M E M O R A N D U M

DATE: March 12, 2013

TO: Planning and Zoning Board

THROUGH: Robin D. Meyer, AICP, Director
Planning, Zoning and Building Department

FROM: Steve Schield, AICP, ASLA, CFM, Town Planner
Planning, Zoning and Building Department

SUBJECT: Ordinance 2012-26, Minimum Property Maintenance Code,
Planning and Zoning Board Edits

The following is a summary of the edits made by the Property Maintenance Code Subcommittee and the Planning and Zoning Board to Ordinance 2012-26, with a brief explanation of why the changes were made to provide further documentation of the final ordinance to the Town Commission. Attached, please find a copy of Ordinance 2012-26 with the edits highlighted. **Please provide direction to staff if any of the explanations for the edits need to be changed or clarified.**

1. Add the word "*limited*" to fifth whereas clause to better reflect the final use of the International Property Maintenance Code (IPMC) in the writing of the ordinance.
2. Add the phrase *"would improve aesthetics, protect property values and"* to eighth whereas clause and Section 104.01 (3) to reflect intent of the ordinance.
3. Remove word "existing" from Section 104.01 (2 & 3) to make sure code will apply to all existing and future buildings.
4. Remove Section 104.04 (C) Right of entry; Board considered it intrusive and other options for entry are available in existing building code.
5. Remove Section 104.05 Approval; Board did not consider it relevant in this section and a duplication of existing building code.
6. Remove sentence referring to painting of vehicles in Section 104.12 (G); Board considered that it would be open to interpretation and not needed.
7. Remove parts of Section 104.13 (B) to remove duplication of existing building code requirements and add phrase "reduces below the minimum building code requirement" to define standard for enclosures.
8. Remove Section 104.14 (A) Protective Treatment; Board considered it intrusive and would be difficult to enforce the maintenance of protective treatments on structures.
9. Add phrase "walls will maintain structural integrity" to Section 104.14 (c) Foundation walls, to better define requirement.
10. Remove Section 104.14 (D) Exterior walls; Board considered it intrusive and would be difficult to enforce the maintenance of exterior walls.
11. Replace word "rain" with "water" to cover all testing situations for leaks.
12. Remove Section 104.14 (F) Protective Treatment; Board considered it intrusive and would be difficult to enforce.
13. Remove sentence in Section 104.14 (G) Overhang extensions, that refers to painting; Board considered it intrusive and would be difficult to enforce.

14. Remove Section 104.14 (I) Chimneys and towers; Board considered it intrusive and would be difficult to enforce.
15. Remove word “glazing” from Section 104.14 (L) Glass or Glazing; Board considered it confusing and would be difficult to enforce.
16. Remove Section 104.14 (M) Operable windows; Board considered it intrusive and would be difficult to enforce.
17. Remove phrase “ventilation of habitable rooms” and add word “commercial” in Section 104.14 (N) Insect screens, in order to only require screening in food preparation or service areas.
18. Remove Section 104.14 (O) *Door*s; Board considered it intrusive and would be difficult to enforce.
19. Remove Section 104.14 (P) *Building security;* Board considered it intrusive and would be difficult to enforce.
20. Remove first sentence and add word “rental” in Section 104.15 *INTERIOR STRUCTURE;* in order to only apply requirements to rental properties.
21. Remove Section 104.22 *FIRE SAFETY REQUIREMENTS;* Board considered it intrusive and a duplication of the existing building and fire code requirements.

Attachments: Ordinance 2012-26 with edits highlighted

Xc: Robin D. Meyer, AICP, Director-Planning, Building & Zoning Department
David Persson, Town Attorney

ORDINANCE 2012-26

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA, BY ADDING CHAPTER 104, PROPERTY MAINTENANCE STANDARDS, ESTABLISHING MINIMUM STANDARDS GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; AUTHORIZING THE TOWN'S CODE ENFORCEMENT BOARD TO HEAR APPEALS; AMENDING CHAPTER 96, HEALTH AND SANITATION, MAINTENANCE OF PREMISES, TO RELOCATE SECTIONS 96.01 RESPONSIBILITY OF PROPERTY OWNERS, 96.02 FAILURE TO MAINTAIN DEEMED PUBLIC NUISANCE; NOTICE TO ABATE, 96.03 CORRECTION OF VIOLATIONS BY TOWN, 96.04 MOSQUITO BREEDING SITES; AMENDING OVERGROWTH OF VEGETATION, SECTIONS 96.10 POLICY, 96.11 ACCUMULATION OF BRUSH PROHIBITED, 96.12 DUTY TO KEEP PREMISES CLEARED, 96.13 FAILURE TO CLEAR DEEMED PUBLIC NUISANCE; NOTICE TO ABATE, 96.14 ABATEMENT BY TOWN; COST, OF CHAPTER 96 TO CHAPTER 104; AMENDING CHAPTER 150, BUILDINGS, SECTION 150.21 TO PROVIDE STANDARDS FOR DETERMINING UNSAFE OR DANGEROUS STRUCTURES AND EQUIPMENT, PROVIDING FOR EMERGENCY MEASURES; AMENDING CHAPTER 150, BUILDINGS, SECTION 150.22 PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key Code of Ordinances establishes minimum housing standards for the Town as articulated by the 1994 "Standard Housing Code" (as amended), published by "Southern Building Code Congress International" ("SBCCI"); and

WHEREAS, in 1998, SBCCI, a statutory member of the "International Code Council" ("ICC"), participated in the development of the first edition of the "International Property Maintenance Code" ("IPMC"); and

WHEREAS, the IPMC prescribes minimum maintenance standards for both residential and commercial structures and buildings; and

WHEREAS, the most current edition of the IPMC was released by the ICC in 2012; and

WHEREAS, it is desirable and beneficial to the citizens and residents of Longboat Key, Florida, for the Town Commission to adopt limited parts of the IPMC, with certain local amendments, in order to properly secure the health, safety and

welfare of the public by prescribing minimum property maintenance standards for all buildings and structures within the Town's municipal limits; and

WHEREAS, municipal abatement of nuisances and municipal correction of code enforcement violations provide a special and unique benefit accruing to particular property in the Town where such activities take place; and

WHEREAS, the Town Commission of the Town of Longboat Key, at duly noticed public hearings on December__, 2012, and January ___. 2013, considered the proposed; and

WHEREAS, the Town has received and considered comments from the public; and after careful consideration of the issues, finds that the proposed adoption of portions of the International Property Maintenance Code would improve aesthetics, protect property values and are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

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

SECTION 1. The above WHEREAS clauses are hereby ratified and confirmed as true and correct.

SECTION .2. Chapter 104 of the Code of Ordinances of the Town of Longboat Key is hereby created and titled PROPERTY MAINTENANCESTANDARDS.

SECTION 3. Chapter 104, Property Maintenance Standards shall read as follows:

Chapter 104. Property Maintenance Standards.

104.01 GENERAL PROVISIONS

1) Title. These regulations shall be known as the Property Maintenance Standards of the Town of Longboat Key

2) Scope. The provisions of this chapter shall apply to all ~~existing~~ residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of ~~existing~~ structures and premises, and for administration, enforcement and penalties.

3) Intent. This chapter shall be construed to secure its expressed intent, which is to improve aesthetics, protect property values and ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. ~~Existing s~~Structures and premises that do not comply with

these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

4) Severability. If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this code.

104.02. APPLICABILITY

A. General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this chapter and the referenced standards, the provisions of this chapter shall apply. Where, in a specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.

B. Maintenance. Equipment, systems, devices and safeguards required by this chapter or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shutoff from or discontinued for any occupied dwelling, except for such temporary interruption as may be necessary while repairs or alterations are in progress. The requirements of this chapter are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

C. Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Florida Building Code, Florida Fuel Gas Code, Florida Mechanical Code and NFPA 70. Any conflict between this chapter and Chapter 553, Florida Statutes, as may be amended, the Florida Building Code, and the Florida Fire Prevention / Florida Life Safety Code shall be resolved in favor of Chapter 553, Florida Statues, the Florida Building Code or the Florida Fire Prevention / Florida Life Safety Code and nothing herein shall be deemed to be an amendment to those provisions of Florida law. Nothing in this chapter shall be construed to cancel, modify or set aside any provision of the Town of Longboat Key Zoning Code.

D. Existing remedies. The provisions in this chapter shall not be construed to abolish or impair existing remedies of the town or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

E. Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

F. Historic buildings. The provisions of this chapter shall not be mandatory for existing buildings or structures designated as historic buildings when

such buildings or structures are judged by the Code Official to be safe and in the public interest of health, safety and welfare.

G. Exception: Where enforcement of this chapter would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

H. Requirements not covered by this chapter. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this chapter, shall be determined by the Code Official.

I. Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

J. Other laws. The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

104.03. MAINTENANCE INSPECTION

A. General. The Department of the Planning, Zoning and Building Department shall be deemed the department in charge of enforcing this chapter.

B. Appointment. The Code Official and such deputies as may be required shall be appointed by the Town Manager.

104.04. DUTIES AND POWERS OF THE CODE OFFICIAL

A. General. The Code Official is hereby authorized and directed to enforce the provisions of this chapter. The Code Official shall have the authority to render interpretations of this chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this chapter.

B. Inspections. The Code Official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

~~C. Right of entry. Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this chapter, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such structure or premises is occupied the Code Official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make a reasonable effort to locate the owner or other person having~~

~~charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry.~~

~~D~~C. Identification. The Code Official shall carry proper identification when inspecting structures or premises in the performance of duties under this chapter.

~~E~~D. Notices and orders. The Code Official shall issue all necessary notices or orders to ensure compliance with this chapter.

~~F~~E. Department records. The Code Official shall keep official records of all business and activities of the department specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

~~104.05. APPROVAL~~

~~A. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this chapter, the Code Official shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative provided the Code Official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.~~

~~B. Alternative materials, methods and equipment. The provisions of this chapter are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this chapter, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.~~

~~C. Required testing. Whenever there is insufficient evidence of compliance with the provisions of this chapter, or evidence that a material or method does not conform to the requirements of this chapter, or in order to substantiate claims for alternative materials or methods, the Code Official shall have the authority to require tests to be made as evidence of compliance at no expense to the town.~~

~~1. Test methods. Test methods shall be as specified in this chapter or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall be permitted to approve appropriate testing procedures performed by an approved agency.~~

~~2. Test reports. Reports of tests shall be retained by the Code Official for the period required for retention of public records.~~

~~D. Used material and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been~~

~~reconditioned and tested when necessary, placed in good and proper working condition and approved by the Code Official.~~

~~E. Approved materials and equipment. Materials, equipment and devices approved by the Code Official shall be constructed and installed in accordance with such approval.~~

~~F. Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this chapter, shall consist of valid research reports from approved sources.~~

104.06. VIOLATIONS

Violations of this chapter shall be enforced through the provisions of chapter 33, sections 33.01 through section 33.18 of this Code.

