

Broward County Board of Rules & Appeals Meeting Agenda

Wednesday, November 10, 2021
Time: 7:00 P.M.

Zoom Meeting Information:

<https://broward-org.zoomgov.com/j/1606020631?pwd=bm9TTG16WXNxcGs5U0k5ZDUzbDliQT09>

Meeting ID: 160 602 0631

Passcode: 314668

One tap mobile

+16692545252,,1606020631#,,,,*314668# US (San Jose)

+16468287666,,1606020631#,,,,*314668# US (New York)

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

+1 669 216 1590 US (San Jose)

+1 551 285 1373 US

Meeting ID: 160 602 0631

Passcode: 314668

Call Meeting to Order

Roll Call

Approval of Agenda

Approval of Minutes – October 14, 2021

CONSENT AGENDA

1. **Certifications** - Staff Recommended.

TOWN OF LAUDERDALE-BY-THE-SEA

MANSOR, SIMO, ASSISTANT BUILDING OFFICIAL

CITY OF POMPANO BEACH

KARTTUNEN, VESA P., STRUCTURAL INSPECTOR - PROVISIONAL

COUNTYWIDE

GREGORY, KEVIN L., PLUMBING PLANS EXAMINER

MORALES, ALFREDO, ELECTRICAL PLANS EXAMINER

REGULAR AGENDA

2. **Local Amendments for 2nd Reading**
Proposed addition of “Appointing Authority” definition to Section 101.2.2 “Definitions” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020).
 - a. Staff Report
 - b. Board Questions
 - c. Public Hearing
 - d. Board Action

3. **Local Amendments for 2nd Reading**
Proposed change to Section 104.1.3 “Certification of the Building Official and the Assistant Building Official” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) requiring that the application for certification of the Building Official or Assistant Building Official shall be signed by the jurisdiction’s Chief Executive Officer (City Manager, Acting City Manager or Mayor) in accordance with existing BORA Policy 12-01.
 - a. Staff Report
 - b. Board Questions
 - c. Public Hearing
 - d. Board Action

4. **Local Amendments for 2nd Reading**
Correction of a typographic error on the numbering of Section 104.16.3 “Certification of the Structural Inspector,” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020), subsection 104.15.3.5 to read 104.16.3.5.
 - a. Staff Report
 - b. Board Questions
 - c. Public Hearing
 - d. Board Action

5. **Local Amendments for 2nd Reading**
Proposed change to Section 109.3 “Building permit valuations”, subsection 109.3.1 of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) prohibiting a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit, in accordance with Florida Statute 553.79.
 - a. Staff Report
 - b. Board Questions
 - c. Public Hearing
 - d. Board Action

6. **Local Amendments for 2nd Reading**
Proposed change to Section 113 Board of Rules and Appeals, subsection 113.9.2 “Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) to clarify code’s intent.
 - a. Staff Report
 - b. Board Questions
 - c. Public Hearing
 - d. Board Action

7. **Proposed Board of Rules and Appeals meeting calendar for 2022.**
 - a. Staff Recommendation
 - b. Board Questions
 - c. Board Action

8. **Director’s Report**

9. **Attorney’s Report**

10. **Committee Report**

11. **General Board Members Discussion**

12. **Public Comment (3-minute limit per person) and written communications**

13. **Adjournment**

If a person desires to appeal any decision with respect to any matter considered at this meeting, such person will need record of the proceedings and, for this reason, such person may need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is to be based (Sec. 286. 0105.FS). (Members: If you cannot attend the meeting, please contact Mr. DiPietro @ (954) 931-2393, between 6:00 p.m. & 7:00 p.m.)

October 14, 2021
Board Minutes

BROWARD COUNTY BOARD OF RULES & APPEALS
OCTOBER 14, 2021
MEETING MINUTES

Call to Order

Chairman Daniel Lavrich called a published virtual meeting of the Broward County Board of Rules and Appeals to order at 7:00 p.m.

Present:

Daniel Lavrich, Chair
Stephen Bailey
Ron Burr
Jeff Falkanger
John Famularo
Shalanda Giles-Nelson
Robert Kamm
Sergio Pellecer
David Rice
Daniel Rourke
Dennis Ulmer
Lynn Wolfson
Abbas Zackria

A quorum was present.

Ms. Shalanda Giles-Nelson made a motion and Mr. Famularo seconded the motion to approve the agenda as corrected to change the minutes date to September 9. The motion carried by unanimous vote of 13-0.

Approval of Minutes – September 9, 2021

Ms. Wolfson made a motion and Mr. Falkanger seconded the motion to approve the minutes as submitted. The motion carried by unanimous vote of 13-0.

CONSENT AGENDA

1. Certifications - Staff Recommended.

BROWARD SHERIFF'S OFFICE FIRE RESCUE
MARTINEZ, RUBEN, FIRE INSPECTOR

CITY OF CORAL SPRINGS
ROTGER, JOSE M., ELECTRICAL INSPECTOR (TEMPORARY 120-DAY)

CITY OF DEERFIELD BEACH
BUNDY, DAVID E., CHIEF PLUMBING INSPECTOR

CITY OF HALLANDALE BEACH
RANSOM-JACKSON, SHELLIE, BUILDING OFFICIAL

TOWN OF LAUDERDALE-BY-THE-SEA

LETO, PETER, JR., CHIEF STRUCTURAL INSPECTOR

CITY OF OAKLAND PARK

VILLADA, PEDRO G., CHIEF STRUCTURAL INSPECTOR

CITY OF PEMBROKE PINES

PIZZILLO, STEPHEN J., BUILDING OFFICIAL

KROPP, GEORGE W., CHIEF ELECTRICAL INSPECTOR

COUNTYWIDE

BARRERA, MANUEL R., MECHANICAL PLANS EXAMINER

FRANCIS, STEPHEN, STRUCTURAL INSPECTOR

PETERS, MICHAEL S., JR., STRUCTURAL PLANS EXAMINER (LIMITED)

PERLMUTTER, TODD, ELECTRICAL INSPECTOR

PIZZILLO, STEPHEN, STRUCTURAL INSPECTOR

PUTONTI, RICHARD, STRUCTURAL INSPECTOR

RANSOM-JACKSON, SHELLIE, STRUCTURAL INSPECTOR

RANSOM-JACKSON, SHELLIE, STRUCTURAL PLANS EXAMINER

Mr. Kamm made a motion and Ms. Giles-Nelson seconded the motion to approve the certifications as recommended. The motion carried by unanimous vote of 13-0.

REGULAR AGENDA

2. **Proposed Formal Interpretation #29 “Requirement for concrete mix and protection of reinforcement to be used in buildings and structures to be constructed in corrosive environments.”**

a. Staff Report

Chairman Lavrich indicated during the Mayor’s Committee meeting one issue discussed was deterioration of concrete as a result of being exposed to harsh environments. He detailed how this is addressed in the building code by reference to ACI318. In order for it to be clear that this is a requirement, he suggested to the mayor that a formal interpretation be adopted.

b. Board Questions - none

c. Board Action

Mr. Ulmer made a motion and Mr. Famularo seconded the motion to approve formal interpretation as recommended. The motion carried by unanimous vote of 13-0.

3. **Proposed Board of Rules and Appeals Emergency Responder Communications Enhancement Systems (ECRES) Guidelines for the 7th Edition (2020) of the Florida Building Code**

a. Recommendation of the Committee to Address Uniform Procedures for Installation of Bi-Directional Amplifiers (BDAs)

Mr. Rice advised that this is an update to the guidelines coming forward from the BDA Committee. He went on to mention how the guidelines were vetted.

b. Board Questions

Mr. Rice responded to Mr. Bailey's question, indicating it is essentially a checklist for the building departments and contractor. There are cross-references to the code.

