

M E M O R A N D U M

DATE: June 23, 2016

TO: Dave Bullock, Town Manager

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

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

At the Town Commission's Regular Workshop on May 16, 2016, the Town Attorney discussed the need to revise the Town's procedures related to abatement of unsafe structures and equipment, as set forth in the Town's Code of Ordinances, Section 150.21. The Town Attorney indicated that the revisions would need to go through the Planning and Zoning Board for a recommendation. Due to the limited time before the Town Commission's summer break, and considering the potential need to abate unsafe conditions during the upcoming hurricane season, the Town Commission reached consensus to consider the May 16, 2016 discussion as fulfilling the workshop procedural provision.

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.

Planning and Zoning Board Recommendation

The Planning and Zoning Board held a public hearing and considered Ordinance 2016-20 at a Special Meeting on May 31, 2016, and recommended approval with the following recommended revisions:

1. Page 2 of 16: Third Whereas clause from top of page; Add "a" between the words "have" and "need."
2. Page 10 of 16: 150.21(l); Include statement that an appeal will stay the demolition action, except in the case of Emergency Demolition.
3. Page 10 of 16: 150.21(l) and in various places throughout document; Replace "interested" with "other."
4. Page 10 of 16: 150.21(l)(1); Add the word "within" between "Manager" and "ten."
5. Page 10 of 16: 150.21(l)(1); Require a statement from the applicant identifying the specific alleged grievance.

The Town Commission held first reading and public hearing at their June 6, 2016 Special Meeting. This item was forwarded to the July 5, 2016 Special Meeting for Town Commission second reading and public hearing.



Ordinance 2016-20

Chapter 150: Buildings

Town Commission
Special Meeting
July 5, 2016



Background

- May 31, 2016: Planning & Zoning Board held public hearing on Ord. 2016-20
- June 6, 2016: Town Commission held first reading and public hearing and forwarded Ord. 2016-20 to their July 5, 2016 Special Meeting for second reading and public hearing.



Section 150.21: Procedure for unsafe structures and equipment

- Majority of structures in the Town were constructed several decades ago.
- Most structures have been maintained well, but multiple structures need to be addressed for deteriorating conditions
- A review of Section 150.21 and recent court cases from other jurisdictions indicates the current provisions may lack adequate authority, notification procedures, due process, and specificity



Revisions

- Section 150.21 reorganized to reflect the following order:
 - A. Definitions
 - B. Authority to order vacation, condemnation, repair or demolition.
 - C. Authority to secure all open and vacant structures
 - D. Authority to disconnect service utilities.
 - E. Notice of Unsafe or Unfit Structures or Equipment and manner of service.
 - F. Abatement methods.
 - G. Extension
 - H. Condemnation Order and Notice of Intent to Demolish
 - I. Appeal Procedure
 - J. Emergency Demolition
 - K. Authority to Order Rodent Control
 - L Condition of Lot After Demolition
 - M. Assessment of Costs of Abatement and/or Demolition and lien on Property.
 - N. Civil Remedies.



Revisions

- Adds definitions
- Provides detailed statements of authority
- Includes detailed notification processes
- Provides criteria regarding compliance extensions and compliance agreements
- Provides defined appeal processes based on the type of action being taken by the Town
- Authorizes the Town to seek injunctive relief or other judicial remedy
- Establishes two (2) levels of procedure for demolition: Standard Demolition and Emergency Demolition



Demolition

Standard Demolition

- Taken when the owner has failed to abate conditions during time specified
- Requires minimum 10 day notification period
- Requires posting on structure or equipment
- Requires newspaper advertisement
- Provides for appeal to Town Commission
- Establishes criteria for modification or reversal of Building Official decision

Emergency Demolition

- Reserved for conditions that constitute an imminent danger to the occupants, the public, or nearby property
- Requires joint determination of imminent danger by the Building Official and Fire Marshal
- Requires notice, but demolition can proceed immediately
- Establishes that appeal would be to circuit court

ORDINANCE 2016-20

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING WITHIN TITLE 15 OF THE LAND DEVELOPMENT CODE, CHAPTER 150, BUILDINGS; DELETING, REVISING, AND AMENDING PROVISIONS WITHIN SECTION 150.21, PROCEDURE FOR UNSAFE STRUCTURES AND EQUIPMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key (Town) is a barrier island that is primarily built out; and

