

## M E M O R A N D U M

**DATE:** May 23, 2016

**TO:** Planning and Zoning Board

**FROM:** Alaina Ray, Director  
Planning, Zoning and Building Department

**RE:** Proposed Ordinance 2016-20, Amending Chapter 150, Buildings

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The Town's Land Development Code (LDC) includes Chapter 150: Buildings, which adopts the Florida Building Code and regulates all structures and equipment within the Town of Longboat Key. Within Chapter 150 is Section 151.21, which contains the provisions that regulate and provide for the authority and procedures for abating conditions that render structures or equipment as unsafe and/or unfit. The Town's Building Official is responsible for enforcing the provisions of Chapter 150 and the Florida Building Code.

Many of the Town's structures are several decades old. While the vast majority of these structures are well-maintained, Staff is increasingly encountering conditions which may give rise to concerns for the health, safety and welfare of occupants and/or the general public. As such, Staff has studied the provisions within Section 150.21, Procedures for unsafe structures and equipment to determine if the current provisions are adequate to address these conditions.

Staff has also reviewed instances from other jurisdictions where the provisions for abating unsafe and/or unfit structures and equipment have been challenged in a court of law. These challenges often arise from the notification processes utilized and/or the method of due process provided to an aggrieved property owner.

The examination of the Town's Code, ordinances from other jurisdictions, and recent court rulings has revealed that Section 150.21 does not appear to contain adequate authority, notification procedures, due process, or specificity to provide assurance that the provisions within Section 150.21 would withstand legal scrutiny. Therefore, Staff recommends extensive revisions to Section 150.21, in order to address these deficiencies.

The proposed revisions have been modelled on procedures that have withstood recent court challenges within the region. These proposed revisions contain provisions which significantly increase and describe the specific notification processes required when the Building Official deems structures or equipment to be unsafe and/or unfit. The revisions also include stringent notification requirements for the issuance of a demolition order.

Regarding demolition of structures and/or equipment, the proposed revisions provide for two (2) levels of notification and due process. The first level is for demolition after a property owner has been afforded appropriate time to abate unsafe and/or unfit

conditions, either through repair, rehabilitation, replacement, or demolition. This level would provide for a minimum notification period, newspaper advertisement of the intent to demolish, and an available appeal to the Town Commission prior to demolition being carried out. The revisions also set forth the criteria that the Town Commission must consider to revise or rescind the Building Official's Order.

The second level deals with emergency demolition, when the Building Official and Fire Marshal have jointly determined that a structure or equipment pose an imminent danger to the occupants and/or the health, safety and welfare of the public or their property. In these cases, the Building Official and Fire Marshal will document the conditions and will send notification to the owner of record and interested parties; however, demolition may proceed immediately, whether or not the property owner receives the notification. In the event of emergency demolition, there is no appeal to the Town Commission afforded to the property owner or any aggrieved party; rather appeals must be made to the appropriate circuit court within ten (10) days from the date the notice of intent to demolish is mailed.