

Regular Workshop – November 14, 2016
Agenda Item 7

Agenda Item: Discussion Regarding the Code Enforcement Board

Presenter: Town Manager and Staff

Summary: At the May 16, 2016, Regular Workshop Meeting, the Town Commission discussed the role and alternatives to the Code Enforcement Board. The consensus of the Town Commission was to retain the Code Enforcement Board over a Special Magistrate and to process citations within the Town with appeals being heard before the Code Enforcement Board.

At the October 17, 2016 Regular Workshop Meeting, the Town Commission expressed interest in further discussing the role and alternatives to the Code Enforcement Board.

Attachments: 10-20-16 Memo, CEO Elbon to Town Manager;
5-16-16 Regular Workshop Meeting Minutes;
11-7-16 Code Enforcement Board PowerPoint Presentation;
11-15 Florida Bar Journal Article;
11-8-16 Memo, Town Attorney to Commission.

Recommended

Action: Pending discussion, provide direction to Manager.

M E M O R A N D U M

DATE: November 9, 2016

TO: Dave Bullock, Town Manager
FROM: Chris Elbon, Code Enforcement Officer
CC: Frank Rubino, Deputy Chief

SUBJECT: Discussion Regarding the Code Enforcement Board

At the May 16, 2016, Regular Workshop Meeting, the Town Commission discussed the role and alternatives to the Code Enforcement Board (minutes attached).

The consensus of the Town Commission was to retain the Code Enforcement Board over a Special Magistrate and to process citations within the town with appeals being heard before the Code Enforcement Board.

At the October 17, 2016 Regular Workshop Meeting, the Town Commission expressed interest in further discussing the role and alternatives to the Code Enforcement Board.

Staff has prepared a presentation illustrating the advantages and the disadvantages of utilizing a Code Enforcement Board; a brief overview of Florida Statute 162; and comparisons of surrounding jurisdictions that utilize Code Enforcement Boards, Special Magistrates, and citations as supplemental means for enforcement.

An article published in the Florida Bar Journal discussing the advantages and disadvantages of a code enforcement board and special magistrate has been attached for additional information.

The Town Attorney has prepared a memo describing legal issues associated with the citation process and will discuss these at the meeting.

Excerpt from May 16, 2016 Town Commission Meeting Minutes

14. Discussion Regarding Code Enforcement Board

At the March 23, 2016, Regular Workshop Meeting the Town Commission expressed interest in further discussing the role and alternatives to the current structure of the Code Enforcement Board (CEB). Staff was directed to provide additional information based on surrounding jurisdictions for consideration. Recommended Action: Pending discussion, provide direction to Manager.

Following comments by Town Manager Dave Bullock, Police Department Code Enforcement Officer Chris Elbon gave a PowerPoint presentation on the utilization of a Code Enforcement Board versus a Special Magistrate process and Town Attorney Maggie Mooney-Portale commented on the citation process.

Discussions were held with Town Manager Bullock, Mr. Elbon, and Town Attorney Mooney-Portale on the following topics/issues:

- number of CEB cases heard per month
- Charter requirement for a Code Enforcement Board
- comparison of Special Magistrate system versus Code Enforcement Board
- vacancies on the CEB and attendance issues.

There was consensus to retain the current Code Enforcement Board process.

Following comments by Town Attorney Mooney-Portale on the issuance of citations, discussion ensued with Town Manager Bullock and Mr. Elbon on the citation process (appeal/challenge) and the steps required if a citation process is approved versus the current process.

There was consensus to institute a citation process.

Subsequent to comments, there was consensus that the Code Enforcement Board would handle the citation appeal process.

RECESS: 3:42 p.m. - 3:55 p.m.



Discussion Regarding the Code Enforcement Board

November 14, 2016

Prepared by: Chris Elbon, Code Enforcement Officer



Discussion Outline

- Background & History
- CEB Advantages & Disadvantages
- Florida Statute 162
- Ordinance Comparisons



Background & History

- At the May 16, 2016, Regular Workshop Meeting, the Town Commission discussed the role and alternatives to the Code Enforcement Board. The consensus of the Town Commission was to retain the Code Enforcement Board over a Special Magistrate and to process citations within the town with appeals being heard before the Code Enforcement Board.
- At the October 17, 2016 Regular Workshop Meeting, the Town Commission expressed interest in further discussing the role and alternatives to the Code Enforcement Board.



CEB Advantages & Disadvantages

- Advantages:
 - Typically have intimate understanding of community.
 - Peers of local land owners.
 - Serve without compensation.

- Disadvantages:
 - Difficulties filling vacant positions.
 - Poor attendance rates by volunteer members.
 - If a quorum is not met, violations can remain unaddressed or months at a time.
 - Volunteer members may carry predetermined loyalties or biases.
 - Volunteer members rarely require legal training or special knowledge of local codes.
 - Failure to follow procedural due process can lead to indefensible orders that are overturned by courts.