WHEREAS, the Town's Code of Ordinances contains the Land Development Code (LDC) which establishes the building and construction standards throughout the Town's jurisdictional limits; and

WHEREAS, the LDC incorporates and adopts the Florida Building Code (FBC) as may be amended;

WHEREAS, the FBC establishes a uniform state building code and provides for the minimum building and construction standards for public or private buildings, structures or facilities within the state of Florida; and

WHEREAS, pursuant to Section 553.72, Florida Statutes, it is the intent of the FBC to provide for a standard for the "design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities in this state and to the enforcement of such requirements and which will allow effective and reasonable protection for public safety, health, and general welfare for all the people of Florida at the most reasonable cost to the consumer"; and

WHEREAS, the Town's Building Official is responsible for enforcing the Town's Building Code and the FBC; and

WHEREAS, the Town's Building Code contains provisions and procedures relating to buildings, structures and equipment deemed unsafe, unfit for human occupancy, or unlawful; and

WHEREAS, the Town's current Building Code does not contain sufficient provisions to expeditiously address unsafe buildings, structures and equipment that pose an immediate risk to the health, safety and welfare of the public; and

WHEREAS, due to its proximity to the Gulf of Mexico, the Town's buildings and structures are susceptible to damage from tropical storms and hurricanes; and

WHEREAS, hurricane season is defined as the annual period between June 1 and November 30; and

WHEREAS, during hurricane season the threat of storm events increases the risk associated with windborne debris to the health, safety and welfare of the public; and

WHEREAS, buildings, structures and equipment that are deemed unsafe, unfit for human occupancy, or unlawful may be more susceptible to contributing to windborne debris due to deteriorated conditions; and

WHEREAS, the Town may have need to expeditiously address buildings, structures and equipment that pose an imminent risk to the health, safety, and welfare of the public, especially before and/or during hurricane season; and

WHEREAS, the Town finds it is in the best interest of the public to revise the Town's Building Code to incorporate provisions to expeditiously address buildings and structures that are deemed unsafe, unfit for human occupancy, or unlawful, while also providing due process for affected property owners; and

WHEREAS, the Town Commission held a workshop on May 16, 2016, and authorized Town Staff to bring forward revisions to the Town's Building Code (which is within the Land Development Code) that addresses unsafe and unfit structures and equipment in anticipation of the 2016 Hurricane season; and

WHEREAS, after due public notice, the Town's Planning and Zoning Board held a public hearing on May 31, 2016, to consider the proposed Building Code revisions relating to unsafe and unfit structures and equipment, and provided recommendations to the Town Commission as the local governing body; and

WHEREAS, on June 6, 2016, the Town Commission conducted the first reading on Ordinance 2016-20, the proposed Building Code revisions and amendments; and

WHEREAS, on July 5, 2016, the Town Commission conducted a duly noticed public hearing on the proposed Building Code revisions and amendments and the Town Commission approved the amendments.

THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, AS FOLLOWS

SECTION 1. The above recitals are true and correct and are hereby incorporated fully by reference.

SECTION 2. Chapter 150, Buildings, Section 150.21, is hereby amended as follows:

Chapter 150 Buildings

150.21 - Procedure for unsafe or unfit 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 or equipment shall be condemned and shall be abated by repair, rehabilitation, or demolition and removal 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.~~

(A) Definitions. The following definitions shall apply for purposes of this section:

Building official. The Town Manager of the Town shall appoint a Building Official. The Building Official shall meet all necessary requirements for a Building Official provided for pursuant to Florida Statutes.

Equipment. Any boiler, heating/cooling components, elevator, moving stairway, electrical wiring or device, flammable liquid containers, mechanical device, or any other component that, in the opinion of the building official, is applicable under this section.

Imminent danger. Structurally unsound conditions of a structure or portion thereof that is likely to cause physical injury to a person entering the structure; or due to structurally unsound conditions, any portion of a structure is likely to fail, be carried by the wind, or otherwise detach or move, and in doing so cause physical injury or damage to a person on the property or to a person or property nearby; or the condition of the property is such that it harbors or is inhabited by pests, vermin or organisms injurious to human health, the presence of which constitutes an immediate hazard to people in the vicinity; or equipment that is inadequately maintained or installed, or found to be in any unsafe condition, and constitutes an immediate hazard to the health, safety and welfare of the occupants thereof or any member of the public or their property.

