

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE:

RULE CHAPTER NO.:

Florida Building Commission - Operational Procedures

9B-3

RULE TITLES:

RULE NO:

Binding Interpretations of the Florida Building Code, Forms Adopted.

9B-3.055

PURPOSE, EFFECT AND SUMMARY: Chapter 2005-147, Laws of Florida created Section 553.775, Florida Statutes, that require the Florida Building Commission to coordinate with the Building Officials Association of Florida, Inc.(BOAF) to establish a panel of building officials to review decisions of local building officials regarding interpretations of the Florida Building Code after the local board of appeals has considered the decision. The rule implements the statute by providing for procedures applicable to such decisions and adopting, by reference, the form to be utilized.

SPECIFIC AUTHORITY: 553.775 FS.

LAW IMPLEMENTED: 553.775(3)(c) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:15 a.m. to 9:20 a.m., December 7, 2005.

PLACE: Embassy Suites Hotel, 3705 Spectrum Boulevard, Tampa, Florida 33612.

Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850) 487-1824, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE RULE IS: Mo Madani, Planning Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850) 921-2247.

THE FULL TEXT OF THE RULE IS:

9B-3.055 Binding Interpretations of the Florida Building Code, Forms Adopted.

(1) Petitions for binding interpretations of the Florida Building Code shall be made through the Building Code Information System on the Internet in accordance with the provisions of Section

553.775, Florida Statutes.

(2) A fee of \$250 shall be paid by petitioner by credit card or electronic check upon such submission to cover processing costs.

(3) The following form is adopted for use in conjunction with issuance of a binding interpretation:

(a). Florida Building Commission, Petition for Binding Interpretation, Form No. 9B-3.055(1), November, 2005 (electronic version).

(4) The Petitioner shall print two (2) completed petitions for submittal to the enforcement agency that rendered the decision that is the subject of the petition. The enforcement agency shall stamp each of the petitions submitted with the time and date of receipt, retain one copy and return one to the Petitioner, who shall retain the stamped petition for submittal in the event that receipt of the petition or the time thereof become material to the dispute.

(5) Within 5 working days after receipt, the local building official shall respond to the petition through the Building Code Information System, or in writing, including statements 1) admitting or denying the statements contained in the petition, 2) of the interpretation of the provisions of the Florida Building Code deemed correct by the local building official or jurisdiction, and 3) containing the basis for the interpretation, and shall return the petition with his or her response to the petitioner. The petitioner may file the petition with the Commission at any time after it is returned to him or her, or after 10 days if the local building official has not responded. The Commission shall immediately publish the petition online on the Building Code Information System, accept online comments from interested parties for a period of seven calendar days, and provide copies of the petition to a panel. The panel shall conduct proceedings as necessary to resolve the issue, considering the petitioner's arguments, the building official's response and comments made on the petition, and shall issue an interpretation within 21 days of the petition's submittal, based either on code language or the intent of the code. The 21 days may be waived only upon consent of all parties. The interpretation shall be provided to the Commission, which shall post it online on the Building Code Information System and in the Florida Administrative Weekly. The interpretation shall be binding to all parties and all jurisdictions subject to the code 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. Appeals to interpretations shall be filed within 30 days of issuance of an interpretation and shall be conducted in accordance with Chapter 120 and the uniform rules of procedure.

(6) The interpretation rendered by the panel of building code administrators shall become final upon the earlier of the resolution of any appeal of that interpretation before the Florida Building Commission or the expiration of the time period in which to initiate such appeal.

Specific Authority 553.775 FS. Law Implemented 553.775 (3)(c) FS. History -- New \_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE: Mo Madani, Planning Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850) 921-2247.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 5, 2005.