



BAY HARBOR ISLANDS CONDO WORKSHOP



MIAMI-DADE COUNTY COMMUNITY
ASSOCIATION LAW UPDATE

RECERTIFICATION, INSPECTIONS, RESERVE
STUDIES AND REGISTRATION

BAY HARBOR ISLANDS CONDO WORKSHOP



*NEW REGISTRY REQUIREMENTS FOR
COMMUNITY ASSOCIATIONS*

PRESENTED BY:

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BUILDING OFFICIAL MIKE MESA



POST SURFSIDE FLORIDA LEGISLATION

SPECIAL SESSION OF FLORIDA LEGISLATURE: SB-4D

- ▶ Enacted a statewide structural milestone inspection regime modeled after South Florida recertification programs but accelerating the timetable for mandatory inspections – applicable to buildings 3 or more stories.
- ▶ Established the requirement to obtain structural integrity reserve studies at inception and every ten (10) years thereafter, but by December 31, 2024, for existing condominiums, to establish a mandatory long-term structural deferred maintenance and capital replacement funding program.



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- ▶ Requiring mandatory reporting to the Department of Business and Professional Regulation Division of Florida Condominiums, Timeshares, and Mobile Homes by January 1, 2023.
- ▶ Establishing record keeping obligations, and compliance obligations for Associations, Developers, Directors, and Managers.



MILESTONE INSPECTION REQUIREMENTS

What is a Milestone Inspection?

“A structural inspection of a building, including an inspection of loadbearing walls and the primary structural members and primary structural systems as those terms are defined in s. 627.706, by a licensed architect or engineer 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.”



MILESTONE INSPECTION REQUIREMENTS

Substantial Structural Deterioration:

“Substantial structural distress 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**



MILESTONE INSPECTION REQUIREMENTS

Filing of the report:

Upon completion the engineer or architect **MUST** submit a sealed report with a separate summary of:

- ▶ Material findings
- ▶ Recommendations

Report and Summary **MUST** be submitted to:

- ▶ Association
- ▶ MUST be kept as official record of the Association for 15 years.
- ▶ Designated Building Official
- ▶ Unit Owners



MILESTONE INSPECTION REPORT PHASES



PHASE ONE:

- ▶ Consists of a Visual Inspection.
- ▶ Does not include destructive testing.
- ▶ Must be performed by Florida-licensed engineer or architect.
- ▶ Must be completed within 180 days from the association receiving notice from the local building official of the required inspection.
- ▶ If there are no signs of “substantial structural deterioration” revealed in the Phase One report, a Phase Two inspection is not necessary.
- ▶ If “substantial structural deterioration” is discovered by the engineer or architect, then the Phase Two inspection is required.
- ▶ Report must include any items requiring further inspection and necessary maintenance, repair or replacement of structural components.

MILESTONE INSPECTION REPORT PHASES



PHASE TWO:

- ▶ Required if substantial deterioration is noted in the Phase 1 inspection.
- ▶ Must be completed by licensed architect or engineer.
- ▶ Phase Two inspection may involve destructive or non-destructive testing at inspector's discretion.
- ▶ A recertification pursuant to Chapter 8 of the Miami-Dade Code serves as compliance with the Milestone Inspection requirements of Section 553.899, Florida Statutes.

SB-4D: MILESTONE INSPECTION REPORT



TIME FRAMES (STATE LEVEL)

- ▶ SB-4D implemented the use of statewide mandatory Milestone Inspection Reports (MIR)
- ▶ What buildings must complete an MIR?
 - ▶ All buildings owned by a Condominium or Cooperative Association which are three (3) or more stories in height.
- ▶ When must the MIR be completed by?

Buildings with a CO issued on or before July 1, 1992	ALL other buildings with a CO issued after July 1, 1992 (further than 3 miles from the coast)	ALL other buildings with a CO issued after July 1, 1992 (within 3 miles of the coast)
By December 31, 2024, AND every 10 years thereafter	By the 30th year of occupancy AND every 10 years thereafter	By the 25th year of occupancy AND every 10 years thereafter

MIAMI-DADE ORDINANCE 22-57

(AMENDS CHAPTER 8 OF THE CODE)



- ▶ Developed to work in conjunction with SB-4D
- ▶ Amends the building recertification program that satisfies, expands upon and supplants the statewide Milestone Inspection Report (“MIR”) requirements.
- ▶ Time frames are calculated by Building Age (dated when built) rather than from issuance of a CO.
- ▶ Fixes the SB-4D “glitch” which would have required certain buildings to have completed an MIR before passage of the bill.
- ▶ Requires the heightened scrutiny of an electrical engineer for the electrical component of the recertification.
- ▶ Requires the heightened scrutiny of a structural component of the recertification in “threshold buildings”
- ▶ Defines “threshold buildings” as those that are 3 or more stories OR those that exceed 5,000 square feet and an occupant content of greater than 500 persons.
- ▶ Recertification report is timely if submitted any time between 2 years prior to the building’s recertification anniversary and 90 days after the Notice of Required Inspections plus any approved extension