Interested parties. Any individual or organization that has submitted to the building official a written request to be notified with respect to the procedures set forth in this section, identifying a specific property by tax identification number or street address, within twelve (12) months prior to a notice by the building official related to the identified property.

Owner of record. The person, persons, or entity recorded in the public property records on the most recent deed, and all parties whose names appear on the County tax rolls, for the parcel of property that the structure or equipment is located that is in violation of this section.

Structure. Anything which is built or constructed. The term “structure” shall be construed as if followed by the words “or part thereof.”

~~(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 Unfit. Any structure or equipment that is unfit unsuitable or improper for the use or human occupancy for which it is intended. Includes any structure or equipment that 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 unsanitary, 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 or property nearby.~~

~~(D) *Unlawful structure.* An unlawful Any structure or equipment that is one found, in whole or in part, to be occupied by more persons than permitted under this Code, or was erected, installed, altered, or occupied contrary to law.~~

Unsafe. Any structure or equipment, in whole or in part, that is structurally dangerous, unstable, inadequately provided with exit facilities, constituting a fire hazard, lacking minimum safeguards to protect or warn occupants in the event of fire, or is so damaged, decayed, dilapidated, structurally unstable, inadequately maintained, improperly constructed or installed, or of such faulty construction that partial or complete collapse is possible, or otherwise constitutes a hazard to the life, health, property, safety, or welfare to the occupants thereof or any members of the public or property nearby.

~~(E) *Dangerous structure or premises.* For the purpose of this chapter, any structure or a premises 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 1½ 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 that 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 on 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.~~

(B) Authority to order vacation, condemnation, repair, or demolition. The building official is hereby authorized to order the vacation, condemnation, repair, or demolition and removal of any unsafe or unfit structure or equipment, or to order repair and/or replacement of any part or parts thereof.

(1) In the event any owner of record or other interested parties fails to comply with any order from the building official within the time therein fixed, the building official is authorized to repair, demolish and/or remove the unsafe or unfit structure or equipment utilizing any available public agency or by contract or arrangement with independent contractors licensed in the State of Florida. The building official is also authorized to utilize the services of independent architects, engineers, and contractors licensed in the State of Florida to determine the condition of the structures or equipment in question.

(2) All costs incurred by the Town for the abatement of unsafe or unfit conditions, including administrative costs, shall be charged against the real property upon which the structure is located and shall be a lien upon such real estate as set forth in Section 150.21(M) and may be collected by any other legal recourse.

(C) Authority to secure all open and vacant structures. The building official is hereby authorized to secure all open and vacant structures. Before securing any

such structure, the building official shall notify the current owner of record by certified mail with return receipt requested and first class mail at least five (5) calendar days prior to proceeding. The notice shall include photographic evidence of the open and vacant conditions. Upon receipt of the notification, the owner of record may either secure the structure, or may appeal the determination that a structure was open and vacant by filing with the building official a Notice of Appeal to the Town Commission as set forth in 150.21(I). Any appeal under this provision must be filed within ten (10) calendar days from receipt of the mailed notice. Nothing herein shall prevent the building official from securing an open and vacant structure prior to the end of the appeal period.

(1) All openings including windows and doors, shall be secured with exterior plywood and suitably coated with an appropriate neutral paint color blending with or harmonizing with the exterior colors of the structure so as to be as inconspicuous as possible.

(2) 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, including administrative costs, shall be charged against the real property upon which the structure is located and shall be a lien upon such real property and may be collected by any other legal recourse.

(3) Notwithstanding the foregoing, the securing of a structure as provided for in subsection (C)(1), above, shall not extend beyond one (1) year, unless approved by the building official.

(D) Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the structure or equipment 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 structure or equipment of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the structure or equipment shall be notified by certified mail with return receipt requested and first class mail within five (5) calendar days of disconnection. The service utilities shall not thereafter be reconnected without approval from the building official. Any Notice of Appeal to the Town Commission filed relating to the utility disconnection order must be filed within ten (10) calendar days from receipt of the mailed notice and shall proceed as provided for in subsection 150.21(I).

(E) Notice of unsafe or unfit structures or equipment and manner of service. Whenever the building official has verified the existence of an unsafe or unfit structure or equipment under the provisions of this section, the building official shall determine the owner of record as defined in this section and shall notify the owner

of record and interested parties that the structure or equipment is in violation of this Code.

