

# 24-04 Building Fund Audit

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**Report Issued**

August 21, 2024

**Audit Report No. 24-04**



**City of Cape Coral  
City Auditor's Office**

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TO: Mayor Gunter and Council Members

FROM: Andrea R. Russell, City Auditor *ark*

DATE: August 21, 2024

SUBJECT: 24-04 Building Fund Audit

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The City Auditor's Office conducted a performance audit of the Building Fund special revenue fund. This audit was added to the City Auditor's FY24 approved Audit Plan at the request of the Financial Services Department. The audit was conducted in conformance with Generally Accepted Government Auditing Standards by the authority granted through City Ordinances 28-02 and 79-10.

We would like to express our sincere appreciation to Financial Services and Development Services management and staff for the courtesy, cooperation, and proactive attitude extended to the team members during the audit. If you have any questions or comments regarding this audit, please contact Andrea Russell at 242-3380 or Tim DiSano at 242-3308.

C: Michael Ilczyszyn, City Manager  
Connie Barron, Assistant City Manager  
Aleksandr Boksner, City Attorney  
Kimberly Bruns, City Clerk  
Mark Mason, Financial Services Director  
Crystal Feast, Deputy Financial Services Director  
Natalie Enrico, Senior Accounting Manager  
Matt Grambow, Interim Development Services Director  
Audit Committee

## BUILDING FUND AUDIT

Issued August 21, 2024

### Objectives

To determine if transactions in the Building Fund are allowable in accordance with Florida State Statute and City policies and procedures.

To determine if the Building Fund's fund balance is accurate and complies with the Florida State Statute.

### Background

The Building Fund is a special revenue fund. The Fund is used to record financial transactions with fees received for building permits for the City as well as expenditures associated with supporting the Florida Building Code. Revenues from building permits averaged \$10.2 million for FY19 through FY23.

## REPORT HIGHLIGHTS

### WHY THIS MATTERS

Florida State Statute (FSS) 553.80 Building Construction Standards - Enforcement sets forth specifics for costs that are allowable to the Fund as well as certain restrictions on the fund balance. Municipalities must record revenues, expenditures, and other transactions in accordance with the FSS.

### WHAT WE FOUND

The City Auditor's Office assessed compliance with FSS 553.80 (7)(a) and conducted a performance audit of the Fund. This audit was added to the City Auditor's FY24 approved Audit Plan. The audit scope included FY19 through March 31, 2024, and testing included data from five different systems due to changes that occurred with the City throughout the scope. This resulted in large populations from which we drew our samples for testing. We noted opportunities for improvement in the following areas:

- The fund balance was not in compliance with the FSS requirement for FY19 through FY21. (See Finding 2024-01)
- Supporting documentation is not attached to all transactions in the financial system. (See Finding 2024-02)
- Payroll expenditures charged to the fund were inaccurate. (See Finding 2024-03)

Details on these areas are included in the Findings and Recommendations section of the report. Although controls over the process need improvement, we noted that most transactions complied with City policies and procedures and FSS 553.80(7)(a). Costs identified as unallowable were not considered material.



## TABLE OF CONTENTS

BACKGROUND .....	1
FINDINGS AND RECOMMENDATIONS .....	3
SCOPE .....	8
STATEMENT OF AUDITING STANDARDS .....	8
METHODOLOGY .....	8
APPENDIX A.....	10
APPENDIX B.....	11
APPENDIX C .....	15

## BACKGROUND



The Building Fund (Fund) is classified as a special revenue fund<sup>1</sup> and is used to account for building and permitting services related to construction in the City. Transactions in the Fund are regulated by Financial Services policies and procedures as well as the Florida State Statute (FSS) 553.80<sup>2</sup> Building Construction Standards - Enforcement. Fees, fines, or investment earnings related to the fees, must be used solely for activities associated with the enforcement of