- c. Board Action

Mr. Zackria made a motion and Mr. Falkanger seconded the motion to approve the guidelines as recommended. The motion carried by unanimous vote of 13-0.

4. **Local Amendments for 1st Reading**
Proposed addition of "Appointing Authority" definition to Section 101.2.2
Definitions of Broward County Amendments (Chapter 1) Florida Building Code
(FBC) 7th Edition (2020).

- a. Staff Report

Mr. James DiPietro, Administrative Director, advised that at this time there is no definition in the code for "Appointing Authority". Miami-Dade County Board of Rules and Appeals is proposing the same definition language.

- b. Board Questions – none
- c. Board Action

Mr. Kamm made a motion and Mr. Pellecer seconded the motion to approve the amendment on first reading as recommended and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

5. **Local Amendments for 1st Reading**
Proposed change to Section 104.1.3 Certification of the Building Official and the
Assistant Building Official of Broward County Amendments (Chapter 1) Florida
Building Code (FBC) 7th Edition (2020) requiring that the application for
Certification of the Building Official or Assistant Building Official shall be signed
by the jurisdiction's Chief Executive Officer (City Manager, Acting City Manager or
Mayor) in accordance with existing BORA Policy 12-01.

- a. Staff Report

Mr. James DiPietro, Administrative Director, advised that this is an existing Board policy. Staff would like to incorporate the language into the building code. There is no change to the language.

- b. Board Questions – none
- c. Board Action

Mr. Ulmer made a motion and Mr. Falkanger seconded the motion to approve the amendment on first reading as recommended and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

6. **Local Amendments for 1st Reading**

**Correction of typographic error on the numbering of Section 104.16.3
“Certification of the Structural Inspector,” of Broward County Amendments
(Chapter 1) Florida Building Code (FBC) 7th Edition (2020), subsection 104.15.3.5
to read 104.16.3.5.**

a. Staff Report

Mr. James DiPietro, Administrative Director, advised that all amendments are filed with the State of Florida and posted on their website. He wanted the Board to be aware of anything being changed that was previously adopted by the Board, even though it is simply a typographical error.

b. Board Questions – none

c. Board Action

Mr. Rice made a motion and Mr. Rourke seconded the motion to approve the amendment on first reading as recommended and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

7. **Local Amendments for 1st Reading**
Proposed change to Section 109.3 Building permit valuations, subsection 109.3.1 of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) prohibiting a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit, in accordance with Florida Statute 553.79.

a. Staff Report

Mr. James DiPietro, Administrative Director, indicated that this is a new State law, and the recommendation is to include it in the code for continuity. He elaborated upon the history of this topic where building officials were given another tool to make sure accurate project cost for the permit application fee was provided by the contractor. Recently, the State enacted a law prohibiting building departments from requesting copies of contracts. Therefore, this contracts option is being removed from the code.

b. Board Questions

In response to Mr. Burr, Mr. DiPietro agreed to have staff bring this change to the attention of the building departments during their field rounds.

Ms. Giles-Nelson noticed a typographical error in the subsection; it should be 109.3.1.

c. Board Action

Mr. Burr made a motion and Ms. Giles-Nelson seconded the motion to approve the amendment on first reading as recommended with the amendment of subsection 109.3.1 and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

8. **Local Amendments for 1st Reading**

Proposed change to Section 113 Board of Rules and Appeals, subsection 113.9.2 “Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) to clarify code’s intent.

a. Staff Report

Mr. James DiPietro, Administrative Director, indicated that the staff had a concern about language in this section, stating “The Board shall pass on all matters...” The language was amended as shown, eliminating that phrase. There is no deviation from the intent.

b. Board Questions – none

c. Board Action

Ms. Giles-Nelson made a motion and Mr. Famularo seconded the motion to approve the amendment on first reading as recommended and authorize setting a public hearing for second reading. The motion carried by unanimous vote of 13-0.

9. **Updates Concerning the 40-Year Building Safety Inspection Program – 2019, 2020 and 2021 Audits**

a. Staff Report

Mr. James DiPietro, Administrative Director, noted that more cities have been added as reflected in the backup on Pages 7 and 8. Since the disaster of Champlain Towers, staff has been conducting audits and the cities have been catching up on mailing of notice letters. He noted a couple examples of improvement in the number of reported permits for repairs issued. Many thousands of notice letters have gone out in recent weeks. Excluding those cities that do not have any eligible buildings, for 2019 all cities have sent out 99% of the inspection reports. For 2020 all of the cities have complied. For 2021 that was mailed out to the cities in July, there is one city that has not sent anything out and another has completed about 50%. There is information also in the backup where staff has collected names from cities for a single point of contact on the Building Safety Inspection Program. Going forward, he recommends training and improving communications. Classes are conducted every two years for the two-year recertification cycles. He proposed that at a minimum a class be conducted for this program as well with the possibility of making it mandatory for all structural and electrical chiefs. A recommendation on training will be forthcoming. For 2019, 2020 and 2021, the next administrative push would be to send out surveys toward the end of the year and monitor that the reports are being submitted.

b. Board Questions

Mr. Burr saw that two cities have not responded. Mr. Jack Morell, Chief Structural Code Compliance Officer, reported that one city did not send out the notice letters and would not provide a time frame as to when this would be done. The other city sent out 50% and anticipated finishing the remaining 50% by the end of this month. Mr. DiPietro advised that an update will be provided at the next meeting or as an alternative ask the cities to come before the Board to explain. He anticipated having answers for the next meeting.

Mr. Bailey referred to the 40-Year Building Safety Inspection Committee report and asked if this is a voluntary program. Chairman Lavrich advised that it is not voluntary in that it is their responsibility to enforce the code. Mr. Bailey felt there seems to be a lacking with a follow-up program. Mr. DiPietro indicated with the initial stage of the audits, there were major deficiencies. He felt there is weakness in communications on the part of all parties. In response the audit program was implemented, and all of the notice letters have been sent out. There needs to be follow-up. As such, next he is proposing at the end of the year staff will carefully monitor how many reports have been submitted.

Mr. Bailey suggested regular status reports at the Board meetings. Chairman Lavrich concurred and indicated he thinks that is what Mr. DiPietro is proposing countywide.

c. Board Action

The update was received.

10. **Broward County Condominium Structural Issues Committee (County Staff Summary of the actions taken by Mayor Geller's committee)**

a. Staff Report

Chairman Lavrich indicated that he was a member of this Committee that was put together by Mayor Geller. It met on four occasions for a total of 27 hours. Most of the recommendations have to do with issues other than the Building Safety Inspection Program specifically relating to the management and operation of condominiums and issues where the Florida Legislature may have control. The Committee's recommendations will be presented to the Legislature for their consideration. He felt the report should address all buildings not just condominiums. When the report on what happened at Champlain Towers is available, the Board will know more of what action needs to take place. He noted that the Hurricane Advisory Committee of the Florida Building Commission is developing an inspection program for use throughout the state. Until it is known what caused the collapse, it is difficult to know what if any changes need to be made.

b. Board Questions

Mr. Wolfson asked whether Broward County is recommending any changes or are they waiting for the State to do so. Chairman Lavrich advised that the vast majority of recommendations do not have anything to do with the Board of Rules and Appeals and for the ones that do, they are being pointed at the State. Up to this point, the Board has wanted to know the cause of the collapse before starting to make any changes. Chairman Lavrich contended that one needs to know the cause before deciding on a remedy. In a slip and fall situation, Ms. Wolfson thought all remedies should be taken until the cause is known. Chairman Lavrich believed it has been the consensus of the Board to wait and see and not make knee-jerk reactions. There will be a financial impact for whatever is done. Ms. Giles-Nelson concurred with Chairman Lavrich's position. Of course, nothing is ever perfect, but the cause needs to be known before tearing down the existing program. If the code is implemented, even with its faults, a lot of things can be caught. She believed that 95% want to do the right thing. Mr. Rice noted that the focus is to determine the cause and the Board of Rules and Appeals is not involved in that process. The Board has to wait for the cause

report. Mr. Burr credited the staff for their follow-up concerning the program status by each city. He agreed with Chairman Lavrich and believed it has been handled correctly.