(1) *Written Notice.* The building official shall send a notice to the owner of record and interested parties, by certified mail with return receipt requested and by First Class mail. The notice shall describe the unsafe or unfit conditions, and shall indicate that these conditions must be corrected within a reasonable time frame as determined by the building official and as specified in the notice, or else the structure or equipment shall be subject to abatement as provided in this section. The notice shall also indicate that a building or demolition permit must be secured prior to the commencement of any corrective work, including repair and/or replacement, or demolition and removal.

(2) *Placarding.* In addition to sending notice to the owner of record and interested parties, the building official shall post on the premises or on defective equipment a placard bearing the words "This structure or equipment is unsafe or unfit for human habitation" at the primary entrance or entrances to the structure. The placard shall also include a statement of the penalties provided for occupying the premises, operating the equipment, or removing the placard.

(3) *Placard removal.* Once a structure or equipment has been placarded, it shall be unlawful for any person to enter such structure or use such equipment except for the purposes of making the required repairs or demolishing it. However, if the structure is occupied at the time of placarding, it shall be vacated within fourteen (14) calendar days. Otherwise, no person shall occupy or let another person occupy such a placarded structure. The owner shall immediately begin action to vacate the structure and bring it into compliance within the time prescribed. Any person who defaces or removes a placard without the approval of the building official shall be subject to the penalties provided by this Code. The placard shall remain until such time as the building official orders the placard to be removed.

(4) *Prohibited occupancy.* Any occupied structure 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~~ interested parties 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 of record or other interested parties, operator, or occupant of a building, premises, structure or equipment deemed unsafe or unfit by the ~~code~~ building official shall abate or cause to be abated or corrected such unsafe or unfit 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.~~ Prior to taking any corrective action to abate

the unsafe or unfit condition, the owner of record or interested parties shall secure a building or demolition permit.

(G) Extension. If the owner of record or interested parties is unable to complete the work by the date ordered or to fully comply with the Notice of Unsafe or Unfit Structure or Equipment, a written request may be filed to the building official stating the reasons for the delay, and if justifiable cause is demonstrated as merited by special hardship, unusual difficulty or unique problems such as preserving significant portions and features of a structure of historic or architectural value, the building official is hereby authorized to grant written reasonable extensions of time to comply.

(1) An extension to comply in excess of thirty (30) calendar days shall be by compliance agreement with the owner of record, in a form approved by the Town Attorney and signed by the owner of record, the building official and Town Manager, for the abatement of the unsafe or unfit structure or equipment. Such agreement shall be controlling and will govern the subsequent course of action to abate the unsafe or unfit conditions through repair and/or rehabilitation work or demolition.

(2) All repair and/or rehabilitation work or demolition shall require the appropriate building or demolition permits. All work shall conform to the minimum requirements of this Code.

(3) A compliance agreement shall establish completion dates for the submittal of permit documents and for the completion of repair and/or rehabilitation or demolition. The compliance agreement shall provide for the demolition and removal of the unsafe or unfit structure or equipment by the Town if the completion dates are not met. The cost of demolition and removal shall be assessed on the real property in the form of a lien.

(H) Condemnation Order and Notice of Intent to Demolish. If the unsafe or unfit conditions are not corrected within the time indicated in the Notice of Unsafe or Unfit Structure(s) or Equipment, the building official shall condemn the unsafe or unfit structure or equipment and send a Condemnation Order and Notice of Intent to Demolish to the owner of record and to interested parties.

(1) The Condemnation Order and Notice of Intent to Demolish shall be sent by certified mail with return receipt requested and by First Class mail.

(2) In addition to sending a Condemnation Order and Notice of Intent to Demolish, a copy of the Order and Notice shall be posted in a conspicuous place upon the unsafe or unfit structure or equipment.

(3) A Condemnation Order and Notice of Intent to Demolish shall be recorded with the public records of the county in which the unsafe or unfit structure or equipment is located.

(4) Ten (10) calendar days prior to authorizing the demolition of any unsafe or unfit structure or equipment by the Town, a Notice of Intent to Demolish shall be

published in a newspaper of general circulation in the county where the unsafe or unfit structures or equipment is located. Such notice shall be substantially in the following form:

NOTICE OF INTENT TO DEMOLISH

Pursuant to Section 150.21(H) of the Town of Longboat Key Code of Ordinances, the owner or other interested parties having failed to either repair or demolish the structure or equipment at [insert property address] as ordered by the Town of Longboat Key are hereby notified that the Town of Longboat Key has ordered the structure or equipment condemned and will proceed to have the structure or equipment demolished on [insert date], and a lien placed against the property to recover all costs.

