

ORDINANCE NO. 2023 -41

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA AMENDING ORDINANCE NO. 2022-42, WHICH ESTABLISHED A COLLIER COUNTY MANDATORY INSPECTION OF AGING CONDOMINIUM AND COOPERATIVE BUILDINGS ORDINANCE, TO UPDATE THE COUNTY'S PROGRAM TO REFLECT CHANGES IN STATE LAW; PROVIDING FOR AMENDMENTS TO SECTIONS THREE, DEFINITIONS, AND FOUR, INSPECTION, REPORTING AND REPAIRS; PROVIDING FOR CONFLICT AND SEVERABILITY, PROVIDING FOR INCLUSION IN THE COLLIER COUNTY CODE OF LAWS AND ORDINANCES, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes establishes the right and power of counties to provide for the health, safety and general welfare of existing and future residents by enacting and enforcing regulations necessary for the protection of the public; and

WHEREAS, the Legislature in Section 553.899 Florida Statutes imposed a statewide structural inspection program for aging condominium and cooperative buildings to ensure that such buildings are safe for continued use;

WHEREAS, on October 25, 2022, the Board of County Commissioners adopted Ordinance No. 2022-42 to establish Collier County Mandatory Inspection of Aging Condominium and Cooperative Buildings Ordinance to implement the local inspection program for aging condominium and cooperative buildings.

WHEREAS, the Board of County Commissioners desires to make changes to the County's Ordinance to reflect changes in State law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: AMENDMENTS TO SECTION THREE, DEFINITIONS.

Section Three, Definitions, of Ordinance No 2022-42 is hereby amended as follows:

When used in this Code, the following terms shall have the following meanings:

- a. “Association” means a residential condominium association under chapter 718, Florida Statutes or a residential cooperative association under chapter 718 or 719, Florida Statutes including any owner of any portion of the building which is not subject to the condominium or cooperative form of ownership.
- a.b. “Building Official” means the individual charged with the responsibility to administrate, supervise, direct, enforce, or perform the permitting and inspection of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems to ensure compliance with the Florida Building Code. This term is synonymous with “building official” as used in the Florida Building Code.
- b.c. “Milestone Inspection” means a structural inspection of a building, including an inspection of load-bearing ~~walls~~ elements and the primary structural members and primary structural systems as those terms are defined in s. 627.706, Florida Statutes by a an licensed architect licensed under chapter 481, Florida Statutes or engineer licensed under chapter 471, Florida Statutes authorized to practice in this state for the purposes of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair, or replacement of any structural component of the building. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the fire safety code.
- e.d. “Substantial Structural Deterioration” means substantial structural distress or substantial structural weakness that negatively affects a building’s general structural condition and integrity. The term does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or peeling of finishes unless the licensed engineer or architect performing the phase one or phase two inspection determines that such surface imperfections are a sign of substantial structural deterioration.

SECTION TWO: AMENDMENTS TO SECTION FOUR, INSPECTION, REPORTING AND REPAIRS.

Section Four, Inspection, Reporting and Repairs, of Ordinance No 2022-42 is hereby amended as follows:

A. Milestone Inspection Required

~~An condominium association under chapter 718, Florida Statutes and a cooperative association under chapter 719, Florida Statutes~~ Association must have a Milestone Inspection performed for each building that is three stories or more in height by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. If a building reached 30 years of age before

July 1, 2022, the building's initial Milestone Inspection must be performed before December 31, 2024. If a building reaches 30 years of age on or after July 1, 2022 and before December 31, 2024, then the building's Milestone Inspection must be performed before December 31, 2025. If the building is located within 3 miles of a coastline as defined in section 376.031, Florida Statutes the condominium association or cooperative association Association must have a Milestone Inspection performed by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. The condominium association or cooperative association Association must arrange for the Milestone Inspection to be performed and is responsible for ensuring compliance with the requirements of this Ordinance. The condominium association or cooperative association Association is responsible for all costs associated with the inspection. This subsection does not apply to a single-family, two-family, or three-family dwelling with three or fewer habitable stories above ground.

1. However, for all condominium and cooperative buildings that received a certificate of occupancy on or before July 1, 1992, the building's initial Milestone Inspection must be performed before December 31, 2024. if the building is subject to environmental conditions such as proximity to salt water as defined in Section 379.101, Florida Statutes, the Building Official may determine that the Association must have a Milestone Inspection performed by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter.
2. If the date of issuance for the certificate of occupancy is not available, the date of issuance of the building's certificate of occupancy shall be the date of occupancy evidenced in any record of the Building Official.

B. Notice from Building Official

The Building Official shall provide the ~~condominium association or cooperative association~~ Association written notice of the requirement for a Milestone Inspection by certified mail, return-receipt requested once the Building Official has determined that a Milestone Inspection is required. The condominium or cooperative association must notify the unit owners of the required Milestone Inspection within 14 days after the receipt of written notice from the Building Official and provide the date the Milestone Inspection must be completed.

C. Milestone Inspection

A Milestone Inspection consists of two phases:

1. For phase one of the Milestone Inspection, a licensed architect or engineer authorized to practice in this state shall perform a visual examination of habitable and nonhabitable areas of a building, including the major structural components of a building, and provide a qualitative assessment of the structural conditions of the building. If the architect or engineer finds no signs of Substantial Structural Deterioration to any

building components under visual examination, phase two of the inspection, as provided in paragraph C.2, is not required. An architect or engineer who completes a phase one Milestone Inspection shall prepare and submit an inspection report pursuant to paragraph D.