MIAMI-DADE ORDINANCE 22-57

(AMENDS CHAPTER 8 OF THE CODE)

- ▶ Requires recertification for all buildings, except single-family residences, duplexes, and minor structures (of 2,000 sq. ft. or less). “Milestone” inspections only apply to buildings 3 or more stories.
 - ▶ In other words, Miami-Dade County still has more stringent requirements for recertification.
- ▶ "Minor buildings or structures" shall be defined as buildings or structures in any occupancy group having an occupant load of 10 or less, as determined by
 - ▶ Table 1004.5 (FBC) Minimum Occupant Load of the Florida Building Code and having a gross area of 2,000 sq. ft. or less.
 - ▶ Requires that all recertifications and Milestone inspections be completed using the Miami-Dade County “Board of Rules and appeals” adopted guidelines . This is also more stringent than what the State “Milestone” inspection requires.



MIAMI-DADE ORDINANCE (22-57):

CORRESPONDING RECERTIFICATION TIME FRAMES (COUNTY LEVEL)



All buildings built on or before 1982 that have already had an initial recertification inspection through Miami-Dade's 40-Year program	Buildings built between 1983 and 1997 (within 3 miles of the coast)	Buildings built on or after 1998 (within 3 miles of the coast)	Buildings built between 1983 and 1992 (further than 3 miles from the coast)	Buildings but on or after 1993 (further than 3 miles from the coast)
Continue to perform recertification every ten years from date of last recertification	Must have a recertification inspection by December 31, 2024, and every 10 years thereafter	Must have a recertification inspection when the building reaches 25 years, and every 10 years thereafter	Must have a recertification inspection by December 31, 2024, and every 10 years thereafter	Must have a recertification inspection when the building age reaches 30 years, and every 10 years thereafter

CHANGES TO MIAMI-DADE COUNTY'S RECERTIFICATION PROGRAM



- ▶ Early Notification of Recertification – Notices will be sent one and two years and 90 days prior to the recertification anniversary to allow for more timely completion of the process and to prepare financially for necessary repairs.
- ▶ Recertification mandate is shortened to 30 years instead of 40 years.
- ▶ Requires recertification inspection procedures to confirm with the updated rules, guidelines, and templates set forth by

the Miami-Dade County Board of Rules and Appeals (BORA) [including new provisions for structural glazing, infrared thermology inspections, foundation reports, overloading reports, etc.]

- ▶ For a Threshold Building, exclusive use of structural engineers for the structural component of the recertification report.
- ▶ For a Threshold Building, exclusive use of electrical engineers for the electrical component of the recertification report.

CHANGES TO MIAMI-DADE COUNTY'S RECERTIFICATION PROGRAM



- ▶ **For non-Threshold Buildings**, the recertification report must be prepared by a Professional Engineer or Architect registered in the State of Florida.
- ▶ **Affirmative Duty to Report** on the part of licensed professionals to report structural conditions that prevent safe occupancy of a building no later than 10 days after informing the building owner of such findings unless the licenses professional is made aware that corrective action has been taken to address the findings.
- ▶ **Stricter criterial for extensions to repair** – Building official can consider extensions of not more than 60 days for just cause. Request must contain signed and sealed “safe occupy” statement from the engineer or architect.
- ▶ Failure to furnish recertification report or seek an extension – Building Official may order electrical facilities be disconnected if the Building Official determines there is uncertainty as to whether the building may be safely occupied, after providing notice of intent to disconnect.

STRUCTURAL INTEGRITY RESERVE STUDIES



What does a Structural Integrity Reserve Study (SIRS) mean?

- ▶ It is a study of the reserve funds required for future major repairs and replacement of the common areas based on a visual inspection of the common areas (presumably meant to refer to common elements).
- ▶ A structural integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed by an engineer licensed under chapter 471 or an architect licensed under chapter 481.
- ▶ At a minimum, a structural integrity reserve study must:
 - ▶ Identify the common areas being visually inspected
 - ▶ State the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of the common areas being visually inspected
 - ▶ Provide a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each common area being visually inspected by the end of the estimated remaining useful life of each such common area component

STRUCTURAL INTEGRITY RESERVE STUDIES

Categories that MUST be included by the study

- ▶ Roof
- ▶ Load-Bearing Walls or other Primary Structural Members
- ▶ Floors
- ▶ Foundation
- ▶ Fireproofing and fire protection systems
- ▶ Plumbing
- ▶ Electrical Systems
- ▶ Waterproofing and exterior painting
- ▶ Windows
- ▶ ANY other item that has deferred maintenance or replacement cost above \$10,000.00 AND affects the above-mentioned items.