104.07. STOP WORK ORDER

A. Authority. Whenever the Code Official finds any work regulated by this chapter being performed in a manner contrary to the provisions of this chapter or in a dangerous or unsafe manner, the Code Official is authorized to issue a stop work order.

B. Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

C. Emergencies. Where an emergency exists, the Code Official shall not be required to give a written notice prior to stopping the work.

104.10. DEFINITIONS

A. Scope. Unless otherwise expressly stated, the following terms shallhave the meanings shown in this chapter.

B. Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

C. Terms defined in other codes. Where terms are not defined in this code and are defined in the Florida Building Code, Florida Fire Code, , Florida Plumbing Code, Florida Mechanical Code,NFPA 70 or other chapters of this Code, such terms shall have the meanings ascribed to them as stated in those codes unless in conflict with the clear intent of this chapter.

D. Terms not defined. Where .terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

E. Parts. Whenever the words "dwelling unit," "dwelling," "premises ," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

General Definitions

ANCHORED. Secured in a manner that provides positive connection.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

BLIGHTING PROBLEM. To cause to deteriorate or something that impairs or destroys.

BRUSH. All vegetation detached from the land resulting from land-clearing operations or other causes.

CLEAN. Free from dirt, contamination or pollution; to rid of dirt, impurities, or extraneous matter or materials.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s} of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, Jugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

GARBAGE. Every refuse accumulation of animal, fruit, or vegetable matter that attends the preparation, use, cooking, and dealing in, or storage of, meats, fish, fowl, fruit, or vegetables, and any other matter of any nature whatsoever which is subject to decay, putrefaction, and the generation of noxious or offensive gases or odors, or which during or after decay, may serve as breeding or feeding materials for flies or other germ-carrying insects; and any bottles, cans, or other containers which, due to their ability to retain water, may serve as breeding places for mosquitoes or other water-breeding insects.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence. within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or structure.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property. including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborages; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Refuse accumulations of paper, excelsior, rags, wooden or paper boxes or containers, sweepings, and all other accumulations of a nature other than "garbage" as defined above which are usual to housekeeping and to the operation of stores, offices, and other business places; and materials such as metals, mineral mater, glass, crockery, auto bodies or parts, including automobile tires or tubes, building material rubble resulting from the construction or alteration of structures or parts of structures, and other materials or refuse not usual to housekeeping or the operation of stores and offices.

SAFE. Free from apparent harm or risk; secure from threat of danger, harm, or loss.

SANITARY. Characterized by or readily kept in cleanliness for the protection of health.

SECURE. Free from danger or risk of loss.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STRUCTURE. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above or below the surface of land or water.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a building or structure.

104.11. GENERAL REQUIREMENTS

A. Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

B. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this chapter. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

C. Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

104.12. EXTERIOR PROPERTY AREAS

A. Sanitation and storage of materials. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition. No owner or occupant shall permit old or broken lumber, rusted or unused equipment, discarded refrigerators, discarded stoves, old pipe or other used, discarded and worn, unsightly articles or any materials not normally found in a yard area to remain in any yard or open area owned, occupied or in the possession of such person for a period of more than five (5) days. Further, unless authorized by the zoning category of the property, no owner or occupant of a building, structure or premises may utilize such property for the open storage of abandoned, untagged, or inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material, rubbish or similar items. All materials stored in an open carport or area visibly from a public right of way that is

utilized for storage of items other then the storage of motorized vehicles, trailers, boats, bicycles or other similar items must be screened from the public view.

B. Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon. or within any structure located thereon. Exception: Approved retention areas and reservoirs.

C. Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

D. Weeds and overgrowth.

1. For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land lying within 50 feet of any dwelling, house, or place of business, or vacant land which has been previously mowed located in a residential area is required to keep the land cleared of all underbrush and debris; weeds or grass in excess of 12 inches in height from the ground; noxious material of any kind which tends to be a breeding place for mosquitoes, or tends to be a breeding place or haven for snakes and vermin of all kinds and character; or noxious material which tends to create a fire hazard and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition.

2. Every lot or parcel of land in whole or in part which has been denuded, stripped or otherwise had vegetation upon it removed, or fill placed upon such lot or portion thereof, and which causes the lot or portion thereof to be without vegetation resulting in dust or erosion is hereby determined to be detrimental to the health, safety and welfare of the citizens of the town, a public nuisance and is prohibited.

3. Correction of violations by town. Upon a finding by the code enforcement board that the property owner has failed to maintain his property pursuant to subsection 104.12(D)(1) and (2), the code enforcement board may, in addition to imposing a lien as described by law, request the town manager or designee to clear the land, plant the vegetation, or take any other reasonable action to afford a means to eliminate the nuisance as found by the code enforcement board.

4. The town manager or designee may direct the clearing of the land, planting of the vegetation or other reasonable means to eliminate the nuisance and assess a lien on behalf of the town against the land for 125 percent of the costs as described herein. The town manager or designee shall give written notice to the owner of record of the land by certified mail, return receipt requested, at its address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the notice, or the town will enter the property and correct the abatement at the expense of the property owner as described herein. Alternatively, the town manager or designee may cause the property to be posted with a notice notifying the owner of the condition and

demanding that the condition be abated or the town will correct and charge same within seven days of the date of posting.

5. If the property owner objects or disputes the actions required by the town manager's or designee notice sent pursuant to subsection (B) above, the property owner shall file a written objection within seven days from the date of receipt of the notice. The objection shall set forth with specificity the nature of the objection or dispute. As soon thereafter as practicable, the town commission shall hear and determine the validity of the objection or dispute. The town commission may uphold the actions taken by the town manager or designee, modify the actions to be taken, or dismiss the actions, based upon the evidence presented at the hearing.

6. After corrective action is taken by the town, a copy of the proposed assessment of lien shall be mailed to the property owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the proposed assessment of lien to pay same. If an objection is filed within the 20-day period, the town commission shall hear and determine the validity of the objection.

7. Upon failure to file an objection within 20 days, or failure to pay the amount of the proposed assessment, a notice of lien shall be filed in the office of the clerk of circuit court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the town clerk. The costs of the lot clearing, cleaning, or removing of debris, and the necessary expenses for preparation of the assessment lien, filing, and recording the lien, together with legal expenses, if any, incident thereto shall be assessed against the land and shall be collected in the manner prescribed by law.

8. The procedure for correction of a violation as described in this section shall not be deemed exclusive. The lien assessed by the town and the actions taken by the town may be concurrent to those taken by the code enforcement board.

E. Exhaust vents. Pipes, ducts. conductors, fans or blowers shall not discharge gases, steam. vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

F. Accessory structures. All accessory structures, including detached garages, seawalls, docks, fences and walls, shall be maintained structurally sound and in good repair.

G. Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the

process of being stripped or dismantled. ~~Painting of vehicles is prohibited unless conducted inside an approved spray booth.~~

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

H. Defacement of property. No person shall willfully or wantonly damage. Mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

I. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

104.13. SWIMMING POOLS, SPAS, AND HOT TUBS

A. Swimming pools, spas and hot tubs. Swimming pools, spas and hot tubs shall be maintained in a clean and sanitary condition, and in good repair.

B. Enclosures. ~~Private swimming pools, hot tubs and spas containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches (152 mm) from the gatepost.~~ No existing pool enclosure shall be removed, replaced or changed in a manner that reduces it below the minimum building code requirement ~~its effectiveness~~ as a safety barrier. Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

104.14. EXTERIOR STRUCTURE

General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

~~A. Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.~~

B. Structural member. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

C. Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests. Walls will maintain structural integrity.

~~D. Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface-coated where required to prevent deterioration.~~

E. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit water ~~rain~~. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

~~F Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.~~

G. Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. ~~When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.~~

H Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

~~I. Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather- coating materials, such as paint or similar surface treatment.~~

J. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

K. Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

L. Glass ~~or Glazing~~. All glass ~~or glazing~~ materials shall be maintained free from cracks and holes.

~~M. Operable windows. Every window, other than a fixed window, shall be easily operable and capable of being held in position by window hardware.~~

N Insect screens. Every door, window and other outside opening required for ~~ventilation of habitable rooms,~~ commercial food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly

fitting screens of not less than sixteen (16) mesh per one (1) inch (25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. All screens shall be maintained free from open rips, tears, or other defects. ~~Exception: Screens shall not be required where other approved means, such as central air conditioning, air curtains, or insect repellent fans are employed.~~

~~O. Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Florida Standard Building Code.~~

~~P. Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.(Not in building code)~~

~~1. Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily operable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than one inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.~~

~~2. Windows. Operable windows located in whole or in part within six feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.~~

Q. Seawalls. Seawalls must be kept in good repair without visible spalding of concrete, ground holes or other major damage.

R. Screen room or cage. Screen rooms or cages must be kept in good repair, with screens maintained free from open rips, tears or other defect.

104.15. INTERIOR STRUCTURE

General. ~~The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition.~~ Every owner of a rental structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the areas of the structure and exterior property.

A. Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

B Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

C. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

D. Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

104.16. RUBBISH, BRUSH AND GARBAGE PROHIBITED

A. Accumulation of rubbish or garbage. All exterior property and premises, and the Interior of every structure, shall be free from any accumulation of rubbish or garbage.

B. All accumulations of brush, brush piles and containers, within the public right-of-ways or within five feet of the public right-of-ways, shall be removed or otherwise effaced from the public view within 48 hours of the start of accumulation thereof. Upon application, the town manager may extend the time for accumulation upon satisfactory showing that the accumulation will be removed within a reasonable time.

104.17. PEST ELIMINATION

A. Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

B. Owner. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

C. Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.

D. Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

E. Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

104.18 – MOSQUITO BREEDING SITES.

A. It shall be unlawful for any person to create, keep, maintain, or permit a collection of water or debris in which mosquitoes may breed or multiply and the maintenance, creation, keeping, or permitting of the water or debris is hereby declared to be a public nuisance.

B. Water in which live mosquito larvae are found shall be prima facie evidence of a violation of subsection (A) above.

C. Responsibility for the enforcement of the provisions of subsection (A) above, within the boundaries of the town is hereby vested in the Code Official. The Code Official may request the assistance of and act through the mosquito control commission.

D. When any person has been found in violation of subsection (A) above, and the violation continues for a period of five days after the determination of the violation, the Code Official may alleviate and cure the condition causing the violation and the cost thereof shall become a lien on the property, enforceable in the same manner as tax liens in the town are enforceable.

104.19 – Duty to keep premises cleared.

A. For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land adjacent to a public street or road right-of-way, canal, or other navigable waterway, is required to keep the land cleared of all overgrowth of trees and shrubs which interfere with vehicular traffic or boat navigation, create a hazard to vehicular traffic or boat navigation and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or other unsightly condition.