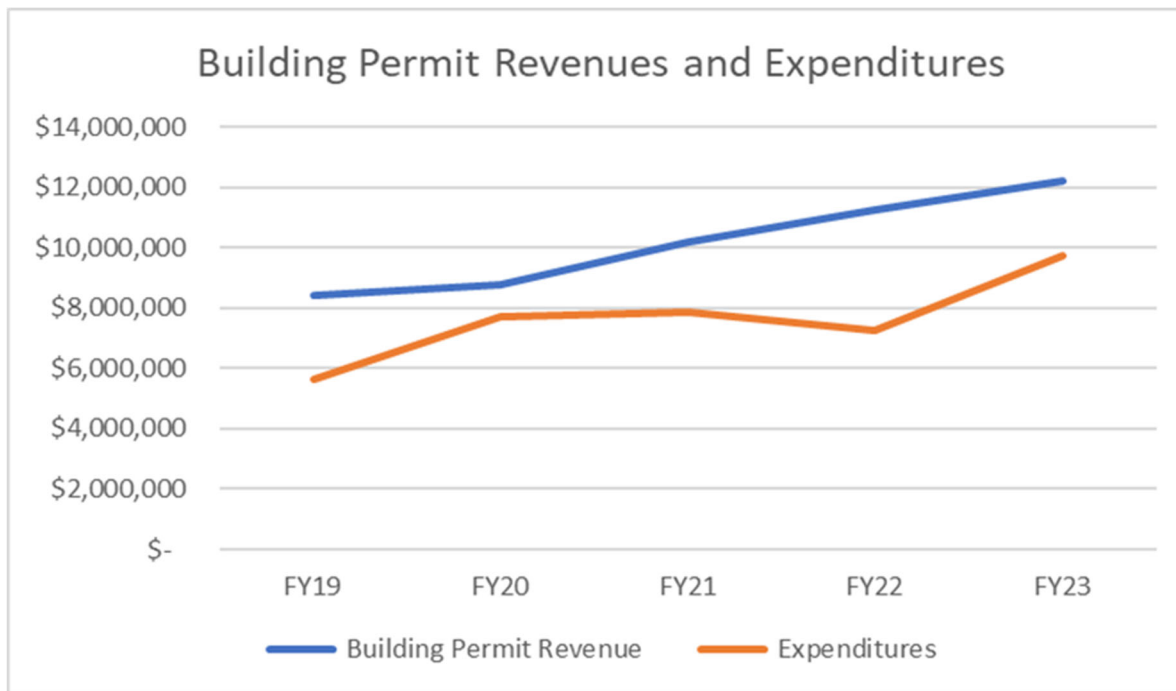
the Florida Building Code. FSS 553.80 (7)(a) states, “Any unexpended balances (in the fund balance) must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget for the previous 4 fiscal years.” FSS 553.80(7)(a)(1) also defines expenditures that are allowable to charge against building fund revenues, including expenditures used to support the enforcement of the Florida Building Code, such as the “direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspection’s, building permit processing, building code enforcement and fire inspections associated with new construction. Training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.”



<sup>1</sup> The Governmental Accounting Standards Board defines Special Revenue Funds as funds “used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects.”

<sup>2</sup> See Appendix B for the entire FSS.

Employees of the Building Division administer processing of the day-to-day expenditures including the procurement and processing of transactions. Financial Services has employees assigned to account for the transactions initiated by the Building Division as well as posting adjustments, accruals, and allocations. Expenditures are recorded to fund 140 in the financial system. Transactions posted to the Fund include permit fees (recorded as deferred revenue); transactions for goods and services; payroll; monthly allocations; transfers for debt service; investment income; capital projects; and transfers to and from the general fund. Building Permits and the activities associated with them, including inspections, are handled by the Development Services Building Division.<sup>3</sup>



<sup>3</sup> The City Auditor's Office (CAO) conducted an inspection audit. For a copy of the entire audit see the CAO website audit report 23-02 Development Services Inspection Process Audit.



## FINDINGS AND RECOMMENDATIONS

### FINDING 2024-01: Fund Balance Does Not Comply With FSS

Rank: High

**Condition:**

FSS 553.80(7)(a) – Enforcement, effective 7/1/2019, states: “A local government may not carry forward an amount exceeding the average of its operating budget for enforcing the Florida Building Code for the previous 4 fiscal years.” No policies or procedures exist to support periodic review of the fund balance or to monitor the balance to ensure compliance with the FSS. We analyzed the balance for the Fund for FY19 through FY23 and determined the Fund did not comply with this requirement for FY19, FY20 and FY21. The Fund balance complied with the FSS for FY22 and FY23.

