



## **TOWN OF HIGHLAND BEACH PROPOSED ORDINANCE**

**AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING THE ADMINISTRATIVE AMENDMENTS TO THE 7<sup>TH</sup> (2020) EDITION OF THE FLORIDA BUILDING CODE TO UPDATE AND AMEND THE REQUIREMENTS FOR REINSPECTION AND RECERTIFICATION OF EXISTING THRESHOLD BUILDINGS AND OTHER BUILDINGS OWNED BY A CONDOMINIUM OR COOPERATIVE ASSOCIATION; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Highland Beach, Florida (the “Town”), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, through the adoption of Ordinance No. 2021-011 on November 16, 2021, the Town adopted Administrative Amendments to the 7<sup>th</sup> (2020) Edition of the Florida Building Code to provide for the periodic reinspection and recertification of certain types of existing buildings to assess structural soundness and require building owners to address unsafe conditions as determined by a professional structural and/or electrical engineer; and

**WHEREAS**, due the adoption of Chapter 2022-269, Laws of Florida, the Florida Legislature adopted certain inspection requirements for buildings owned by condominium associations and cooperative associations, and through the adoption of Ordinance No. 2022-008 September 6, 2022, the Town amended its Administrative Amendments to the Florida Building Code to conform to the state law requirements; and

**WHEREAS**, through the enactment of Chapter 2023-203, Laws of Florida, the Florida Legislature adopted certain amendments to its inspection requirements, and the Town wishes to again amend its Administrative Amendments to the Florida Building Code to conform to the state law requirements and clarify existing requirements; and

**WHEREAS**, the Town Commission determines that this Ordinance serves a public purpose and is in the best interest of the public health, safety, and welfare of the Town of Highland Beach.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:**

**Section 1.** The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2.** The Town of Highland Beach hereby amends the Administrative Amendments to the 7<sup>th</sup> (2020) Edition of the Florida Building Code, by amending Subsection 110.0 of Section 110, "Inspections," of Chapter 1 to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

**110.9 Recertification of buildings and components:**

(1) *In General*

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection (a), except where the context clearly indicates a different meaning:

"*Association building*" means any building that does not fall within the definition of a threshold building and is owned, in whole or in part, by a condominium association or cooperative association, is three stories or more in height and contains at least four dwelling units.

"*Building age*" shall mean the time period since the issuance of the original certificate of occupancy or, where adequate records are not available to determine when the original certificate of occupancy was issued, the building age shall be determined by the Building Official based on the best available evidence.

"*Owner*" shall mean the fee simple title holder of the land on which a building subject to recertification is situated or, in the case of condominium or cooperative type of ownership, shall mean the person or entity responsible for the structure and common systems of a building subject to recertification.

"*Phase one milestone inspection*" shall mean a visual inspection of the habitable and nonhabitable areas of a building, including the major structural components of a building and shall include a the inspector's qualitative assessment of the structural conditions of the building and the

inspector's determination of whether such assessment indicates substantial structural deterioration necessitating a phase two inspection. A phase one milestone inspection shall also include an inspection by a professional electrical engineer certifying and attesting that such building is electrically safe or identifying any major or critical deficiencies in the electrical system and the repairs or alterations necessary to make the building electrically safe, including a recommended timeframe for such repairs. At a minimum, the following electrical components/equipment, where present, shall be evaluated: electrical service, branch circuits, conduit raceways and emergency lighting.

*"Phase two milestone inspection"* shall mean an inspection involving destructive or non-destructive testing, at the inspector's discretion, necessary to fully assess areas of structural distress in order to confirm that the building is structurally sound and safe for its intended use and shall include recommendations for fully assessing and repairing distressed and damaged portions of the building.

*"Substantial structural deterioration"* means substantial structural distress or substantial structural weakness that negatively affects a building's general structural condition and integrity.

*"Threshold building"* means any building which is greater than three stories or fifty (50) feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds five thousand square feet in area and an occupant content of greater than five hundred (500) persons as defined in Section 553.71(12), Florida Statutes, as may be amended from time to time.

*"Recertification"* means the completion of a phase one milestone inspection and, where required, the completion of a phase two milestone inspection and all necessary major or critical repairs as determined by the applicable inspector in accordance with the terms of this section.

- (b) Due to local circumstances and the proximity to salt water, Any threshold building or association building that has a building age of twenty-five (25)

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years or more shall be subject to recertification as provided in this section. Subsequent recertification shall be required at intervals of ten (10) years from the date the first such recertification was required for threshold buildings with a building age of up to forty (40) years and at intervals of seven (7) years for threshold buildings with a building age of more than forty (40) years.

