

**ORDINANCE 04-12**

**AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 150, BUILDINGS, §150.01 BY ADOPTING THE FLORIDA BUILDING CODE AS THE BUILDING CODE OF THE TOWN; §§150.02, ADOPTION OF STANDARD MECHANICAL CODE; 150.05, CONSTRUCTION OF BULKHEADS; SEAWALLS, BY DELETING THESE SECTIONS IN THEIR ENTIRETY; AMENDING §150.06, FEE SCHEDULE, PROVIDING FOR PASSAGE AND ADMINISTRATION OF FEES BY RESOLUTION; DELETING §150.20, UTILITY SERVICE TO CONDOMINIUMS IN ITS ENTIRETY; AMENDING §§150.15, ADMINISTRATION AND ENFORCEMENT; 150.18, COMPLIANCE WITH PLANS AND SPECIFICATIONS; 150.19, SITE RESTORATION SECURED OBLIGATION, REQUIRED FOR CONSTRUCTION; §150.22, PROCEDURE FOR DANGEROUS OR UNSANITARY BUILDINGS; §150.23(A), PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES; AND §§150.24 THROUGH 150.26 TO BRING INTO COMFORMANCE WITH CHAPTER 468, PART XII, FLORIDA STATUTES, PROVIDING FOR THE RENUMBERING OF ALL REMAINING SECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the State of Florida has enacted the Florida Building Code which preempts local jurisdictions from enacting certain modifications to that Code as more specifically set forth in Chapter 553, Florida Statutes; and

**WHEREAS**, portions of Chapter 150 are in conflict with the Florida Building Code and the Town wishes to amend Chapter 150 so that it will be consistent with the Florida Building Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

Section 1. **Chapter 150, BUILDINGS, General Provisions, §150.01** is amended to read as follows:

**150.01 Adoption Florida Building Code.**

Adoption. The Florida Building Code together with appendices is hereby adopted as the Building Code of the Town. Nothing contained herein shall be deemed to conflict with the mandatory provisions of Chapter 553, Florida Statutes as may be amended.

Section 2. **Chapter 150, BUILDINGS, General Provisions §150.02, Adoption of Standard Mechanical Code, §150.05, Construction of bulkheads; seawalls,** are hereby deleted in their entirety.

Section 3. **Chapter 150, BUILDINGS, Administration, §150.06, Fee Schedule.** is hereby amended to read:

**150.04 Fee schedule.**

Permit fees and the administration of permit fees shall be set by resolution of the Town Commission pursuant to the requirements of State law.

Section 4. **Chapter 150, BUILDINGS, Administration, §150.20, Utility service to condominiums; required documents.** is hereby deleted in its entirety.

Section 5. **Chapter 150, BUILDINGS, Administration, §§150.15, Administration and enforcement; 150.18, Compliance with plans and specifications.; 150.19, Site restoration secured obligation, required for construction.; 150.22, Procedure for dangerous or unsanitary buildings.; 150.23(A), Procedure for buildings which are nuisances; and §§150.24 through 150.26,** are hereby amended to read as follows, renumbering all remaining sections:

**150.15 Administration and enforcement.**

The duty of administering and enforcing this chapter is hereby conferred upon the Building Official and designees in conformance with Chapter 468, Part XII, Florida Statutes.

**150.18 Compliance with plans and specifications.**

(A) A copy of the plans and drawings approved by the Building Official or designee shall be kept at the site of the work, and shall be open to inspection by the Building Official or designee. ('71 Code, §6-6)

(B) No work for which a building permit has been obtained shall be done except in conformity with the plans and specifications submitted at the time application for the building permit was made. ('71 Code, §6-7) (Ord. 157, passed 10-1-69; Amd. Ord. 989-24, passed 7-16-98) Penalty, see §10.99.

(C) Private providers as defined by Florida law may render services within the Town of Longboat Key in accordance with Florida law. A private provider may provide inspections or plan review, but not both. Additionally, if the private provider provides plan review, such review is limited to the technical Building Code and shall not include compliance with local ordinances or laws.