**Criteria:**

- FSS 553.80(7)(a)

**Cause:**

- Insufficient monitoring of Fund Balance
- Lack of policies and procedures

**Effect:**

- Noncompliance with FSS

#### Recommendation

**2024-01:**

*Develop policies and procedures to periodically review the fund balance to ensure compliance with FSS and define procedures to identify corrective action if the balance does not comply.*

#### Management Response and Corrective Action Plan:

**2024-01** Select one of these boxes:

☒ **Agree** ☐ **Partially agree\*** ☐ **Disagree\***

**\*For partially agree or disagree a reason must be provided as part of your response:**

**2024-01** *The City will develop policies and procedures to periodically review fund balance to ensure compliance with Florida Statutes and define procedures to identify corrective action if the balance does not comply.*

**2024-01** **Management Action Plan Coordinator:**  
*Financial Services Director*

**2024-01** **Anticipated Completion Date:** 09/30/2024



## **FINDING 2024-02: Building Fund Administrative Policies and Procedures Need Improvement**

**Rank: Medium**

### **Condition:**

The City utilizes the Fund to accumulate revenues and expenditures for resources associated with the Development Services Building Division. Daily operations are tracked and recorded by Development Services. Financial Services performs high level oversight and records allocations to the Fund. Generally, policies and procedures for the Fund follow accounting policies and procedures for the City; however, there are certain restrictions placed on expenditures and revenues that are specified in the FSS for the Building Code, 553.80 Enforcement - Section (7)(a)(1), states expenditures for “enforcing the building code” includes “direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspection, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by user fees.”

We evaluated compliance with FSS 533.80(7)(a)(3) for expenditures, allocations, and transfers in the Fund. We found overall the expenditures were allowable in accordance with the FSS 553.80(7)(a)(3), however, we noted that certain transactions did not have supporting documentation attached in the system. It is important to note that all supporting documentation was provided upon request. We also noted that in some instances when documentation was attached, the allocation and the methodology applied for the allocation was not clear. For example:

- Support for transfers and adjustments was available and accurately supported the transaction but were not attached to the transaction in the financial system.
- Certain expenditures did not have support available or clearly document the allocation to the Fund.
- Support for expenditures for outside services, such as third parties performing services for the Building Department, did not contain evidence of review by the department and did not always have the support attached in the system<sup>4</sup>.
- Support for software licenses included the total number of licenses but not which licenses were allocable to the Fund<sup>4</sup>.

Policies and procedures related to Fund transactions need to be more specific to assist individuals processing transactions with compliance with the FSS for the Building Code.

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<sup>4</sup> We noted some expenditures were not allowable and have reported these to management. For details, see Appendix C.



**Criteria:**

- FSS 553.80
- Financial Services Accounts Payable Policies and Procedures

**Cause:**

- Incomplete policies and procedures
- Lack of monitoring

**Effect:**

- Potential inaccurate Fund balance
- Potential inaccurate financial reporting

**Recommendation****2024-02:**

*Develop policies and procedures specific to transactions for the Building Fund to ensure proper support is attached and expenditures are allowable in accordance with FSS requirements.*

**Management Response and Corrective Action Plan:**

**2024-02** Select one of these boxes:

☒ **Agree** ☐ **Partially agree\*** ☐ **Disagree\***

**\*For partially agree or disagree a reason must be provided as part of your response:**

**2024-02** *Management agrees and will expand on policies and procedures to add an additional step in the electronic workflow for certain accounts in the Building Fund and/or certain transactions in the Building Fund that meet a certain dollar threshold to include a review by a Senior Accountant. Management will also set up charge codes on the printers in Development Services as a way to accurately capture printing costs for the Building Fund.*

**2024-02** **Management Action Plan Coordinator:**  
*Financial Services Director*

**2024-02** **Anticipated Completion Date:** 09/30/2024



## **FINDING 2024-03: Payroll Expenditure Allocation Process Needs Improvement**

**Rank: Medium**

### **Condition:**

FSS 553.80 - Enforcement, allows expenditures for enforcement and support of the Florida Building Code to be charged to the Fund. Payroll for the Development Services Building Division is an allowable expenditure and includes payroll and benefits charges for building inspectors, individuals working in permitting, construction plans reviewers, and administrative and Building Division Management. Individuals are set-up in the payroll system to charge their payroll and benefits to certain accounts linked to the Fund designated as fund 140.

We reviewed 184 individuals with job descriptions that included activities which support the Building Division and were charged to the Fund, according to reports received for the scope of the audit. There were 88<sup>5</sup> instances where individuals moved either to or from the Building Division. We performed additional testing on these individuals to verify if the correct account was charged for their payroll and benefits. Of these 88, we noted updates were not made for five (6%) individuals in a timely manner. This resulted in both unallowable expenditures charged to the Fund, as well as allowable expenditures not charged to the Fund totaling a net amount of \$28,302. The detail of these expenditures is included in Appendix C.