Chairman Lavrich clarified that the program is an oversight and not the program to cause the repairs to take place. The individual building owners have that responsibility. The Building Safety Inspection Program is to monitor to determine if maintenance issues are being addressed. The vast majority of buildings are addressing maintenance issues continuously.

- c. Board Action – no action required

11. **Miami-Dade County BORA Structural Committee and BORA Committee Actions**

- a. Staff Report

Mr. James DiPietro, Administrative Director, indicated in Broward County actions taken by the Board of Rules and Appeals become law whereas in Miami-Dade County the Board of Rules and Appeals is advisory to the Miami-Dade County Commission.

Mr. Jaime Gascon of Miami-Dade County Board of Rules and Appeals advised that the report in the backup is a list of recommendations to the Miami-Dade County Commission.

- b. Board Questions

Chairman Lavrich noted that the recommendation to move from 40 to 30 years came from Engineer John Pistorino (hired to study why Champlain Towers collapsed). He questioned making such a change without knowing why the collapse occurred. In response to Chairman Lavrich, Mr. Gascon advised that the existing requirements explain what to do if one was to report early. In the case of a report filed at age 20, a response would be due at 40, not 30. With a change to 30 years, there will be a large swath of buildings 32, 35, 37 years of age that will have to have the reports in accordance with whatever grace period is established. If one submits a report at age 32, the jurisdiction will need to follow up in ten years, age 42. In order to avoid such a hodge-podge of varying years that deviate from the driving database, that of the property appraiser, the recommendation for one example that is submitted at age 32, the next report would be at age 40. Chairman Lavrich asked what the case would be if a report was submitted at age 28 under the 30-year program. Mr. Gascon indicated that the example is not happening; it is either on time or late. The intent of the change is to primarily capture all of the ten years of data. Mr. Gascon responded to Mr. Ulmer, indicating a change to 30 years would be accomplished with a public hearing and two readings.

- c. Board Action – no action required

12. **Consideration of Maximum Merit Pay Salary Adjustments for BORA Employees (Effective October 3, 2022)**

- a. Recommendation of Administrative Director

Mr. James DiPietro, Administrative Director, commented that the County's model is 4% for pay adjustments. If one would exceed the pay range, that employee would receive all or a portion of the 4% as cash. The County is changing their pay ranges by 3%. He noted that the cost of living has increased 5.3% based on Bureau of Statistics nationwide. The fact that the County model is a little lower than the cost of living increase influenced his decision to

request the Board's permission for the three lowest paid employees in the BORA organization. He felt that sometimes, depending on the money, it can be accomplished administratively and other times it is important that the Board make a policy decision. For the lowest paid employees, he recommends up to 5.3% maximum. Also, for the two newest and lowest paid code compliance officers, he recommends 5%. Generally speaking, when a salary is over a hundred thousand dollars, the cost-of-living factor is not the same as it is for someone earning \$52,000, for example. There are two people at the top of their range, therefore with the full 4%, they would receive 3% in their salary and 1% in cash. There is also a Board-voted longevity program where employees at 10, 15, 17 years may be considered for a 2% cash bonus on their anniversary dates.

b. Board Questions

Ms. Giles-Nelson questioned the title referencing merit and whether merit could be separated from cost of living. Mr. DiPietro agreed it could be separated. In past years, the combination would exceed cost of living. This is not normal. Ms. Giles-Nelson asked about exceeding the County's model. Mr. DiPietro felt the recommendation is on sound ground because it is funded in the budget. However, because he is sensitive to political considerations, he felt it should be presented to the Board. He did not think the Board could be criticized for 5.3% for the three lowest paid employees, but because it is only an opinion which could be disputed. There is protection in the fact that the highest-paid employees will receive 4%. Ms. Giles-Nelson indicated that she still has some problem with the wording however this has been the model for years and as such she has no problem moving forward. Mr. DiPietro indicated the recommendation was meant to be middle of the road.

c. Board Action

Mr. Kamm made a motion and Ms. Giles-Nelson seconded the motion to approve the salary adjustments as recommended. The motion carried by unanimous vote of 13-0.

During discussion of the above motion, Mr. Pellecer asked about past practice and Mr. DiPietro provided some history on past practice. In response to Mr. Zackria, Mr. DiPietro explained why some employees would receive 1% in cash and the remainder in salary.

13. **Annual Leadership Performance Review for Administrative Director, Pay Adjustment and Separate Longevity/Merit Bonus**

a. Request of Administrative Director

Mr. James DiPietro, Administrative Director, referred to information provided in the agenda backup and asked the Board to consider him as other County employees, that being 4%. He would also be participating in the Board's longevity program on his anniversary in January for an additional 2%.

b. Board Questions – none

c. Board Action

Mr. Zackria made a motion and Ms. Falkanger seconded the motion to approve the pay adjustment and longevity/merit bonus as recommended. The motion carried by unanimous vote of 13-0.

During discussion of the above motion, Mr. Zackria commended Mr. DiPietro on his excellent performance.

14. **Director's Report**

- a. Broward County Board of Rules and Appeals Small Cities e-Permitting Grant Program Updates

Mr. James DiPietro, Administrative Director, advised that this program was adopted by the Board and subsequently by the Broward County Board of Commissioners and has been renewed this year as well. He recognized the recipient cities: Cooper City, Dania Beach, Lauderdale-By-The-Sea, North Lauderdale, Pembroke Park, Southwest Ranches and West Park. The grants range from \$6,000 to \$7,500 generally for equipment.

15. **Attorney's Report**

With respect to Agenda Item 8 (corrected to Agenda Item 7), concerning building departments being able to secure copies of contracts between the contractor and the owner, Mr. Charles Kramer, Board Attorney, noted his previous legal opinion on June 17, 2020, as to why this is not permissible except if there is a reasonable belief by the building official that the estimated amount for a permit application is grossly under-bid so as to raise a red flag that something is being done to avoid paying permit fees.

16. **Committee Report** - none

17. **General Board Member Discussion**

Ms. Wolfson asked when the Board would be moving from Zoom meetings and returning to meeting in person. Chairman Lavrich advised that discussions have been to continue meeting on Zoom because of the savings, efficiency and advantages for the public in general.

18. **Public Comment (3-minute limit per person) and written communications** - none

19. **Adjournment**

There being no further business, the meeting adjourned at 8:35 p.m.

Daniel Lavrich, P.E. - Chair

Section 1

NOVEMBER 10, 2021 BOARD MEETING
CERTIFICATIONS

TOWN OF LAUDERDALE-BY-THE-SEA

MANSOR, SIMO, ASSISTANT BUILDING OFFICIAL

CITY OF POMPANO BEACH

KARTTUNEN, VESA P., STRUCTURAL INSPECTOR – PROVISIONAL

COUNTYWIDE

GREGORY, KEVIN L., PLUMBING PLANS EXAMINER

MORALES, ALFREDO, ELECTRICAL PLANS EXAMINER

Section 2

NOTICE OF PUBLIC HEARING

Notice is hereby given by the Broward County Board of Rules and Appeals that said Board will hold a public hearing starting at 7:00 p.m. on November 10, 2021, Via Zoom. The Board will consider amending in second reading the Florida Building Code, 7th Edition (2020) _ Building -Chapter I – Administrative Provision, Section 101.2.2 "Definitions" of Broward County Amendments. The effective date for the amendment listed is November 22, 2021.

