

ORDINANCE NO. 1178

AN ORDINANCE OF THE CITY OF LYNN HAVEN, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES RELATED TO BUILDINGS AND BUILDING REGULATIONS; ESTABLISHING CERTAIN REQUIREMENTS FOR MILESTONE INSPECTIONS; PROVIDING FOR ENFORCEMENT; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 2022 Florida Legislature adopted Section 553.899, Florida Statutes, to mandate structural inspections for condominium and cooperative buildings which are three stories or more in height; and

WHEREAS, Section 553.899, Florida Statutes, authorizes a municipal governing body to adopt an ordinance prescribing timelines and penalties to enforce compliance with this statute.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF LYNN HAVEN IN BAY COUNTY, FLORIDA:

SECTION 1. From and after the effective date of this ordinance, Chapter 14, Article X of the City's Code of Ordinances relating to Mandatory Milestone Inspections is created to read as follows:

ARTICLE VIII. - MANDATORY MILESTONE INSPECTIONS

Sec. 14-[276?300?]. - Definitions.

When used in this Code, the following terms shall have the following meaning:

a. "Building Official" means the individual charged with the responsibility to administrate, supervise, direct, enforce, or perform the permitting and inspection of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems to ensure compliance with the Florida Building Code. This term is synonymous with "building official" as used in the Florida Building Code.

b. "Milestone inspection" means a structural inspection of a building, including an inspection of load-bearing elements walls and the primary structural members and primary structural systems as those terms are defined in s. 627.706, by an a licensed architect licensed under chapter 481 or engineer licensed under chapter 471 authorized to practice in this state for the purposes of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair, or replacement of any structural component of the building. The purpose of such inspection is not to determine

if the condition of an existing building is in compliance with the Florida Building Code or the fire safety code. The milestone inspection services may be provided by a team of professionals with an architect or engineer acting as a registered design professional in responsible charge with all work and reports signed and sealed by the appropriate qualified team member.

c. "Substantial structural deterioration" means substantial structural distress or substantial structural weakness that negatively affects a building's general structural condition and integrity. The term does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or peeling of finishes unless the licensed engineer or architect performing the phase one or phase two inspection determines that such surface imperfections are a sign of substantial structural deterioration.

Sec. 14-[]. – Duty to report.

Any Professional Engineer or Registered Architect who performs an inspection of an existing building or structure has a duty to report to the Building Official any findings that, if left unaddressed, would endanger life or property no later than ten (10) days after informing the building owner of such findings. However, if such Professional Engineer or Registered Architect finds that there are conditions in the building or structure causing an actual or immediate danger of the failure or collapse of a building or structure, or there is a health, windstorm or fire hazard, such Professional Engineer or Registered Architect shall report such conditions to the Building Official within twenty-four (24) hours of the time of discovery.

Sec. 14-[]. - Inspection, reporting and repairs.

A. Milestone Inspection Required. The City hereby determines that local circumstances, including environmental conditions such as proximity to salt water, require a residential condominium association under chapter 718, Florida Statutes, and a cooperative association under chapter 719, Florida Statutes, to conduct a Milestone Inspection for each building that is three stories or more in height by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. This subsection does not apply to a single-family, two-family, or three-family dwelling with three or fewer habitable stories above ground.

1. The City may extend the date by which a building's initial 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 circumstance to justify an extension.

2. The City may accept an inspection report prepared by a licensed engineer or architect for a structural integrity and condition inspection of a building performed before July 1, 2022, if the inspection and report substantially comply with the requirements of this Article and state law. If a previous inspection and report is accepted by the City under this paragraph, the deadline for the building's subsequent 10-year milestone inspection is based on the date of the accepted previous inspection.

3. The condominium association or cooperative association must arrange for the Milestone Inspection to be performed and is responsible for ensuring compliance with the requirements of this Article and state law. The condominium association or cooperative association is responsible for all costs associated with the inspection.

4. If the date of issuance for the certificate of occupancy is not available, the date of issuance of the building's certificate of occupancy shall be the date of occupancy evidenced in any record of the Building Official.

B. Notice from Building Official. The Building Official may send the milestone inspection notice required by s. 553.899(5), F.S., up to one (1) year prior to the date when the milestone inspections are due as provided in s. 553.899(3), F.S. The Building Official shall endeavor to send milestone inspection notices no later than June 30 of the year in which the milestone inspection is due. Notices will be sent by certified mail, return-receipt requested. Failure to provide or receive the notice does not excuse non-compliance by an association with these requirements.

C. Milestone Inspection. A Milestone Inspection consists of two phases:

1. For phase one of the Milestone Inspection, a licensed architect or engineer authorized to practice in this state shall perform a visual examination of habitable and non-habitable areas of a building, including the major structural components of a building, and provide a qualitative assessment of the structural conditions of the building. If the architect or engineer finds no signs of Substantial Structural Deterioration to any building components under visual examination, phase two of the inspection, as provided in paragraph C.2, is not required. An architect or engineer who completes a phase one Milestone Inspection shall prepare and submit an inspection report pursuant to paragraph D.

2. A phase two of the Milestone Inspection must be performed if any Substantial Structural Deterioration is identified during phase one. A phase two inspection may involve destructive or nondestructive testing at the inspector's direction and may require a demolition permit for exploratory reasons from the Building Official. The inspection may be as extensive or as limited as 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 to recommend a program for fully assessing and repairing distressed and damaged portions of the building. When determining testing locations, the inspector must give preference to locations that are the least disruptive and most easily repairable while still being

representative of the structure. An inspector who completes a phase two Milestone Inspection shall prepare and submit an inspection report pursuant to paragraph D.