CEB Advantages & Disadvantages

- Disadvantages (continued):
 - Perception of cost-savings from a volunteer board:
 - F.S. 162 requires local governments to retain separate legal advisor for Code Enforcement Boards.
 - Statutory mandate to employ legal counsel as advisor may negate cost savings of using a volunteer board.

Consalo, Karen. "Decision by Judge or Jury? Alternatives to Traditional Code Enforcement Boards." *The Florida Bar Journal* 89.9 (2015): 64. Web. 7 Apr. 2016.

<<https://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/8c9f13012b96736985256aa900624829/ef446c0d6ad426b485257eeb00504b44!OpenDocument>>



Florida Statute 162

- Provides processes to enforce local ordinances.
- Authorizes cities and counties to enforce their local laws and describes the official actions they may use.
- Code Enforcement Boards have the authority to hold hearings and assess fines.
- Special Magistrates have the same status as an enforcement board.
- Local governments can utilize citations as a supplemental means of enforcement.



Ordinance Comparisons

	Code Enforcement Board	Special Magistrate	Citations
- Longboat Key	✓		
- Anna Maria		✓	✓
- Holmes Beach		✓	✓
- Bradenton Beach		✓	✓
- Sarasota		✓	✓
- Bradenton	✓		✓
- Sebring	✓	✓	✓
- St. Petersburg	✓	✓	✓
- Fort Lauderdale	✓	✓	✓
- Fernandina Beach	✓	✓	✓
- Seminole County	✓	✓	✓
- Sarasota County		✓	✓
- Manatee County		✓	✓



Ordinance Comparisons

- Half of all compared jurisdictions do not utilize a CEB, whereas half do in some capacity.
- Majority of all compared jurisdictions utilize a Special Magistrate.
- All compared jurisdictions have a process for citations.
- Special Magistrates are typically attorneys licensed to practice law in Florida.
- The hourly rate for a Special Magistrate may range from \$100 – 200 per hour.



Ordinance Comparisons

- Anna Maria:
 - Sunsetting Code Enforcement Board.
 - Utilizes a Special Magistrate.
 - Has not recently utilized Special Magistrate due to success in achieving compliance through warnings/citations.
 - Citations are processed through the city and appeals are heard at the city by the Special Magistrate.

- Bradenton Beach:
 - Sunsetting Code Enforcement Board.
 - Utilizes a Special Magistrate.
 - Has not recently utilized Special Magistrate due to success in achieving compliance through warnings/citations.
 - Citations are processed through the city and appeals are heard at the city by the Special Magistrate.



Ordinance Comparisons

- **Fernandina Beach:**
 - Utilizes CEB & Special Magistrate. Special Magistrate is utilized primarily for appeals on citations.
 - Citations are processed through the city and appeals are heard at the city by the Special Magistrate.

- **Fort Lauderdale:**
 - Utilizes Code Enforcement Board & Special Magistrate.
 - Citations are processed through the city and appeals are heard at the city by the Special Magistrate

- **Holmes Beach:**
 - Utilizes Special Magistrate.
 - Citations are processed through the county and appeals are heard in county court.



Ordinance Comparisons

- Sebring:
 - Utilizes Code Enforcement Board & Special Magistrate.
 - Considers all CEB members as Special Magistrates.
 - Utilizes Special Magistrates when no quorum is reached, in emergency cases, or in between CEB meetings.
 - Citations are processed through the county and appeals are heard in county court.

- St. Petersburg:
 - Utilizes Code Enforcement Board & Special Magistrate.
 - Citations are processed through the city and appeals are heard at the city by the Special Magistrate.



Ordinance Comparisons

- Bradenton:
 - Utilizes Code Enforcement Board.
 - Citations are processed through the county and appeals are heard in county court.

- Longboat Key:
 - Utilizes Code Enforcement Board.
 - Has language for issuing citations in the Town code, but lacks administrative procedures to process citations.

- Sarasota:
 - Utilizes Special Magistrate.
 - Citations are processed through the city and appeals are heard at the city by the Special Magistrate.



Ordinance Comparisons

- **Manatee County:**
 - Utilizes Code Enforcement Board.
 - Citations are processed through the county and appeals are heard in county court.

- **Sarasota County:**
 - Utilizes Special Magistrate
 - Citations are processed through the county and appeals are heard in county court.

- **Seminole County:**
 - Utilizes Code Enforcement Board & Special Magistrate.
 - Citations are processed through the county and appeals are heard in county court.



Discussion and Questions

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Decision by Judge or Jury? Alternatives to Traditional Code Enforcement Boards

by Karen Zagrodny Consalo

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Through F.S. Ch. 162, the Local Government Code Enforcement Boards Act, the legislature expressly granted Florida cities and counties the power to enforce their codes through a variety of tools, including fines, abatement, and foreclosure. These tools established by Ch. 162 enable local governments to ensure compliance with any local code or ordinance.¹ Local codes subject to enforcement action can include matters ranging from zoning violations, tree cutting, creation of nuisances, excessive noise, unsafe buildings, and nearly any other matter properly regulated in the local government code.