B. Trees (including mangroves) may be trimmed only in accordance with the procedure described in § 98.04. If determined by the town manager or his designee that trimming of mangroves must be in excess of the limits allowed by chapter 98 or removal of mangroves is required, then a permit must be obtained from the appropriate state agencies and the town in accordance with section § 98.06.

104.20 – Failure to clear deemed public nuisance; notice to abate.

A. That portion of every lot or parcel of land adjacent to a street or public road right-of-way, canal, or other navigable waterway, which is located in an overgrowth of trees and shrubs which tend to interfere with vehicular traffic or navigation of boats, or which tend to create a hazard and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or unsightly condition, is hereby established to be a public nuisance.

B. If the town manager or designee shall find any of the conditions described in subsection (A) above, to exist on any land within the incorporated areas of the town, the town manager or designee shall give written notice to the owner of record of the land by certified mail, return receipt requested, at his address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the letter. Upon the failure of the property owner to comply within the time prescribed, the town manager shall notify the town commission of the existence of the condition.

104.21 – Abatement by town; cost

(A) Upon receipt by the town commission of notification from the town manager of the existence of conditions described in subsection104.20(A), the commission shall, by resolution, direct the clearing of the trees and shrubs and assess a lien on behalf of the town against the land for the costs herein described. A certified copy of the resolution shall be mailed to the owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the resolution to file written objections as to the reasonableness of the assessed costs with the town commission.

(B) Thereafter the commission shall hear and determine the validity of the objections. Upon determining the invalidity of all objections, or failure to file objection within 20 days, a notice of lien in a form the commission shall determine shall be filed in the office of the clerk of the circuit court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the town clerk. The costs of the lot clearing, removing of the trees and shrubs, and the necessary expenses for preparation of the assessment lien, filing and recording the lien, and legal expenses, if any, incident thereto, shall be assessed against the land and shall be collected by the finance director on November 1 next succeeding the date of filing of the lien, and if not collected shall thereafter be subject to the penalties and interest to which ad valorem taxes would be subject, and collection thereof may be enforced. On the date of filing of the lien as aforesaid, the town commissioners shall also file a copy of the lien with the tax collector of the county in which the lot or parcel is situated.

~~104.22. FIRE SAFETY REQUIREMENTS~~

~~A. Scope. The provisions of the Florida Fire Prevention Code, as adopted by the Florida State Fire Marshal's Office, shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.~~

~~B. Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with the Florida Fire Prevention Code. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of the Florida Fire Prevention Code.~~

SECTION 4. Chapter 96, Sections 96.01, 96.02, 96.03, 96.04, 96.10, 96.11, 96.12, 96.13, and 96.14 are eliminated in their entirety as shown below and incorporated into the new Chapter 104 as reflected above.

~~96.01 - Responsibility of property owners.~~

~~For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land lying within 50 feet of any dwelling, house, or place of business, or vacant land which has been previously~~

~~mowed located in a residential area is required to keep the land cleared of all underbrush and debris; weeds or grass in excess of 12 inches in height from the ground; noxious material of any kind which tends to be a breeding place for mosquitoes, or tends to be a breeding place or haven for snakes and vermin of all kinds and character; or noxious material which tends to create a fire hazard and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition.~~

~~96.02 - Failure to maintain deemed public nuisance; notice to abate.~~

~~(A)~~

~~(1)Vacant land within a residential area that has been previously mowed or that portion of every lot or parcel of land lying within 50 feet of any dwelling, house, or place of business on which are located underbrush and debris, or weeds or grass in excess of 12 inches in height from the ground, or noxious material of any kind which tends to be a breeding place for mosquitoes, or tends to be a breeding place or haven for snakes and vermin of all kinds and character, or which tends to create a fire hazard and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition, is hereby determined to be detrimental to the health, safety, and welfare of the citizens of the town and further, is hereby determined to be a public nuisance and is prohibited.~~

~~(2) Every lot or parcel of land in whole or in part which has been denuded, stripped or otherwise had vegetation upon it removed, or fill placed upon such lot or portion thereof, and which causes the lot or portion thereof to be without vegetation resulting in dust or erosion is hereby determined to be detrimental to the health, safety and welfare of the citizens of the town, a public nuisance and is prohibited.~~

~~96.03 - Correction of violations by town.~~

~~(A) Upon a finding by the code enforcement board that the property owner has failed to maintain his property pursuant to sections 96.01 and 96.02, the code enforcement board may, in addition to imposing a lien as described by law, request the town manager to clear the land, plant the vegetation, or take any other reasonable action to afford a means to eliminate the nuisance as found by the code enforcement board.~~

~~(B) The town manager may direct the clearing of the land, planting of the vegetation or other reasonable means to eliminate the nuisance and assess a lien on behalf of the town against the land for 125 percent of the costs as described herein. The town manager shall give written notice to the owner of record of the land by certified mail, return receipt requested, at its address as shown on the most recent county tax roll, notifying the owner of the condition and~~

~~demanding that the condition be abated within seven days from the date of receipt of the notice, or the town will enter the property and correct the abatement at the expense of the property owner as described herein. Alternatively, the town manager may cause the property to be posted with a notice notifying the owner of the condition and demanding that the condition be abated or the town will correct and charge same within seven days of the date of posting.~~

~~(C) If the property owner objects or disputes the actions required by the town manager's notice sent pursuant to subsection (B) above, the property owner shall file a written objection within seven days from the date of receipt of the notice. The objection shall set forth with specificity the nature of the objection or dispute. As soon thereafter as practicable, the town commission shall hear and determine the validity of the objection or dispute. The town commission may uphold the actions taken by the town manager, modify the actions to be taken, or dismiss the actions, based upon the evidence presented at the hearing.~~

~~(D) After corrective action is taken by the town, a copy of the proposed assessment of lien shall be mailed to the property owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the proposed assessment of lien to pay same. If an objection is filed within the 20-day period, the town commission shall hear and determine the validity of the objection.~~

~~(E) Upon failure to file an objection within 20 days, or failure to pay the amount of the proposed assessment, a notice of lien shall be filed in the office of the clerk of circuit court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the town clerk. The costs of the lot clearing, cleaning, or removing of debris, and the necessary expenses for preparation of the assessment lien, filing, and recording the lien, together with legal expenses, if any, incident thereto shall be assessed against the land and shall be collected in the manner prescribed by law.~~

~~(F) The procedure for correction of a violation as described in this section shall not be deemed exclusive. The lien assessed by the town and the actions taken by the town may be concurrent to those taken by the code enforcement board.~~

~~96.04 - Mosquito breeding sites.~~

~~(A) It shall be unlawful for any person to create, keep, maintain, or permit a collection of water or debris in which mosquitoes may breed or multiply and the maintenance, creation, keeping, or permitting of the water or debris is hereby declared to be a public nuisance.~~

~~(B) Water in which live mosquito larvae are found shall be prima facie evidence of a violation of subsection (A) above.~~

~~(C) Responsibility for the enforcement of the provisions of subsection (A) above, within the boundaries of the town is hereby vested in the town manager. The town manager may request the assistance of and act through the mosquito control commission.~~

~~(D) When any person has been found guilty of a violation of subsection (A) above, and the violation continues for a period of five days after the conviction, the town manager may alleviate and cure the condition causing the nuisance and the cost thereof shall be a lien on the property, enforceable in the same manner as tax liens in the town are enforceable.~~

~~96.10 - Policy.~~

~~The town commissioners find and declare that there is a general need in the town for the measures provided by this subchapter and that this subchapter is enacted in the exercise of the police power for the protection of the health, safety and welfare of the people of the town.~~

~~96.11 - Accumulation of brush prohibited.~~

~~(A) For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning:~~

~~*"Brush."* All vegetation detached from the land resulting from land-clearing operations or other causes.~~

~~(B) All accumulations of brush, brush piles and containers, within the public right-of-ways or within five feet of the public right-of-ways, shall be removed or otherwise effaced from the public view within 48 hours of the start of accumulation thereof. Upon application, the town manager may extend the time for accumulation upon satisfactory showing that the accumulation will be removed within a reasonable time.~~

~~96.12 - Duty to keep premises cleared.~~

~~(A) For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land adjacent to a public street or road right-of-way, canal, or other navigable waterway, is required to keep the land cleared of all overgrowth of trees and shrubs which interfere with vehicular traffic or boat navigation, create a hazard to vehicular traffic or boat navigation and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or other unsightly condition.~~

~~(B) Trees (including mangroves) may be trimmed only in accordance with the procedure described in § 98.09. If determined by the town manager or his designee that trimming of mangroves must be in excess of the limits allowed by chapter 98 or removal of mangroves is required, then a permit must be obtained~~

~~from the appropriate state agencies and the town in accordance with subsections 98.09(A)(1), (3), (4).~~

~~96.13 - Failure to clear deemed public nuisance; notice to abate.~~

~~(A) That portion of every lot or parcel of land adjacent to a street or public road right-of-way, canal, or other navigable waterway, which is located in an overgrowth of trees and shrubs which tend to interfere with vehicular traffic or navigation of boats, or which tend to create a hazard and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or unsightly condition, is hereby established to be a public nuisance.~~

~~(B) If the town manager or any other town official or agent designated by resolution by the town commission shall find any of the conditions described in subsection (A) above, to exist on any land within the incorporated areas of the town, the town manager shall give written notice to the owner of record of the land by certified mail, return receipt requested, at his address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the letter. Upon the failure of the property owner to comply within the time prescribed, the town manager shall notify the town commission of the existence of the condition.~~

~~96.14 - Abatement by town; cost.~~

~~(A) Upon receipt by the town commission of notification from the town manager of the existence of conditions described in subsection 96.13(A), the commission shall, by resolution, direct the clearing of the trees and shrubs and assess a lien on behalf of the town against the land for the costs herein described. A certified copy of the resolution shall be mailed to the owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the resolution to file written objections as to the reasonableness of the assessed costs with the town commission.~~

~~(B) Thereafter the commission shall hear and determine the validity of the objections. Upon determining the invalidity of all objections, or failure to file objection within 20 days, a notice of lien in a form the commission shall determine shall be filed in the office of the clerk of the circuit court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the town clerk. The costs of the lot clearing, removing of the trees and shrubs, and the necessary expenses for preparation of the assessment lien, filing and recording the lien, and legal expenses, if any, incident thereto, shall be assessed against the land and shall be collected by the finance director on November 1 next succeeding the date of filing of the lien, and if not collected shall thereafter be subject to the penalties and interest to which ad valorem taxes~~

~~would be subject, and collection thereof may be enforced. On the date of filing of the lien as aforesaid, the town commissioners shall also file a copy of the lien with the tax collector of the county in which the lot or parcel is situated.~~

SECTION 5. Chapter 96, Sections 96.30 through 96.99 are hereby renumbered Sections 96.01 through 96.12.