D. Owner's Report. Upon completion of a phase one or phase two Milestone Inspection, the architect or engineer who performed the inspection must submit a sealed copy of the inspection report with a separate summary of, at minimum, the material findings and recommendations in the inspection report to the condominium association or cooperative association, and to the Building Official of the City. The report must meet the minimum requirements set forth in section 553.899, Florida Statutes, and be accompanied by the filing fees established by City resolution.

1. The phase one report must be submitted to the Building Official within 180 days of receipt of the notice from the Building Official in paragraph B. If a phase two inspection is required, within 180 days after submitting a phase one inspection report the architect or engineer performing the phase two inspection must submit a phase two progress report to the local enforcement agency with a timeline for completion of the phase two inspection. The final phase two report must be received no later than 250 days after the phase one report. All reports must be submitted by the licensed engineer or architect who performed the inspection by e-mail, United States Postal Service, or commercial delivery service.

E. Repairs and Modifications.

1. In the event that repairs or modifications are necessary as specified in the phase two Milestone Inspection, within ninety (90) days after a Phase II milestone inspection report is filed with the Building Official, the condominium or cooperative association shall file with the Building Official a plan of action for addressing the substantial structural deterioration identified in the Phase II milestone inspection report. The Plan of Action shall include, at a minimum, (i) a scope of work; (ii) a listing of all local permits necessary to complete the work; and (iii) a proposed timeline for completion of the work described in the scope of work. If the Plan of Action does not fully conform to the recommendations contained in the Phase II milestone inspection report relating to substantial structural deterioration, the Plan of Action shall be accompanied by a sealed report by an Professional Engineer or Registered Architect attesting within a reasonable professional probability that the Plan of Action fully addresses all substantial structural deterioration identified in the Phase II milestone inspection. The Plan of Action shall be distributed in the same manner as the inspector-prepared summary of the inspection report as described in s. 553.899(11), F.S.

2. A condominium or cooperative association shall (i) commence the repairs described in the Plan of Action which do not require local permits within 150 days after the filing of the Phase II milestone inspection report; or (ii) obtain all necessary permits to complete the work described in the Plan of Action within 150 days after the filing of the Phase II milestone inspection report, and thereafter pursue completion of the work with all due diligence.

3. For good cause shown, the Building Official may grant extensions of time of not more than sixty (60) days from the deadlines described in this section upon a request from an Professional Engineer or Registered Architect. Such request must contain a signed and sealed statement from the Professional Engineer or Registered Architect that the building may continue to be occupied during the extension period.

4. Once all applicable repairs are completed, the engineer(s) or architect(s) providing the Milestone Inspection report must provide an amended report indicating that the building or structure has been repaired and is safe for continued use under the present occupancy.

F. Failure to Perform Repairs and Modifications. If a condominium association or cooperative association fails to submit proof to the Building Official that repairs have been scheduled or have commenced for Substantial Structural Deterioration identified in a phase two inspection report within the required timeframe, the Building Official must review and determine if the building is unsafe for human occupancy.

Sec. 14-[]. - Enforcement and penalties.

A. The Building Official is authorized to impose the following penalties for failing to comply with the requirements of s. 553.899 or this Article:

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| (a) Failure to timely report a life safety concern: | \$1,000.00 |
| (b) Failure to timely file Phase I milestone report: | \$500.00, and \$100/day |
| (c) Failure to timely file Phase II milestone report: | \$500, and \$100/day |
| (d) Failure to timely file a Plan of Action: | \$500, and \$100/day |
| (e) Failure to timely commence construction: | \$500, and \$100/day |
| (f) Failure to diligently complete construction: | \$500, and \$100/day |

B. Compliance with this Article may be enforced by the remedies and procedures set forth in Chapter 2, Article III, Divisions 3 and 4 of this Code (the Code Enforcement Special Magistrate System). In addition to other remedies, the City Manager, through the City Attorney, may institute any appropriate action in a court of competent jurisdiction seeking injunctive relief or other remedies to bring about compliance with any of the provisions of this Chapter.

C. If the Building Official determines that there is an imminent threat to the public safety based on information set forth in a milestone inspection report, the Building Official shall post the structure with a notice of imminent threat to public safety and may require that association to order immediate evacuation of the structure, if appropriate. If authorized by the Building Official, the City code compliance department may commence any city enforcement action against the association for failure to timely order such evacuation. Notwithstanding the foregoing, the City shall not be liable for any failure of the association to timely evacuate a structure.

D. All remedies and penalties provided for in this Article shall be cumulative and independently available to the City and the City shall be authorized to pursue any and all remedies set forth in this Article or the City Code to the full extent allowed by law.

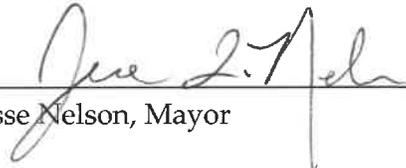
SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. If any phrase, clause, sentence, paragraph, section, or subsection of this Ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining phrases, clauses, sentences, paragraphs, sections or subsections of this Ordinance.

SECTION 3. It is the intention of the Commission that the provisions of this Ordinance shall become a part of the City's Code of Ordinances. The provisions of this Ordinance may be renumbered or re-lettered with cross-references corrected and the word "ordinance" may be changed to "section," "article", "division" or other appropriate word to accomplish such intention.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Lynn Haven, Florida, this 25th day of March, 2025.

CITY OF LYNN HAVEN, FLORIDA



Jesse Nelson, Mayor

ATTEST:



Vickie Gainer, City Manager-Clerk