**150.19 Site restoration secured obligation, required for construction.**

(A) At least 10 days prior to the time an application is made for a building permit for any buildings or structures to be constructed within the town, the applicant shall deliver to the town a cash bond or irrevocable letter of credit in a form satisfactory to the Town Attorney in the sum of \$2,500, plus two percent of the cost of construction of the entire building as indicated on the application for building permit. No site restoration cash bond, or irrevocable letter of credit shall be required for any project for which the costs of improvements do not exceed \$75,000; for the construction of any single-family residence, or town-owned government facilities or any governmental facilities to be owned or constructed by the town. The cash bond or irrevocable letter of credit shall guarantee that the site will be either promptly restored to its original state so far as is possible in the event the construction is abandoned or the site secured in order to protect the health, safety, and welfare of the Town and its inhabitants. In default thereof, the amount of the security shall be paid, on demand, to the town for its use in effecting the restoration or to secure the building site. Construction shall be deemed to have been abandoned if the applicant, or his successors or assigns, so notifies the Planning, Zoning and Building Department, in writing, or if work on the premises ceases prior to the completion of the improvement and is not resumed within 30 days of the expiration or revocation of the building permit. The cash bond or irrevocable letter of credit shall have an expiration date at least one year after the expected construction completion date as reflected on the building permit application. (Ord. 93-22, passed 9-27-93)

(1) Permits for tree removal, clearing of the land (except debrushing), excavation, grading or installation of utilities shall not be issued nor undertaken in areas beyond the limits of the area necessary for the construction of the building for which a permit has been issued. The Building Official shall determine, in writing, the limits of the area necessary for the satisfactory completion of the permitted work, and such determination shall be deemed a condition of the permit. The necessary construction area shall be fenced to avoid damage to other areas.

(2) Temporary use permits shall not be issued prior to issuance of a building permit for construction.

(B) In the event the applicant, his successors, or assigns fail to restore or secure the site prior to abandonment, the town shall notify the applicant and his guarantor, or security agent, as the case may be, by certified mail, addressed to the last address furnished by the parties to the town, demanding performance or the deposit of the guarantee sum. Not later than 10 days after the posting by the town of the demand, the applicant or his guarantor, or security agent shall deposit in the office of the Planning, Zoning and Building Department the sum demanded by the town, either the estimated cost of restoring the site to its original condition as nearly as possible or the full sum of the secured obligation in the event the restoration costs or cost to secure the building site would exceed the amount of the security or if restoration is impossible or impracticable.

(C) In the event there is a surplus in the deposit made on the town's demand, after restoration of the site, the town shall refund to the depositor on his order the surplus after costs and expenses. If the amount received by the town is insufficient to restore the site, the

applicant shall not be relieved of his obligation to complete the improvement or restore the site and the applicant shall, upon further demand by the town, deposit the additional amount necessary to restore the site. ('71 Code, § 6-9.5) (Ord. 77-25, passed 1-4-78; Amd. Ord. 85-4, passed 6-3-85; Amd. Ord. 85-11, passed 9-9-85; Amd. Ord. 86-12, passed 6-5-86; Amd. Ord. 95-25, passed 1-8-96; Amd. Ord. 98-24, passed 7-16-98)

(D) Nothing contained herein shall prohibit the Town from seeking any and all remedies available to it under local, state or federal law.

**150.21 Procedure for dangerous or unsanitary buildings.**

(A) If any building, structure, or portion thereof, by reason of its use, abandonment, or dilapidated condition, becomes a fire hazard, unsanitary, or otherwise dangerous to health or human life, the Building Official, immediately upon learning the condition, shall forthwith give the owner, agent, or person in control of the building written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements, or to demolish and remove the building, structure, or portion thereof.

(B) If necessary for the preservation of life, safety, or health, the notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected, and approved by the Building Official. The Building Official shall cause to be posted at each entrance to the building a notice that the building is unsafe and that its use or occupancy has been prohibited. The notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove the notice without written permission of the Building Official, or for any person to enter the building except for the purpose of making the required repairs or of demolishing the building.

**150.22 Procedure for buildings, which are nuisances.**

(A) All buildings or structures, as these terms are defined in, the Town's Land Development Regulations or Building Code, and including docks, davits, seawalls and other marine structures, which have any or all of the following defects shall be deemed "dangerous structures":

**150.23 Procedure for conversion of existing structures.**

(A) It shall be unlawful for any person or corporation to change the use of or make any alterations, changes, or modifications covered by the Florida Building Code in any dwelling unit, tourism unit, building structures, foundation, or improvement within the town without first notifying the town and furnishing the town with the following information prior to obtaining a building permit.

