

ORDINANCE NO. 01-69

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO UNSAFE STRUCTURES; PROVIDING TITLE; PROVIDING FOR CONSTRUCTION; PROVIDING FOR APPLICABILITY; PROVIDING DEFINITIONS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING PROCEDURES; PROVIDING FOR NOTICES; PROVIDING FOR EXTENSIONS OF TIME; PROVIDING FOR APPEALS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR ACTION BY COUNTY; PROVIDING FOR EMERGENCIES; PROVIDING FOR COSTS AND LIENS; PROVIDING FOR VIOLATIONS AND PENALTIES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

FILED FOR RECORD  
R. B. SHORE

2002 JAN -3 AM 8:59

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

FILED  
2001 DEC 26 PM 1:16  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

WHEREAS, on April 7, 1998, the Board of County Commissioners of Manatee County, Florida, enacted Ordinance No. 98-04, codified as Section 2-6-1 of the Manatee County Code of Ordinances, which adopted the 1997 edition of the Standard Building Code and certain appendices to said code as the building code for Manatee County, Florida; and

WHEREAS, Paragraph 30 of Exhibit "A" to Ordinance No. 98-04 adopted the 1985 Standard Unsafe Building Abatement Code with certain amendments to said code as Appendix "Q" of the Manatee County building code; and

WHEREAS, Paragraph 553.73(1)(a), Florida Statutes, requires the Florida Building Commission to adopt, by rule, the Florida Building Code containing or incorporating 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

WHEREAS, the Florida Building Commission has adopted Rule 9B-3.047, Florida Administrative Code, which adopted the Florida Building Code as the building code for the

State of Florida; and

WHEREAS, Section 3406 of the Florida Building Code -- Building establishes standards for demolition; and

WHEREAS, the Florida Building Code contains no regulations relating to unsafe buildings or unsafe structures; and

WHEREAS, the Board of County Commissioners of Manatee County has found that regulation of unsafe buildings and unsafe structures is necessary to protect the lives and property of occupants, adjacent property owners and the general public; and

WHEREAS, pursuant to Section 125.66, Florida Statutes (2001), the Board of County Commissioners of Manatee County has held a public hearing to consider the enactment of an ordinance adopting regulations relating to unsafe buildings and unsafe structures; and

WHEREAS, the Board of County Commissioners of Manatee County has determined that it is in the best interest of the county and the public health, safety and welfare of the citizens of the county to adopt regulations relating to unsafe buildings and unsafe structures as provided in this ordinance.

Section 1. Title. This ordinance shall be known and may be cited as the "Manatee County Unsafe Structure Ordinance."

Section 2. Construction. This ordinance 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 and occupancy of buildings, structures or premises.

Section 3. Applicability.

(a) The provisions of this ordinance shall apply to all unsafe buildings and unsafe structures and shall apply equally to new and existing conditions.

(b) Alterations, repairs or rehabilitation work.

(1) Alterations, repairs or rehabilitation work may be made to any existing building or structure without requiring the building or structure to comply with all the requirements of the Florida Building Code, provided that the alteration, repair or rehabilitation work conforms to the requirements of the Florida Building Code for new construction. The building official shall determine, subject to appeal to the board, the extent, if any, to which the existing building or structure shall be made to conform to the requirements of the Florida Building Code for new construction.

(2) Alterations, repairs or rehabilitation work shall not cause an existing building or structure to become unsafe.

(3) If the occupancy classification of an existing building or structure is changed, the building or structure shall be made to conform to the Florida Building Code for the new occupancy classification which shall be established by the building official.

(4) Repairs and alterations not covered by the preceding paragraphs of this section, restoring a building or structure to its condition previous to damage

or deterioration, or altering a building or structure in conformity with the provisions of this ordinance 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 or structure is constructed unless such materials are defined as hazardous under federal or state law or have been declared hazardous by a national testing agency; but not more than twenty-five percent (25%) of the roof covering of a building or structure shall be replaced in any period of twelve (12) months unless the entire roof covering is made to conform with the requirements of the Florida Building Code for new buildings or structures.

(c) The provisions of this ordinance relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or county as historic buildings or structures when such buildings or structures are determined 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 or structures. The applicant must submit complete architectural and engineering plans and specifications bearing the signature and seal of a registered professional engineer or architect and a certificate of appropriateness or other approval from a state or county board or agency with jurisdiction over historic buildings or structures.

(d) 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 Florida Building Code or the applicable building code in a building or structure when erected, altered or repaired shall be maintained in good working order. The owner, or his or her designated agent, shall be responsible for the maintenance of buildings and structures.

Section 4. Definitions.