To appeal this order and notice, the owner or interested parties must file a written appeal with the Town Manager [insert name, address, and phone number] prior to ten (10) calendar days from the date the Condemnation Order and Notice of Intent to Demolish is received.

(5) The building official shall assess the entire cost of demolition and removal including asbestos abatement, sodding or seeding of the lot, and rodent extermination against the real property in the form of a lien. This lien shall also include all administrative costs, including but not limited to postal expenses and the cost of newspaper publications. The lien shall be filed in the county's official record book where the property is located.

~~(1) *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 in 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, unsanitary, 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.~~

(l) Appeal procedure and appearance before the Town Commission. Except in cases of Emergency Demolition as set forth in Section 150.21(J), appeals may be taken by the owner of record or interested parties who has been aggrieved by the following building official orders: Order to Secure Vacant Structure(s) or Equipment, Order to Disconnect Utility Service, or a Condemnation Order and Notice of Intent to Demolish.

(1) Appeals of a Building Official must be submitted in writing to the Town Manager ten (10) calendar days from the date of receipt of the Order. At a minimum the written appeal must contain the following information:

(a) Identification of the building, structure and equipment by street address or legal description;

(b) A statement identifying the legal interest of each appellant;

(c) A statement of the specific order or portion of the order or section of the Code that is being appealed;

(d) A statement detailing the issues the appellant desires to be heard; and

(e) the legal signature of all appellants and their mailing address.

(2) An owner or interested parties who have been aggrieved is afforded the right of a hearing before the Town Commission within thirty (30) calendar days of the date the appeal is received by the Town Manager, or as soon thereafter as practicable.

(3) A Condemnation Order and Notice of Appeal hearing by the Town Commission shall be published once in a newspaper of general circulation in the County in which the property is located at least ten (10) calendar days prior to the time and place of the hearing. Notices of hearing appealing Orders to Secure a Vacant Structure or Equipment or Disconnect Utility Service shall be published on the Town's website and posted within Town Hall at least ten (10) calendar days prior to the time and place of the hearing.

(4) At the hearing, the owner and interested parties, if present, shall be afforded the opportunity to be heard concerning the structure, equipment or property, after which the Town Commission may hear testimony from the public concerning the status of the structure, equipment or property. Any owner of record or interested party may appear in person, by counsel, or by an authorized agent.

(5) Following the public hearing on the appeal, Town Commission may elect to:

(a) Uphold the building official's Order and decision; or

(b) Modify the building official's decision, in whole or in part; or

(c) Reverse the decision or interpretation by the building official; or

(d) Authorize the entering into a Compliance Agreement with the owner of record for the abatement of the unsafe or unfit structure or equipment or

open and vacant structure pursuant to certain agreed upon terms and Section 150.21(G).

(6) In evaluating the merits of the appeal and determining whether to modify or reverse the building official's decision, the Town Commission shall evaluate whether the literal enforcement of the Code or decision by the building official would do manifest injustice and would be contrary to the spirit and purpose of the Code or public interest, and consider the following:

(a) Any evidence presented by the appellant that the unsafe and/or unfit conditions do not exist; and

(b) Any evidence presented by the appellant that the unsafe and/or unfit structure or equipment does not present a danger to any persons or property nearby; and

(c) Whether the grant of a modification or reversal of the building official's decision will be in harmony with the general intent and purpose of this Code; and

(d) Any evidence presented by the appellant that the grant of a modification or reversal of the building official's decision will not be detrimental to the public health, safety and general welfare.

(7) The Town Commission shall enter a written decision relating to the appeal. The Town Manager shall advise the owner of record and interested parties in writing of the Town Commission's action by First Class mail.

(8) Any person aggrieved by the decision of the Town Commission may apply to the circuit court for judicial relief within 30 days after rendition of the decision.

(J) Emergency demolition. In cases where there is imminent danger to the public health, safety or welfare, or immediate danger to the life or safety of any person, or where the public or their property is endangered by wind, storm, fire, or other natural disasters, or where a structure is in imminent danger of collapse from structural decay, the building official shall promptly cause such structure or equipment to be made safe or cause its removal. For this purpose, the building official and fire marshal may at once enter such a structure or the land on which such structure or equipment stands or abutting land or structures, to perform an inspection with such assistance and at such costs as they may deem necessary.