Traditional Use of Code Enforcement Boards to Effectuate Code Enforcement

Enforcement of local government ordinances has traditionally been effectuated by volunteers from the community, appointed by local government elected officials and empaneled as the local code enforcement board. The Local Government Code Enforcement Boards Act requires that, when possible, such boards be composed of "an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor."² Unlike other appointed city or county boards, the code enforcement board has a significant amount of autonomy and authority in that its decisions are final. Neither the board's finding of a violation nor its establishment of a fine for the violation require further approval by the city council or county commission. Rather, the only avenue by which the decision of a code enforcement board may be challenged is through appeal to the local circuit court.³

Pros and Cons to the Use of Code Enforcement Boards

There are many apparent benefits to the use of volunteer boards to adjudicate code enforcement violations. As community volunteers, members of code enforcement boards typically have an intimate understanding of their community, including its historic and current development patterns, areas of local blight, the reputation of local landlords and land-holding trusts, pending redevelopment efforts, and other civic matters that may enable the board to review pending cases in the context of a larger understanding of community well-being. Further, like the composition of a jury, these community members are the peers of local land owners that may have alleged code enforcement violations.

Further, as civic-minded volunteers, the board members serve without compensation, allowing local governments to expend little in direct costs or staff time to ensure this vital aspect of local government is accomplished responsibly.

However, there are several drawbacks to the use of community volunteer boards to effectuate code enforcement. Some local governments, particularly smaller cities, run into difficulty in consistently filling these volunteer positions. Per F.S. §162.05, the board must be composed of either five or seven members depending on the size of the local government.⁴ While finding sufficient volunteers is not a difficulty for larger cities, it can be extremely challenging for smaller cities with a smaller pool of community members to fill the board vacancies. In a similar vein, some cities and counties experience poor attendance rates by the volunteer members. When sufficient volunteers cannot be located to fill vacancies, or a quorum cannot be met, the volunteer boards cannot conduct business, and code enforcement violations remain unaddressed for months at a time.⁵

Some local governments have also found that board members drawn from the local community may also come to the board with predetermined loyalties, vendettas, or biases that prohibit those members from affording the due process necessary to this quasi-judicial process. If such predispositions for or against a landowner can be demonstrated in a judicial challenge, it may result in a reversal of the code enforcement action. Even when not challenged in court, a perception of such personal predisposition of board members erodes local confidence in the fairness of these enforcement actions.

Although as noted above, there is a perception of cost-savings by use of a volunteer board, one must keep in mind that F.S. §162.05 requires local governments to retain a separate legal advisor for their code enforcement boards from the government's general legal counsel.⁶ This statutory mandate to employ an additional attorney as advisor to the volunteer board may negate the cost savings of using a volunteer board.

Members of a code enforcement board rarely are required to have any legal training or special knowledge of the local zoning codes. Rather, the statutory criteria to serve on a code enforcement board is simply a desire to serve on the board and appointment by the appropriate government officials. In this regard, the composition of a code enforcement board is much like an empaneled jury, if a jury governed all conduct in the courtroom. However, without legal training, such volunteers may lack the legal skills necessary to conduct the code enforcement hearings, particularly during board discussion and imposition of penalty phases, which meet legal requirements. The failure of a board to follow the detailed processes set forth in Ch. 162, as well as

ensuring the substantive and procedural due process required in these types of hearings, can lead to indefensible orders that are overturned by the courts. While a local government must appoint independent legal counsel to advise its code enforcement board, such legal counsel is merely advisory and cannot compel the board members to heed their advice.

A well-functioning code enforcement board, one with a regular membership that fairly and unbiasedly apply local laws, is a boon to any local government. However, there are alternatives for code enforcement when the local government finds that its volunteer board is not meeting the needs of the community.

Alternative Strategies for Code Enforcement and Use of Special Magistrates

While much of the Local Government Code Enforcement Boards Act indicates a legislative assumption that local governments will utilize volunteer code enforcement boards to render determinations as to the existence of code violations and applicable fines, also hidden within the law is an option for cities and counties to forego use of such boards entirely. While many local governments have a high rate of success with traditional code enforcement boards, some cities and counties have adopted alternative methods of code enforcement to replace or to supplement reliance on Ch. 162 and the volunteer board. The most common of these is a special magistrate.

If a code enforcement board is comparable to a jury, then the special magistrate is the “judge” of code enforcement procedures. In the special magistrate process, one individual, usually with legal training, conducts a public hearing regarding the alleged violation, renders a ruling, establishes fines, and conducts all other necessary processes for code enforcement. Rarely is the special magistrate a volunteer from the community, but rather is typically retained on a contractual basis by the local government to serve in this particular capacity.