SECTION 6. Chapter 150, Building Code, Section 150.21, is hereby renamed Procedure for ~~dangerous or unsanitary buildings~~ Unsafe Structures and Equipment. and is amended to read as follows:

150.21. PROCEDURE FOR UNSAFE STRUCTURES AND EQUIPMENT

General. When a structure or equipment is found by the Building Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

A. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

B. Unsafe equipment. Unsafe equipment includes any boiler, heating/cooling equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

C. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the Building Official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

D. Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this Code, or was erected, altered or occupied contrary to law.

E. Dangerous structure or premises. For the purpose of this chapter, any structure or a premise that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the town as related to the requirements for existing buildings.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

3. Any portion of a building, structure or appurtenance that has been damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

4 Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes. Because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the Code Official to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or

structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

F. Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Code Official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Building Official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

1. Authority to disconnect service utilities. The Building Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this Code in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The Building Official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

2. Notice. Whenever the Building Official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 150.20

3. Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Building Official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

4. Placard removal. The Building Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be subject to the penalties provided by this Code.

G. Prohibited occupancy. Any occupied structure condemned and placarded by the Building Official shall be vacated as ordered by the Building Official. Any person who shall occupy placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let

anyone occupy placarded premises or operate placarded equipment shall be liable for the penalties provided by this Code.

H. Abatement methods. The owner, operator or occupant of a building, premises or equipment deemed unsafe by the Code Official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action. The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

I. EMERGENCY MEASURES

1. Imminent danger. When, in the opinion of the Building Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the building official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Building Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Building Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

2. Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the Building Official, there is imminent danger due to an unsafe condition, the Code Official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

3. Closing streets. When necessary for public safety, the Building Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

4 Emergency repairs. For the purposes of this section, the Building Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

5 Costs of emergency repairs. Costs incurred by the Town in the performance of emergency work shall be paid by the property owner. The Town Attorney shall institute appropriate action against the owner of

the premises where the unsafe structure is or was located for the recovery of such costs.

6. Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Town Commission, be afforded a hearing as described Section 150.22.

7. Demolition

a. The Building Official shall order the owner of any premises upon which is located any structure, which in the Building Official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the Building Official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the Building Official

b. Notices and orders. All notices and orders shall comply with Section 150.20.

c. Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Building Official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

d. Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement afore said shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

~~(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, the 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.~~

SECTION 7. Chapter 150, Building Code, Section 150.22, *Procedure for buildings which are nuisances.* of the Town of Longboat Key Code of Ordinances is amended to read as follows:

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

General. 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:"

A. Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the Florida Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
   a. Collapse of footing or foundation system;
   b. Damage to footing, foundation, concrete or other structural element due to soil expansion;
   c. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
   d. Inadequate soil as determined by a geotechnical investigation;
   e. Where the allowable bearing capacity of the soil is in doubt; or
   f. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
   a. Deterioration;

b. Ultimate deformation;

c. Fractures;

d. Fissures;

e. Spalding;

f. Exposed reinforcement; or

g. Detached, dislodged or failing connections.

3. Aluminum that has been subjected to any of the following conditions:

a. Deterioration;

b. Corrosion;

c. Elastic deformation;

d. Ultimate deformation;

e. Stress or strain cracks;

f. Joint fatigue; or

g. Detached, dislodged or failing connections.

4. Masonry that has been subjected to any of the following conditions:

a. Deterioration;

b. Ultimate deformation;

c. Fractures In masonry or mortar joints;

d. Fissures in masonry or mortar joints;

e. Spalding;

f. Exposed reinforcement; or

g. Detached, dislodged or failing connections.

5. Steel that has been subjected to any of the following conditions:

a. Deterioration;

b. Elastic deformation;

c. Ultimate deformation;

d. Metal fatigue; or

e. Detached, dislodged or failing connections.

6. Wood that has been subjected to any of the following conditions:

a. Ultimate deformation;

b. Deterioration;

c. Damage from insects, rodents and other vermin;

d. Fire damage beyond charring;

e. Significant splits and checks;

f, Horizontal shear cracks;

g. Vertical shear cracks;

h. Inadequate support:

i. Detached, dislodged or failing connections;

j. Excessive cutting and notching.

Exceptions: When substantiated otherwise by an approved Method or demolition of unsafe conditions shall be permitted when approved by the Code Official.

B. Handrails and Guardrails. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than30 inches (762 mm) high above the floor of the landing, balcony, porch deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

~~(1)~~

~~Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside of the middle third of its base.~~

~~(2)~~

~~Those which, exclusive of the foundation, show 33 percent or more, of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.~~

~~(3)~~

~~Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.~~

~~(4)~~

~~Those which have been damaged by fire, wind, water, wave activity, tides, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the town.~~

~~(5)~~

~~Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein.~~

~~(6)~~

~~Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein.~~

~~(7)~~

~~Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.~~

~~(8)~~

~~Those which have parts thereof which are so attached that they may fall and injure members of the public or property.~~

~~(9)~~

~~Those which, because of their condition, are likely to cause damage to abutting property or structures located thereon.~~

~~(10)~~

~~Those which because of their condition are unsafe, unsanitary, or dangerous to the health, safety or general welfare of the people of this town.~~

~~(11)~~

~~Those buildings existing in violation of any provision of the building code of this town, or any provision of the fire prevention code, or other ordinances of this town.~~

~~(B)~~

~~All "dangerous structures" within the terms of subsection (A) of this section are declared to be public nuisances, and shall be repaired, vacated, or demolished as provided in this section.~~

(C) The following standards shall be followed in substance by the town manager or designee and the town commission in ordering repair, vacation or demolition:

(1) If the "dangerous structure" can reasonably be repaired so that it will no longer exist in violation of the terms of this section, it shall be ordered repaired.

(2) If the "dangerous structure" is in such condition as to make it dangerous to the health, safety, or general welfare of its occupant it shall be ordered to be vacated.

(3) In any case where a "dangerous structure" is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a "dangerous structure" is a fire hazard existing or erected in violation of the terms of this section or any section of this Code or statute of the State of Florida, it shall be demolished.

(D) It shall be the duty of the Building Official to regularly and frequently require examination of buildings and structures within the town to determine whether the buildings and structures constitute a public nuisance as provided in subsection (A) above. The Building Official shall make a detailed written report to the town commission which shall contain a detailed description of the examination and his opinion of whether

the conditions found constitute the building or structure, or any part thereof, a public nuisance.

(E) At the next regular meeting of the town commission, or at the next special meeting called therefor, the commission shall consider the report of the Building Official. If the commission finds that the building or structure described therein may constitute a public nuisance, the commission shall adopt a resolution setting a time, place, and date for a public hearing on whether or not the building or structure in fact is a public nuisance. The hearing shall not be held until notice thereof has been published at least once in a newspaper of general circulation in the town, at least seven days prior thereto. The town clerk shall also post a notice of the public hearing on the building or structure. The clerk shall send a copy of the notice of hearing, by registered mail, to the owner of the premises, on which the building or structure is located, as it appears on the most current town or county tax assessment roll.

(F) The public notice specified in subsection (E) above shall contain a description of the property on which the building or structure is located sufficient for identification. The notice to the owner shall also describe, in general terms, the condition of the building or structure that is alleged to constitute the building or structure a public nuisance. The public notice and notice to the owner shall also contain the time, date, and place that the public hearing will be held.

(G) At the public hearing, the town commission shall hear and read the full report of the town manager or designee and hear any other evidence as the commission may deem relevant. At the hearing, the owner shall be allowed to present testimony and evidence showing that the conditions do not constitute a nuisance. The owner of the premises may appear either in person or by attorney. After the owner has been heard, the commission may consider any other matters that in their discretion appear relevant to a determination hereof.

(H) At the conclusion of the public hearing, the town commission shall adopt a resolution declaring one or more of the following:

(1) That the conditions alleged by the town manager or designee to exist in the building or structure do not exist.

(2) That the conditions existing in the building or structure do not constitute a public nuisance.

(3) That the conditions alleged by the town manager or designee to exist in the building or structure have been remedied and that the building or structure does not now constitute a public nuisance.

(4) That the conditions existing in the building or structure constitute the building or structure a public nuisance, and it is hereby condemned.

(5) Any other provisions that will appropriately decide and determine the issues.

(6) A description of the conditions existing which constitute the building or structure a public nuisance, if any.

(7) That upon the failure of the owner to correct and abate the conditions constituting the building or structure a public nuisance within a reasonable period of time, which shall be stated in the resolution and shall be not less than three days from the date thereof, the town will abate the conditions constituting the building or structure a public nuisance or by appropriate pleadings, institute suit in a court having jurisdiction over the property for a mandatory injunction and any other relief as the town deems necessary and proper, or both.

(I) Upon the adoption of a resolution under subsection (H) above, the town clerk shall post a copy thereof on the structure and shall mail a copy thereof to the owner of the premises on which the building or structure is located, if the address of the owner is known to the town clerk.

(J) If the nuisance has not been abated before the period of time specified in the resolution has elapsed, the town shall take the action set forth therein and all funds expended in the abatement of the public nuisance, including all attorneys' fees, court costs and expenses, shall be a lien on the premises and superior to all other liens except other liens for special assessments. The liens may be enforced against the property by foreclosure as provided by law for foreclosure of tax liens or may be collected as otherwise provided by law.

SECTION 8 If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 9. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 10. 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 this _____ day of _____, 2012.

Adopted on the second reading and public hearing this _____ day of_____, 2012.

_____
James L. Brown, Mayor

ATTEST:

_____
Trish Granger, Town Clerk

M E M O R A N D U M

DATE: March 1, 2013

TO: Planning and Zoning Board

THROUGH: Robin D. Meyer, AICP, Director
Planning, Zoning and Building Department

FROM: Steve Schield, AICP, ASLA, CFM, Planner
Planning, Zoning and Building Department

SUBJECT: Ordinance 2012-26, Property Maintenance Standards, as amended, and Ordinance 2013-03, Trailer Parking, as amended.

At the January 15, 2013, Planning and Zoning Board Meeting, Ordinance 2012-26 and Ordinance 2013-03 were tabled and remanded to a Subcommittee for review. Planning and Zoning Board Chair BJ Webb appointed Jack Daly, Andrew Aitken, John Wild and Leonard Garner to act as a Subcommittee to review and revise Ordinance 2012-26 and Ordinance 2013-03.

Both Ordinances were forwarded by the subcommittee to the full board at their February 19, 2013, meeting for discussion. The board made amendments to both ordinances and forwarded the amended ordinances to their March 19, 2013 meeting, for a public hearing and formal recommendation to the Town Commission. Please find attached amended Ordinance 2012-03 and Ordinance 2013-03

The Planning and Zoning Board also requested permission from the Town Commission to review and recommend changes to Town Code Section 158.128, Off-Street Parking in regards to parking surfaces and the location of parking spaces in required street yards.

