



November 20, 2019

Michelle Longarzo  
1425 SW Edinburgh Dr  
Port St. Lucie, FL 34953

Re: Interpretations of the Florida Building Code

Ms. Longarzo,

As discussed previously, the City of Fort Pierce does not have a local board of appeals to hear appeals of decisions and interpretations of the Building Official. On March 18, 2019, the Fort Pierce City Commission adopted Ordinance Number 19-010 which abolished the Fort Pierce Construction Board of Adjustments and Appeals.

Pursuant to Florida State Statute 553.775, it is the intent of the Florida Legislature that the Florida Building Code and Florida Accessibility Code for Building Construction be interpreted by Building Officials. Florida State Statute 553.775(3) provides for procedures that may be invoked regarding interpretations of the Florida Building Code. Specifically, F.S.S. 553.775(3)(c) provides, "The [Florida Building] commission shall review decisions of local building officials and local enforcement agencies regarding interpretations of the Florida Building Code or the Florida Accessibility Code for Building Construction after the local board of appeals has considered the decision, **if such board exists**, and if such appeals process is concluded within 25 business days."

My office, nor the City Attorney's Office, as the City Attorney reviewed and approved Ordinance Number 19-010 for form and correctness, are aware of any statutory requirement for the City to have a local appeals board. Requests to review a decision of a local building official interpreting provisions of the Florida Building Code may be initiated by any substantially affected person, including an owner. To initiate review, the substantially affected person must file a petition with the Florida Building Commission.

For your convenience I have attached a copy of Florida State Statute 553.775 which provides the requirements to file a petition. Prior to filing the petition with the Florida Building Commission, pursuant to F.S.S. 553.775(3)(c)(3), the petition must be submitted to the building official. Upon receipt of the petition, I will respond with a statement of my interpretation as required by Statute.

Respectfully,

LePauleon Thomas, CBO, CFM  
Building Official

Select Year:  

## The 2019 Florida Statutes

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[Title XXXIII](#)  
REGULATION OF TRADE, COMMERCE, INVESTMENTS,  
AND SOLICITATIONS

[Chapter 553](#)  
BUILDING CONSTRUCTION  
STANDARDS

[View Entire  
Chapter](#)

### 553.775 Interpretations.—

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

(2) Local enforcement agencies, local building officials, state agencies, and the commission shall interpret provisions of the Florida Building Code and the Florida Accessibility Code for Building Construction in a manner that is consistent with declaratory statements and interpretations entered by the commission, except that conflicts between the Florida Fire Prevention Code and the Florida Building Code shall be resolved in accordance with s. [553.73\(11\)\(c\)](#) and (d).

(3) The following procedures may be invoked regarding interpretations of the Florida Building Code or the Florida Accessibility Code for Building Construction:

(a) Upon written application by any substantially affected person or state agency or by a local enforcement agency, the commission shall issue declaratory statements pursuant to s. [120.565](#) relating to the enforcement or administration by local governments of the Florida Building Code or the Florida Accessibility Code for Building Construction.

(b) When requested in writing by any substantially affected person or state agency or by a local enforcement agency, the commission shall issue a declaratory statement pursuant to s. [120.565](#) relating to this part and ss. [515.25](#), [515.27](#), [515.29](#), and [515.37](#). Actions of the commission are subject to judicial review under s. [120.68](#).

(c) The commission shall review decisions of local building officials and local enforcement agencies regarding interpretations of the Florida Building Code or the Florida Accessibility Code for Building Construction after the local board of appeals has considered the decision, if such board exists, and if such appeals process is concluded within 25 business days.

1. The commission shall coordinate with the Building Officials Association of Florida, Inc., to designate a panel composed of seven members to hear requests to review decisions of local building officials. Five members must be licensed as building code administrators under part XII of chapter 468, one member must be licensed as an architect under chapter 481, and one member must be licensed as an engineer under chapter 471. Each member must have experience interpreting or enforcing provisions of the Florida Building Code and the Florida Accessibility Code for Building Construction.

2. Requests to review a decision of a local building official interpreting provisions of the Florida Building Code or the Florida Accessibility Code for Building Construction may be initiated by any substantially affected person, including an owner or builder subject to a decision of a local building official or an association of owners or builders having members who are subject to a decision of a local building official. In order to initiate review, the substantially affected person must file a petition with the commission. The commission shall adopt a form for the



petition, which shall be published on the Building Code Information System. The form shall, at a minimum, require the following:

- a. The name and address of the county or municipality in which provisions of the Florida Building Code or the Florida Accessibility Code for Building Construction are being interpreted.
- b. The name and address of the local building official who has made the interpretation being appealed.
- c. The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any; and an explanation of how the petitioner's substantial interests are being affected by the local interpretation of the Florida Building Code or the Florida Accessibility Code for Building Construction.
- d. A statement of the provisions of the Florida Building Code or the Florida Accessibility Code for Building Construction which are being interpreted by the local building official.
- e. A statement of the interpretation given to provisions of the Florida Building Code or the Florida Accessibility Code for Building Construction by the local building official and the manner in which the interpretation was rendered.
- f. A statement of the interpretation that the petitioner contends should be given to the provisions of the Florida Building Code or the Florida Accessibility Code for Building Construction and a statement supporting the petitioner's interpretation.
- g. Space for the local building official to respond in writing. The space shall, at a minimum, require the local building official to respond by providing a statement admitting or denying the statements contained in the petition and a statement of the interpretation of the provisions of the Florida Building Code or the Florida Accessibility Code for Building Construction which the local jurisdiction or the local building official contends is correct, including the basis for the interpretation.