Zoom information:

<https://broward-org.zoomgov.com/j/1619056514?pwd=WEE0UVhyTHVSTDN3WmlRROlNY2FlUT09>

Meeting ID: 161 905 6514 - Passcode: 256375

A copy of the proposed code changes is available for review at 1 N. University Drive, Suite 3500B, Plantation, Florida 33324. We can email you a copy. Call (954) 765-4500.

Dated this 24th day of October 2021.
10/24/20217070560

Order # - 7070560



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Board of Rules and Appeals

From: Administrative Director

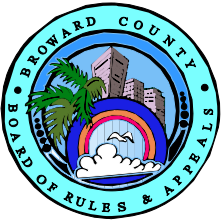
Date: 11/10/2021

RE: **Local Amendments for 2nd Reading**
Proposed addition of "Appointing Authority" definition to Section 101.2.2 Definitions of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020).

Amendment approved on 1st reading on October 14th, 2021. Scheduled for 2nd reading and public hearing.

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Broward County Board of Rules and Appeals
From: Administrative Director, James DiPietro
Date: October 14, 2021
Subj: Proposed addition of "Appointing Authority" definition to Section 101.2.2 Definitions of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020).

Recommendation

That BORA approves by vote, on first reading the staff proposed addition of "Appointing Authority" definition to Section 101.2.2 Definitions of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020).

Reasons

The phrase Appointing Authority is used in Section 104.1.1 "Appointment of a Building Official". The proposed addition will define who Appointing Authority is. Until now it has not been defined. The proposed definition is similar to the one proposed to be used in Miami Dade County. This final code draft has been reviewed by our Legal Counselor Mr. Charles Kramer and his recommended corrections were also included.

Additional information

List of attached documents:

1. Revised 7th Edition Chapter 1 with stricken and underlined text to show addition of "Appointing Authority" definition to Section 101.2.2 Definitions.
2. Miami-Dade County proposed change to Chapter 8 of Miami-Dade County Ordinances.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro.

STRONGER CODES MEAN SAFER BUILDINGS
~ESTABLISHED 1971~

Proposed change to 7th Edition 2020 FBC CHAPTER 1 ADMINISTRATION—BROWARD COUNTY

101.2.2 Definitions.

- A. **AHJ** (means Authority Having Jurisdiction) shall be a federal, state, local (Building or Fire Service Provider), or individual such as a Building Official, Assistant Building Official; Chief Electrical/Mechanical/Plumbing/Structural Inspector; Fire Chief; Fire Marshal/Fire Code Official; or Broward County Board of Rules and Appeals.
- B. **BORA** means the Broward County Board of Rules and Appeals.
- C. **Architect** means Registered Architect, registered in the State of Florida.
- D. **Engineer** means licensed Professional Engineer, licensed in the State of Florida.
- E. **BCAIB** means the Building Code Administrators and Inspectors Board.
- F. **FFPC** means the adopted Florida Fire Prevention Code including the Broward County Local Fire Amendments to the Florida Fire Prevention Code.
- G. **HVHZ** means the High Velocity Hurricane Zone.
- H. **State** means the State of Florida.
- I. **FAC** means Florida Administrative Code.
- J. **Fire Service Provider** means Fire Department.
- K. **Fire Code Manager/Administrator** means Fire Code Official or Fire Marshal.
- L. **SFBC** means South Florida Building Code, Broward Edition.
- M. **G.C.** means an unlimited General Contractor licensed by either the CILB, the Broward County Central Examining Board or the Miami-Dade Construction Trades Qualifying Board.
- N. **CILB** means the Florida Construction Industry Licensing Board.
- O. **ECLB** means the Florida Electrical Contractors Licensing Board.
- P. **Virtual Inspection** is the process of inspection performed using, time and location verifiable video or still imaging, where a Certified Inspector inspects a job site via live video or still image taken at, or under, his/her direction.
- Q. Appointing Authority shall mean any and all municipal governments within geographic Broward County acting through its appointed officers, and with respect to unincorporated Broward County, the Board of County Commissioners of Broward County, acting through its appointed officers.

Additional information, not to be included in code.

Miami-Dade amendment to Chapter 8 of County Ordinances.

Sec. 8-3. - Definitions.

Unless specifically defined elsewhere in this chapter, the definitions provided in this Section shall apply.

- (a) Appointing Authority shall mean any and all municipal governments within geographic Miami-Dade County >>through their appointed officers<<, and with respect to unincorporated Miami-Dade County, the Board of County Commissioners of Miami-Dade County, acting through its appointed officers.

Section 3

NOTICE OF PUBLIC HEARING

Notice is hereby given by the Broward County Board of Rules and Appeals that said Board will hold a public hearing starting at 7:00 p.m. on November 10, 2021, Via Zoom. The Board will consider amending in second reading the Florida Building Code, 7th Edition (2020) - Building -Chapter I – Administrative Provision, Section 104.1.3, Certification of the Building Official and the Assistant Building Official, requiring that the application for Certification of the building official or assistant building official shall be signed by the Jurisdiction’s Chief Executive Officer (City Manager, Acting City Manager or Mayor) in accordance with existing BORA Policy 12-01. The effective date for the amendment listed is November 22, 2021.

Zoom information:

<https://broward-org.zoomgov.com/j/1619056514?pwd=WEE0UVhyTHVSTDN3WmlRROlNY2FIUT09>

Meeting ID: 161 905 6514 - Passcode: 256375

A copy of the proposed code changes is available for review at 1 N. University Drive, Suite 3500B, Plantation, Florida 33324. We can email you a copy. Call (954) 765-4500.

Dated this 24th day of October 2021.
10/24/20217070550

Order # - 7070550



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Board of Rules and Appeals

From: Administrative Director

Date: 11/10/2021

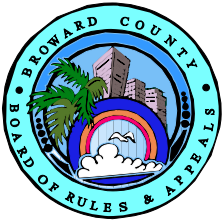
RE: Local Amendments for 2nd Reading.

Proposed change to Section 104.1.3 Certification of the Building Official and the Assistant Building Official of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) requiring that the application for certification of the Building Official or Assistant Building Official shall be signed by the jurisdiction's Chief Executive Officer (City Manager, Acting City Manager or Mayor) in accordance with existing BORA Policy 12-01.

Amendment approved on 1st reading on October 14th, 2021. Scheduled for 2nd reading and public hearing.

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Broward County Board of Rules and Appeals
From: Administrative Director, James DiPietro
Date: October 14, 2021
Subject: Proposed change to Section 104.1.3 Certification of the Building Official and the Assistant Building Official of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) requiring that the application for Certification of the Building Official or Assistant Building Official shall be signed by the jurisdiction's Chief Executive Officer (City Manager, Acting City Manager or Mayor) in accordance with existing BORA Policy 12-01.

Recommendation

That BORA approves by vote, on first reading the staff proposed change to Section 104.1.3 Certification of the Building Official and the Assistant Building Official of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020).

Reasons

This code revision will codify existing BORA Policy 12-01 that requires that the application for Certification of the Building Official or Assistant Building Official shall be signed by the jurisdiction's Chief Executive Officer (City Manager, Acting City Manager or Mayor).

If the Board chooses to approve this proposal, BORA Policy 12-01 will be rescinded.

This final code draft has been reviewed by our Legal Counselor Mr. Charles Kramer and his recommended corrections were also included.

Additional Information

List of attached documents:

1. Revised 7th Edition Chapter 1 with underlined text to show change to Section 104.1.3.
2. BORA Policy 12-01 adopted October 11, 2012.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro

STRONGER CODES MEAN SAFER BUILDINGS

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Proposed code change to 7th Edition FBC, Chapter 1, Broward Amendments.

104.1.3 Certification of the Building Official and the Assistant Building Official. To be eligible for appointment as a Building Official or Assistant Building Official, such person shall be certified as required by BCAIB as a Building Code Administrator.