- (a) In this ordinance, unless the context otherwise requires:
- (1) Approved means approved by the building official or other authority having jurisdiction.
  - (2) Board means the construction codes board of appeals.
  - (3) Board of county commissioners means the governing body of the county.
  - (4) Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for fifty percent (50%) of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purpose of this ordinance, each portion of a building separated from other portions by a fire wall shall be considered a separate building. Buildings located in areas of special flood hazard shall be defined as set forth in 44 CFR (Code of Federal Regulations) section 59.1.
  - (5) Building official means the officer or other designated authority charged with the administration and enforcement of the Florida Building Code, or his or her duly authorized representative.
  - (6) Clerk of the circuit court means the office in the county responsible for

recording deeds and other legal documents or actions.

- (7) Department means the building department or other agency charged with the administration and enforcement of the Florida Building Code.
- (8) Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.
- (9) Structure means that which is built or constructed.
- (10) Unsafe building or unsafe structure means 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 is endangered:
  - a. 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.
  - b. 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.
  - c. The stress in any material, member or portion thereof, due to all imposed loads including dead load, exceeds the stresses allowed in the Florida Building Code for new buildings or structures or the applicable building code in effect at the time of construction for existing buildings or structures.
  - d. 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 Florida Building Code for new buildings or structures or the applicable building code in effect at the time of construction for existing buildings or structures.

- e. 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 Florida Building Code for new buildings or structures or the applicable building code in effect at the time of construction for existing buildings and structures.
- f. The building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being occupied.
- g. The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
- h. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Florida Building Code, the applicable building code in effect at the time of construction, or a county or state law.
- i. Any building, structure or portion thereof is in such a condition as to constitute a public nuisance.
- j. Any building, structure or portion thereof is unsafe, unsanitary or not

provided with adequate egress, or constitutes a fire hazard, or is otherwise dangerous to human life, or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

- k. Any building, structure or portion thereof has been declared unsafe by the building official pursuant to any former county code or ordinance and has not been repaired or demolished in compliance with said former county code or ordinance.

(b) Words not defined in this ordinance shall have the meanings stated in the Florida Building Code. Words not defined in the Florida Building Code shall have the meanings stated in Webster's current New Collegiate Dictionary, as revised.

Section 5. Administration and enforcement.

(a) The provisions of this ordinance shall be administered and enforced by the building official.

(b) Right of entry.

(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 ordinance.

(2) When entering a building, structure or premises that is occupied, the building official shall first identify himself, present proper credentials and request entry. If the building, structure or premises is unoccupied, the building official 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.

(c) The building 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 ordinance.

(d) Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this ordinance, shall be determined by the building official in accordance with the Florida Building Code or other approved standard, subject to appeal to the board.

(e) An officer or employee connected with the department 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 structure, or in the making of plans or of specifications therefor. Such officer or employee shall not engage in any work which is inconsistent with his or her duties or with the interests of the department. In addition, the provisions of the Code of Ethics for Public Officers and Employees provided in chapter 112, part III, Florida Statutes, shall apply to all officers, employees and members of the board under this ordinance.

(f) Nothing contained in this ordinance shall be deemed to waive sovereign immunity by the county or to impose any personal liability on any officer, employee or member of the board acting in the discharge of his or her duties under this ordinance.

Section 6. Procedures.

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

(b) The following actions shall be taken by the building official when ordering the repair, vacation or demolition of an unsafe building or structure:

- (1) The building or structure shall be ordered repaired or demolished at the option of the owner in accordance with the Florida Building Code.
- (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.

Section 7. Notices.

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

- (1) The street address and legal description of the building, structure or premises.
- (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 ordinance.

- (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 or structure will be ordered vacated and posted to prevent further occupancy until the work is completed and the building official may cause the work to be done and all costs incurred charged against the property or the owner of record:
  - a. If the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within sixty (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 Florida Building Code.
  - b. If the building or structure is to be vacated, the notice shall indicate the time within which vacation is to be completed.
  - c. If the building or structure is to be demolished, the notice shall require that the premises be vacated, all required permits for demolition be secured and the demolition be completed within such time as determined reasonable by the building official.
- (4) A statement advising that any person having any legal interest in the property may appeal the notice by the building official to the board, that such appeal shall be in writing and shall be filed with the building official within

thirty (30) days from the date of the notice, and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

(b) The notice and all attachments thereto shall be served upon the owner of record. 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 or her.

(c) 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. The failure of any person to receive notice, other than the owner of record, shall not invalidate any proceedings under this ordinance. Service by certified mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

(d) If the notice to the owner sent by certified mail is returned undelivered and the address of such person cannot be ascertained by a diligent search and inquiry, service may be effected by the publication of a notice two (2) times, seven (7) days apart, in a newspaper of general circulation in the county, the first such publication to be made at least ten (10) days before the time required for any action or the date set for any hearing under this ordinance. Such service shall be deemed complete upon the date of the second publication.