- (c) Beginning on October 19, 2021, due to the initial backlog of buildings required to be recertified, the Building Official shall establish a completion schedule for recertification, which shall be based upon factors that may include, but shall not be limited to, the age, location, construction materials, occupancy load, and function of a building. This completion schedule shall include a recertification deadline for each building for which recertification is required and may be amended by the Building Official as necessary or advisable. If recertification is required for a building for which a certificate of occupancy was issued on or before July 1, 1997, the phase one milestone inspection must be performed before December 31, 2024.
  - (d) Nothing in this section shall be construed to prevent or limit the Building Official's authority to inspect, order inspections or reports, or abate unsafe conditions at existing buildings outside of the requirements of this section, including but not limited to, the Building Official's authority pursuant to Section 116 of this chapter regarding Unsafe Structures and Equipment or any other provision in the Town Code of Ordinances. The Building Official retains the authority set forth in Section 116 to declare a structure, building or an electrical, gas, mechanical or plumbing system as unsafe in accordance with the criteria set forth in that section.
- (2) *Procedure.*
- (a) The Building Official shall issue a Notice of Required Inspection, via certified mail, to the Owner of each building required to be recertified pursuant to subsection (1) above, not less than one hundred and eighty (180) days prior to the scheduled deadline for the filing of a phase one milestone inspection report. In the event that the Notice of Required Inspection is

returned unclaimed, said Notice shall be posted by the Building Official at the building. Failure to receive notice of any required inspection shall not relieve the Owner of its obligations pursuant to this section.

- (b) The Owner or Owners of a building or structure subject to recertification shall submit, or cause to be submitted, to the Building Official, no later than the recertification deadline, a phase one milestone inspection report ("Phase One Report"). If the qualitative assessment set forth in the Phase One Report reveals no signs of substantial structural deterioration to any building components under visual examination, no phase two milestone inspection report shall be required, provided, however, that the Owner must still correct any major or critical deficiencies in the electrical system within the recommended timeframe.
- (c) Inspections of threshold buildings shall be performed by a certified special inspector of threshold buildings (a professional or structural engineer or architect registered in the State of Florida and qualified by training and experience). Inspections of association buildings may be performed by a licensed architect or engineer registered in the State of Florida or a team of professionals with an architect or engineer acting as a registered design profession in responsible charge with all work and reports signed and sealed by the appropriate qualified team member. All reports shall bear the name, business address, State of Florida registration number, and impressed or electronic seal and signature of the certified special inspector, engineer or architect who has performed the inspection. Electronically signed and sealed documents shall meet all applicable statutory and administrative code requirements.
- (d) If any substantial structural deterioration is identified in the Phase One Report, the Owner shall be required to undergo a phase two milestone inspection and file a phase two milestone inspection report ("Phase Two Report"). W~~w~~ithin one hundred and eighty (180) days after submitting the Phase One Report, the architect or engineer performing the Phase Two Report must submit a phase two progress report to the Building Official

with a timeline for completion of the phase two inspection. The Phase Two Report shall note the location address and property control number of the building, describe the type of construction and general characteristics of the building (including but not limited to total floor area, height and number of stories, building footprint and similar characteristics), the existence of drawings and location thereof, history of the building to the extent reasonably known, and describe the type and manner of the inspection, noting areas any issues of concern, and shall include recommendations for repairs required to maintain the structural integrity of the building, and the estimated time of completion of said repairs or modifications. The Phase Two Report must take into account two basic structural considerations: (1) movement of structural components with respect to each other; and (2) deterioration of materials and any effect on the structural integrity of the building. The Phase Two Report shall include the manner in which the inspection occurred of the following structural elements, as applicable: foundation, masonry bearing walls, steel framing system, floor systems, roof systems, concrete framing systems, windows, wood framing, and loading. The Town is not mandating any particular inspection method; however, the Phase Two Report shall discuss the use or non-use of the standard structural inspection methods and the reasoning behind their use or non-use. These methods may include, but not be limited to: the visual examination method; the testing method; and the manual (forensic inspection) method. For major structure elements such as foundations, masonry bearing walls, steel framing systems, roof systems, and concrete framing systems, manual (forensic inspection) methods, such as chipping small areas of concrete and surface finishes for closer examination, are strongly encouraged.