104.1.3.1 Such person shall be certified by BORA and shall meet at least one of the following qualifications:

104.1.3.1.1 A Florida Registered Architect or Florida licensed Professional Engineer having practiced for at least seven (7) years, a minimum of five (5) years shall have been within the jurisdiction of the HVHZ.

104.1.3.1.2 Ten (10) years combined experience as a Master Electrician, Electrical Contractor, General Contractor, Master Mechanical, Mechanical Contractor, Class A Air Conditioning Contractor, Master Plumber, Plumbing Contractor, Chief Inspector, Standard Plans Examiner or Standard Inspector appointed by an AHJ or school board within the State of Florida. A minimum of five (5) years shall have been within the jurisdiction of the HVHZ.

104.1.3.2 As part of the experience requirements above, the applicant shall have been appointed as Chief Inspector, Standard Plans Examiner or Standard Inspector by an AHJ or school board within the State of Florida for a minimum of two (2) years.

104.1.3.3 Each of the applicants shall possess a current Certificate of Competency or a Professional Engineer license or Architect registration issued by at least one (1) of the following entities:

- A. Florida Construction Industry Licensing Board as a General Contractor, Mechanical Contractor or Plumbing Contractor.
- B. Florida Electrical Contractors Licensing Board as an Electrical Contractor.
- C. Broward County Central Examining Board of Building Construction Trades. (As Class "A" Unlimited General Contractor.)
- D. Broward County Central Examining Board of Electricians as a Master Electrician and/or Electrical Contractor.
- E. Broward County Central Examining Board of Mechanical Contractors and Specialty Mechanical Contractors as a Mechanical Contractor or Class A Air Conditioning Contractor.
- F. Broward County Central Examining Board of Plumbers as a Master Plumber.
- G. Miami-Dade County Construction Trades Qualifying Board, for any of the above-referenced disciplines.
- H. Florida Board of Architecture and Interior Design.
- I. Florida Board of Professional Engineers.

104.1.3.4 An applicant for Certification as Building Official or Assistant Building Official under the provisions of this section may only substitute two (2) years HVHZ experience with two (2) years of statewide experience by passing the BORA HVHZ exam.

104.1.3.5 An applicant for Certification as a Building Official or Assistant Building Official under the provisions of this section who is a graduate from an accredited school holding a Bachelor or Associate of Science Degree in Engineering, Architecture or Building Construction from an accredited school may be credited for a maximum of two (2) years for Bachelor's Degree or a maximum of one (1) year for an Associate Degree towards the combined experience requirements. This credit is not applicable towards the requirements under Section 104.1.3.1.1.

104.1.3.6 The application for Certification of the Building Official or Assistant Building Official shall be signed by the jurisdiction's chief executive officer (city manager, acting city manager or mayor).

Board Policy: 12-01

Subject: Modification of Form for Certifying the Building Official

To: Members of the Broward County Board of Rules and Appeals
From: Administrative Director
Date: October 11, 2012
Re: Modification of Form for Certifying the Building Official

RECOMMENDATION

It is recommended that the BORA approve, by motion, the revisions to the form used for certifying the building official position (indicated on the attachment), which requires the chief executive officer (City Manager, Acting City Manager, or Mayor) to sign the application rather than a delegated member of the staff.

REASONS

For the top building code position of building official, as contrasted with other inspector vacancies, this clarification would ensure that the local jurisdiction does not sponsor an applicant where questions are pending concerning the applicant's qualifications for the position without the direct knowledge of the chief executive officer.

Respectfully submitted,



James DiPietro

This policy was approved by BORA during its regular meeting of October 12, 2012, and later incorporated to the Policies and Procedures book.

Section 4

NOTICE OF PUBLIC HEARING

Notice is hereby given by the Broward County Board of Rules and Appeals that said Board will hold a public hearing starting at 7:00 p.m. on November 10, 2021, Via Zoom. The Board will consider amending in second reading the Florida Building Code, 7th Edition (2020) - Building -Chapter I – Administrative Provision, Section 104.16.3, "Certification of the Structural Inspector," regarding the correction of the numbering error of subsection 104.15.3.5 to read 104.16.3.5. The effective date for the amendment listed is November 22, 2021.

Zoom information:

<https://broward-org.zoomgov.com/j/1619056514?pwd=WEE0UVhyTHVSTDN3WmlR0lNY2FlUT09>

Meeting ID: 161 905 6514 - Passcode: 256375

A copy of the proposed code changes is available for review at 1 N. University Drive, Suite 3500B, Plantation, Florida 33324. We can email you a copy. Call (954) 765-4500.

Dated this 24th day of October 2021.
10/24/20217070563

Order # - 7070563



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Board of Rules and Appeals

From: Administrative Director

Date: 11/10/2021

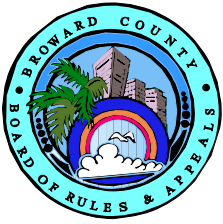
RE: Local Amendments for 2nd Reading.

Correction of a typographic error on the numbering of Section 104.16.3 "Certification of the Structural Inspector," of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020), subsection 104.15.3.5 to read 104.16.3.5.

Amendment approved on 1st reading on October 14th, 2021. Scheduled for 2nd reading and public hearing.

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Broward County Board of Rules and Appeals
From: Administrative Director, James DiPietro
Date: October 14, 2021
Subject: Correction of typographic error on the numbering of Section 104.16.3 "Certification of the Structural Inspector", of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020), subsection 104.15.3.5 to read 104.16.3.5.

Recommendation

That BORA approves by vote, on first reading the staff proposed change to the numbering of Section 104.16.3 "Certification of the Structural Inspector", of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020), subsection 104.15.3.5 to read 104.16.3.5.

Reasons

A typographic error was made during the last Chapter 1 adoption. The section heading is 104.16.3 "Certification of the Structural Inspector". Subsection 104.15.3.5 should read 104.16.3.5. The proposed language will correct the error. No policy change is proposed. This final code draft has been reviewed by our Legal Counselor Mr. Charles Kramer and his recommended corrections were also included.

Additional information

List of attached documents:

1. Revised Chapter 1, Florida Building Code (FBC) 7th Edition (2020) with stricken and underlined text to show changes to subsection 104.15.3.5 to read 104.16.3.5

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro.

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Section 104.16.3 Certification of the Structural Inspector.

104.16.3 Certification of the Structural Inspector. To be eligible for appointment as a Structural Inspector, such person shall be certified by BCAIB as a Standard Inspector or be a Florida Registered Architect or Florida Licensed Professional Engineer in the discipline requested.

104.16.3.1 Such person shall also be certified by BORA by meeting the requirements of at least one (1) of the following:

104.16.3.1.1 Be a Florida Registered Architect or a Florida Licensed Professional Engineer in the discipline requested with two (2) years of HVHZ experience or by passing BORA's HVHZ exam.

104.16.3.1.2 Be a BCAIB certified Standard Inspector in the Structural discipline with five (5) years of experience within the State of Florida, of which, two (2) years shall have been within HVHZ or by passing BORA's HVHZ exam. An individual qualifying through this path shall be required to acquire a G.C. license, by exam, within one (1) year of initial certification as an inspector.

104.16.3.1.3 Be a licensed G.C. with at least five (5) years of experience within the State of Florida in the Structural discipline with that license of which, two (2) years shall have been within the HVHZ or by passing BORA's HVHZ exam.

104.16.3.1.4 Five (5) years construction experience in the Structural discipline in a supervisory capacity of which at least two (2) years shall have been within the jurisdiction of HVHZ or by passing BORA's HVHZ exam. An individual qualifying through this path shall be required to acquire an Unlimited G.C. license, by exam, from either the Construction Industry Licensing Board (CILB), Broward County Examining Board or the Miami-Dade Construction Trades Qualifying Board, within one (1) year of initial certification as an inspector.