There are multiple provisions in Ch. 162 that authorize a local government to utilize a special magistrate in lieu of a volunteer board. Section 162.03 directly contemplates enforcement by a special magistrate by first allowing a local government to abolish a local government board and then allowing such government to “adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances.” This section further specifies that any special magistrate “shall have the same status as an enforcement board under this chapter” and notes that most references within the act to an enforcement board shall be considered to apply to a special magistrate, context permitting.⁷

Reinforcing this legislative intent to grant local governments authority to replace or supplement a local volunteer board with a special magistrate is found in F.S. §162.13, which states that nothing within the act prohibits “a local government body from enforcing its codes by any other means.”

The statutory scheme clearly contemplates that a special magistrate may step into the shoes of a code enforcement board to engage in the practices and utilize the tools available to effectuate local government code enforcement. As such, in codes in which the special magistrate is authorized, such magistrates should retain the same powers as a traditional code enforcement board, including the ability to call meetings, to determine if code violations exist, to establish penalties for violations, and to reduce fines.

Best Practices for Use of Alternative Code Enforcement Procedures

While the legislative alternative to engage a special magistrate is a highly useful option for local governments, such option will only be as functional as the local government code that establishes the process. F.S. §162.03 places no limitations upon the creativity of a city or county in establishing a process that works best for that jurisdiction’s individual needs, such as population, budget, and extent of code enforcement needs. In exercising such creativity, however, it is important to keep in mind that while the legislature has granted broad discretion to local governments in this arena, the legislature does not and cannot exempt local governments from compliance with common law and due process requirements. Therefore, while a city or county may be quite creative in developing code enforcement procedures best suited to its jurisdictional needs, an awareness and recognition of these legal constraints must be reflected in the adopted procedures. Further, since there are a multitude of systems that might be adopted, it is important that elected officials indicate their preferences, at least in establishing the broad parameters of an alternative process, at the start of the drafting process.

The first decision is whether such alternative process will use a special magistrate in lieu of a code enforcement board or serve as a supplement to the board. While the former process is likely the simpler, there may be local reasons that keeping a code enforcement board is preferred, such as a legislative or political reluctance to suddenly dismantle an operational board. If a jurisdiction chooses to maintain both a special magistrate and a code enforcement board, it is important to clearly assign duties and powers to these respective entities to avoid confusion and power struggles.

There are several ways to differentiate the role of the board versus the role of the magistrate. One option would be to assign cases between the two entities based upon severity of the alleged violation(s). For example, a code may establish a process whereby simple violations, such as overgrowth of weeds or inappropriate vehicle parking, is directed to a code enforcement board. More complex matters, such as inappropriate use of land or allegations of slum or blight, would be designated to the special magistrate. If assignment of cases is conducted in this manner, best drafting practices would be to list each type of code violation and assign it to either the board or magistrate.⁸ Further, such ordinances should include a “catch-all” default for any unlisted violations to be directed to one or the other of the entities.

Alternatively, when both a special magistrate and a code enforcement board will be maintained, the ordinance may allow the alleged violator to decide whether the hearing will be conducted by the magistrate or the board. Such a process would be much like the ability of a plaintiff to demand a bench or jury trial. In drafting this type of ordinance, it is imperative to set a timeframe within which the alleged violator must make its selection of a board or magistrate hearing. The ordinance should also include a “default” assignment of the case in the event the alleged violator fails to timely make the selection. Otherwise, the code enforcement process could be stalled indefinitely simply by the violator failing to make a selection between board or magistrate.

Another method for assignment of cases may be to allow the code enforcement board, by appropriate vote, to refer certain cases to the special magistrate. This process would be compatible to the manner in which an agency may opt to refer an administrative hearing to an administrative law judge. However, should this method be utilized, the process should require such vote be taken at a separate, prior meeting to the hearing at which the substantive merits of the alleged violation should be heard. This will avoid the waste of public and private resources that would result if all parties had to fully prepare their case and witnesses for the board hearing, only to have the board vote to refer the case to the magistrate.

In addition to the decision as to whether to keep by the code enforcement board and the special magistrate, and how to assign cases between them, another important decision will be to establish the qualifications and terms of employment of a special magistrate.⁹ To ensure the special magistrate has a

firm understanding of Florida law, best practices would require any applicant to be an attorney of good standing in Florida. Additionally, the author recommends a minimum practice period of five years, preferably in fields related to government or real estate law.¹⁰

In regard to terms of employment of a special magistrate, it is important to designate who within the local government has authority to hire or dismiss the magistrate. The authority could rest with the mayor or chair, the chief administrative officer or manager, the city or county attorney, or it could require a majority vote of the legislative body. To ensure an unbiased hearing and, thus, due process, the terms of a magistrate's employment should expressly bar termination based upon the outcome of a case or cases. Similarly, if the government wishes to have a minimum or maximum term in office for the magistrate it may be indicated in the ordinance.

The role of a special magistrate as an "office" for purposes of the constitutional prohibition on dual-office holding had not been judicially resolved in Florida.¹¹ However, the Florida attorney general has issued several opinions on this issue that conclude, in general, a special magistrate would be an "office" subject to dual-office holding prohibitions. As such, it is recommended that the local ordinance prohibit employment as a special magistrate any person who already holds an "office" per Fla. Const. art. II, §5(a).