Changes to individual payroll accounts are made by completion of a Status Change Notice (SCN). The SCN is used to update the individual's payroll account directly in the payroll system. We noted several instances where individuals did not work for the Building Division and therefore were not normally charged to the Fund but provided temporary assistance to the Building Division for backlogs in permitting or other areas. These individuals' salary accounts were updated directly in the payroll system to charge wages and benefits to Fund 140 but were not changed back to their original non-building payroll account after the temporary assistance ended. Often when allocations are made to certain funds, they are completed by a journal entry adjustment and not direct entry into the accounting system. Periodic review of the charges would help to ensure allocations are allowable to the Fund. It is important to note that payroll system capabilities are updated and now has capabilities to allow for direct updates to the payroll accounts as well as better tracking mechanisms to ensure the expenditures are allowable in accordance with the FSS.

### **Criteria:**

- Job description duties in support of the Building Division
- Payroll policies and procedures

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<sup>5</sup> The sample included 89 individuals; however, one individual was on FMLA and therefore there was no payroll data available for testing.

**Cause:**

- Direct update to payroll accounts
- Insufficient monitoring
- Noncompliance with FSS

**Effect:**

- Inaccurate accounting for the Fund
- Unallowable costs charged to the Fund
- Inaccurate Fund balance

**Recommendation****2024-03:**

*Update procedures to reflect new payroll system capabilities for recording updates to payroll accounts to ensure payroll charges are allowable.*

**Management Response and Corrective Action Plan:****2024-03** Select one of these boxes:☒ **Agree** ☐ **Partially agree\*** ☐ **Disagree\***

**\*For partially agree or disagree a reason must be provided as part of your response:**

**2024-03** *Management agrees and will utilize the functions within the new timekeeping and payroll system to properly record time and payroll expenditures to the general ledger.*

**2024-03** **Management Action Plan Coordinator:**  
*Financial Services Director*

**2024-03** **Anticipated Completion Date:** 09/30/2024

## **SCOPE**

Based on the work performed during the planning and assessment of risk phase, the audit covered the transactions in the Fund for FY19, FY20, FY21, FY22, FY23 and FY24 through March 31, 2024. To evaluate the processes in place to record activity in the Fund we reviewed policies and procedures, applicable laws, regulations, and associated processes. We completed walkthroughs with key staff to gain an understanding of the interaction between departments and their effect on the Fund.

## **STATEMENT OF AUDITING STANDARDS**

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **METHODOLOGY**

In order to achieve the audit objectives and gain a better understanding of the transactions and processes surrounding the activity in the Fund, we conducted several walkthroughs with individuals in Financial Services, the cashier's office, and Information System Technology. Sample sizes and selection were based on the CAO sampling methodology. We utilized both random and judgmental sampling for our sample selections.

To determine our sample of transactions, we performed a dollar and percentage change analysis on accounts for FY19 through FY23 in the planning phase. Transactions included revenue, expenditures, transfers, allocations, and adjustments recorded in the Fund for our scope.

To determine compliance with policies and procedures and the FSS, we judgmentally selected items identified in the analysis then judgmentally selected transactions in the accounts, in the categories identified. We also selected all transactions for certain vendors where we identified potential non-compliance to review in more detail.

To determine other expenditure compliance with the FSS, we selected a random sample of expenditures from the population that had not already been tested in one of the other areas.

To test allowability of payroll expenditures charged to the Fund we obtained a report of all individuals charged to the Fund during the audit scope. We reviewed their duties per the position job description with time charged to the Fund to identify positions for further testing.

## METHODOLOGY (continued)

Using these positions identified, we then reviewed the detail for accounts charged to the Fund to determine if charges were allowable.

To determine fund balance compliance with the FSS, we utilized operating budget and fund balance data obtained from Financial Services.

We utilized expenditure data from the City's financial accounting system to verify details of expenditure transactions. The financial accounting system is tested by the external auditors as part of the Annual Comprehensive Financial Report. Based on the results of their procedures, no additional data reliance testing was deemed necessary.

We also utilized data from the payroll system. We assessed the reliability of the data as part of planning and deemed the data was sufficiently reliable for the purposes the data was used to meet the audit objectives.

Unless specifically stated otherwise, based on our selection methods and testing of transactions and records, we believe that it is reasonable to project our results to the population and ultimately draw our conclusions for testing, findings, and recommendations on those results. Additionally, for proper context we have presented information concerning the value and/or size of the items selected for testing compared to the overall population and the value and/or size of the exceptions found in comparison to the items selected for testing.

## APPENDIX A

### Finding Classification

Findings are grouped into one of three classifications: High, Medium, or Low. Those findings that are categorized as low are not included in the report but rather are communicated separately to management. Classifications prioritize the findings for management to address and also indicate the level of testing required to determine if a finding's Corrective Action Plan is fully implemented in accordance with recommendations and Management's Response.