104.16.3.1.5 Ten (10) years construction experience in the Structural discipline of which at least two (2) years shall have been within the jurisdiction of the HVHZ or by passing BORA's HVHZ exam. An individual qualifying through this path shall be required to acquire an Unlimited G.C. license, by exam, from either the Construction Industry Licensing Board (CILB), Broward County Examining Board or the Miami-Dade Construction Trades Qualifying Board, within one (1) year of initial certification as an inspector.

104.16.3.2 An applicant for Certification as a Structural Inspector under the provisions of this section who is a graduate from an accredited school holding a Bachelor or Associate of Science Degree in Engineering, Architecture or Building Construction may be credited for two (2) years for Bachelor Degree or one (1) year for an Associate Degree towards the combined experience requirements. This credit is not applicable towards the requirements under Section 104.16.3.1.1.

104.16.3.3 Limited Building or Residential Inspector certifications may be issued to individuals holding current Building Contractor or Residential Contractor licenses and who otherwise meet the requirements of the appropriate section under which they are qualifying, with duties limited to the scope of work authorized by their license.

104.16.3.4 An applicant for certification as Structural Inspector under the provisions of this section may only substitute the required two (2) year HVHZ experience with two (2) years of statewide experience by passing the BORA HVHZ exam.

→ **104.156.3.5** Building Inspectors (structural) certified by BORA on or after July 1st, 2020 shall be required to obtain a Reinforced Unit Masonry certification within two years from their initial BORA certification date.

Section 5

NOTICE OF PUBLIC HEARING

Notice is hereby given by the Broward County Board of Rules and Appeals that said Board will hold a public hearing starting at 7:00 p.m. on November 10, 2021, Via Zoom. The Board will consider amending in second reading the Florida Building Code, 7th Edition (2020) - Building -Chapter I – Administrative Provision, Section 109.3 Building permits valuation, subsection 109.3.1, regarding prohibiting a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit, in accordance with FLA. Statute 553.79. The effective date for the amendment listed is November 22, 2021.

Zoom information:

<https://broward-org.zoomgov.com/j/1619056514?pwd=WEE0UVhyTHVSTDN3WmlRROlNY2FiUT09>

Meeting ID: 161 905 6514 - Passcode: 256375

A copy of the proposed code changes is available for review at 1 N. University Drive, Suite 3500B, Plantation, Florida 33324. We can email you a copy. Call (954) 765-4500.

Dated this 24th day of October 2021.
10/24/20217070570

Order # - 7070570



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Board of Rules and Appeals

From: Administrative Director

Date: 11/10/2021

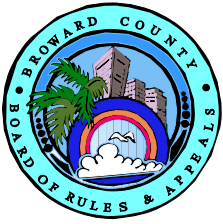
RE: Local Amendments for 2nd Reading.

Proposed change to Section 109.3 Building permit valuations, subsection 109.3.1 of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) prohibiting a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit, in accordance with Florida Statute 553.79.

Amendment approved on 1st reading on October 14th, 2021. Scheduled for 2nd reading and public hearing.

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro



BROWARD COUNTY

CORRECTED

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Broward County Board of Rules and Appeals
From: Administrative Director, James DiPietro
Date: October 14, 2021
Subject: Proposed change to Section 109.3 Building permit valuations, subsection 103.9.1 of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) prohibiting a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit, in accordance with Florida Statute 553.79.

Recommendation

That BORA approves by vote, on first reading the staff proposed addition to Section 109.3 Building permit valuations, subsection 103.9.1 of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020).

Reasons

House Bill 401 of 2021 was approved by the Governor on June 29, 2021 and became effective on July 1, 2021. The bill modified Florida Statute 553.79 "Permits; applications; issuance; inspections" adding "Section (1)(f)". It prohibits a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit.

This final code draft has been reviewed by our Legal Counselor Mr. Charles Kramer and his recommended corrections were also included.

Additional information

List of attached documents:

1. Revised 7th Edition Chapter 1 with stricken and underlined text to show changes from the 6th Edition of Chapter 1.
2. Excerpt of HB 401-2021, and House of Representatives' staff bill analysis.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro

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Section 109 Fees

109.3 Building permit valuations. The applicant for a permit shall provide an estimated permit value at a time of application. Permit valuations, shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment, and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Final building permit valuation shall be set by the Building Official.

109.3.1 The Building Official may require an estimate of the cost utilizing RSMeans, ~~copies of signed contract~~ and/or other descriptive data as a basis for determining the permit fee. As mandated by HB-401-2021, a local government may not require a contract between a builder and an owner for the issuance of a building permit or as a requirement for the submission of a building permit application.

Additional information, not to be included in code.

CS/CS/HB 401, Engrossed 1 2021 Legislature Page 16, 17 of 39

Section 3. Paragraph (f) is added to subsection (1) of section 553.79, Florida Statutes, to read:

553.79 Permits; applications; issuance; inspections.

(1) (f) “A local government may not require a contract between a builder and an owner for the issuance of a building permit or as a requirement for the submission of a building permit application.”

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0500-0599/0553/Sections/0553.79.html

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 401 Florida Building Code

Required Information in Building Permit Application – Effect of the Bill

The bill prohibits a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit.

Section 6

NOTICE OF PUBLIC HEARING

Notice is hereby given by the Broward County Board of Rules and Appeals that said Board will hold a public hearing starting at 7:00 p.m. on November 10, 2021, Via Zoom. The Board will consider amending in second reading the Florida Building Code, 7th Edition (2020) - Building -Chapter I – Administrative Provision, Section 113.9.2 "Interpret code at request of Building Official, Chief Inspector, Fire Code Official or the staff of BORA" to clarify code's intent. The effective date for the amendment listed is November 22, 2021.

Zoom information:

<https://broward-org.zoomgov.com/j/1619056514?pwd=WEE0UVhyTHVSTDN3WmlRROlNY2FIUT09>

Meeting ID: 161 905 6514 - Passcode: 256375

A copy of the proposed code changes is available for review at 1 N. University Drive, Suite 3500B, Plantation, Florida 33324. We can email you a copy. Call (954) 765-4500.

Dated this 24th day of October 2021.
10/24/20217070573

Order # - 7070573



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Board of Rules and Appeals

From: Administrative Director

Date: 11/10/2021

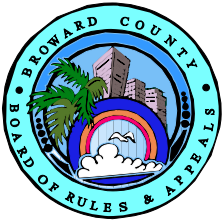
RE: Local Amendments for 2nd Reading.

Proposed change to Section 113 Board of Rules and Appeals, subsection 113.9.2 "Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA" of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) to clarify code's intent.

Amendment approved on 1st reading on October 14th, 2021. Scheduled for 2nd reading and public hearing.

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Broward County Board of Rules and Appeals
From: Administrative Director, James DiPietro
Date: October 14, 2021
Subject: Proposed change to Section 113 Board of Rules and Appeals, subsection 113.9.2 “Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020) to clarify code’s intent.

Recommendation

That BORA approves by vote, on first reading the staff proposed change to Section 113 Board of Rules and Appeals, subsection 113.9.2 “Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA” of Broward County Amendments (Chapter 1) Florida Building Code (FBC) 7th Edition (2020).

Reasons

As written now Subsection 113.9.2 is unclear as what the Board needs to do with interpretations requested by Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA. Proposed language will clarify the Board’s role.

This final code draft has been reviewed by our Legal Counselor Mr. Charles Kramer and his recommended corrections were also included.

Additional information

List of attached documents:

1. Current code Subsection 113.9.2.
2. Revised Chapter 1, Florida Building Code (FBC) 7th Edition (2020) with stricken and underlined text to show changes to subsection 113.9.2.
3. Full existing Section 113.9 for reference only.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James DiPietro".

James DiPietro.

Proposed code change to 7th Edition 2020 FBC CHAPTER 1 ADMINISTRATION—BROWARD COUNTY

Section 113 Board of Rules and Appeals.