(e) A notice shall be posted on the property in a conspicuous location. The posted notice shall contain a statement indicating that the building or structure has been declared unsafe by the building official and a statement advising that occupancy of the building or structure is prohibited. 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 or structure except for the purpose of removing personal property, making the required repairs or demolishing the building or structure.

(f) If the notice is not complied with nor an appeal filed within the allotted time, the building official shall file with 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 corrective action has been taken and the building or structure is no longer unsafe from such conditions.

Section 8. Extensions of time.

(a) The building official may approve one (1) or more extensions of time as he or she may determine to be reasonable to complete the required repair or demolition, provided that such extensions do not exceed a total of one hundred twenty (120) days. Requests for extensions of time shall be submitted in writing stating the reasons therefor.

(b) The building official may approve extensions of time which exceed one

hundred twenty (120) days for good cause. Documentation of the conditions constituting good cause shall be submitted with requests for extensions of time for good cause. Good cause for an extension shall include, but not be limited to, the following circumstances:

- (1) Legal actions involving the property, such as foreclosure, eviction, probate or eminent domain.
- (2) Legal actions involving the property owner, such as bankruptcy, incompetency or guardianship.
- (3) Hospitalization or death of the property owner.
- (4) Natural disasters, such as hurricane, tornado or flood.
- (5) Other similar situations beyond the control of the property owner.

(c) All extensions of time approved by the building official shall be in writing and served by regular mail to the owner of record or other person requesting the extension.

(d) The building official may refer any request for extension of time to the board of county commissioners for approval. If the building official denies an extension of time, or if the extensions of time without good cause exceed a total of one hundred twenty (120) days, the extension must be approved by the board of county commissioners.

Section 9. Appeals.

(a) Any person entitled to service of notice may appeal any action of the building official, except extensions of time, under this ordinance to the board. Such appeal shall be filed in writing with the building official within thirty (30) days from the date of service and shall 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 signatures of all appellants and their official mailing addresses.

(b) Upon receipt of an appeal, the building official shall as soon as practicable fix a date, time and location for the hearing of the appeal by the board. Written notice of the date, time and location of the hearing shall be delivered personally or mailed to each appellant at the address on the appeal by certified mail, postage prepaid, return receipt requested.

(c) The board shall provide for the final interpretation of the provisions of this ordinance. The hearing on the appeal shall be conducted in accordance with rules of procedure adopted by the board.

(d) The hearing shall offer the appellant reasonable opportunity to be heard on only those specific matters or issues raised by the appellant in his or her appeal. Failure of any person to appear at the hearing shall constitute a waiver of his or her right to an administrative hearing.

(e) Except for a vacation order, enforcement of any notice issued by the building official under the provisions of this ordinance shall be held in abeyance during the course of an appeal before the board.

Section 10. Implementation.

- (a) 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 as provided by law, including, but not limited to, section 125.69, Florida Statutes.

(b) The repair or demolition of an unsafe building or structure as required in the notice by the building official or the final decision by the board shall be performed in an expeditious and workmanlike manner in accordance with the requirements of this ordinance, the Florida Building Code, all other applicable codes and accepted engineering practice standards.

(c) No person shall obstruct or interfere with the implementation of any action required by the final notice of the building official or the final decision of the board. Any person found interfering with or obstructing such actions shall be prosecuted as provided by law, including, but not limited to, section 125.69, Florida Statutes.

Section 11. Action by county.

(a) Whenever the required repair, vacation or demolition is not commenced within thirty (30) days after the effective date of any order, a notice shall be posted on the property in a conspicuous location. This notice shall contain a statement indicating that the building or structure shall be repaired or demolished by the county and providing the approximate date of such action.

(b) Subsequent to posting the building, structure or premises, the building official may cause the building or structure to be repaired to the extent required to render it safe or, if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premises.



Section 12. Emergencies.

(a) Notwithstanding any other provision of this ordinance, when, in the opinion of the building official, a building, structure or portion thereof, is in immediate danger of failure or collapse so as to endanger life or property, or a building, structure or premises contains a condition which presents an immediate threat to life or property, the building official shall make a reasonable effort to notify the owner of record and may take any of the following actions:

- (1) Order the occupants to vacate the building or structure immediately.
- (2) Purchase materials and employ labor and cause the necessary work to be done to render the building, structure or premises, or portion thereof, temporarily safe.
- (3) Purchase materials and employ labor and cause the necessary work to be done to demolish the building or structure if, in the opinion of the building official, temporary measures are inadequate.