3. The petitioner shall submit the petition to the local building official, who shall place the date of receipt on the petition. The local building official shall respond to the petition in accordance with the form and shall return the petition along with his or her response to the petitioner within 5 days after receipt, exclusive of Saturdays, Sundays, and legal holidays. The petitioner may file the petition with the commission at any time after the local building official provides a response. If no response is provided by the local building official, the petitioner may file the petition with the commission 10 days after submission of the petition to the local building official and shall note that the local building official did not respond.

4. Upon receipt of a petition that meets the requirements of subparagraph 2., the commission shall immediately provide copies of the petition to the panel, and the commission shall publish the petition, including any response submitted by the local building official, on the Building Code Information System in a manner that allows interested persons to address the issues by posting comments.

5. The panel shall conduct proceedings as necessary to resolve the issues; shall give due regard to the petitions, the response, and to comments posed on the Building Code Information System; and shall issue an interpretation regarding the provisions of the Florida Building Code or the Florida Accessibility Code for Building Construction within 21 days after the filing of the petition. The panel shall render a determination based upon the Florida Building Code or the Florida Accessibility Code for Building Construction or, if the code is ambiguous, the intent of the code. The panel's interpretation shall be provided to the commission, which shall publish the interpretation on the Building Code Information System and in the Florida Administrative Register. The interpretation shall be considered an interpretation entered by the commission, and shall be binding upon the parties and upon all jurisdictions subject to the Florida Building Code or the Florida Accessibility Code for Building Construction, unless it is superseded by a declaratory statement issued by the Florida Building Commission or by a final order entered after an appeal proceeding conducted in accordance with subparagraph 7.

6. It is the intent of the Legislature that review proceedings be completed within 21 days after the date that a petition seeking review is filed with the commission, and the time periods set forth in this paragraph may be waived only upon consent of all parties.

7. Any substantially affected person may appeal an interpretation rendered by the panel by filing a petition with the commission. Such appeals shall be initiated in accordance with chapter 120 and the uniform rules of



procedure and must be filed within 30 days after publication of the interpretation on the Building Code Information System or in the Florida Administrative Register. Hearings shall be conducted pursuant to chapter 120 and the uniform rules of procedure. Decisions of the commission are subject to judicial review pursuant to s. [120.68](#). The final order of the commission is binding upon the parties and upon all jurisdictions subject to the Florida Building Code or the Florida Accessibility Code for Building Construction.

8. The burden of proof in any proceeding initiated in accordance with subparagraph 7. is on the party who initiated the appeal.

9. In any review proceeding initiated in accordance with this paragraph, including any proceeding initiated in accordance with subparagraph 7., the fact that an owner or builder has proceeded with construction may not be grounds for determining an issue to be moot if the issue is one that is likely to arise in the future.

This paragraph provides the exclusive remedy for addressing requests to review local interpretations of the Florida Building Code or the Florida Accessibility Code for Building Construction and appeals from review proceedings.

(d) Upon written application by any substantially affected person, contractor, or designer, or a group representing a substantially affected person, contractor, or designer, the commission shall issue or cause to be issued a formal interpretation of the Florida Building Code or the Florida Accessibility Code for Building Construction as prescribed by paragraph (c).

(e) Local decisions declaring structures to be unsafe and subject to repair or demolition are not subject to review under this subsection and may not be appealed to the commission if the local governing body finds that there is an immediate danger to the health and safety of the public.

(f) Upon written application by any substantially affected person, the commission shall issue a declaratory statement pursuant to s. [120.565](#) relating to an agency's interpretation and enforcement of the specific provisions of the Florida Building Code or the Florida Accessibility Code for Building Construction which the agency is authorized to enforce. This subsection does not provide any powers, other than advisory, to the commission with respect to any decision of the State Fire Marshal made pursuant to chapter 633.

(g) The commission may designate a commission member who has demonstrated expertise in interpreting building plans to attend each meeting of the advisory council created in s. [553.512](#). The commission member may vary from meeting to meeting, shall serve on the council in a nonvoting capacity, and shall receive per diem and expenses as provided in s. [553.74\(3\)](#).

(h) The commission shall by rule establish an informal process of rendering nonbinding interpretations of the Florida Building Code and the Florida Accessibility Code for Building Construction. The commission is specifically authorized to refer interpretive issues to organizations that represent those engaged in the construction industry. The commission shall immediately implement the process before completing formal rulemaking. It is the intent of the Legislature that the commission create a process to refer questions to a small, rotating group of individuals licensed under part XII of chapter 468, to which a party may pose questions regarding the interpretation of code provisions. It is the intent of the Legislature that the process provide for the expeditious resolution of the issues presented and publication of the resulting interpretation on the Building Code Information System. Such interpretations shall be advisory only and nonbinding on the parties and the commission.

(4) In order to administer this section, the commission may adopt by rule and impose a fee for filing requests for declaratory statements and binding and nonbinding interpretations to recoup the cost of the proceedings which may not exceed \$125 for each request for a nonbinding interpretation and \$250 for each request for a binding review or interpretation. For proceedings conducted by or in coordination with a third party, the rule may provide that payment be made directly to the third party, who shall remit to the department that portion of the fee necessary to cover the costs of the department.

**History.**—s. 9, ch. 2005-147; s. 5, ch. 2006-65; s. 8, ch. 2007-1; s. 5, ch. 2007-187; s. 14, ch. 2008-191; s. 35, ch. 2010-176; s. 49, ch. 2013-14; s. 21, ch. 2014-154; s. 18, ch. 2016-129.