As currently written subsection 113.9.2 reads:

113.9.2 Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA. The Board shall pass on all matters pertaining to this Code and referred to the Board by the Building Official, Assistant Building Official, Chief Inspector, or staff of BORA for interpretation or clarification.

Staff proposed change to subsection 113.9.2:

113.9.2 Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA. ~~The Board shall pass on all matters pertaining to this Code and referred to the Board by the Building Official, Assistant Building Official, Chief Inspector, or staff of BORA for interpretation or clarification.~~ At the request of a Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA; the Board shall issue final interpretations or opinions on any matter pertaining to this code and the FFPC.

Current code for reference only.

113.8.4 Conflict of Interest. No member of the Board shall sit as a voting member in any hearing involving any question in which he or she has personal or financial interest and shall be sequestered during the deliberation and vote of the Board.

113.8.5 Quorum. A quorum of the Board of Rules and Appeals shall consist of a majority of the total membership of the Board of Rules and Appeals, and a majority vote of those members voting on a measure shall be necessary for the Board of Rules and Appeals affirmative action. With a total membership of 13 members, quorum is 7.

113.8.6 Written notice of Board decision shall be furnished to the appellant when requested.

113.8.7 When an appeal of a decision of a Building Official/Fire Code Official or his or her subordinate has been filed with BORA that Building Official/Fire Code Official or his or her designated representative shall be responsible to (1, 2, 3, or all):

113.8.7.1 Respond to BORA in writing defending his or her decision and/or interpretation, within five (5) (working) days.

113.8.7.2 Attend the Board meeting when the appeal is on the agenda.

113.8.7.3 Take immediate action in accordance with decision of BORA. Immediate action shall be that a Certificate of Completion, Temporary Occupancy, or a Certificate of Occupancy shall not be issued until compliance with the decision of the Board has been completed.

Exception: For fire related appeals only, see FFPC.

113.9 Duties.

113.9.1 Appeal from decision of Building Official, Assistant Building Official or Chief Inspector. The Board shall hear all appeals from the decisions of the Building Official, Assistant Building Official or Chief Inspector wherein such decision is on matters regulated by this Code from any person, aggrieved thereby, and specifically as set forth in Section 104.32, "Alternate Materials, designs and methods of Construction and equipment." Application for Appeal shall be in writing and addressed to the Secretary of the Board.

113.9.2 Interpret code at request of Building Official, Assistant Building Official, Chief Inspector, Fire Code Official, or the staff of BORA. The Board shall pass on all matters pertaining to this Code and referred to the Board by the Building Official, Assistant Building Official, Chief Inspector or staff of BORA for interpretation or clarification.

113.9.3 Investigate Enforcement. BORA, upon the request of any person charged with the responsibility of enforcing the Code, or upon its own initiative, shall conduct investigation into enforcement of this Code, and shall have the power to suspend or revoke any permits issued thereunder, after a hearing at which interested persons may appear and be heard and evidence indicates that the best interests of the public are served by such action except in regard to the qualifications of the applicant for permit.

113.9.4 Report and Recommendations.

113.9.4.1 BORA may recommend to the elected Officials of the jurisdictions adopting this Code, ordinances prescribing the fee for examinations, permits, inspections of boilers and elevators, the testing of materials, and all other such work required by this Code.

113.9.4.2 BORA shall make any desired amendments or revisions to the Code.

113.10 Cost of appealing to Board. Reserved.

113.11 Procedure for Appeals. Any person aggrieved by anyone enforcing this Code who desires to appeal to this Board shall first contact the Secretary of the Board for a date for his Appeal to be heard. A notice of Appeal shall be sent to the governing body of the jurisdiction wherein the dispute arose and said notice shall contain the following:

113.11.1 The time and date of the hearing.

113.11.2 A clear and concise statement of the subject to be decided on appeal sufficient to put the said governing body on notice so that they may defend their interpretation of this Code.

113.11.3 The notice shall be sent by certified mail with return receipt and by facsimile or electronic media, with a receipt showing delivery by noon, or by personal delivery by noon at least nine (9) days prior to the hearing. The Board in its discretion may require a specific form for this notice. For an appeal

Section 7



BROWARD COUNTY

Board of Rules & Appeals

ONE NORTH UNIVERSITY DRIVE, SUITE 3500-B, PLANTATION, FLORIDA 33324

PHONE (954) 765-4500 FAX: (954) 765-4504

<http://www.broward.org/codeappeals>

To: Members of the Board of Rules and Appeals
From: Administrative Director
Date: 11/10/2021
RE: **Proposed Board of Rules and Appeals meeting calendar for 2022.**

Each year the Board is requested to approve by motion the meeting schedule for the new calendar year. Accordingly, you will find the proposed meeting schedule with posted deadlines for filing appeals.

The proposed calendar has been adjusted by staff to avoid conflicts with holidays.

Respectfully Submitted.

James DiPietro

Broward County Board of Rules and Appeals – 2022 Board Meeting Calendar

BOARD MEETING DATE	* VOLUNTARY CUT-OFF DATE	** MANDATORY EMERGENCY APPEALS DEADLINE	AGENDA MAILING DATE
Thursday, January 13, 2022	Monday, December 27, 2021	Monday, January 3, 2022	Wednesday, January 5, 2022
Thursday, February 10, 2022	Monday, January 24, 2022	Monday, January 31, 2022	Wednesday, February 2, 2022
Thursday, March 10, 2022	Tuesday, February 22, 2022	Monday, February 28, 2022	Wednesday, March 2, 2022
Thursday, April 14, 2022	Monday, March 28, 2022	Monday, April 4, 2022	Wednesday, April 6, 2022
Thursday, May 12, 2022	Monday, April 25, 2022	Monday, May 2, 2022	Wednesday, May 4, 2022
Thursday, June 9, 2022	Monday, May 23, 2022	Tuesday, May 31, 2022	Wednesday, June 1, 2022
Thursday, July 14, 2022	Monday, June 27, 2022	Tuesday, July 5, 2022	Wednesday, July 6, 2022
Thursday, August 11, 2022	Monday, July 25, 2022	Monday, August 1, 2022	Wednesday, August 3, 2022
Thursday, September 8, 2022	Monday, August 22, 2022	Monday, August 29, 2022	Wednesday, August 31, 2022
Thursday, October 13, 2022	Monday, September 26, 2022	Monday, October 3, 2022	Wednesday, October 5, 2022
Thursday, November 10, 2022	Monday, October 24, 2022	Monday, October 31, 2022	Wednesday, November 2, 2022
Thursday, December 8, 2022	Monday, November 21, 2022	Monday, November 28, 2022	Wednesday, November 30, 2022

*** Voluntary Cut-Off Date at Noon for all Building Code and Fire Code Appeals and Mandatory Deadline for all other agenda items including certifications.**

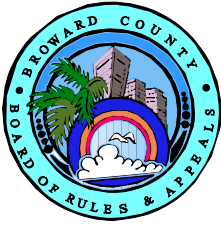
For Building and Fire Code Appeals, complying with the "voluntary" cut off date is strongly recommended so as to give all parties sufficient time to make their arguments in writing for inclusion in the agenda packet.

**** Mandatory Emergency Appeals Deadline is Noon for all Building Code and Fire Code Appeals.**

Cut-off time for all Agenda Items is 12:00 Noon. By existing State law, Fire Code Appeals will first be heard by the Fire Code Committee prior to review by the Board of Rules and Appeals. Deadline for Fire Code appeals is the last day of each month (the Monday following, if last day falls on a weekend). Adjustments in the schedule have been made to accommodate the Memorial Day and Independence Day holidays.

All materials for the Board are to be included in the Agenda Packet. No handouts are permitted at the meeting. A letter from the Building Official rejecting the applicant's appeal shall be included in the appeal packet submitted to the Board of Rules and Appeals.