**High:** A finding that is ranked as "High" will have a significant impact on the organization. It is one that *prevents* the achievement of a substantial part of significant goals or objectives, or noncompliance with federal, state, or local laws, regulations, statutes, or ordinances. Any exposure to loss or financial impact for a High finding is considered *material*. Examples include direct violation of City or Department policy, blatant deviation from established policy and procedure, such as actions taken to circumvent controls in place, material non-compliance with federal, state, or local laws, regulations, statutes or ordinances, or an area where significant cost savings could be realized by the Department or the City through more efficient operations.

*High findings require immediate management attention and should take management's priority when considering implementation for corrective action.*

**Medium:** A "Medium" finding is one that *hinders* the accomplishment of a significant goal or objective or non-compliance with federal, state, or local laws, regulations, statutes, or ordinances, but can't be considered as preventing the accomplishment of the goal or objective or compliance with federal, state, or local laws, regulations, statutes or ordinances.

Exposure to loss or potential or actual financial impact is *significant but not material* to the Department or City. Examples include lack of monitoring of certain reports, insufficient policies and procedures, procedure in place or lack of procedure that can result in *potential* noncompliance with laws and or regulations.

Medium findings require management attention within a time frame that is agreed upon by the Department and the City Auditor. Priority for implementation of management's corrective action should be considered in light of other High or Low findings.

**Low:** A "Low" finding is one that warrants communication to management but is one that isn't considered as hindering the accomplishment of a significant goal or objective and isn't causing noncompliance with federal, state, or local laws, regulations, statutes, or ordinances. Financial impact or risk of loss is minimal to none; however, low findings can *hinder the effectiveness or quality of department operations and thus are communicated to management separately. Low ranked findings are not included in the final audit report.*

The City Auditor's Office will not follow up on the status of Low findings communicated to Management.



# APPENDIX B

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

[Chapter 553](#)  
BUILDING CONSTRUCTION  
STANDARDS

[View Entire  
Chapter](#)

**553.80 Enforcement.—**

(1) Except as provided in paragraphs (a)-(g), each local government and each legally constituted enforcement district with statutory authority shall regulate building construction and, where authorized in the state agency's enabling legislation, each state agency shall enforce the Florida Building Code required by this part on all public or private buildings, structures, and facilities, unless such responsibility has been delegated to another unit of government under s. [553.79\(11\)](#).

(a) Construction regulations relating to correctional facilities under the jurisdiction of the Department of Corrections and the Department of Juvenile Justice are to be enforced exclusively by those departments.

(b) Construction regulations relating to elevator equipment under the jurisdiction of the Bureau of Elevators of the Department of Business and Professional Regulation shall be enforced exclusively by that department.

(c) In addition to the requirements of s. [553.79](#) and this section, facilities subject to the provisions of chapter 395 and parts II and VIII of chapter 400 shall have facility plans reviewed and construction surveyed by the state agency authorized to do so under the requirements of chapter 395 and parts II and VIII of chapter 400 and the certification requirements of the Federal Government. Facilities subject to the provisions of part IV of chapter 400 may have facility plans reviewed and shall have construction surveyed by the state agency authorized to do so under the requirements of part IV of chapter 400 and the certification requirements of the Federal Government.

(d) Building plans approved under s. [553.77\(3\)](#) and state-approved manufactured buildings, including buildings manufactured and assembled offsite and not intended for habitation, such as lawn storage buildings and storage sheds, are exempt from local code enforcing agency plan reviews except for provisions of the code relating to erection, assembly, or construction at the site. Erection, assembly, and construction at the site are subject to local permitting and inspections. Lawn storage buildings and storage sheds bearing the insignia of approval of the department are not subject to s. [553.842](#). Such buildings that do not exceed 400 square feet may be delivered and installed without need of a contractor's or specialty license.

(e) Construction regulations governing public schools, state universities, and Florida College System institutions shall be enforced as provided in subsection (6).

(f) The Florida Building Code as it pertains to toll collection facilities under the jurisdiction of the turnpike enterprise of the Department of Transportation shall be enforced exclusively by the turnpike enterprise.

(g) Construction regulations relating to secure mental health treatment facilities under the jurisdiction of the Department of Children and Families shall be enforced exclusively by the department in conjunction with the Agency for Health Care Administration's review authority under paragraph (c).

The governing bodies of local governments may provide a schedule of fees, as authorized by s. [125.56\(2\)](#) or s. [166.222](#) and this section, for the enforcement of the provisions of this part. Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. The authority of state enforcing agencies to set fees for enforcement shall be derived from authority existing on July 1, 1998. However, nothing contained in this subsection shall operate to limit such agencies from adjusting their fee schedule in conformance with existing authority.

