

CITY OF WEST PALM BEACH FLORIDA



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AMENDMENTS TO THE STANDARD UNSAFE BUILDING ABATEMENT CODE, 1985 EDITION

ORDINANCE NO. 3522-02

CODING: Words underlined are additions to the 1999 Amendments to the Standard Unsafe Building Abatement Code.
Words ~~stricken~~ are deletions to the 1999 Amendments to the 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 purposes 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; Conflict with other codes

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. In any case where a provision of any zoning, building, electrical, plumbing, health, fire, or safety code of the city is in conflict, the provision which establishes the higher standard for the promotion and protection of the public health and safety shall prevail.

101.4 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.~~

101.64 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

102.1 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.~~

102.32 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 of 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 Construction Board of Adjustment 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 CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

The Construction Board of Adjustment and Appeals of the City of West Palm Beach is hereby empowered to review and pass upon matters appealed to the board under the provisions of this code. In particular, the Construction Board of Adjustment and Appeals shall have jurisdiction to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the building official in the enforcement of the article.

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~~ Florida Building Codes. Words not defined in the ~~Standard Florida Building Codes~~ shall have the meanings stated in the Webster's ~~Eighth~~ Tenth New Collegiate Dictionary, as revised.

202 DEFINITIONS

202.1 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.

202.2 APPROVED -- approved by the building official or other authority having jurisdiction.

202.3 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.

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

202.5 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.

202.6 DEPARTMENT -- the building department or other agency charged with the enforcement of this code.

202.7 INTERESTED PARTY—the owner as defined below and any other person or entity having a legal or equitable interest in the property, including but not limited to, any mortgage holders or other

lien holders of record.

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

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

202.10 STRUCTURE -- that which is built or constructed.

202.11 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~~ Florida 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~~ Florida 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~~ Florida Building Code for new buildings.
6. If for any reason the building, structure or portion thereof is manifestly ~~unsafe~~ dangerous 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~~ Florida Building 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~~ dangerous, 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.

11. Any building not completed in substantial conformity with plans and specifications upon which the building permit for construction was issued where one hundred twenty (120) days or more have lapsed since the expiration, revocation or cancellation of the building permit authorizing same, which is ~~unsafe~~ dangerous, unsanitary or constitutes a fire hazard or is otherwise dangerous to human health or which in relation to existing uses, constitutes a hazard to safety and health by reason of abandonment.

12. The building or structure is not occupied and appears to be abandoned based on lack of repairs after previous lawful notice to repair or demolish.

13. The building or structure has been determined to be unsafe for entry or a hazard to the fire or law enforcement officials by evidence of a report stating the same.

14. The building or structure has been boarded for more than six (6) months and the boarding has been breached without repair.

15. The building or structure has been used to conduct criminal activity on more than two (2) occasions within a six-month period, and such criminal activity was facilitated by the existence of one or more of the above-enumerated conditions.

CHAPTER 3

INSPECTION AND NOTICE OF

NONCOMPLIANCE

301 ACTION REQUIRED

301.1 General

301.1.1 The building official shall inspect or cause to be inspected any building, structure or portion 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 and/or boarding and securing, or demolition or combination thereof.

301.1.2 In those cases, where the cost of repairing, restoring or replacing any structure or dwelling shall exceed fifty (50) per cent of its value as defined herein, the building official shall order the demolition of said property and shall not issue a building permit for the repair of said ~~dwelling~~

building or structure without an order from the Construction Board of Adjustment and Appeals after a proper appeal has been taken in accordance with this code. The value of a building or structure shall be the estimated cost of constructing a new building of like size, design and materials at the site of the original structure, assuming such site to be clear and deducting therefrom an amount for depreciation, deterioration and damage before such proposed new construction is started. For the purpose of this section, cost of additions, alterations and repairs shall be constructed as the total cost of labor, materials and services, based on current prices for new materials.

301.1.3 In those cases where the building or structure has been vacated and/or boarded and secured for a period of six (6) months or more and the boarding has been breached, no permits were applied for by the owner or other interested parties to make the building or structure occupiable during the time which the building or structure has been vacated and/or boarded and secured, and criminal activity has occurred on the property on more than two (2) occasions during the time that the building or structure has been vacated and/or boarded and secured, the building official shall order the demolition of the building or structure and shall not issue a building permit for the repair of said building or structure without an order from the Construction Board of Adjustment and Appeals after a proper appeal has been taken in accordance with this code.

301.1.4 In those cases where the owner or other interested parties fail to comply with a notice to repair, vacate and/or board and secure, or demolish, the building official shall cause such unsafe condition to be abated.