Another significant decision in establishing an alternative code enforcement process is the extent of authority to be delegated to a special magistrate. Itemizing the powers of a special magistrate is particularly important if code enforcement authority will be shared with a code enforcement board. If such authority will be shared, it is important to clearly delegate the powers between the two entities. In addition to division of authority, the legislation should include the powers of the special magistrate in regard to the conduct of hearings, the imposition of fines, reduction of fines or liens, etc. Another technical, but important, concern is whether ex parte communications will be permitted, and if so, under what framework. The drafter should bear in mind that the special magistrate is likely to be in regular communication with code enforcement staff regarding new cases and setting agendas. It is important to establish parameters around such communications to protect the integrity of the process.

As with many elements of the drafting process, the simplest method for assignment of powers to the special magistrate will be to simply reiterate the powers set forth in Ch. 162 for code enforcement boards, with appropriate references to the magistrate instead. F.S. §§162.06 and 162.07 establish much of the protocols for notice and conduct of a hearing to ensure that due process is provided to the alleged violator. Using these provisions as a model, the drafter may then amend to reflect the preferences of the local government.

While seemingly of less importance than the broad legislative decisions discussed above, the details for provision of notifications must be set forth in the ordinance. Due process in local government hearings requires notice and an opportunity to be heard.¹² Much of this article has been dedicated to the hearing portion of due process requirements. However, notice is a significant part of any code enforcement proceedings, including notice of the alleged violations, notice of hearing dates and times, notices of failure to comply, final orders, etc. Failure to ensure that notices are provided, or at least attempted in a constitutionally sufficient manner, can invalidate the hearing and any orders resulting from the hearing.

Therefore, any code enforcement process must have clearly articulated reasonable methods by which notice of these proceedings will be provided to the alleged violator.¹³ F.S. §162.12 establishes an extensive list of various types of notice that should be attempted, including mailing, posting, and publication. These notice provisions could be adopted, verbatim into a local government alternative process. However, if the local government opts for less extensive notice provisions, it should still, at a minimum, including mailing via U.S. certified mail, return receipt requested, within a certain number of days prior to the hearing. If such certified mail is not claimed, the ordinance should have an alternative delivery method through personal service of process, posting of the property, and/or publication in the local newspaper, also within a certain number of days prior to the hearing.

Similarly, procedural due process standards should be maintained at the hearing. The alleged violator must be afforded a meaningful opportunity to be heard in regard to the alleged violation. As a local government proceeding, any such hearing must also be public in nature and recorded.¹⁴ While a special magistrate need not strictly follow the rules of civil procedure or evidence, these rules should still guide the hearing process to ensure that a full and fair airing of the evidence is provided. In that regard, an alternative code enforcement ordinance may simply make reference to the rules of civil procedure and rules of evidence as guiding but not mandatory documents. Alternatively, the code enforcement ordinance may establish certain rules relating to civil procedure and evidence, such as whether testimony will be taken under oath, whether cross-examination will be allowed, whether evidence may be submitted at the hearing or is required to be submitted in advance, whether hearsay will be permitted, etc.

Conclusion

It is a fortunate local government that maintains an operational, effective, and well-perceived code enforcement board. Such a board creates a public perception of fairness and competence for the local government and may save taxpayer funds. Too often, however, these volunteer boards become plagued by problems with attendance, bias, or inefficiency. For local governments concerned by a flawed code enforcement board system, the Florida Legislature has permitted alternative processes to be adopted. Most commonly, this alternative process involves the appointment of a special magistrate to either supplement or replace the traditional code enforcement board.

In establishing such an alternative system of code enforcement, it is vitally important that the local government ensure a process to maintain procedural and substantive due process protections. In doing so, the government will protect its citizens from unfair enforcement while also ensuring the defensibility of code enforcement orders in court. Further, the local government should clearly articulate the framework for an alternative system, including whether the process will make use of both a code enforcement board and a special magistrate, the processes and powers of the special magistrate, and the level of local government supervision of the special magistrate's employment. Once up and running, the well-drafted alternative code enforcement process can quickly reverse perception of an unfair or ineffective code enforcement program and result in more enforceable code enforcement orders.

¹ Fla. Stat. §162.103 (2014).

² Fla. Stat. §162.05(2) (2014).

³ Fla. Stat. §162.11 (2014).

⁴ The composition of a code enforcement board is established by Fla. Stat. §162.05(1) (2014) ("The local governing body of a county or a municipality that has a population of less than 5,000 persons may appoint five-member or seven-member code enforcement boards. The local governing body of a county

or a municipality that has a population equal to or greater than 5,000 persons must appoint seven-member code enforcement boards.”).

