

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

<b>Meeting Date:</b>	July 13, 2021	<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Regular
		<input type="checkbox"/>	Workshop	<input type="checkbox"/>	Public Hearing

**Department:** Planning, Zoning & Building  
**Submitted By:** Building Division  
**Submitted For:** Building Division

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff requests board direction: regarding developing and implementing a program to evaluate the safety of certain building types in Palm Beach County.

**Summary:** Due to the devastating event that took place on June 24, 2021 at Champlain Towers located in Surfside, Florida, the Palm Beach County Building Division is seeking direction from the Board of County Commissioners regarding developing and implementing a program to evaluate the safety of certain building types in Palm Beach County. While the County has existing unsafe building abatement regulations in Section 116 of the Palm Beach County Local Amendments to the Florida Building Code (attached), there is currently no requirement for periodic re-evaluation of buildings to evaluate their ongoing safety. Under the existing unsafe structure provisions, the Building Division relies primarily on reported concerns from residents and property owners to determine when to initiate an investigation into potentially unsafe buildings, structures, equipment, or service systems. Unincorporated (CK)

**Background and Policy Issues:** N/A

**Attachments:** Florida Building Code, 7<sup>th</sup> Edition 2020

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**Recommended By:** \_\_\_\_\_ **July 7, 2021**  
Department Director Date

**Legal Sufficiency:** Jean-Adel Williams  
Assistant County Attorney Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2021</u>		<u>2022</u>		<u>2023</u>		<u>2024</u>		<u>2025</u>
Capital Expenditures	0		0		0		0		0
Operating Costs	0		0		0		0		0
External Revenues	0		0		0		0		0
Program Income (County)	0		0		0		0		0
In-Kind Match (County)	0		0		0		0		0
<b>NET FISCAL IMPACT</b>	0		0		0		0		0
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	0		0		0		0		0

Is Item Included In Current Budget? Yes  No

Does this item include the use of federal funds? Yes  No

Budget Account No.: Fund 1400 Department 600 Unit 6107 Object     

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

The fiscal impact is not yet known.

**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

\_\_\_\_\_  
OFMB

\_\_\_\_\_  
Contract Dev. and Control

**B. Legal Sufficiency:**

\_\_\_\_\_  
Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

**PALM BEACH COUNTY AMENDMENTS TO THE  
FLORIDA BUILDING CODE, 7<sup>th</sup> EDITION (2020)**



**FLORIDA BUILDING CODE -  
BUILDING VOLUME  
CHAPTER 1, ADMINISTRATION**

**FLORIDA BUILDING CODE –  
RESIDENTIAL VOLUME, APPENDIX Q  
TINY HOUSES**

**FLORIDA BUILDING CODE -  
PLUMBING VOLUME, APPENDIX F  
PROPOSED CONSTRUCTION BUILDING CODES  
FOR TURF & LANDSCAPE IRRIGATION SYSTEMS**

**TECHNICAL AMENDMENTS  
FLORIDA BUILDING CODE - BUILDING VOLUME  
SECTION 1609.3 WIND LOADS & MAPS**

**EFFECTIVE DECEMBER 31, 2020**

Palm Beach County Planning, Zoning & Building Department – Building Division  
2300 North Jog Road, West Palm Beach, Florida 33411  
Phone: (561) 233-5100 Fax: (561) 233-5020

**115.2 Issuance.** The stop work order shall be in writing and shall be given to the owner of the property involved, the owner's authorized agent, the person performing the work, or posted at the site. Upon delivery 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 will be permitted to resume. Where an emergency exists, as determined by the building official, the building official shall not be required to give a written notice prior to stopping the work.

**115.3 Unlawful continuance.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

## SECTION 116

### UNSAFE BUILDINGS, STRUCTURES, EQUIPMENT AND SERVICE SYSTEMS

**116.1 Unsafe buildings, structures, equipment or service systems.** Buildings, structures, existing equipment, or service systems that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe buildings, structures, equipment or service systems shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

**116.1.1 When the building official determines** a building, structure, electrical, gas, mechanical or plumbing equipment or system or portion thereof is unsafe, as set forth in this code the building official shall provide the record owner(s) of the real property upon which the unsafe building, structure, equipment or system is located, a written notice stating the defects thereof, by certified mail, return receipt requested. This notice shall require the owner within thirty (30) business days of delivery of this notice to complete specified repairs or improvements, or to demolish and remove the building, structure, electrical, gas, mechanical or plumbing equipment or system or portion thereof.

**116.1.1.1** In addition to the written notice being sent by certified mail, return receipt requested to the record owner(s) of the real property upon which the unsafe building, structure, equipment or system is located, the building official shall post a copy of the notice in a conspicuous place in the county courthouse, and upon the building, structure, equipment or system, and a copy shall be recorded in the public records of Palm Beach County.