(1) Certificate of apparent ownership or attorney's opinion as to ownership with respect to the property involved, including legal description, address, and location.

(2) The present use of the existing building structure, dwelling unit, tourism unit, and improvement, the date alteration is planned, and a copy of any plat and restrictions or declaration.

(3) Site plans including details showing the building structure and dwelling unit, tourism unit, and foundations before and in their proposed altered condition

(B) Any alterations, changes, or modifications made in any existing building structure, dwelling unit, tourism unit, foundation, or improvement without giving the notice or information provided in division (A) above, or conforming to Section 150.25 shall render the existing certificate of occupancy for the structure void.

#### **150.24 Nonconforming structures.**

Any alterations, changes, or modifications in any existing building structure, dwelling unit, tourism unit, foundation, or improvement, including without limitation, motels, hotels, and bungalow courts, covered by the Florida Building Code, shall comply with this code.

#### **150.25 Civil remedies available.**

(A) In case any building or structure is or is intended to be erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, or is intended to be used in violation of this chapter, the Town Attorney, in addition to the remedies provided for in this code, is hereby authorized to institute any appropriate action or proceeding, in law or equity, to prevent the unlawful erection, construction, or reconstruction, or to restrain, correct, or abate the violation.

(B) No one may rely upon a permit issued based upon any error of law or fact and such permit shall be void and have no force or effect.

Section 6. CHAPTER 150, BUILDINGS, Certificates and Permits, Sections 150.30 through 150.39, are hereby amended to read as follows:

#### **150.30 Building permit required.**

(A) No person shall erect or construct, or proceed with the erection of any building or structure nor repair, add to, enlarge, move, improve, alter, convert, extend, or demolish any building or structure in the town, or cause the same to be done without first obtaining a building permit therefor from the Building Official, unless the work is deemed to be minor work. "Minor Work" shall be defined as improvements or repairs that have no structural affect whatsoever to the building or structure. Examples include, but are not limited to:

1. \*Painting.
2. Wall paper, wall coverings, or drywall finish.
3. Drywall or sheetrock repair up to 48 square feet.
4. Floor and wall tile.
5. Rugs, carpeting or other floor covering.
6. Replacing cabinets, counter tops and refacing.

7. Replacement of existing fixtures or appliances so long as there is no alternation or modification of existing wiring.
8. Sink, dishwasher, or toilet replacement so long as a licensed plumber performs the work.
9. Replacement of existing hardware.
10. Repair of broken glass. (Not replacement of window.)
11. Driveways, decks and patios directly on grade and without footings. (Must meet specific zoning criteria and must be approved by Zoning Department as an exception)
12. Small, incidental roof leak repair. (Maximum of 100 square feet (1 square.)
13. Other items determined by the Building Official to be minor in accordance with this section and the Florida Building Code. Such determination shall be in writing.

\*When painting buildings with fire suppression systems and/or fire alarms, the owner shall notify the Fire Chief in accordance with Chapter 94 of this Code.

**These items, as well as any other items determined by the Building Official to be minor work, may require a building permit if the building is F.E.M.A. noncompliant, or the work to be performed is below base flood elevation as determined by F.E.M.A., or the work is part of a greater project. Nothing contained herein shall relieve the property owner from compliance with the Florida Accessibility Code or other State or Federal Regulations.**

If any person is in doubt whether the work to be performed falls within these minor work exception, that person shall request a binding interpretation from the Building Department. The applicant shall set forth with specificity the facts with specificity as to the extent and nature of the work on a form provided by the Building Department.

(B) No person shall do electrical construction or install electric wiring or apparatus or make any changes of existing wiring or apparatus for light, heat, or power within or attached to any building or property in the town without first obtaining a permit therefor from the Building Official.