301.1.5 In those cases where the owner or other interested parties fail to materially comply with a notice to repair previously issued pursuant to subsection 302.1.1, and the building official makes a finding that three (3) or more of the conditions enumerated in subsection 202.11 are present, the building official may initiate demolition proceedings. If the building official decides to initiate demolition proceedings under this subsection, a new notice pursuant to subsection 302.1.2 shall be sent to the owner and all other interested parties advising of this new action.

301.1.6 Prior to the demolition of any dwelling or structure, all buildings and structures shall be free of infestation from insects and rodents. If the property is found infested, the appropriate treatment should be utilized to eliminate infestation. Documentation shall be provided to the building official from a licensed exterminator that this requirement has been met prior to demolition.

301.2 Reports of Substandard Housing

301.2.1 Members of the fire department, police department, and any other city department shall make a written report to the building official of all dwellings or structures which appear to be substandard or unsafe within the terms of this code. Such reports shall be submitted to the building official as soon as practicable.

301.2.2 In carrying out his responsibilities hereunder, the building official may request assistance from the Palm Beach County Health Department, to determine violations of municipal ordinances, county or state law and rules and regulations of the Palm Beach County Health Department.

302 NOTICE

302.1 Content

302.1.1 Except as provided in Section 305 relating to emergencies, the building official shall prepare and issue a notice of unsafe building directed to the owner of record and all other interested parties 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/or boarded and secured, 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 Florida Building Code, in accordance with 101.4. The notice shall also include a statement advising that if the required repairs are not complied with as specified in the allotted time, then the building official may initiate proceedings to abate the unsafe condition(s) pursuant to subsections 301.1.4 and 301.1.5.
 - 3.2. If the building or structure is to be vacated and/or boarded and secured, the notice shall indicate the time within which vacation and/or boarding and securing 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 Construction 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 15 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 In those cases where the owner or other interested parties fail to comply with a notice to repair and the building official decides to initiate demolition proceedings, notice shall be sent to the owner and all other interested parties advising of such demolition. The notice shall contain, but not be limited to, the following information:

1. The street address and legal description of the building, structure, or premises.
2. The date the notice to repair was served pursuant to subsection 302.1.1.
3. That demolition proceedings will commence if the owner or other interested parties fail to timely appeal this notice.
4. A statement advising that any person having any legal interest in the property may appeal this notice to the Construction Board of Adjustment and Appeals; that such appeal shall be in writing in the form specified in Section 401 and shall be filed within fifteen (15) 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.

302.1.23 The notice and all attachments thereto shall be served upon the owner of record and all other interested parties 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.

302.1.34 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, or in the event a notice sent by either registered or certified mail shall be returned undelivered, the building official shall publish a notice of condemnation once (1) a week for four (4) consecutive weeks in a newspaper of general circulation within the City of West Palm Beach and shall mail a notice addressed to such person to the address of the building or structure involved in the proceedings. A copy of such notice(s) and order(s) shall be posted in a conspicuous place at city hall or the courthouse and upon the dwelling or structure involved. 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.

302.2 Recording of Notice

If the property is not brought into compliance, or an appeal pursuant to Chapter 4 has not been filed within the allotted time, the building official shall record in the public records in the office of the Clerk of the Circuit Court 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 correction 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~~ Florida Building Codes 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.

305 EMERGENCY DEMOLITIONS

If the building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or as a result of decay, deterioration or dilapidation and is likely to fully or partially collapse, posing an immediate hazard to life or to the safety of the public, it shall be deemed an emergency and ordered demolished immediately by the building official by affidavit attesting to the unsafe condition and by letter of authorization by the mayor or the city administrator at the mayor's direction. Prior to such demolition, notice shall be given to the owner of record and to any other interested party by hand delivery or by posting the property in accordance with the procedures set forth in Section 304 of this Code. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting. Notice so posted may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery. In any event, such notice shall give the owner of the property five (5) days to request, in writing, a hearing before the Construction Board of Adjustment and Appeals. Such hearing shall be given within forty-eight (48) hours of the request. Either party may appeal to the Circuit Court, within thirty (30) days of the date such order was issued, the order of the Construction Board of Adjustment and Appeals regarding the emergency demolition.

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 Construction Board of Adjustments and Appeals. Such appeal must be filed in writing with the building official within 15 days from the date of service along with a filing fee of One Hundred Dollars (\$100.00) 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 or to his attorney of record at the address on the appeal by certified mail, postage prepaid and return receipt requested.

401.3 Powers of the Construction Board of Adjustment and Appeals

In exercising the above-mentioned powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirements, decisions or determinations as, in its judgment, are required. The board shall act by majority and a quorum shall consist of at least three (3) members. The board's decision shall be effective as of the date of the hearing at which the board's decision is made.

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 provision of this code shall be held in abeyance during the course of an appeal.

CHAPTER 5

RULES OF PROCEDURE FOR HEARING

APPEALS

501 GENERAL

501.21 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.

501.32 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.