⁵ The membership and voting requirements of a code enforcement board is established in Fla. Stat. §162.05(4) (2014) (“The members of an enforcement board shall elect a chair, who shall be a voting member, from among the members of the board. The presence of four or more members shall constitute a quorum of any seven-member enforcement board, and the presence of three or more members shall constitute a quorum of any five-member enforcement board.”). As such, lack of attendance can prohibit a board from achieving quorum numbers and lead to cancellation of the scheduled meeting. Such occurrences tend to waste the time of the board members who did attend, as well as local government staff, citizens with alleged violations, and community members in attendance. Further, §162.05(e) includes mandatory disqualification of code board members who miss two of three meetings without statutory justification, which may lead to the board itself having insufficient membership to even call a meeting.

⁶ Fla. Stat. §163.105(5) (2014) requires a local government to maintain separate legal counsel for its code enforcement board (“The local governing body attorney shall either be counsel to an enforcement board or shall represent the municipality or county by presenting cases before the enforcement board, but in no case shall the local governing body attorney serve in both capacities.”).

⁷ Fla. Stat. §162.03 (2014) (“Applicability. — (1) Each county or municipality may, at its option, create or abolish by ordinance local government code enforcement boards as provided herein. (2) A charter county, a noncharter county, or a municipality may, by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances. A special magistrate shall have the same status as an enforcement board under this chapter. References in this chapter to an enforcement board, except in s. 162.05, shall include a special magistrate if the context permits.”).

⁸ To maintain the government’s flexibility to adjust assignments between the magistrate and the board, this list might be adopted by resolution rather than in the codified ordinance since a resolution may be more easily and quickly amended.

⁹ A good reference point for qualifications can be found in Fla. Stat. §163.3215(f) (2014), which sets forth minimum qualifications for special masters used in certain quasi-judicial land development decisions. Per §163.3215(f), the magistrate must be an “impartial special master who is an attorney who has at least five years’ experience and who shall, at the conclusion of the hearing, recommend written findings of fact and conclusions of law. The special master shall have the power to swear witnesses and take their testimony under oath, to issue subpoenas and other orders regarding the conduct of the proceedings....”

¹⁰ Florida Bar certification in city, county, and local government law might also be made a requirement, or a hiring preference, as it would ensure that the magistrate has a firm understanding of city and county code enforcement.

¹¹ Fla. Const. art. II, §5(a) establishes the dual-office holding prohibition. See AGO 2002-78, AGO 2010-19, and AGO 2013-18 for analysis of dual-office holding prohibition in regard to code enforcement magistrates (also known as hearing officers.)

¹² See *Kupke v. Orange Co.*, 838 So. 2d 598, 599-600 (Fla. 5th DCA 2003); *Massey v. Charlotte Co.*, 842 So. 2d 142, 147 (Fla. 2d DCA 2003); *Michael D. Jones, PA v. Seminole Co.*, 670 So. 2d 95, 96 (Fla. 5th DCA 1996); *Rutledge v. Co. of Hillsborough*, 2005 WL 2416976 at *6 (13th Cir. Sept. 2, 2005) (finding due process was violated because there was no opportunity for the property owners to protest factual findings, the penalties were retroactive, and proper procedure was not followed).

¹³ For general discussion of extent of notice requirements, see *City of Tampa v. Brown*, 711 So. 2d 1188, 1189 (Fla. 2d DCA 1998), *reh’g granted*, 728 So. 2d 200 (Fla. 1988), *reh’g dismissed as improvidently granted*, 748 So. 2d 1002 (Fla. 1999).

¹⁴ Florida’s requirements for public meetings, known as the Sunshine Act, is set forth in Fla. Stat. §286.011 (2014).

Karen Zagrodny Consalo is a partner with the Consalo Law Firm, P.A., and serves as the code enforcement special magistrate for the Town of Oakland. She is a former assistant county attorney and former assistant city attorney, and currently represents private clients in local government proceedings, including code enforcement hearings. She received her J.D. and certificate of environmental and land use law from the University of Florida. She is certified by The Florida Bar in city, county and local government law.

This column is submitted on behalf of the City, County and Local Government Section, Mark CS Moriarty, chair, and David Miller, editor.

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Reply to: Lakewood Ranch

MEMORANDUM

TO: Town Commission
THRU: Dave Bullock, Town Manager
FROM: Maggie Mooney-Portale, Town Attorney
DATE: November 9, 2016
RE: Legal Consideration Relating to Citation Code Enforcement Option

The purpose of this Memorandum is to briefly provide the Town Commission with additional information on the use of a citation process to enforce municipal ordinance violations. A citation system of pursuing code violations is specifically recognized and provided for by Florida Statutes (Florida Statutes §§ 162.21-162.30) and within the Town's Code §§ 33.14-33.18, entitled Supplemental Code Enforcement. Copies of these provisions are attached.

To use the supplemental citation process of code enforcement pursuant to Florida Statutes the municipality must: designate who is authorized to issue such code violation citations on behalf of a municipality; include certain mandatory criteria within the city's citation form; provide a notice of violation and a timeframe to cure the violation before issuing a citation to a property owner; include a process by which the citations are delivered, administered and contested before a county court; include certain mandatory language within municipal ordinances; and observe a maximum allowable civil penalty (\$500) by citation. *See*, Fla. Stat. 162.21. With the exception of a Town specific fine schedule imbedded within the Town Code that assigns particular civil fines to particular Town Code violations, the Town's Code generally tracks and satisfies the above cited Florida Statutes.

Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

St. Petersburg
111 Second Avenue NE, Suite 536
St. Petersburg, Florida 33701

Venice
217 Nassau Street S.
Venice, Florida 34285

As we discussed at the May 2016 meeting, the provisions in Sections 33.14-33.18 of the Town Code that provide for enforcement of code violations by citation are not currently utilized by the Town. One primary reason is that the Town's citation process contemplates coordination with the Clerks of the Court in Sarasota and Manatee Counties on the processing of these citations. The routing of the citation through the court system allows individuals who desire to contest the citations to request a hearing before a County Court Judge and also allows the Clerks of the Court to serve a collection function. Meetings with representatives of the Sarasota and Manatee Clerks of Court offices have indicated that both offices are willing to work with the Town to incorporate the Town's citations into their respective county court dockets. If the Town Commission's desire is to utilize the statutorily proscribed citation process, additional coordination with the Clerks of the Court and some minor code revisions will be necessary.

At the last meeting, the Town Commission expressed an interest in exploring using both the citation process in conjunction with the Code Enforcement Board and the idea of using the Town's Code Enforcement Board to hear "appeals" over contested citation matters was suggested. Based upon further research into this suggestion, it does not appear that there is authority for the Town Commission to assign an appellate function to the Town's Code Enforcement Board. Pursuant to applicable Florida law, the citation process may be used in conjunction with or in lieu of the hearing process conducted by a code enforcement board. *See, Metropolitan Dade County v. Hernandez*, 708 So. 2d 1008, 1998 Fla. App. LEXIS 3134 (Fla. 3rd DCA 1998) (holding that a local government's use of a code enforcement board to enforce most of its ordinance violations and use of a code enforcement officer's citation process for other specific ordinance violations was permissible under Florida Statutes which specifically allows for enforcement through the alternative processes in Parts I and II of Ch. 162, Fla. Stat.) However, there are several Florida Attorney General Opinions that hold that a governing body does not have any power to alter or amend the code enforcement board's statutorily conferred powers or impose any additional duties or requirements on such boards or their statutorily prescribed enforcement procedure. *See, Fla. AGO 2000-53*. While there are options for municipalities with respect to the manner in which they enforce their codes, there are limitations on how that enforcement is permitted to occur. A municipality may enforce municipal code violations through the code enforcement board mechanisms in Parts I and II, Chapter 162, Florida Statutes, by interlocal agreement, by direct enforcement through the county courts, and through combinations of these methods. *See, Fla. AGO 2000-53*. Therefore, there does not seem to be legal authority for the Town to modify the Code Enforcement Board's powers to have the Town's Code Enforcement Board serve in an appellate capacity over citation challenges.

Finally, as the Town Commission considers the citation enforcement process and the possibility of utilizing such process in the future, it is important for the Town Commission to appreciate that there are very distinct and varying enforcement tools available depending upon which procedural process is utilized to enforce code violations. Most notably, code enforcement boards (or special magistrates) are empowered by Florida law to impose fines that may accrue and those fines can, if recorded, become a recordable lien against property. By comparison, code

enforcement matters enforced through the citation process are civil infractions and those penalties are limited to a maximum civil penalty of \$500. *See*, Fla. Stat. § 162.21.

I hope this Memorandum provides further clarification on the use of a citation process for enforcing code violations. Should you have any questions about this Memorandum or the applicable Florida laws referenced herein, please do not hesitate to contact me.

PART II

SUPPLEMENTAL COUNTY OR MUNICIPAL CODE
OR ORDINANCE ENFORCEMENT PROCEDURES

162.21 Enforcement of county or municipal codes or ordinances; penalties.

162.22 Designation of enforcement methods and penalties for violation of municipal ordinances.

162.23 Notice to appear.

162.30 Civil actions to enforce county and municipal ordinances.

162.21 Enforcement of county or municipal codes or ordinances; penalties.—

(1) As used in this section, "code enforcement officer" means any designated employee or agent of a county or municipality whose duty it is to enforce codes and ordinances enacted by the county or municipality.

(2) A county or a municipality may designate certain of its employees or agents as code enforcement officers. The training and qualifications of the employees or agents for such designation shall be determined by the county or the municipality. Employees or agents who may be designated as code enforcement officers may include, but are not limited to, code inspectors, law enforcement officers, animal control officers, or firesafety inspectors.

Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of ss. 943.085-943.255. Nothing in this section amends, alters, or contravenes the provisions of any state-administered retirement system or any state-supported retirement system established by general law.

(3)(a) A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.

