obtained within a specified period, the request for extension of the deadline to obtain the permit must be received prior to the expiration of that specified period. If the same order provides a deadline for completion of the structure, the request for the extension for the deadline of completion must be received prior to the deadline for completion, provided that the applicant has complied with the permit deadline. In no event may the unsafe structures board grant more than one extension of time for each initial order.

To obtain an extension, the owner or applicant must demonstrate to the reasonable satisfaction of the unsafe structures board that the structure that is the subject of the order is secure at the time the extension is sought and that the owner or applicant has made a good faith attempt to comply with the order which has been impeded by changed circumstances or other circumstances outside of the owner or applicant's control. As a further condition of the extension, the owner or applicant must submit in writing, together with the petition for an extension, a written timetable for compliance with the substantive provisions of the order and for completion of all necessary repairs. The unsafe structures board shall not reconsider the order, limiting its consideration of the petition to deciding whether the grounds for an extension have been satisfied in the manner set forth in this subsection.

(7) Judicial review. An aggrieved party, including the city, may appeal a final order of the unsafe structures board to the appellate division of the Circuit Court of the Seventeenth Judicial Circuit. Such an appeal shall not be a hearing de novo but shall be limited to an appellate review of the record created before the board. An appeal shall be filed within 30 days of the written order to which the appeal is directed.

SECTION 3. Conflict. All ordinances or portions of the Code of Ordinances of the City of Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to the extent of such conflict.

SECTION 4. Severability. Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.


SECTION 5. Codification. It is the intention of the Mayor and City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention the words "ordinance" or "section" may be changed to other appropriate words.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED on 1st reading on February 20, 2019.

PASSED AND ADOPTED on 2nd reading on March 20, 2019.

JOY D. ADAMS
MAYOR

SPONSORED BY: CITY ADMINISTRATION
ATTEST: 

JENORGEN GUILLEN, CMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
AND FORM

JENNIFER MERINO
CITY ATTORNEY

645

FIRST READING VOTE ON ADOPTION

Mayor Adams	<u>Yes</u>
Vice Mayor Javellana	<u>Yes</u>
Commissioner Butler	<u>Yes</u>
Commissioner Lazarow	<u>Yes</u>
Commissioner Lima- Taub	<u>Yes</u>

FINAL VOTE ON ADOPTION

Mayor Adams	<u>Absent</u>
Vice Mayor Javellana	<u>Yes</u>
Commissioner Butler	<u>Yes</u>
Commissioner Lazarow	<u>Yes</u>
Commissioner Lima- Taub	<u>Yes</u>

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