(2)(a) Any two or more counties or municipalities, or any combination thereof, may, in accordance with the provisions of chapter 163, governing interlocal agreements, form an enforcement district for the purpose of enforcing and administering the provisions of the Florida Building Code. Each district so formed shall be registered with the department on forms to be provided for that purpose. Nothing in this subsection shall be construed to supersede provisions of county charters which preempt municipal authorities respective to building codes.

(b) With respect to evaluation of design professionals' documents, if a local government finds it necessary, in order to enforce compliance with the Florida Building Code and issue a permit, to reject design documents required by the code three or more times for failure to correct a code violation specifically and continuously noted in each rejection, including, but not limited to, egress, fire protection, structural stability, energy, accessibility, lighting, ventilation, electrical, mechanical, plumbing, and gas systems, or other requirements identified by rule of the Florida Building Commission adopted pursuant to chapter 120, the local government shall impose, each time after the third such review the plans are rejected for that code violation, a fee of four times the amount of the proportion of the permit fee attributed to plans review.

(c) With respect to inspections, if a local government finds it necessary, in order to enforce compliance with the Florida Building Code, to conduct any inspection after an initial inspection and one subsequent reinspection of any project or activity for the same code violation specifically and continuously noted in each rejection, including, but not limited to, egress, fire protection, structural stability, energy, accessibility, lighting, ventilation, electrical, mechanical, plumbing, and gas systems, or other requirements identified by rule of the Florida Building Commission adopted pursuant to chapter 120, the local government shall impose a fee of four times the amount of the fee imposed for the initial inspection or first reinspection, whichever is greater, for each such subsequent reinspection.

(3)(a) Each enforcement district shall be governed by a board, the composition of which shall be determined by the affected localities.

- (b)1. At its own option, each enforcement district or local enforcement agency may adopt rules granting to the owner of a single-family residence one or more exemptions from the Florida Building Code relating to:
- Addition, alteration, or repairs performed by the property owner upon his or her own property, provided any addition or alteration shall not exceed 1,000 square feet or the square footage of the primary structure, whichever is less.
  - Addition, alteration, or repairs by a nonowner within a specific cost limitation set by rule, provided the total cost shall not exceed \$5,000 within any 12-month period.
  - Building and inspection fees.
2. However, the exemptions under subparagraph 1. do not apply to single-family residences that are located in mapped flood hazard areas, as defined in the code, unless the enforcement district or local enforcement agency has determined that the work, which is otherwise exempt, does not constitute a substantial improvement, including the repair of substantial damage, of such single-family residences.
3. Each code exemption, as defined in sub-subparagraphs 1.a., b., and c., shall be certified to the local board 10 days prior to implementation and shall only be effective in the territorial jurisdiction of the enforcement district or local enforcement agency implementing it.
- (4) When an enforcement district has been formed as provided herein, upon its registration with the department, it shall have the same authority and responsibility with respect to building codes as provided by this part for local governing bodies.
- (5) State and regional agencies with special expertise in building code standards and licensing of contractors and design professionals shall provide support to local governments upon request.
- (6) Notwithstanding any other law, state universities, Florida College System institutions, and public school districts shall be subject to enforcement of the Florida Building Code under this part.
- (a)1. State universities, Florida College System institutions, or public school districts shall conduct plan review and construction inspections to enforce building code compliance for their building projects that are subject to the Florida Building Code. These entities must use personnel or contract providers appropriately certified under part XII of chapter 468 to perform the plan reviews and inspections required by the code. Under these arrangements, the entities are not subject to local government permitting requirements, plans review, and inspection fees. State universities, Florida College System institutions, and public school districts are liable and responsible for all of their buildings, structures, and facilities. This paragraph does not limit the authority of the county, municipality, or code enforcement district to ensure that buildings, structures, and facilities owned by these entities comply with the Florida Building Code or to limit the authority and responsibility of the fire official to conduct firesafety inspections under chapter 633.
2. In order to enforce building code compliance independent of a county or municipality, a state university, Florida College System institution, or public school district may create a board of adjustment and appeal to which a substantially affected party may appeal an interpretation of the Florida Building Code which relates to a specific project. The decisions of this board, or, in its absence, the decision of the building code administrator, may be reviewed under s. 553.775.
- (b) If a state university, Florida College System institution, or public school district elects to use a local government's code enforcement offices:
- Fees charged by counties and municipalities for enforcement of the Florida Building Code on buildings, structures, and facilities of state universities, state colleges, and public school districts may not be more than the actual labor and administrative costs incurred for plans review and inspections to ensure compliance with the code.
  - Counties and municipalities shall expedite building construction permitting, building plans review, and inspections of projects of state universities, Florida College System institutions, and public schools that are subject to the Florida Building Code according to guidelines established by the Florida Building Commission.
  - A party substantially affected by an interpretation of the Florida Building Code by the local government's code enforcement offices may appeal the interpretation to the local government's board of adjustment and appeal or to the commission under s. 553.775 if no local board exists. The decision of a local board is reviewable in accordance with s. 553.775.
- (c) The Florida Building Commission and code enforcement jurisdictions shall consider balancing code criteria and enforcement to unique functions, where they occur, of research institutions by application of performance criteria in lieu of prescriptive criteria.
- (d) School boards, Florida College System institution boards, and state universities may use annual facility maintenance permits to facilitate routine maintenance, emergency repairs, building refurbishment, and minor renovations of systems or equipment. The amount expended for maintenance projects may not exceed \$200,000 per project. A facility maintenance permit is valid for 1 year. A detailed log of alterations and inspections must be maintained and annually submitted to the building official. The building official retains the right to make inspections at the facility site as he or she considers necessary. Code compliance must be provided upon notification by the building official. If a pattern of code violations is found, the building official may withhold the issuance of future annual facility maintenance permits.