2. A phase two of the Milestone Inspection must be performed if any Substantial Structural Deterioration is identified during phase one. A phase two inspection may involve destructive or nondestructive testing at the inspector's direction. The inspection may be as extensive or as limited as necessary to fully assess areas of structural distress in order to confirm that the building is structurally sound and safe for its intended use and to recommend a program for fully assessing and repairing distressed and damaged portions of the building. When determining testing locations, the inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure. An inspector who completes a phase two Milestone Inspection shall prepare and submit an inspection report pursuant to paragraph D.

D. Owner's Report

Upon completion of a phase one or phase two Milestone Inspection, the architect or engineer who performed the inspection must submit a sealed copy of the inspection report with a separate summary of, at minimum, the material findings and recommendations in the inspection report to the condominium association or cooperative association, and to the Building Official of the local government which has jurisdiction, subject to the following requirements.

1. Such report must meet the following criteria:
 - (a) Bear the seal and signature, or the electronic signature, of the licensed engineer or architect who performed the inspection.
 - (b) Indicate the manner and type of inspection forming the basis for the inspection report.
 - (c) Identify any Substantial Structural Deterioration, within a reasonable professional probability based on the scope of the inspection, describe the extent of such deterioration, and identify any recommended repairs for such deterioration.
 - (d) State whether unsafe or dangerous conditions, as those terms are defined in the Florida Building Code, were observed.
 - (e) Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.
 - (f) Identify and describe any items requiring further inspection.
2. The phase one report must be submitted to the Building Official within 180 days of receipt of the notice by the owners from the ~~Building Official~~ condominium or cooperative association in paragraph B. ~~The phase two report, if required, must be submitted to the Building Official within 90 days of submittal of the phase one report.~~ If a phase two inspection is required, within 180 days after submitting a phase one inspection report, the architect or engineer performing the phase two inspection must submit a phase two progress report to the Building Official with a timeline for

completion of the phase two inspection. The phase two inspection report must be submitted to the Building Official by the date of completion in the progress report. All reports must be submitted by the licensed engineer or architect who performed the inspection by e-mail, United States Postal Service, or commercial delivery service.

3. The Building Official may extend the date by which a building's initial phase one milestone inspection must be completed upon a showing of good cause by the owner or owners of the building that the inspection cannot be timely completed if the owner or owners have entered into a contract with an architect or engineer to perform the milestone inspection and the inspection cannot reasonably be completed before the deadline or other circumstance to justify an extension.

- ~~3.4.~~ The Building Official may issue an extension of not more than 60 days to submit the phase two Milestone Inspection report upon a written extension request from an engineer or architect. Such request must contain a signed and sealed statement from the engineer or architect that the building may continue to be occupied while undergoing inspection.

E. Repairs and Modifications

1. In the event that repairs or modifications are necessary as specified in the phase two Milestone Inspection, the condominium or cooperative association shall have a total of 150 days from the date of submittal of the phase two inspection report to the Building Official to obtain the necessary permits and complete indicated repairs or modifications. All repairs or modifications requiring permits shall be performed in conformance with the Florida Building Code as adopted by County Ordinance and shall follow the timeline provided in the applicable active permit.
2. When any structural repairs or modifications are required, the responsible engineer or architect who has performed the Milestone Inspection shall provide the Building Official with a letter indicating whether the building or structure may continue to be safely occupied while the building or structure is undergoing repairs. Such letter shall be valid for no more than 180 days, and a new letter shall be issued if repairs or modifications remain ongoing.
3. Once all applicable repairs are completed, the engineer(s) or architect(s) providing the Milestone Inspection report must provide an amended report indicating that the building or structure is safe for continued use under the present occupancy.
4. All repairs for Substantial Structural Deterioration must be commenced within 365 days of receipt by the Building Official of the phase two Milestone Inspection report.
5. The Building Official may issue an extension of not more than 60 days to obtain any necessary permits upon a written extension request from an engineer or architect. Such request must contain a signed and sealed statement from the engineer or architect that the building may continue to be occupied while undergoing recertification.

F. Failure to Perform Repairs and Modifications

If an ~~condominium association or cooperative association~~ Association fails to submit proof to the Building Official that repairs have been scheduled or have commenced for Substantial Structural Deterioration identified in a phase two inspection report within the required timeframe in paragraph E, the Building Official must review and determine if the building is unsafe for human occupancy.

SECTION THREE: CONFLICT AND SEVERABILITY

In the event that this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION FOUR: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION FIVE: EFFECTIVE DATE

This Ordinance shall become effective upon filing with the Department of State.

PASSED AND DULY ADOPTED upon majority vote by the Board of County Commissioners of Collier County, Florida, this 26th day of September, 2023.


ATTEST:
CRYSTAL K. KINZEL, CLERK

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 
Attest as to Chairman's, Deputy Clerk
signature only

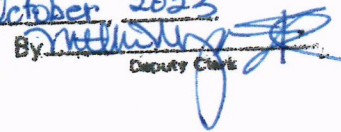
By: 
Rick LoCastro, Chairman

Approved as to form and legality:


Heidi Ashton-Cicko
Managing Assistant County Attorney

7-11-23

This ordinance filed with the
Secretary of State's Office the
2nd day of October, 2023
and acknowledgement of that
filing received this 2nd day
of October, 2023

By 
Deputy Clerk



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

October 2, 2023

Crystal K. Kinzel, Clerk of Court
Office of the Clerk of the Circuit Court
& Comptroller of Collier County
3329 Tamiami Trail E, Suite #401
Naples, FL 34112

Dear Ms. Kinzel,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 2023-41, which was filed in this office on October 2, 2023.

If you have any questions or need further assistance, please contact me at (850) 245-6271 or Anya.Owens@DOS.MyFlorida.com.

Sincerely,

Anya C. Owens
Administrative Code and Register Director

ACO/wlh