Attachments: Ordinance 2012-26, Property Maintenance, as amended
Memo, Daly to P&Z Board, February 12, 2013
Memo, Schield to P&Z Board, December 17, 2012
Ordinance 2013-03, Trailer Parking, as amended

Xc: Robin D. Meyer, AICP, Director-Planning, Building & Zoning Department
David Persson, Town Attorney

M E M O R A N D U M

DATE: February 12, 2013

TO: Planning and Zoning Board

THROUGH: Robin D. Meyer, AICP, Director
Planning, Zoning and Building Department

FROM: John Daly, Chairman
Property Maintenance Subcommittee

SUBJECT: Workshop for Ordinance 2012-26, Property Maintenance Standards as amended, and Ordinance 2013-03, Trailer Parking.

At the January 15, 2013, Planning and Zoning Board Meeting, Ordinance 2012-26 and Ordinance 2013-03 were tabled and remanded to a Subcommittee for review. Planning and Zoning Board Chairman BJ Webb appointed Jack Daly, Andrew Aitken, John Wild and Leonard Garner to act as a Subcommittee to review and revise Ordinance 2012-26 and Ordinance 2013-03.

The subcommittee held four meetings to discuss and revise Ordinance 2012-26, Property Maintenance Standards and Ordinance 2013-03, Trailer Parking. Both Ordinances were forwarded by the subcommittee at their February 12, 2013 meeting to the full board for discussion. Please find attached an edited version of Ordinance 2012-03 with edits highlighted in yellow and a clean version of the Ordinance. Also attached is Ordinance 2013-03, which was not changed by the Subcommittee.

The Subcommittee also recommended that the Planning and Zoning Board request permission from the Town Commission to review and recommend changes to Town Code Section 158.128 in regards to parking surfaces and the location of parking spaces in required street yards.

The Property Maintenance Subcommittee recommends approval of the amended Ordinance 2012-26, Property Maintenance Standards, and Ordinance 2013-03, Trailer Parking, and to forward them to the March 19, 2013 Planning and Zoning Board Meeting for public hearing.

Attachments: Ordinance 2012-26, Property Maintenance, edits highlighted.
Ordinance 2012-26, Property Maintenance, as amended
Memo, Schield to Board, December 17, 2012
Ordinance 2013-03, Trailer Parking

Xc: Robin D. Meyer, AICP, Director-Planning, Building & Zoning Department
Steve Schield, AICP, ASLA, Town Planner
David Persson, Town Attorney

M E M O R A N D U M

DATE: December 17, 2012

TO: Planning and Zoning Board

THROUGH: Robin D. Meyer, AICP, Director
Planning, Zoning and Building Department

FROM: Steve Schield, AICP, ASLA, CFM, Town Planner
Planning, Zoning and Building Department

SUBJECT: Ordinance 2012-26, Minimum Property Maintenance Code

---

At the September 22, 2011, regular Town Commission workshop, staff discussed the possibility of amending the Town Code to address property maintenance on the island. As a result of the discussion, the Commission directed staff to obtain input from the community and agreed to hold a workshop to further discuss the matter.

Staff held a community meeting on the matter on January 24, 2012 (notice and minutes attached). Advertisements for the meeting were placed in the local papers and included in all Town utility bills. Invitations were also sent to all property managers, landscape maintenance companies, and condominium and neighborhood associations. A presentation was made by staff about the *International Property Maintenance Code* (IPMC) (attached) and included discussion of other property maintenance complaints (parking, vegetation, etc.) The meeting was attended by approximately 40 people representing a cross section of the community. Participants supported the higher maintenance standards required by the IPMC, as well as restrictions regarding trailer and boat parking. However additional maintenance requirements regarding vegetation/landscaping was not supported.

During the community meeting held on January 24, 2012, several residents raised concerns that over the past few years, due to financial reasons, absentee owners, and other factors, the general aesthetic condition of some structures and the properties on Longboat Key have deteriorated to an unacceptable level. However, the Town has not adopted property maintenance standards beyond issues such as high weeds and grass and conditions that may pose a threat to health and safety. Consequently, Town staff is unable to cite these types of issues as code violations.

Many communities, both in Florida and nationally, have adopted the International Code Council's (ICC) IPMC, either in whole or in part, or have adopted similar code provisions that are effective in maintaining the desired aesthetic condition. Some examples of what the IPMC and other codes address are:

- Maintenance of swimming pools so that they are kept in clean and sanitary condition
- Eliminates peeling, flaking and chipping paint
- Maintenance of doors, window and window frames, porches, decks and fences
- Unmaintained parking lots (e.g. potholes, etc.)

- Torn screening (both window screens and lanai screening)
- Maintenance of accessory structures (seawalls, docks, fences, walls)
- Outdoor storage

If this increased level of property maintenance is desired, it is important that the adopted regulations are clear and enforceable. Part of this effort will be the ability to clearly determine what is a violation of the code and what conditions are not considered a violation. Enforceability is determined both by the actual code itself and by the staffing available to educate and proactively enforce the regulations. Staff recommends that if the town wishes to improve its ability to elevate its property maintenance standards, then amendments to the Town Code would have to be adopted.

The following is a condensed list of complaints brought to the attention of the Town's Code Enforcement Officer, to which code violations could not be issued because they are not addressed in the code, but most of them would be covered by the adoption of the IPMC. These observations include, but are not limited to:

- Maintenance of swimming pools so that they are kept in clean and sanitary condition
- Eliminates peeling, flaking and chipping paint
- Maintenance of doors, window and window frames, porches, decks and fences
- Unmaintained parking lots (e.g. potholes, etc.)
- Torn screening (window screens, lanai screening, pool enclosures)
- Unmaintained landscaping (non-high weeds and grass)
    - Trimming of overgrown hedges
    - Removal/trimming of dead vegetation
    - Brown/dead grass
    - Fallen fruit from trees
- Items stored on the exterior of structures and within view of public streets
- Rusted handrails (that are not a life/safety issue)
- Rotting garage doors
- Broken windows
- Cracks in stucco
- Dilapidated mailboxes
- Fences in disrepair

The planning staff have worked with the building staff and the Town Attorney to draft Ordinance 2012-26. The proposed ordinance incorporates sections of the IPMC into a new Chapter 104 titled "Property Maintenance Code." The proposed ordinance also amends Chapter 150, *Buildings,* to incorporate sections from the IPMC and relocates sections from Chapter 96, *Health and Sanitation*, that deal with overgrowth of vegetation and mosquito breeding sites into the new Chapter 104. These higher standards will allow staff to better enforce both our current requirements and to allow staff to enforce a minimum aesthetic condition for structures and for properties. Ordinance 2012-26 will work to improve the community and to protect our property values.

Staff presented Ordinance 2012-26 at the November 12, 2012, Town Commission workshop. The Town Commission directed staff to forward Ordinance 2012-26 to the Planning and Zoning Board for recommendations and to receive additional public input.

Staff recommends approval of Ordinance 2012-26.

Attachments: Ordinance 2012-26
Notice and minutes for January 24, 2012 Community Meeting
Minutes for November 12, 2012, Town Commission Workshop
2012 International Property Maintenance Code

Xc: Robin D. Meyer, AICP, Director-Planning, Building & Zoning Department
Wayne Thorne, Building Official
David Persson, Town Attorney

ORDINANCE 2012-26

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA, BY ADDING CHAPTER 104, PROPERTY MAINTENANCE STANDARDS, ESTABLISHING MINIMUM STANDARDS GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; AUTHORIZING THE TOWN'S CODE ENFORCEMENT BOARD TO HEAR APPEALS; AMENDING CHAPTER 96, HEALTH AND SANITATION, MAINTENANCE OF PREMISES, TO RELOCATE SECTIONS 96.01 RESPONSIBILITY OF PROPERTY OWNERS, 96.02 FAILURE TO MAINTAIN DEEMED PUBLIC NUISANCE; NOTICE TO ABATE, 96.03 CORRECTION OF VIOLATIONS BY TOWN, 96.04 MOSQUITO BREEDING SITES; AMENDING OVERGROWTH OF VEGETATION, SECTIONS 96.10 POLICY, 96.11 ACCUMULATION OF BRUSH PROHIBITED, 96.12 DUTY TO KEEP PREMISES CLEARED, 96.13 FAILURE TO CLEAR DEEMED PUBLIC NUISANCE; NOTICE TO ABATE, 96.14 ABATEMENT BY TOWN; COST, OF CHAPTER 96 TO CHAPTER 104; AMENDING CHAPTER 150, BUILDINGS, SECTION 150.21 TO PROVIDE STANDARDS FOR DETERMINING UNSAFE OR DANGEROUS STRUCTURES AND EQUIPMENT, PROVIDING FOR EMERGENCY MEASURES; AMENDING CHAPTER 150, BUILDINGS, SECTION 150.22 PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key Code of Ordinances establishes minimum housing standards for the Town as articulated by the 1994 "Standard Housing Code" (as amended), published by "Southern Building Code Congress International" ("SBCCI"); and

WHEREAS, in 1998, SBCCI, a statutory member of the "International Code Council" ("ICC"), participated in the development of the first edition of the "International Property Maintenance Code" ("IPMC"); and

WHEREAS, the IPMC prescribes minimum maintenance standards for both residential and commercial structures and buildings; and

WHEREAS, the most current edition of the IPMC was released by the ICC in 2012; and

WHEREAS, it is desirable and beneficial to the citizens and residents of Longboat Key, Florida, for the Town Commission to adopt limited parts of the IPMC, with certain local amendments, in order to properly secure the health, safety and

welfare of the public by prescribing minimum property maintenance standards for all buildings and structures within the Town's municipal limits; and

WHEREAS, municipal abatement of nuisances and municipal correction of code enforcement violations provide a special and unique benefit accruing to particular property in the Town where such activities take place; and

WHEREAS, the Town Commission of the Town of Longboat Key, at duly noticed public hearings on April__, 2013, and May ___. 2013, considered the proposed; and

WHEREAS, the Town has received and considered comments from the public; and after careful consideration of the issues, finds that the proposed adoption of portions of the International Property Maintenance Code would improve aesthetics, protect property values and are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

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

SECTION 1. The above WHEREAS clauses are hereby ratified and confirmed as true and correct.

SECTION .2. Chapter 104 of the Code of Ordinances of the Town of Longboat Key is hereby created and titled PROPERTY MAINTENANCESTANDARDS.

SECTION 3. Chapter 104, Property Maintenance Standards shall read as follows:

Chapter 104. Property Maintenance Standards.