**116.1.1.2** In addition, a copy of the notice, as outlined in this sub-section, shall be published simultaneously for two consecutive weekends in a newspaper of local circulation. Such notice shall be substantially in the following form:

#### NOTICE OF INTENT TO DEMOLISH OR SUBSTANTIALLY REPAIR AND INSPECT

(Insert Date of Notice)

The owner or other interested parties for the structure located at (address), are hereby notified that Palm Beach County, Florida, will proceed to have the building, structure, equipment or system repaired, demolished or removed thirty (30) calendar days after the date of this Notice, if said building, structure, equipment or system is not substantially repaired, demolished or removed by that date. All costs incurred by the County in connection with the repair, demolition or removal will be assessed against the property.

If, as a result of this Notice, the building, structure, equipment or system is substantially repaired, demolished, or removed by the owner, notice is hereby given that work to abate the unsafe condition requires building permits and inspections for code compliance, and all related fees are required to be paid prior to performing the work or receiving certification of code compliance.

To request an extension of time, the owner should contact (Contact Person and Phone Number) within ten (10) business days of the date of this Notice. Said request for extension must be made in writing to the building official.

An affected owner or duly authorized agent has the right to appeal this action to the Construction Board of Adjustment and Appeals. An application of appeal should be filed in writing and hearing costs paid by the affected owner or duly authorized agent, at the Palm Beach County Building Division Main Office, within thirty (30) calendar days of the date of this Notice. The fee to cover hearing costs shall be established by ordinance.

**116.1.1.3** Evidence that an attempt has been made to hand deliver or mail the Notice, as provided herein, together with a copy of the recorded "Notice of Intent to Demolish or Substantially Repair and Inspect" at the Clerk of the Court Office, and proof of publication, shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the owner actually received said notice.

**116.1.2** If necessary, the notice shall also require the building, structure, electrical, gas, mechanical, plumbing equipment or service systems or portion thereof to be vacated and/or disconnected, and not reoccupied and/or reconnected until the specified repairs and improvements are completed, inspected and approved by the building official. The building official shall post at each entrance to the building a placard stating: THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL. This placard shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or its officers, agents, or other servants, to remove the posting without written permission of the building official, or for any person to enter the building, or use the building, structure, equipment or system except for the purpose of making the required repairs or of demolishing same.

**116.1.3 If such owner, agent, or person in control shall fail**, neglect, or refuse to comply with notice to repair, rehabilitate, or to demolish, and remove said building, structure, electrical, gas, mechanical or plumbing equipment or system or portion thereof, within thirty (30) calendar days of delivery of notification by the County building official and pursuant to the procedures stated in this section, the County is authorized and empowered, and the building official shall take action to achieve enforcement of the code and/or abatement of the unsafe condition by substantial repair, demolition, or removal of the building, structure, electrical, gas, mechanical or plumbing equipment or system or portion thereof, or in a manner as dictated by the degree of threat posed by the unsafe condition.

**116.1.3.1** The cost of vacating, substantially repairing, demolishing, removing, and/or otherwise abating the unsafe condition incurred by the County, including the actual work of vacating, substantially repairing, demolishing, removing, and/or otherwise abating the unsafe condition, title work costs and expenses, all administrative and legal expenses, publication costs, postal expenses, and other identifiable costs incurred by the County, shall be assessed against the property.

**116.1.3.1.1** All assessments shall be paid in full to the County no less than the close of County business on the twentieth (20) business day after the Notice of Assessment is delivered to the property owner. If the property owner fails to pay the assessment within this time period, the building official or designee shall file with the Clerk of the Circuit Court a lien to be recorded in the County's Official Record Book showing the nature of such lien, the amount thereof and an accurate legal description of the property, including the street address, which lien shall be effective from the date of filing and recite the names of all persons notified and interested persons.

**116.1.3.1.2** Thereafter, the unpaid amount of the assessment will accrue interest at the maximum rate allowed by Chapter 55, Florida Statutes.

**116.1.3.1.3** If the assessment is not paid by the following September 1, the County will declare the assessment delinquent and place the assessment on the tax roll as a non-ad valorem assessment.

**116.1.3.1.4** If the non-ad valorem assessment is not paid as part of the tax bill on the property, the property may be subject to the sale of a tax certificate, bearing interest by law at a rate as high as 18% per annum.

**116.1.3.1.5** If the tax certificate is not redeemed by payment of the non-ad valorem assessment in full, plus interest, as required by Florida law, the property may be sold and conveyed by tax deed.