(C) No person shall do or perform any plumbing, heating, air conditioning, refrigeration and ventilation (H.A.R.V.) installations, alterations, or repairs within or attached to any building, property, or structure in the town or cause the same to be done or performed without first obtaining a permit therefor from the Building Official. (Ord. 88-06, passed 5-19-88)

### **150.31 Building permit application.**

(A) Each applicant for a building permit shall submit a complete application to the Building Official or designee for his approval before a permit shall be issued. A building permit shall not be issued unless that application is complete. A complete application shall include the following:

(1) An accurate plot diagram and certified survey, in duplicate, which shall be drawn to scale and shall show the size, shape, and dimensions of the tract to be built upon, the size and location of any existing structures, the dimensions and planned location of all structures

to be built, including alterations to existing structures, as well as parking spaces, loading areas, roadways, waterways, easements, and any other pertinent superficial features, together with evidence of approval by the State and County Health Department of water, stormwater, and sewerage systems. The Building Official may require a boundary line survey, if necessary, prepared by a qualified surveyor, in order to assure compliance with the provisions of this chapter or other town ordinances. Where the outside dimensions of an existing structure will not be affected, or in any other case where a plot diagram is clearly unnecessary, the requirements of this division may be waived by the Building Official.

(2) Three or more copies of all specifications and drawings, drawn to scale and in sufficient detail to indicate the nature and character of the work. The drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials where quality is essential to conformity with the Florida Building Code. The Building Official may also require any other details and computations as will assure compliance with the Florida Building Code.

(3) When applicable to requirements of this chapter or other pertinent ordinances of the town, information relating to the use of the proposed structure and the plot which it will occupy; plans showing water and sewerage systems; plans showing cuts and fills and provisions for drainage; and any other relevant information shall also be submitted.

(4) All applicable fees.

(5) Compliance with Section 150.19, requiring prior submission of a site restoration bond or other secured obligation, is a condition precedent to applying for a building permit.

(6) Compliance with the plat requirements of the town subdivision code is a condition precedent to applying for a building permit.

(B) Nothing contained in this section shall be deemed to relieve or excuse any owner or builder from compliance with any other requirements contained in other ordinances now or hereafter enacted.

(C) Where site plan or development plan approval is required by this or any other ordinance now or hereafter enacted, building permits shall be issued only in conformity with the final site plan or development plan as approved by the Town Commission.

### **150.32 Issuance of building permit.**

(A) Upon receipt of a complete building permit application, and a receipt of all necessary governmental approvals, the Building Official shall, within a reasonable time, either issue or refuse to issue the building permit in writing within 30 days. Failure to act will be deemed a denial of the application.

### **150.33 Revocation of permit.**

If it shall appear, at any time, to the Building Official that the application or accompanying plat is in any material respect false or misleading, or that work is being done on the premises

differing materially from that called for in the application for a building permit filed with him under existing laws or ordinances, he may forthwith revoke the building permit and notify the person holding the permit of the revocation in writing. It shall then be the duty of the person holding the permit to surrender it and all copies thereof to the Building Official.

Section 7. **CHAPTER 150, BUILDINGS, Certificates and Permits, Sections 150.35 through 150.39**, are hereby deleted in their entirety.

Section 8. **Chapter 150, BUILDINGS, Moving of Buildings, Section 150.50 (B)**, is hereby amended to read as follows:

**150.50 Moving of buildings.**

(B) The moving of a building or structure shall be in full compliance with the Florida Building Code then in effect.

Section 9. **CHAPTER 150, BUILDINGS, Swimming Pool Construction, Section 150.60**, is hereby deleted in its entirety.

Section 10. **CHAPTER 150, BUILDINGS, Coastal Construction Code, Sections 150.61 through 150.65**, are hereby deleted in their entirety.

Section 11. **CHAPTER 150, BUILDINGS, Requirements Not Covered by Code, Section 150.71**, is hereby amended as follows:

**150.71 Requirements not covered by code.**

Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this Code, shall be determined by the Building Official, and any building permit may be issued conditioned upon the satisfaction of any such requirement. (Ord. 86-26, passed 10-6-86)

Section 12. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

Section 13. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section 14. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading and public hearing this \_\_\_ day of \_\_\_\_\_, 2004.

Adopted on the second reading and public hearing this \_\_\_\_ day of \_\_\_\_\_, 2004.

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Ronald A. Johnson, Mayor

ATTEST:

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Barbara S. Mikita, CLO, Deputy Town Clerk