104.01 GENERAL PROVISIONS

1) Title. These regulations shall be known as the Property Maintenance Standards of the Town of Longboat Key

2) Scope. The provisions of this chapter shall apply to all residential and nonresidential structures and all premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

3) Intent. This chapter shall be construed to secure its expressed intent, which is to improve aesthetics, protect property values and ensure public health, safety and welfare insofar as they are affected by the maintenance of structures and premises. Structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

4) Severability. If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this code.

104.02. APPLICABILITY

A. General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this chapter and the referenced standards, the provisions of this chapter shall apply. Where, in a specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.

B. Maintenance. Equipment, systems, devices and safeguards required by this chapter or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shutoff from or discontinued for any occupied dwelling, except for such temporary interruption as may be necessary while repairs or alterations are in progress. The requirements of this chapter are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

C. Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Florida Building Code, Florida Fuel Gas Code, Florida Mechanical Code and NFPA 70. Any conflict between this chapter and Chapter 553, Florida Statutes, as may be amended, the Florida Building Code, and the Florida Fire Prevention / Florida Life Safety Code shall be resolved in favor of Chapter 553, Florida Statues, the Florida Building Code or the Florida Fire Prevention / Florida Life Safety Code and nothing herein shall be deemed to be an amendment to those provisions of Florida law. Nothing in this chapter shall be construed to cancel, modify or set aside any provision of the Town of Longboat Key Zoning Code.

D. Existing remedies. The provisions in this chapter shall not be construed to abolish or impair existing remedies of the town or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

E. Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

F. Historic buildings. The provisions of this chapter shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the Code Official to be safe and in the public interest of health, safety and welfare.

G. Exception: Where enforcement of this chapter would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

H. Requirements not covered by this chapter. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this chapter, shall be determined by the Code Official.

I. Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

J. Other laws. The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

104.03. MAINTENANCE INSPECTION

A. General. The Department of the Planning, Zoning and Building Department shall be deemed the department in charge of enforcing this chapter.

B. Appointment. The Code Official and such deputies as may be required shall be appointed by the Town Manager.

104.04. DUTIES AND POWERS OF THE CODE OFFICIAL

A. General. The Code Official is hereby authorized and directed to enforce the provisions of this chapter. The Code Official shall have the authority to render interpretations of this chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this chapter.

B. Inspections. The Code Official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

C. Identification. The Code Official shall carry proper identification when inspecting structures or premises in the performance of duties under this chapter.

D. Notices and orders. The Code Official shall issue all necessary notices or orders to ensure compliance with this chapter.

E. Department records. The Code Official shall keep official records of all business and activities of the department specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

104.05. VIOLATIONS

Violations of this chapter shall be enforced through the provisions of chapter 33, sections 33.01 through section 33.18 of this Code.

104.06. STOP WORK ORDER

A. Authority. Whenever the Code Official finds any work regulated by this chapter being performed in a manner contrary to the provisions of this chapter or in a dangerous or unsafe manner, the Code Official is authorized to issue a stop work order.

B. Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

C. Emergencies. Where an emergency exists, the Code Official shall not be required to give a written notice prior to stopping the work.

104.07. DEFINITIONS

A. Scope. Unless otherwise expressly stated, the following terms shallhave the meanings shown in this chapter.

B. Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

C. Terms defined in other codes. Where terms are not defined in this code and are defined in the Florida Building Code, Florida Fire Code, , Florida Plumbing Code, Florida Mechanical Code,NFPA 70 or other chapters of this Code, such terms shall have the meanings ascribed to them as stated in those codes unless in conflict with the clear intent of this chapter.

D. Terms not defined. Where .terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

E. Parts. Whenever the words "dwelling unit," "dwelling," "premises ," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

General Definitions

ANCHORED. Secured in a manner that provides positive connection.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

BLIGHTING PROBLEM. To cause to deteriorate or something that impairs or destroys.

BRUSH. All vegetation detached from the land resulting from land-clearing operations or other causes.

CLEAN. Free from dirt, contamination or pollution; to rid of dirt, impurities, or extraneous matter or materials.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s} of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, Jugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

GARBAGE. Every refuse accumulation of animal, fruit, or vegetable matter that attends the preparation, use, cooking, and dealing in, or storage of, meats, fish, fowl, fruit, or vegetables, and any other matter of any nature whatsoever which is

subject to decay, putrefaction, and the generation of noxious or offensive gases or odors, or which during or after decay, may serve as breeding or feeding materials for flies or other germ-carrying insects; and any bottles, cans, or other containers which, due to their ability to retain water, may serve as breeding places for mosquitoes or other water-breeding insects.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence. within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or structure.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property. including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborages; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Refuse accumulations of paper, excelsior, rags, wooden or paper boxes or containers, sweepings, and all other accumulations of a nature other than "garbage" as defined above which are usual to housekeeping and to the

operation of stores, offices, and other business places; and materials such as metals, mineral mater, glass, crockery, auto bodies or parts, including automobile tires or tubes, building material rubble resulting from the construction or alteration of structures or parts of structures, and other materials or refuse not usual to housekeeping or the operation of stores and offices.

SAFE. Free from apparent harm or risk; secure from threat of danger, harm, or loss.

SANITARY. Characterized by or readily kept in cleanliness for the protection of health.

SECURE. Free from danger or risk of loss.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STRUCTURE. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above or below the surface of land or water.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a building or structure.

104.08. GENERAL REQUIREMENTS

A. Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

B. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this chapter. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

C. Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

104.09. EXTERIOR PROPERTY AREAS

A. Sanitation and storage of materials. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition. No owner or occupant shall permit old or broken lumber, rusted or unused equipment, discarded refrigerators, discarded stoves, old pipe or other used, discarded and worn, unsightly articles or any materials not normally found in a yard area to remain in any yard or open area owned, occupied or in the possession of such person for a period of more than five (5) days. Further, unless authorized by the zoning category of the property, no owner or occupant of a building, structure or premises may utilize such property for the open storage of abandoned, untagged, or inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material, rubbish or similar items. All materials stored in an open carport or area visibly from a public right of way that is utilized for storage of items other then the storage of motorized vehicles, trailers, boats, bicycles or other similar items must be screened from the public view.

B. Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon. or within any structure located thereon. Exception: Approved retention areas and reservoirs.

C. Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

D. Weeds and overgrowth.

1. For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land lying within 50 feet of any dwelling, house, or place of business, or vacant land which has been previously mowed located in a residential area is required to keep the land cleared of all underbrush and debris; weeds or grass in excess of 12 inches in height from the ground; noxious material of any kind which tends to be a breeding place for mosquitoes, or tends to be a breeding place or haven for snakes and vermin of all kinds and character; or noxious material which tends to create a fire hazard

and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition.

2. Every lot or parcel of land in whole or in part which has been denuded, stripped or otherwise had vegetation upon it removed, or fill placed upon such lot or portion thereof, and which causes the lot or portion thereof to be without vegetation resulting in dust or erosion is hereby determined to be detrimental to the health, safety and welfare of the citizens of the town, a public nuisance and is prohibited.

3. Correction of violations by town. Upon a finding by the code enforcement board that the property owner has failed to maintain his property pursuant to subsection 104.12(D)(1) and (2), the code enforcement board may, in addition to imposing a lien as described by law, request the town manager or designee to clear the land, plant the vegetation, or take any other reasonable action to afford a means to eliminate the nuisance as found by the code enforcement board.

4. The town manager or designee may direct the clearing of the land, planting of the vegetation or other reasonable means to eliminate the nuisance and assess a lien on behalf of the town against the land for 125 percent of the costs as described herein. The town manager or designee shall give written notice to the owner of record of the land by certified mail, return receipt requested, at its address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the notice, or the town will enter the property and correct the abatement at the expense of the property owner as described herein. Alternatively, the town manager or designee may cause the property to be posted with a notice notifying the owner of the condition and demanding that the condition be abated or the town will correct and charge same within seven days of the date of posting.

5. If the property owner objects or disputes the actions required by the town manager's or designee notice sent pursuant to subsection (B) above, the property owner shall file a written objection within seven days from the date of receipt of the notice. The objection shall set forth with specificity the nature of the objection or dispute. As soon thereafter as practicable, the town commission shall hear and determine the validity of the objection or dispute. The town commission may uphold the actions taken by the town manager or designee, modify the actions to be taken, or dismiss the actions, based upon the evidence presented at the hearing.

6. After corrective action is taken by the town, a copy of the proposed assessment of lien shall be mailed to the property owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the proposed assessment of lien to pay same. If an objection is filed within the 20-day period, the town commission shall hear and determine the validity of the objection.

7. Upon failure to file an objection within 20 days, or failure to pay the amount of the proposed assessment, a notice of lien shall be filed in the office of the clerk of circuit court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the town clerk. The costs of the lot clearing, cleaning, or removing of debris, and the necessary expenses for preparation of the assessment lien, filing, and recording the lien, together with legal expenses, if any, incident thereto shall be assessed against the land and shall be collected in the manner prescribed by law.

8. The procedure for correction of a violation as described in this section shall not be deemed exclusive. The lien assessed by the town and the actions taken by the town may be concurrent to those taken by the code enforcement board.

E. Exhaust vents. Pipes, ducts. conductors, fans or blowers shall not discharge gases, steam. vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

F. Accessory structures. All accessory structures, including detached garages, seawalls, docks, fences and walls, shall be maintained structurally sound and in good repair.

G. Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

H. Defacement of property. No person shall willfully or wantonly damage. Mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

I. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

104.10. SWIMMING POOLS, SPAS, AND HOT TUBS

A. Swimming pools, spas and hot tubs. Swimming pools, spas and hot tubs shall be maintained in a clean and sanitary condition, and in good repair.

B. Enclosures. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces it below the minimum building code requirement as a safety barrier. Exception: Spas or hot tubs with a safety cover that complies with ASTMF 1346 shall be exempt from the provisions of this section.

104.11. EXTERIOR STRUCTURE

General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

A. Structural member. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

B. Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests. Walls will maintain structural integrity.

C. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit water. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

D. Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition.

E Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

F. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

G Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

H. Glass. All glass materials shall be maintained free from cracks and holes.

I Insect screens. Every door, window and other outside opening required for commercial food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than sixteen (16) mesh per one (1) inch (25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. All screens shall be maintained free from open rips, tears, or other defects.

J. Seawalls. Seawalls must be kept in good repair without visible spalding of concrete, ground holes or other major damage.

K. Screen room or cage. Screen rooms or cages must be kept in good repair, with screens maintained free from open rips, tears or other defect.

104.15. INTERIOR STRUCTURE

General. Every owner of a rental structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more

nonresidential occupancies, shall maintain, in a clean and sanitary condition, the areas of the structure and exterior property.

A. Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

B Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

C. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

D. Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

104.16. RUBBISH, BRUSH AND GARBAGE PROHIBITED

A. Accumulation of rubbish or garbage. All exterior property and premises, and the Interior of every structure, shall be free from any accumulation of rubbish or garbage.