(b) After the immediate danger or immediate threat has been remedied by having the building or structure made temporarily safe, no further action shall be taken by the building official except in accordance with the other provisions of this ordinance.

Section 13. Costs and liens.

(a) The costs of repair or demolition, costs incurred for any emergency work, and all administrative costs, including, but not limited to, postage, recording fees and newspaper publication, shall be billed to the owner of record of the building or structure.

(b) If the owner fails to pay the bill within thirty (30) days after the date the bill is

mailed, the costs shall be recorded as a lien on the property and shall be collected in any manner provided by law.

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

Section 14. Violations and penalties. Any person, firm, corporation or agent who shall violate a provision of this ordinance, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any building or structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of this ordinance, any permit issued thereunder, or a detailed statement or drawing submitted and approved thereunder, shall be prosecuted as 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 ordinance, and upon conviction of any such violation, such person shall be punished as provided by state or local law.

Section 15. Repeal of conflicting ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance, including, but not limited to, Paragraph 30 of Appendix "A" to Ordinance No. 98-04, are hereby repealed to the extent of such conflict.

Section 16. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 17. Effective date. This ordinance shall take effect March 1, 2002, or concurrent with the effective date of the Florida Building Code, whichever date occurs first.

ADOPTED AND ENACTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the 18<sup>th</sup> day of December, 2001.

BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA

By: J. M. Clash  
Chairman

ATTEST: R. B. Shore  
Clerk of the Circuit Court

By: Susan J. Lovine D.C.



STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 20<sup>th</sup> day of December, 2001

R.B. SHORE  
Clerk of Circuit Court

By: G. Acavedo D.C.

DIVISIONS OF FLORIDA DEPARTMENT OF STATE  
Office of the Secretary  
Division of Administrative Services  
Division of Corporations  
Division of Cultural Affairs  
Division of Elections  
Division of Historical Resources  
Division of Library and Information Services  
Division of Licensing  
MEMBER OF THE FLORIDA CABINET



HISTORIC PRESERVATION BOARDS  
Historic Florida Keys Preservation Board  
Historic Palm Beach County Preservation Board  
Historic Pensacola Preservation Board  
Historic St. Augustine Preservation Board  
Historic Tallahassee Preservation Board  
Historic Tampa/Hillsborough County  
Preservation Board  
RINGLING MUSEUM OF ART

FLORIDA DEPARTMENT OF STATE  
**Katherine Harris**  
Secretary of State  
DIVISION OF ELECTIONS

December 31, 2001

Honorable R. B. Shore  
Clerk of the Circuit Court and Comptroller  
Manatee County  
Post Office Box 1000  
Bradenton, Florida 34206

Attention: Diane E. Vollmer

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated December 20, 2001 and certified copies of Manatee County Ordinance Nos. PDMU-92-01(Z)(G)(R8), PDI-00-03(Z)(P), PDI-01-01(Z), PDC-01-06(Z)(P), PDR-01-08(Z)(P), PDR-01-16(Z)(P), 01-60, 01-68 and 01-69, which were filed in this office on December 26, 2001.

As requested, the original date stamped copies are being returned for your records.

Sincerely,

Liz Cloud, Chief  
Bureau of Administrative Code

LC/mp

Enclosure

FILED FOR RECORD  
R. B. SHORE  
2002 JAN -3 AM 8:58  
CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

Municipal Code Corporation  
info@mail.municode.com  
PO Box 2235  
Tallahassee, FL 32316-2235

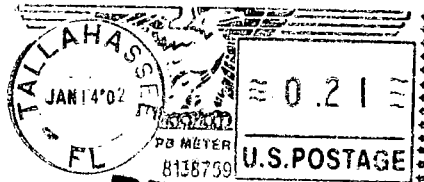
Supplement 52 01/09/2002

We have received the following material through hard copy. Thank you for your assistance and cooperation.

Ordinance Nos. 01-60, 01-68 and 01-69.

800-262-2633 fax 850-575-8852 MDH  
Want to archive your records? We NOW DO IMAGING!!  
Contact us for information or a quote.  
You can index and image your minutes, records etc.  
Call our IMAGING DEPARTMENT at 800-262-2633  
See <http://imaging.municode.com>

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**RECEIVED**

JAN 16 2002

**SWITCHBOARD**

TO:  
Ms. Susan Romine  
Board Records Supervisor  
Manatee County  
PO Box 25400  
Bradenton, FL 34206

**RECEIVED**

JAN 16 2002

**BOARD RECORDS**

1-3-02 QA  
cc: Barb Tyler  
Internal Audit

municipal code