- (e) The use of the manual (forensic inspection) method for certain structural elements as encouraged above shall be documented by photographic or other similar evidence, which shall be included in the Phase Two Report.
- (3) *Building Official Review of Phase Two Report.*

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Once the Phase Two Report has been submitted to the Building Official, the Building Official will perform an administrative review of the Report to determine whether it satisfied the requirements of this section. The Building Official will not review or otherwise assess the architect or engineer's technical findings. If the Building Official determines that the Phase Two Report does not satisfy the requirements of this section, the Owner shall make any changes to the Phase Two Report as needed and resubmit it no later than thirty (30) days after the Building Official's determination. The Phase Two Report may be resubmitted in this manner up to two (2) additional times after the initial submission until the Phase Two Report is determined to have satisfied the requirements of this section. If the Building Official determines after a third submittal that the Phase Two Report does not satisfy the requirements of this section, this shall be deemed a failure to submit the required recertification inspection report, and shall subject the Owner to the remedies prescribed in subsection (5) of this section. The Building Official's determination shall be in writing and shall be provided to the Owner via certified and first-class mail.

### *(4) Timeframe to Make Repairs or Modifications.*

The Owner shall correct all major or critical structural or electrical deficiencies identified in the Phase Two Report in accordance with the inspector's recommended timeframe. Notwithstanding the foregoing, all repairs shall be completed within a maximum of three hundred and sixty-five (365) days from the date the Building Official accepts a complete Phase Two Report satisfying the requirements of this section. Once the repairs or modifications have been completed, the inspector or shall reinspect the areas noted on the original report and shall provide the owner a signed and sealed letter stating that the repairs or modifications have all been completed. The owner shall submit that letter to the Building Official. Depending on the scope of work, the Building Official may grant extensions to either the recommended or maximum timeframes to allow the work to be completed in phases or when justified by the totality of the circumstances. ~~and no~~ I request for extension shall be unreasonably denied. The Building Official's decision regarding an Owner's request for an extension shall be

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in writing and provided to the Owner via certified and first-class mail. If, at any time, the Building Official determines that structural and/or electrical deficiencies exist that present an immediate danger to human life or safety, the Building Official may take such actions determined necessary pursuant to Section 116 of this chapter regarding Unsafe Structures and Equipment, regardless of the procedural requirements or timeframes specified in this section.

(5) *Failure to Submit a Recertification Inspection Report or Timely Make Repairs/Modifications.*

In the event the owner fails to submit any required report by the specified deadline, fails to make changes and resubmit the Phase Two Report within the required timeframes upon a determination that the Phase Two Report does not satisfy the requirements of this section, or fails to complete (subject to all required permits) any major or critical repairs or modifications within the required timeframes, the Building Official may seek an order of enforcement through the Town's code enforcement process or any other legal or equitable remedy provided by law. The Building Official may extend the date by which a building's phase one milestone inspection must be completed upon a showing of good cause by the owner or owners of the building that the inspection cannot be timely completed if the owner or owners have entered into a contract with an architect or engineer to perform the milestone inspection and the inspection cannot reasonably be completed before the deadline or other circumstances justify an extension.

(6) *Appeals.*

The Building Official's written determination, after three submittals, that the Phase Two Report submitted pursuant to subsection (3) above did not satisfy the requirements of that section and/or the Building Official's written denial of an extension to the requested timeframe for completion of repairs or modifications pursuant to subsection (4) above shall be final, subject only to the filing of a Petition for Writ of Certiorari in the Circuit Court in and for Palm Beach County, Florida within thirty (30) days of the date of the written determination or written denial.

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**Section 3. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5. Codification.** Sections 2 of the Ordinance shall be made a part of the Town of Highland Beach Administrative Code, Chapter 1 for the 7<sup>th</sup> (2020) Edition of the Florida Building Code and may be re-numbered or re-lettered to accomplish such.

**Section 6. Effective Date.** This Ordinance shall be effective immediately upon adoption at second reading.

The foregoing Ordinance was moved by \_\_\_\_\_, seconded by \_\_\_\_\_ and upon being put to the vote, the vote was as follows:

**VOTES:**

**YES NO**

Mayor Natasha Moore  
Vice Mayor David Stern  
Commissioner Evalyn David  
Commissioner Donald Peters  
Commissioner Judith M. Goldberg

PASSED on first reading at the Regular Commission meeting held on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

The foregoing Ordinance was moved by \_\_\_\_\_, seconded by \_\_\_\_\_ and upon being put to the vote, the vote was as follows:

**VOTES:**

**YES NO**

Mayor Natasha Moore  
Vice Mayor David Stern  
Commissioner Evalyn David  
Commissioner Donald Peters  
Commissioner Judith M. Goldberg

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PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**ATTEST:**

\_\_\_\_\_  
Natasha Moore, Mayor

**REVIEWED                      FOR                      LEGAL  
SUFFICIENCY**

\_\_\_\_\_  
Lanelda Gaskins, MMC  
Town Clerk

\_\_\_\_\_  
Glen Torcivia, Town Attorney  
Town of Highland Beach