B. All accumulations of brush, brush piles and containers, within the public right-of-ways or within five feet of the public right-of-ways, shall be removed or otherwise effaced from the public view within 48 hours of the start of accumulation thereof. Upon application, the town manager may extend the time for accumulation upon satisfactory showing that the accumulation will be removed within a reasonable time.

104.17. PEST ELIMINATION

A. Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

B. Owner. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

C. Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.

D. Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

E. Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

104.18 – MOSQUITO BREEDING SITES.

A. It shall be unlawful for any person to create, keep, maintain, or permit a collection of water or debris in which mosquitoes may breed or multiply and the maintenance, creation, keeping, or permitting of the water or debris is hereby declared to be a public nuisance.

B. Water in which live mosquito larvae are found shall be prima facie evidence of a violation of subsection (A) above.

C. Responsibility for the enforcement of the provisions of subsection (A) above, within the boundaries of the town is hereby vested in the Code Official. The Code Official may request the assistance of and act through the mosquito control commission.

D. When any person has been found in violation of subsection (A) above, and the violation continues for a period of five days after the determination of the violation, the Code Official may alleviate and cure the condition causing the violation and the cost thereof shall become a lien on the property, enforceable in the same manner as tax liens in the town are enforceable.

104.19 – Duty to keep premises cleared.

A. For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land adjacent to a public street or road right-of-way, canal, or other navigable waterway, is required to keep the land cleared of all overgrowth of trees and shrubs which interfere with vehicular traffic or boat navigation, create a hazard to vehicular traffic or boat navigation and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or other unsightly condition.

B. Trees (including mangroves) may be trimmed only in accordance with the procedure described in § 98.04. If determined by the town manager or his designee that trimming of mangroves must be in excess of the limits allowed by chapter 98 or removal of mangroves is required, then a permit must be obtained from the appropriate state agencies and the town in accordance with section § 98.06.

104.20 – Failure to clear deemed public nuisance; notice to abate.

A. That portion of every lot or parcel of land adjacent to a street or public road right-of-way, canal, or other navigable waterway, which is located in an overgrowth of trees and shrubs which tend to interfere with vehicular traffic or navigation of boats, or which tend to create a hazard and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or unsightly condition, is hereby established to be a public nuisance.

B. If the town manager or designee shall find any of the conditions described in subsection (A) above, to exist on any land within the incorporated areas of the town, the town manager or designee shall give written notice to the owner of record of the land by

certified mail, return receipt requested, at his address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the letter. Upon the failure of the property owner to comply within the time prescribed, the town manager shall notify the town commission of the existence of the condition.

104.21 – Abatement by town; cost

(A) Upon receipt by the town commission of notification from the town manager of the existence of conditions described in subsection104.20(A), the commission shall, by resolution, direct the clearing of the trees and shrubs and assess a lien on behalf of the town against the land for the costs herein described. A certified copy of the resolution shall be mailed to the owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the resolution to file written objections as to the reasonableness of the assessed costs with the town commission.

(B) Thereafter the commission shall hear and determine the validity of the objections. Upon determining the invalidity of all objections, or failure to file objection within 20 days, a notice of lien in a form the commission shall determine shall be filed in the office of the clerk of the circuit court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the town clerk. The costs of the lot clearing, removing of the trees and shrubs, and the necessary expenses for preparation of the assessment lien, filing and recording the lien, and legal expenses, if any, incident thereto, shall be assessed against the land and shall be collected by the finance director on November 1 next succeeding the date of filing of the lien, and if not collected shall thereafter be subject to the penalties and interest to which ad valorem taxes would be subject, and collection thereof may be enforced. On the date of filing of the lien as aforesaid, the town commissioners shall also file a copy of the lien with the tax collector of the county in which the lot or parcel is situated.

SECTION 4. Chapter 96, Sections 96.01, 96.02, 96.03, 96.04, 96.10, 96.11, 96.12, 96.13, and 96.14 are eliminated in their entirety as shown below and incorporated into the new Chapter 104 as reflected above.

~~**96.01 - Responsibility of property owners.**~~

~~For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land lying within 50 feet of any dwelling, house, or place of business, or vacant land which has been previously mowed located in a residential area is required to keep the land cleared of all underbrush and debris; weeds or grass in excess of 12 inches in height from the ground; noxious material of any kind which tends to be a breeding place for mosquitoes, or tends to be a breeding place or haven for snakes and vermin of all kinds and character; or noxious material which tends to create a fire hazard~~

~~and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition.~~

~~96.02 - Failure to maintain deemed public nuisance; notice to abate.~~

~~(A)~~

~~(1)Vacant land within a residential area that has been previously mowed or that portion of every lot or parcel of land lying within 50 feet of any dwelling, house, or place of business on which are located underbrush and debris, or weeds or grass in excess of 12 inches in height from the ground, or noxious material of any kind which tends to be a breeding place for mosquitoes, or tends to be a breeding place or haven for snakes and vermin of all kinds and character, or which tends to create a fire hazard and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition, is hereby determined to be detrimental to the health, safety, and welfare of the citizens of the town and further, is hereby determined to be a public nuisance and is prohibited.~~

~~(2) Every lot or parcel of land in whole or in part which has been denuded, stripped or otherwise had vegetation upon it removed, or fill placed upon such lot or portion thereof, and which causes the lot or portion thereof to be without vegetation resulting in dust or erosion is hereby determined to be detrimental to the health, safety and welfare of the citizens of the town, a public nuisance and is prohibited.~~

~~96.03 - Correction of violations by town.~~

~~(A) Upon a finding by the code enforcement board that the property owner has failed to maintain his property pursuant to sections 96.01 and 96.02, the code enforcement board may, in addition to imposing a lien as described by law, request the town manager to clear the land, plant the vegetation, or take any other reasonable action to afford a means to eliminate the nuisance as found by the code enforcement board.~~

~~(B) The town manager may direct the clearing of the land, planting of the vegetation or other reasonable means to eliminate the nuisance and assess a lien on behalf of the town against the land for 125 percent of the costs as described herein. The town manager shall give written notice to the owner of record of the land by certified mail, return receipt requested, at its address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the notice, or the town will enter the property and correct the abatement at the expense of the property owner as described herein. Alternatively, the town manager may cause the property to be posted with a notice notifying the owner of the condition and demanding that the condition be~~

~~abated or the town will correct and charge same within seven days of the date of posting.~~

~~(C) If the property owner objects or disputes the actions required by the town manager's notice sent pursuant to subsection (B) above, the property owner shall file a written objection within seven days from the date of receipt of the notice. The objection shall set forth with specificity the nature of the objection or dispute. As soon thereafter as practicable, the town commission shall hear and determine the validity of the objection or dispute. The town commission may uphold the actions taken by the town manager, modify the actions to be taken, or dismiss the actions, based upon the evidence presented at the hearing.~~

~~(D) After corrective action is taken by the town, a copy of the proposed assessment of lien shall be mailed to the property owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the proposed assessment of lien to pay same. If an objection is filed within the 20-day period, the town commission shall hear and determine the validity of the objection.~~

~~(E) Upon failure to file an objection within 20 days, or failure to pay the amount of the proposed assessment, a notice of lien shall be filed in the office of the clerk of circuit court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the town clerk. The costs of the lot clearing, cleaning, or removing of debris, and the necessary expenses for preparation of the assessment lien, filing, and recording the lien, together with legal expenses, if any, incident thereto shall be assessed against the land and shall be collected in the manner prescribed by law.~~

~~(F) The procedure for correction of a violation as described in this section shall not be deemed exclusive. The lien assessed by the town and the actions taken by the town may be concurrent to those taken by the code enforcement board.~~

~~96.04 - Mosquito breeding sites.~~

~~(A) It shall be unlawful for any person to create, keep, maintain, or permit a collection of water or debris in which mosquitoes may breed or multiply and the maintenance, creation, keeping, or permitting of the water or debris is hereby declared to be a public nuisance.~~

~~(B) Water in which live mosquito larvae are found shall be prima facie evidence of a violation of subsection (A) above.~~

~~(C) Responsibility for the enforcement of the provisions of subsection (A) above, within the boundaries of the town is hereby vested in the town manager. The town manager may request the assistance of and act through the mosquito control commission.~~

~~(D) When any person has been found guilty of a violation of subsection (A) above, and the violation continues for a period of five days after the conviction,~~

~~the town manager may alleviate and cure the condition causing the nuisance and the cost thereof shall be a lien on the property, enforceable in the same manner as tax liens in the town are enforceable.~~

~~96.10 - Policy.~~

~~The town commissioners find and declare that there is a general need in the town for the measures provided by this subchapter and that this subchapter is enacted in the exercise of the police power for the protection of the health, safety and welfare of the people of the town.~~

~~96.11 - Accumulation of brush prohibited.~~

~~(A) For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning:~~

~~*"Brush."* All vegetation detached from the land resulting from land-clearing operations or other causes.~~

~~(B) All accumulations of brush, brush piles and containers, within the public right-of-ways or within five feet of the public right-of-ways, shall be removed or otherwise effaced from the public view within 48 hours of the start of accumulation thereof. Upon application, the town manager may extend the time for accumulation upon satisfactory showing that the accumulation will be removed within a reasonable time.~~

~~96.12 - Duty to keep premises cleared.~~

~~(A) For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land adjacent to a public street or road right-of-way, canal, or other navigable waterway, is required to keep the land cleared of all overgrowth of trees and shrubs which interfere with vehicular traffic or boat navigation, create a hazard to vehicular traffic or boat navigation and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or other unsightly condition.~~

~~(B) Trees (including mangroves) may be trimmed only in accordance with the procedure described in § 98.09. If determined by the town manager or his designee that trimming of mangroves must be in excess of the limits allowed by chapter 98 or removal of mangroves is required, then a permit must be obtained from the appropriate state agencies and the town in accordance with subsections 98.09(A)(1), (3), (4).~~

~~96.13 - Failure to clear deemed public nuisance; notice to abate.~~

~~(A) That portion of every lot or parcel of land adjacent to a street or public road right-of-way, canal, or other navigable waterway, which is located in an overgrowth of trees and shrubs which tend to interfere with vehicular traffic or navigation of boats, or which tend to create a hazard and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or unsightly condition, is hereby established to be a public nuisance.~~
~~(B) If the town manager or any other town official or agent designated by resolution by the town commission shall find any of the conditions described in subsection (A) above, to exist on any land within the incorporated areas of the town, the town manager shall give written notice to the owner of record of the land by certified mail, return receipt requested, at his address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the letter. Upon the failure of the property owner to comply within the time prescribed, the town manager shall notify the town commission of the existence of the condition.~~

~~96.14 - Abatement by town; cost.~~

~~(A) Upon receipt by the town commission of notification from the town manager of the existence of conditions described in subsection 96.13(A), the commission shall, by resolution, direct the clearing of the trees and shrubs and assess a lien on behalf of the town against the land for the costs herein described. A certified copy of the resolution shall be mailed to the owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the resolution to file written objections as to the reasonableness of the assessed costs with the town commission.~~
~~(B) Thereafter the commission shall hear and determine the validity of the objections. Upon determining the invalidity of all objections, or failure to file objection within 20 days, a notice of lien in a form the commission shall determine shall be filed in the office of the clerk of the circuit court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the town clerk. The costs of the lot clearing, removing of the trees and shrubs, and the necessary expenses for preparation of the assessment lien, filing and recording the lien, and legal expenses, if any, incident thereto, shall be assessed against the land and shall be collected by the finance director on November 1 next succeeding the date of filing of the lien, and if not collected shall thereafter be subject to the penalties and interest to which ad valorem taxes would be subject, and collection thereof may be enforced. On the date of filing of~~

~~the lien as aforesaid, the town commissioners shall also file a copy of the lien with the tax collector of the county in which the lot or parcel is situated.~~

SECTION 5. Chapter 96, Sections 96.30 through 96.99 are hereby renumbered Sections 96.01 through 96.12.