This part may not be construed to authorize counties, municipalities, or code enforcement districts to conduct any permitting, plans review, or inspections not covered by the Florida Building Code. Any actions by counties or municipalities not in compliance with this part may be appealed to the Florida Building Commission. The commission, upon a determination that actions not in compliance with this part have delayed permitting or construction, may suspend the authority of a county, municipality, or code enforcement district to enforce the Florida Building Code on the buildings, structures, or facilities of a state university, Florida College System institution, or public school district and provide for code enforcement at the expense of the state university, Florida College System institution, or public school district.

(7)(a) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of



allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget for enforcing the Florida Building Code for the previous 4 fiscal years. For purposes of this subsection, the term "operating budget" does not include reserve amounts. Any amount exceeding this limit must be used as authorized in subparagraph 2. However, a local government that established, as of January 1, 2019, a Building Inspections Fund Advisory Board consisting of five members from the construction stakeholder community and carries an unexpended balance in excess of the average of its operating budget for the previous 4 fiscal years may continue to carry such excess funds forward upon the recommendation of the advisory board. The basis for a fee structure for allowable activities must relate to the level of service provided by the local government and must include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged must be consistently applied.

1. As used in this subsection, the phrase "enforcing the Florida Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

2. A local government must use any excess funds that it is prohibited from carrying forward to rebate and reduce fees, or to pay for the construction of a building or structure that houses a local government's building code enforcement agency or the training programs for building officials, inspectors, or plans examiners associated with the enforcement of the Florida Building Code. Excess funds used to construct such a building or structure must be designated for such purpose by the local government and may not be carried forward for more than 4 consecutive years. An owner or builder who has a valid building permit issued by a local government for a fee, or an association of owners or builders located in the state that has members with valid building permits issued by a local government for a fee, may bring a civil action against the local government that issued the permit for a fee to enforce this subparagraph.

3. The following activities may not be funded with fees adopted for enforcing the Florida Building Code:

- a. Planning and zoning or other general government activities.
- b. Inspections of public buildings for a reduced fee or no fee.
- c. Public information requests, community functions, boards, and any program not directly related to enforcement of the Florida Building Code.
- d. Enforcement and implementation of any other local ordinance, excluding validly adopted local amendments to the Florida Building Code and excluding any local ordinance directly related to enforcing the Florida Building Code as defined in subparagraph 1.

4. A local government must use recognized management, accounting, and oversight practices to ensure that fees, fines, and investment earnings generated under this subsection are maintained and allocated or used solely for the purposes described in subparagraph 1.

5. The local enforcement agency, independent district, or special district may not require at any time, including at the time of application for a permit, the payment of any additional fees, charges, or expenses associated with:

- a. Providing proof of licensure under chapter 489;
- b. Recording or filing a license issued under this chapter;
- c. Providing, recording, or filing evidence of workers' compensation insurance coverage as required by chapter 440; or
- d. Charging surcharges or other similar fees not directly related to enforcing the Florida Building Code.