STRUCTURAL INTEGRITY RESERVE STUDIES

Applicability and Time Frames

- ▶ What buildings are subject to the requirements?
 - ▶ All buildings three (3) or more stories in height
- ▶ Time frames for completion
 - ▶ Associations existing on or before July 1, 2022:
 - ▶ December 31, 2024, AND every ten (10) years thereafter
 - ▶ ALL other associations:
 - ▶ Every ten (10) years of the association's existence



COMMUNITY ASSOCIATION REGISTRATION AND REPORTING REQUIREMENTS

Division of Florida Condominiums

- ▶ On or before January 1, 2023, Condominium Associations existing on or before July 1, 2022, are required to provide certain information to the Division of Florida Condominiums, Timeshares and Mobile Homes, including:
 - ▶ The number of buildings on the condominium property that are three (3) stories or higher in height
 - ▶ The total number of units in all such buildings
 - ▶ The addresses of all such buildings
 - ▶ The counties in which all such buildings are located



<http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/building-report/>

COMMUNITY ASSOCIATION REGISTRATION AND REPORTING REQUIREMENTS

Miami-Dade County Document Registry (Ordinance 22-23)

- ▶ The Ordinance creates a searchable online database of association governing documents, financial statements and structural reports.
- ▶ Associations must complete their initial registration by February 1, 2023, and update their registration annually. Initial and annual registration fee is \$50.00 plus an additional \$1.50 per unit in excess of 25 units.
- ▶ Miami-Dade's Community Association Registration Website:

<https://wwwx.miamidade.gov/Apps/RER/EPSPortal/PlanReview/CRAApplications/Landing>



COMMUNITY ASSOCIATION REGISTRATION AND REPORTING REQUIREMENTS

Miami-Dade County Document Registry (Ordinance 22-23)

The following documents must be uploaded:

- ▶ Name of the Community Association (including fictitious names)
- ▶ Business address and legal description of the property
- ▶ Name and Contact information for:
 - ▶ Property Manager or designated agent
 - ▶ Emergency contact
 - ▶ Officers and directors of the association
- ▶ Link to association website (if any)



COMMUNITY ASSOCIATION REGISTRATION AND REPORTING REQUIREMENTS

Miami-Dade County Document Registry (Ordinance 22-23)

The following documents must be uploaded (continued):

- ▶ Association documents including
 - ▶ Governing documents – Declaration, By-Laws, Articles of Incorporation and Amendments
 - ▶ Planned Capital Projects
 - ▶ Financial Statements
 - ▶ Annual Budget
 - ▶ Certificate of Insurance
- ▶ Location of Building Permits for Work in Common Areas
- ▶ Structural Reports



COMMUNITY ASSOCIATION REGISTRATION AND REPORTING REQUIREMENTS

Town of Bay Harbor Islands

Ordinance No. 1065 (effective November 21, 2021)

- ▶ Requires all condominium associations, multifamily homeowners, cooperative apartment associations and commercial and residential buildings within the Town to file with the Code Compliance unit a registration of a form provided within 30 days of the effective date of the ordinance and provides for a \$100.00 registration fee. The registration must be updated on or before January 30 of each year following the initial registration. The Ordinance provides for penalties for non-compliance.



COMMUNITY ASSOCIATION REGISTRATION AND REPORTING REQUIREMENTS

Town of Bay Harbor Islands

Ordinance No. 1065 (effective November 21, 2021)

- ▶ Pursuant to Section 24-18(c) of the Town Code of Ordinances an association that fails to file the required registration will first be issued a warning providing 30 days to file the registration. If the registration is not filed within 30 days, the association will be subject to fine of \$150, which shall be collected in addition to the required registration fee. If the registration is not filed within 60 days of the initial warning, the fine shall increase to \$500. Any unpaid registration fees or penalties shall constitute a lien against the property, which may be enforced in the same manner as other municipal liens.



COMMUNITY ASSOCIATION REGISTRATION AND REPORTING REQUIREMENTS

Town of Bay Harbor Islands

Ordinance No. 1065 (effective November 21, 2021)

- ▶ The following information must be provided:
 - ▶ Name of association
 - ▶ Business address of properties governed by the association
 - ▶ Name and contact information for the property manager or designated contact person for the association
 - ▶ A list of all officers and directors of the association with contact information
 - ▶ Website of the association, if any
 - ▶ Location where building permits for work in common areas will be posted during construction
 - ▶ Contact information for association's insurance agent, if any



COMMUNITY ASSOCIATION REGISTRATION AND REPORTING REQUIREMENTS

Town of Bay Harbor Islands

Ordinance No. 1065 (effective November 21, 2021)

- ▶ Engineering reports also must be provided:
 - ▶ Each condominium, cooperative or homeowner's association or apartment complex of more than four (4) units must designate a Responsible Person (the contact person for the association). The Responsible Person must file with the Town any report ("Engineer's Report") of a professional engineer or architect concerning the structural, electrical or life safety conditions of the building within five (5) business days of receipt of the Engineer's Report. Filing means hand delivery of the Engineer's Report to the Town's Chief Building Official or to the Building Department in the absence of the CBO. The report is to be filed in both digital, if available, and hard copy formats.



SOURCE INFORMATION

The sources used in this presentation were Florida Statutes (2022); Code of Miami-Dade County, Florida; Ordinances of Town of Bay Harbor Islands; Website of Florida Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares and Mobile Homes; and Miami-Dade County Bar Association education materials.



BAY HARBOR ISLANDS CONDO WORKSHOP



THANK YOU FOR ATTENDING!