SECTION 6. Chapter 150, Building Code, Section 150.21, is hereby renamed Procedure for ~~dangerous or unsanitary buildings~~ Unsafe Structures and Equipment. and is amended to read as follows:

150.21. PROCEDURE FOR UNSAFE STRUCTURES AND EQUIPMENT

General. When a structure or equipment is found by the Building Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

A. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

B. Unsafe equipment. Unsafe equipment includes any boiler, heating/cooling equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

C. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the Building Official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

D. Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this Code, or was erected, altered or occupied contrary to law.

E. Dangerous structure or premises. For the purpose of this chapter, any structure or a premise that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the town as related to the requirements for existing buildings.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

3. Any portion of a building, structure or appurtenance that has been damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

4 Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes. Because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the Code Official to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or

structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

F. Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Code Official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Building Official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

1. Authority to disconnect service utilities. The Building Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this Code in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The Building Official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

2. Notice. Whenever the Building Official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 150.20

3. Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Building Official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

4. Placard removal. The Building Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be subject to the penalties provided by this Code.

G. Prohibited occupancy. Any occupied structure condemned and placarded by the Building Official shall be vacated as ordered by the Building Official. Any person who shall occupy placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let

anyone occupy placarded premises or operate placarded equipment shall be liable for the penalties provided by this Code.

H. Abatement methods. The owner, operator or occupant of a building, premises or equipment deemed unsafe by the Code Official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action. The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

I. EMERGENCY MEASURES

1. Imminent danger. When, in the opinion of the Building Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the building official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Building Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Building Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

2. Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the Building Official, there is imminent danger due to an unsafe condition, the Code Official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

3. Closing streets. When necessary for public safety, the Building Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

4 Emergency repairs. For the purposes of this section, the Building Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

5 Costs of emergency repairs. Costs incurred by the Town in the performance of emergency work shall be paid by the property owner. The Town Attorney shall institute appropriate action against the owner of

the premises where the unsafe structure is or was located for the recovery of such costs.

6. Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Town Commission, be afforded a hearing as described Section 150.22.

7. Demolition

a. The Building Official shall order the owner of any premises upon which is located any structure, which in the Building Official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the Building Official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the Building Official

b. Notices and orders. All notices and orders shall comply with Section 150.20.

c. Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Building Official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

d. Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement afore said shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

~~(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, the 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.~~

SECTION 7. Chapter 150, Building Code, Section 150.22, *Procedure for buildings which are nuisances.* of the Town of Longboat Key Code of Ordinances is amended to read as follows:

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

General. 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:"

A. Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the Florida Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
   a. Collapse of footing or foundation system;
   b. Damage to footing, foundation, concrete or other structural element due to soil expansion;
   c. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
   d. Inadequate soil as determined by a geotechnical investigation;
   e. Where the allowable bearing capacity of the soil is in doubt; or
   f. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
   a. Deterioration;

b. Ultimate deformation;

c. Fractures;

d. Fissures;

e. Spalding;

f. Exposed reinforcement; or

g. Detached, dislodged or failing connections.

3. Aluminum that has been subjected to any of the following conditions:

a. Deterioration;

b. Corrosion;

c. Elastic deformation;

d. Ultimate deformation;

e. Stress or strain cracks;

f. Joint fatigue; or

g. Detached, dislodged or failing connections.

4. Masonry that has been subjected to any of the following conditions:

a. Deterioration;

b. Ultimate deformation;

c. Fractures In masonry or mortar joints;

d. Fissures in masonry or mortar joints;

e. Spalding;

f. Exposed reinforcement; or

g. Detached, dislodged or failing connections.

5. Steel that has been subjected to any of the following conditions:

a. Deterioration;

b. Elastic deformation;

c. Ultimate deformation;

d. Metal fatigue; or

e. Detached, dislodged or failing connections.

6. Wood that has been subjected to any of the following conditions:

a. Ultimate deformation;

b. Deterioration;

c. Damage from insects, rodents and other vermin;

d. Fire damage beyond charring;

e. Significant splits and checks;

f, Horizontal shear cracks;

g. Vertical shear cracks;

h. Inadequate support:

i. Detached, dislodged or failing connections;

j. Excessive cutting and notching.

Exceptions: When substantiated otherwise by an approved Method or demolition of unsafe conditions shall be permitted when approved by the Code Official.

B. Handrails and Guardrails. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than30 inches (762 mm) high above the floor of the landing, balcony, porch deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

~~(1)~~

~~Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside of the middle third of its base.~~

~~(2)~~

~~Those which, exclusive of the foundation, show 33 percent or more, of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.~~

~~(3)~~

~~Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.~~

~~(4)~~

~~Those which have been damaged by fire, wind, water, wave activity, tides, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the town.~~

~~(5)~~

~~Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein.~~

~~(6)~~

~~Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein.~~

~~(7)~~

~~Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.~~

~~(8)~~

~~Those which have parts thereof which are so attached that they may fall and injure members of the public or property.~~

~~(9)~~

~~Those which, because of their condition, are likely to cause damage to abutting property or structures located thereon.~~

~~(10)~~

~~Those which because of their condition are unsafe, unsanitary, or dangerous to the health, safety or general welfare of the people of this town.~~

~~(11)~~

~~Those buildings existing in violation of any provision of the building code of this town, or any provision of the fire prevention code, or other ordinances of this town.~~

~~(B)~~

~~All "dangerous structures" within the terms of subsection (A) of this section are declared to be public nuisances, and shall be repaired, vacated, or demolished as provided in this section.~~

(C) The following standards shall be followed in substance by the town manager or designee and the town commission in ordering repair, vacation or demolition:

(1) If the "dangerous structure" can reasonably be repaired so that it will no longer exist in violation of the terms of this section, it shall be ordered repaired.

(2) If the "dangerous structure" is in such condition as to make it dangerous to the health, safety, or general welfare of its occupant it shall be ordered to be vacated.

(3) In any case where a "dangerous structure" is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a "dangerous structure" is a fire hazard existing or erected in violation of the terms of this section or any section of this Code or statute of the State of Florida, it shall be demolished.

(D) It shall be the duty of the Building Official to regularly and frequently require examination of buildings and structures within the town to determine whether the buildings and structures constitute a public nuisance as provided in subsection (A) above. The Building Official shall make a detailed written report to the town commission which shall contain a detailed description of the examination and his opinion of whether

the conditions found constitute the building or structure, or any part thereof, a public nuisance.

(E) At the next regular meeting of the town commission, or at the next special meeting called therefor, the commission shall consider the report of the Building Official. If the commission finds that the building or structure described therein may constitute a public nuisance, the commission shall adopt a resolution setting a time, place, and date for a public hearing on whether or not the building or structure in fact is a public nuisance. The hearing shall not be held until notice thereof has been published at least once in a newspaper of general circulation in the town, at least seven days prior thereto. The town clerk shall also post a notice of the public hearing on the building or structure. The clerk shall send a copy of the notice of hearing, by registered mail, to the owner of the premises, on which the building or structure is located, as it appears on the most current town or county tax assessment roll.

(F) The public notice specified in subsection (E) above shall contain a description of the property on which the building or structure is located sufficient for identification. The notice to the owner shall also describe, in general terms, the condition of the building or structure that is alleged to constitute the building or structure a public nuisance. The public notice and notice to the owner shall also contain the time, date, and place that the public hearing will be held.

(G) At the public hearing, the town commission shall hear and read the full report of the town manager or designee and hear any other evidence as the commission may deem relevant. At the hearing, the owner shall be allowed to present testimony and evidence showing that the conditions do not constitute a nuisance. The owner of the premises may appear either in person or by attorney. After the owner has been heard, the commission may consider any other matters that in their discretion appear relevant to a determination hereof.

(H) At the conclusion of the public hearing, the town commission shall adopt a resolution declaring one or more of the following:

(1) That the conditions alleged by the town manager or designee to exist in the building or structure do not exist.

(2) That the conditions existing in the building or structure do not constitute a public nuisance.

(3) That the conditions alleged by the town manager or designee to exist in the building or structure have been remedied and that the building or structure does not now constitute a public nuisance.

(4) That the conditions existing in the building or structure constitute the building or structure a public nuisance, and it is hereby condemned.

(5) Any other provisions that will appropriately decide and determine the issues.

(6) A description of the conditions existing which constitute the building or structure a public nuisance, if any.

(7) That upon the failure of the owner to correct and abate the conditions constituting the building or structure a public nuisance within a reasonable period of time, which shall be stated in the resolution and shall be not less than three days from the date thereof, the town will abate the conditions constituting the building or structure a public nuisance or by appropriate pleadings, institute suit in a court having jurisdiction over the property for a mandatory injunction and any other relief as the town deems necessary and proper, or both.

(I) Upon the adoption of a resolution under subsection (H) above, the town clerk shall post a copy thereof on the structure and shall mail a copy thereof to the owner of the premises on which the building or structure is located, if the address of the owner is known to the town clerk.

(J) If the nuisance has not been abated before the period of time specified in the resolution has elapsed, the town shall take the action set forth therein and all funds expended in the abatement of the public nuisance, including all attorneys' fees, court costs and expenses, shall be a lien on the premises and superior to all other liens except other liens for special assessments. The liens may be enforced against the property by foreclosure as provided by law for foreclosure of tax liens or may be collected as otherwise provided by law.

SECTION 8 If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 9. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 10. 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 this _____ day of _____, 2012.

Adopted on the second reading and public hearing this _____ day of_____, 2012.

_____
James L. Brown, Mayor

ATTEST:

_____
Trish Granger, Town Clerk