501.43 Form of Notice

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

You are hereby notified that on the _____ day of 20____ at _____ o'clock, at _____, a hearing will be held before the Construction Board of Adjustment and Appeals to 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 filing a written report with the Construction Board of Adjustment and Appeals.

501.43.2 The hearing notice shall be served personally or mailed as required in 302.1.34 at least 10 days prior to the hearing date.

502 SUBPOENAS

502.1 Filing

The board or hearing examiner may subpoena alleged violators (respondents) and witnesses to attend the hearings. The board or hearing examiner may also subpoena evidence as necessary for the hearings, including but not limited to physical and documentary evidence such as records, surveys, plats and photographs. 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 Appearance of Interested Parties before Board

503.1.1 An interested party appearing before the Construction Board of Adjustment and Appeals, may appear in person, by counsel or by an agent possessing a power of attorney which has been recorded in the official records of Palm Beach County, Florida.

503.2 Rules

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

503.2.2 The board may grant continuance for good cause.

503.3 Evidence

503.3.1 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.

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

503.3.3 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.

503.3.4 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.

503.34 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 Notice of Board's Action

The minutes of the Construction Board of Adjustment and Appeals or its orders shall be posted on the bulletin board at the main entrance of the city hall. In addition, the building official shall advise the owner or record title holder of the board's action by the most expeditious means available, including telephone and telegraph where urgent, or as otherwise set forth in 302.1.34, excluding, however, notice by publication. Notwithstanding the failure of the owner to receive actual notice or failure of the building official to serve notice of the board's action, the notice given at the main city hall entrance shall be good notice to all the world.

505 RECOURSE

If the appellant is aggrieved by the decision of the Construction Board of Adjustment and Appeals, nothing in this code shall be construed to deprive appellant of seeking redress in the civil or other applicable court. Said appeal must be filed within thirty days from the effective date of the board's decision; the appellant shall comply with the Florida Rules of Appellate and Civil Procedure which relate to the posting of bonds.

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/Comply

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 West Palm Beach

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 requires demolition, to cause the building or structure to be demolished and all debris removed from the premise, either by the City or by an independent contractor retained by the City. The cost of repair or demolition shall constitute a lien on the property and shall be collected in a manner established in Chapter 7 of this code.

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 60 days, they must also be approved by the Construction Board of Adjustment and Appeals.

CHAPTER 7

RECOVERY OF COST OF ~~REPAIR OR~~

~~DEMOLITION~~

701 GENERAL

Whenever a building or structure is repaired, vacated and/or boarded and secured, or demolished in accordance with the provisions of this code and the cost of such repair, vacation and/or boarding and securing, or demolition is borne by the city, procedures for the budgeting, expenditure and recovery of such funds shall be as set forth herein.

702 ASSESSMENT OF COST OF DEMOLITION, ETC.; LIEN ON PROPERTY

Upon expiration of the ~~sixty (60) day~~ appeal period with no appeal having been taken, the building official, after proceeding under this article, shall report the abatement of the nuisance by the city and the city commission shall assess the entire cost of such vacation and/or boarding and securing, demolition or removal against the real property upon which such cost was incurred, which assessment, including rodent extermination when employed, all administrative costs, postal expense, newspaper publication and the like when made constitutes a lien upon such property superior to all others except taxes.

The City Clerk shall file such lien in the county's official record book, showing the nature of such lien, the amount thereof and an accurate legal description of the property, including the street address, which lien shall date from the date of filing and recite the name(s) of the owner thereof. Such lien shall be considered a special assessment and shall take priority over all other interests in the subject property. Such municipal liens shall bear interest from such date at the legal rate of interest established pursuant to Florida Statute §55.03. Upon notice of an impending county tax deed sale, the city attorney shall request the clerk of the circuit court to collect all monies due the City, including such municipal lien with interest.

703 ENFORCEMENT OF ASSESSMENTS

Assessments resulting from the procedures set forth herein, together with interest, shall be enforceable by the city as provided by the general law of the state.

704 RECORDING OF RESOLUTION ASSESSING LIEN, NOTICE TO OWNER

As soon as possible after the adoption of the resolution assessing the lien, the City Clerk shall record a certified copy of such resolution in the office of the clerk of the circuit court in and for Palm Beach County. The City Clerk shall mail a copy of such resolution to the owner of each of the parcels of land described in the resolution at the last available address for such owner as shown by reference to the latest approved ad valorem tax roll.

705 PAYMENT OF ASSESSMENT; ACCUMULATION OF INTEREST

Upon passage of a resolution provided for in this article, the assessment of costs under such resolution shall become effective as a lien against the property described in such resolution and shall remain a legal, valid and binding lien on such property until paid.

Such assessment shall be payable at once upon adoption of the resolution and shall draw interest from that date at the rate of twelve (12) percent per annum until fully paid.