(1) Upon inspection, the building official and the fire marshal shall jointly determine whether or not the structure or equipment requires immediate emergency demolition to maintain the public's health, safety and welfare. A written report will document the results of these inspections.

(2) The building official may order the vacation of adjacent structures and may require the protection of the public by ordering the installation of appropriate fencing or other such means as may be necessary, and for this purpose may close public or private streets, sidewalks, driveways, and other such public or private lands as may be necessary.

(3) Upon determination by the building official and the fire marshal to proceed with demolition, exterior and interior photographs of the structure or equipment will be taken when deemed feasible by the building official and fire marshal.

(4) Written notification of intent to demolish the structure or equipment shall be sent by certified mail with return receipt requested and by First Class mail to the owner of record and interested parties. This written notification shall document the cause for demolition. However, failure to effect personal notice upon the owner of record or interested parties shall not prevent the Town from demolishing the structure and placing a lien on the property for all Town costs associated with the demolition and removal.

(5) Emergency demolition orders shall not be afforded an appeal to the Town Commission. Any appeal must be filed to the appropriate circuit court within ten (10) calendar days of the date the notification of intent to demolish is mailed. Nothing herein shall prevent the building official from demolishing and removing the structure(s) or equipment prior to the end of the appeal period.

(K) Authority to order rodent and pest control. When the building official verifies the existence of rodent and/or pest infestation in a structure that is to be demolished, the building official may require that a licensed pest control operator exterminate the rodents and/or pests to preclude the migration of such rodents and/or pests.

(L) Condition of lot after demolition. A lot from which a structure or equipment is demolished and removed shall be sodded or seeded with grass, or otherwise covered with vegetative landscaping within five (5) calendar days of the completion of demolition.

(M) Assessment of costs of abatement and/or demolition and lien on property. The building official shall assess the entire cost of repair, rehabilitation, boarding up or securing, demolition, removal, asbestos abatement, sodding or seeding, vegetative landscaping, rodent and/or pest extermination, and any other costs associated with abatement of unsafe or unfit conditions against the real property where the conditions existed in the form of a lien. To the extent permitted by applicable law, this lien shall be superior to all others except property taxes and shall include all administrative costs, including but not limited to expert reports or assessments, postal expenses, the cost of newspaper publications, and similar expenses incurred by the Town.

(1) A lien shall be filed in the County's official record book for the County where the real property is located and shall show the nature of such lien, the amount thereof, and an accurate legal description of the property, including street address and the date of filing, and shall recite the names of all owners of record and interested parties notified. Such lien shall bear interest from such date at the rate of ten percent (10) per annum and may be enforceable if unsatisfied after the expiration of one (1) year from the date of filing.

(2) Notwithstanding the foregoing, the Town may elect to charge any and all costs described in this section against any applicable bond or surety for the property that the Town may hold.

(3) In addition to filing a lien and/or charging against a bond or surety, when the Town abates unsafe or unfit conditions the Town retains the right to sell any salvaged materials at the highest price obtainable. The net proceeds of such sale, after deducting all costs indicated herein, shall be promptly remitted with a report of such sale or transaction, including items of expense and the amounts deducted, for the person or entity who is entitled thereto, subject to any order of the court. If such a surplus does not remain to be turned over, the report shall so state.

(N) Civil remedies. The remedies available to the Town within this section are non-exclusive. Nothing herein shall preclude the Town Commission from seeking other available civil remedies to protect the public from dangerous, unsafe or unfit structures or equipment or conditions. The Town Commission reserves its right to initiate in a court of competent jurisdiction litigation to abate any dangerous, unsafe or unfit structure, equipment or condition that is harmful to the persons or property within the Town.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

SECTION 6. Repeal of Ordinances in Conflict. All other ordinances of the Town of Longboat Key, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

SECTION 7. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key.

SECTION 8. Effective Date. This Ordinance shall take effect immediately upon its adoption, as provided by law.

Passed on first reading the 6th day of June, 2016.

Adopted on second reading and public hearing the _____ day of _____, 2016.

Jack G. Duncan, Mayor

ATTEST:

Trish Granger, Town Clerk



End of Agenda Item