**116.1.3.1.6** Nothing in this section shall prevent the County from imposing fines or liens, seeking injunctive relief, pursuing foreclosure or exercising other enforcement powers as permitted by law.

**116.1.4 The thirty (30) day time period contained in Section 116.1.1 of this code** may be enlarged by the building official, in a decision, which is rendered in writing, upon receipt of the owner's written request for an enlargement of time. In the written request, the owner must show cause as to why the enlargement of time should be granted. In the event that the building official denies the owner's request for an enlargement of time, said decision shall be rendered in writing, and delivered to the owner by certified mail, return receipt requested.

**116.1.5 Determinations.** Decisions of the building official required by this section shall be in writing. The date of the determination shall be the date it is reduced to writing and signed by the building official.

**116.1.6 Relief from the Notice of Intent to Demolish or Substantially Repair and Inspect.** An affected owner or duly authorized agent has the right to appeal the notice to the Construction Board of Adjustment and Appeals. An application of appeal shall be filed in writing and hearing costs paid by the affected owner or duly authorized agent, at the Palm Beach County Building Division Main Office, within thirty (30) business days of the date of delivery of the notice, as required in this section. If notice is not successfully delivered to the record owner, the application of appeal should be filed in writing and hearing costs paid by the affected owner within thirty (30) business days following the second consecutive week of publication of notice in a newspaper of local circulation. No action shall be taken by the County in connection with a building, structure, electrical, gas, mechanical or plumbing equipment or system or portion thereof, which is the subject of any appeals procedure relating to demolition, except in cases of emergencies as, described in Section 116.2.2 of this code. Every decision of the Construction Board of Adjustment and Appeals shall be final; subject however to such remedy as any aggrieved party might have at law. Such judicial relief shall be sought by the affected party or authorized agent by filing the appropriate petition in the court of jurisdiction within thirty (30) business days of the execution of the board order to be appealed. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Construction Board of Adjustment and Appeals.

**116.1.7 An affected owner or duly authorized agent has the right to appeal** a decision of the building official to deny an extension of time, to the Construction Board of Adjustment and Appeals. An application of appeal should be filed in writing and hearing costs paid by the affected owner or duly authorized agent, at the Palm Beach County Building Division Main Office, within ten (10) business days of the date that decision is reduced to writing. The fee to cover hearing costs shall be established by ordinance.

**116.1.8 Notice of Assessment.** Upon completion of the actions undertaken by the County, the building official shall notify in writing the owner that a special assessment has been imposed on the property. The notice shall be delivered by certified mail, return receipt requested. The notice of assessment shall set forth the following:

- (a) A description of the unsafe structure, a description of the actions taken by the County to substantially repair or demolish the building, structure, electrical, gas, mechanical or plumbing equipment or system or portion thereof, and the fact that the property has been assessed for the costs incurred by the County to substantially repair or

demolish the building, structure, electrical, gas, mechanical or plumbing equipment or system or portion thereof.

- (b) The aggregate amount of such costs, and an itemized list of such costs.
- (c) The intent of the County to record the assessment as a lien against the property, if not paid within twenty (20) business days of delivery.
- (d) The intent of the County to charge interest at the maximum rate allowed by Chapter 55, Florida Statutes if the assessment is not paid within twenty (20) business days.
- (e) The intent of the County to declare the assessment delinquent and to place the assessment on the tax roll as a non-ad valorem assessment if not paid by the following September 1.
- (f) The potential for the property to be subject to the sale of a tax certificate, bearing interest by law at a rate as high as 18% per annum, if the non-ad valorem assessment is not paid as part of the tax bill on the property.
- (g) The potential for the property to be sold and conveyed by tax deed if the tax certificate is not redeemed by payment of the non-ad valorem assessment in full, plus interest, as required by Florida law.

**116.1.9 The decision of the building official shall be final** in cases of emergency, which, in the opinion of the building official, involve imminent danger to human life or health, or the property of others. The building official shall promptly cause such building, structure, electrical, gas, mechanical or plumbing equipment or system or portion thereof to be made safe, secured, or cause its removal. For this purpose, the building official may at once enter such structure or land on which it stands, or abutting land or structures, with such assistance and at such cost as the building official may deem necessary. The building official may order the vacating of adjacent structures and may require the protection of the public by appropriate fence or such other means as may be necessary, and for this purpose may close a public or private way. Taking such action does not create a continuing obligation on the part of the building official to continue with maintaining such building, structure, equipment or system; or create liability for any damage to the property.

## SECTION 117 VARIANCES IN FLOOD HAZARD AREAS

**117.1 Flood hazard areas.** Pursuant to Section 553.73(5), Florida Statutes, the variance procedures adopted in Article 18 of the ULDC shall apply to requests submitted to the building official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.