Section 8



Broward County Board of Rules and Appeals

1 North University Drive, Suite 3500B, Plantation, Florida 33324

Phone 954-765-4500 Fax: 954-765-4504 broward.org/codeappeals

TO: Members of the Board of Rules and Appeals

FROM: James DiPietro, Administrative Director

DATE: November 10, 2021

SUBJECT: Nominations and Elections for 2022

As a custom, the Board of Rules and Appeals elects its officers for the new calendar year in either December or January. Traditionally, we do not hold a December meeting unless there is an appeal that needs to be heard or other urgent board business to conduct. However, now that we are holding our Board meetings virtually, it will be easier to obtain a quorum.

Both positions must come from voting members, who are as follows:

Mr. Daniel Lavrich, P.E., S.I., SECB, F.ASCE, F.SEI – Current Chair
Mr. Stephen Bailey, P.E. – Current Vice-Chair
Mr. Ron Burr
Mr. Gregg D’Attile
Mr. John Famularo
Mrs. Shalanda Giles Nelson
Mr. Robert A. Kamm, P.E.
Mr. Sergio Pellecer
Mr. Daniel Rourke
Mr. John Sims
Mr. Dennis A. Ulmer
Mr. Abbas H. Zackria, CSI
Ms. Lynn E. Wolfson

The Board currently has 13 voting members.

An alternate member of the Board who is seated for the meeting may vote but may not be a candidate for these positions. At the meeting that you select your new officers, December 2021 or January 2022, we will provide a record of attendance. The effective date and time of the newly elected Chair and Vice-Chair to assume office will be at the close of the session. If you have any questions regarding this matter, please contact me at your convenience.

Thank You

Section 9

MARK S. MUCCI, P.A.
Certified Civil Mediator

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(1929-2013)

BRIAN ABELOW

CHARLES M. KRAMER
OF COUNSEL
Board Certified in Construction Law

MATTHEW D. COHEN
Senior Associate
Also Admitted in New York

November 1, 2021

James DiPietro, Administrative Director
The Broward County Board of Rules and Appeals
1 N. University Drive, Suite #3500-B
Plantation Florida 33324

**ADVISORY OPINION REGARDING OWNER OF
PROPERTY'S AUTHORITY TO PULL BUILDING
PERMIT FOR CONSTRUCTION OF SWIMMING POOL**

Jim,

You have asked the Office of General Counsel for an Advisory Opinion with respect to the authority of a property owner's authority to pull a building permit for construction of a swimming pool under Florida Statutes Sec.489.103 Exemptions and protocol for compliance with same.

Issue:

A question has arisen as to the ability of a property owner to apply for, and obtain, a building permit for construction of a swimming pool. More specifically, concern is raised as to whether an owner who is applying for a permit to build a swimming pool is confined to those elements which may be performed by a general contractor where the Florida Statutes and the Construction Industry Licensing Board both independently determine that a general contractor must subcontract all non-structural swimming pool work "to an appropriately licensed certified or registered swimming pool contractor." *See* F.S. Sec 489.113(3)(c). *See also* CILB DS 2014-041

Rule:

Florida Statutes Sec 489.103 (7) states *inter alia*:

(7)(a) Owners of property when acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors:

1. When building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed \$75,000, on such property for the occupancy or use of such owners and not offered for sale or lease.

See Florida Statutes Sec 489.103 et. al.

Analysis:

We have reviewed Florida Statutes and other authority including F.S. Sec. 489.103, 489.105(3)(j-1), 489.113, 515 et.al., 558.73, FBC R 4501 et.al., Attorney General Opinion 82-83(superseded), 61G4-15.032 Certification of Swimming Pool Specialty Contractors. CILB Declaratory Statement 2014-041, and referenced case law,

We acknowledge the authority of the Board of Rules and Appeals under Special Act 71-575 and Broward County Charter Section 9.02. We further note the incorporation of the Florida Building Code into statute through F.S. Sec 553.78 which states *inter alia*:

553.73 Florida Building Code.—

(1)(a) The commission shall adopt, by rule pursuant to ss. 120.536(1) and 120.54, the Florida Building Code which shall contain or incorporate by reference all laws and rules which

pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.

See Florida Statutes Sec 553.73 (1)(a).

In so saying, references or terms in the Florida Building Code, Broward County Edition, which are otherwise undefined are properly determined through interpretation of associated Florida Statutes. Statutes may be read in *pari materia* without specific direction from legislature, and absence of such a directive does not bar construing statutes in that manner. The law should be construed with reference to constitution and purpose designed to be accomplished and in connection with other laws in *pari materia*, although they contain no reference to each other. See Miami Dolphins Ltd vs Metropolitan Dade County, 394 So.2d 981 (Fla. 1981).

We note that F.S. Sec 489.103(7) specifically uses the word “contractor” without restrictive prefix. This is important because the Florida Statutes regulating professions and occupations specifically delineate different types of contractors with Division I and Division II classifications.¹ More specifically, the Statutes define “General Contractor”, “Building Contractor”, “Residential Contractor”, “Sheet Metal Contractor” and numerous others but all fall under the general classification of contractor.

F.S. Sec 489.105 states *inter alia*:

“Contractor” means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by

¹ Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in F.S. Sec 489.105(3) paragraphs (a) (c) and Division II, consisting of those contractors defined in F.S. Sec 489.105(3) paragraphs (d)-(q):

others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the paragraphs of this subsection.

It is clear that the term “contractor” as set forth in F.S. Sec 489.103(7)(a)(1) means any of the myriad contracting categories including those contained within F.S. Sec 489.105(3) which are applicable to the statute.

Rules governing interpretation thus determine that an owner applying for a permit as an owner/builder is not restricted to work within the scope of a general contractor but rather is allowed to perform work – subject to statutory restrictions- in any of the myriad contracting disciplines. The courts and this administrative body may not abandon either common sense or principles of logic in statutory interpretation. *See, School Bd. of Palm Beach County v. Survivors Charter Schools, Inc.*, 93 So.3d 1220 (Fla. 2009). Nor can this administrative body change the meaning of statutory language by adding a restrictive prefix to the term “contractor.” *See Bay Holdings, Inc. v. 2000 Island Blvd. Condo. Ass'n*, 895 So.2d 1197 (3rd DCA 2005) (“The courts are not at liberty to add words to statutes that were not placed there by the legislature; to do so, would be an abrogation of legislative power.”)

Conclusion:

It is the opinion of General Counsel for the Broward County Board of Rules and Appeals that an owner of property may apply for and obtain a permit for construction of a swimming pool as contemplated within the constraints of the Florida Statutes and applicable codes.

An owner-builder who applies for a permit to build a swimming pool is required to ensure that all appropriate disciplines have been subcontracted including those for structural, swimming pools, electrical, and plumbing. Nothing

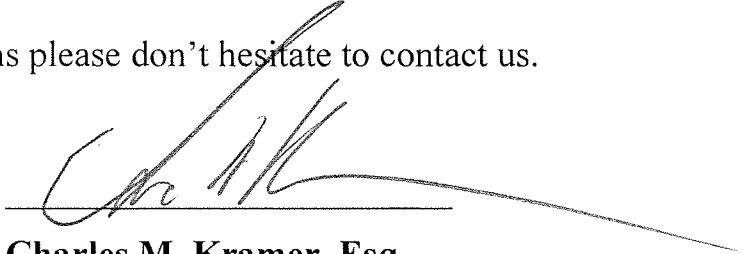
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Owner builder / pool permit

November 1, 2021

in this Advisory Opinion shall be construed to permit any violation of law or code. Nothing in this Advisory shall be construed to supersede any statute(s) including but not limited to F.S. Sec 489.103(7)(c).

If you have any further questions please don't hesitate to contact us.



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