(b) By December 31, 2020, the governing body of a local government that provides a schedule of fees shall create a building permit and inspection utilization report and post the report on its website. The information in the report shall be derived from relevant information available in the most recently completed financial audit. After December 31, 2020, the governing body of a local government that provides a schedule of fees shall update its building permit and inspection utilization report before making any adjustments to the fee schedule. The report shall include:

1. Direct and indirect costs incurred by the local government to enforce the Florida Building Code, including costs related to:
  - a. Personnel services costs, including salary and related employee benefit costs incurred by the local government to enforce the Florida Building Code.
  - b. Operating expenditures and expenses.
2. Permit and inspection utilization information, including:
  - a. Number of building permit applications submitted.
  - b. Number of building permits issued or approved.
  - c. Number of building inspections and reinspections requested.
  - d. Number of building inspections and reinspections conducted.
  - e. Number of building inspections conducted by a private provider.
  - f. Number of audits conducted by the local government of private provider building inspections.
  - g. Number of personnel dedicated by the local government to enforce the Florida Building Code, issue building permits, and conduct inspections.
  - h. Other permissible activities for enforcing the Florida Building Code as described in subparagraph (a)1.
3. Revenue information, including:
  - a. Revenue derived from fees pursuant to paragraph (a).
  - b. Revenue derived from fines pursuant to paragraph (a).
  - c. When applicable, investment earnings from the local government's investment of revenue derived from fees and fines pursuant to paragraph (a).
  - d. Balances carried forward by the local government pursuant to paragraph (a).
  - e. Balances refunded by the local government pursuant to paragraph (a).

f. Revenue derived from other sources, including local government general revenue.

(c) The governing body of a local government that issues building permits may charge a person only one search fee, in an amount commensurate with the research and time costs incurred by the governing body, for identifying building permits for each unit or subunit assigned by the governing body to a particular tax parcel identification number.

(8) Effective January 1, 2023, local governments located in areas designated in the Federal Emergency Management Agency disaster declarations for Hurricane Ian or Hurricane Nicole may not raise building inspection fees, as authorized by s. 125.56(2) or s. 166.222 and this section, before October 1, 2024. This subsection expires June 30, 2025.

(9) The Department of Agriculture and Consumer Services is not subject to local government permitting requirements, plan review, or inspection fees for agricultural structures, such as equipment storage sheds and pole barns that are not used by the public.

(10) A single-family or two-family dwelling that is converted into a certified recovery residence, as defined in s. 397.311, or a recovery residence, as defined in s. 397.311, that has a charter from an entity recognized or sanctioned by Congress does not have a change of occupancy as defined in the Florida Building Code solely due to such conversion.

History.—s. 11, ch. 74-167; s. 3, ch. 75-111; s. 5, ch. 77-365; s. 3, ch. 85-97; s. 805, ch. 97-103; ss. 50, 51, ch. 98-287; ss. 85, 86, ch. 2000-141; ss. 34, 35, ch. 2001-186; ss. 3, 4, ch. 2001-372; s. 87, ch. 2002-1; s. 27, ch. 2002-20; s. 12, ch. 2005-147; s. 64, ch. 2006-1; s. 15, ch. 2008-191; s. 37, ch. 2010-176; s. 127, ch. 2014-17; s. 276, ch. 2014-19; s. 23, ch. 2014-154; s. 21, ch. 2016-129; s. 10, ch. 2017-149; s. 7, ch. 2019-75; s. 3, ch. 2019-121; s. 6, ch. 2021-128; s. 5, ch. 2021-201; s. 4, ch. 2021-212; s. 6, ch. 2022-136; s. 13, ch. 2023-304.

## APPENDIX C

The information below represents adjustments to the Fund.

( )= adjustments from/ (out of) the Fund

Description	Amount to Adjust (From)/To
Outside Services	\$ (425.25)
Software	\$ (5,953.50)
Software	\$ (1,764.00)
Software	\$ (3,307.50)
Software	\$ (3,307.50)
Software	\$ (3,307.50)
Software	\$ (7,717.50)
Software	\$ (15,435.00)
Software	\$ (6,615.00)
Software	\$ (61,619.30)
Software/License	\$ (2,443.00)
Software/License	\$ (635.25)
Software/License	\$ (5,676.30)
Software/License	\$ (625.00)
Software/License	\$ (1,745.00)
Software/License	\$ (247.50)
Software/License	\$ (2,340.00)
Payroll	\$ (8,603.38)
Payroll	\$ (7,572.68)
Payroll	\$ (285.32)
Payroll	\$ 35,579.78
Payroll	\$ 9,183.15
<b>Total Adjustment from 140</b>	<b>\$ (94,862.55)</b>