(b) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(c) A citation issued by a code enforcement officer shall be in a form prescribed by the county or the municipality and shall contain:

1. The date and time of issuance.
2. The name and address of the person to whom the citation is issued.
3. The date and time the civil infraction was committed.
4. The facts constituting reasonable cause.
5. The number or section of the code or ordinance violated.
6. The name and authority of the code enforcement officer.

7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 8. The applicable civil penalty if the person elects to contest the citation.
 9. The applicable civil penalty if the person elects not to contest the citation.
 10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
 - (4) After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court.
 - (5) A county or a municipality is authorized to enforce codes and ordinances under the provisions of this section and may enact an ordinance establishing procedures for the implementation of such provisions, including a schedule of violations and penalties to be assessed by code enforcement officers. If a county or municipality chooses to enforce codes or ordinances under the provisions of this section, each code or ordinance or the ordinance enacted by the county or municipality establishing procedures for implementation of this section shall provide:
 - (a) That a violation of a code or an ordinance is a civil infraction.
 - (b) A maximum civil penalty not to exceed \$500.
 - (c) A civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation.
 - (d) For the issuance of a citation by a code enforcement officer who has reasonable cause to believe that a person has committed an act in violation of a code or an ordinance.
 - (e) For the contesting of a citation in county court.
 - (f) Such procedures and provisions as are necessary to provide for the enforcement of a code or an ordinance under the provisions of this section.
 - (6) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
 - (7) The provisions of this part shall not apply to the enforcement pursuant to ss. 553.79 and 553.80 of the Florida Building Code adopted pursuant to s. 553.73 as applied to construction, provided that a building permit is either not required or has been issued by the county or the municipality.
 - (8) The provisions of this section are additional and supplemental means of enforcing county or municipal codes or ordinances and may be used for the enforcement of any code or ordinance, or for the enforcement of all codes and ordinances. Nothing contained in this section shall prohibit a county or municipality from enforcing its codes or ordinances by any other means.
- History.—s. 11, ch. 89-268; s. 7, ch. 94-291; s. 1444, ch. 95-147; s. 3, ch. 96-385; s. 4, ch. 98-287; s. 115, ch. 2000-141; s. 35, ch. 2001-186; s. 4, ch. 2001-372.
- 162.22 Designation of enforcement methods and penalties for violation of municipal ordinances.—The governing body of a municipality may designate the enforcement methods and penalties to be imposed for the violation of ordinances adopted by the municipality. These enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear in county court or arrest for violation of municipal ordinances

as provided for in chapter 901. Unless otherwise specifically authorized and provided for by law, a person convicted of violating a municipal ordinance may be sentenced to pay a fine, not to exceed \$500, and may be sentenced to a definite term of imprisonment, not to exceed 60 days, in a municipal detention facility or other facility as authorized by law.

History.—s. 1, ch. 94-255.

162.23 Notice to appear.—

(1) Notwithstanding s. 34.07, a code enforcement officer, designated pursuant to s. 162.21 (1) and (2), may issue a notice to appear at any hearing conducted by a county court if the officer, based upon personal investigation, has reasonable cause to believe that the person has violated a code or ordinance. A notice to appear means a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. If a person issued a notice to appear under this section refuses to sign such notice, the code enforcement officer has no authority to arrest such person.

(2) Prior to issuing a notice to appear, a code enforcement officer shall provide written notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no fewer than 5 days and no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the prescribed time period, a code enforcement officer may issue a notice to appear to the person who has committed the violation. A code enforcement officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a notice to appear and may immediately issue a notice to appear if a repeat violation is found, or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare or that the violator is engaged in violations of an itinerant or transient nature, as defined by local code or ordinance within the jurisdiction, or if the violation is irreparable or irreversible.

History.—s. 1, ch. 96-385; s. 7, ch. 99-360.

162.30 Civil actions to enforce county and municipal ordinances.—In addition to other provisions of law authorizing the enforcement of county and municipal codes and ordinances, a county or municipality may enforce any violation of a county or municipal code or ordinance by filing a civil action in the same manner as instituting a civil action. The action shall be brought in county or circuit court, whichever is appropriate depending upon the relief sought. Counties and municipalities are authorized and required to pay any counsel appointed by the court to represent a private party in such action if the provision of counsel at public expense is required by the Constitution of the United States or the Constitution of the State of Florida and if the party is indigent as established pursuant to s. 27.52. The county or municipality shall bear all court fees and costs of any such action, and may, if it prevails, recover the court fees and costs and expense of the court-appointed counsel as part of its judgment. The state shall bear no expense of actions brought under this section except those that it would bear in an ordinary civil action between private parties in county court.

History.—s. 87, ch. 2003-402.

33.14 - Authority and purpose.

- (A) This subchapter is adopted pursuant to the authority granted in F.S. chs. 162 and 166, to supplement methods of enforcing codes and ordinances in the Town of Longboat Key, Florida, and is enacted to protect the public health, safety and welfare of the citizens of Longboat Key, Florida.
- (B) The provisions of this subchapter are an additional and supplemental means of enforcing town codes and ordinances and may be used for the enforcement of any Town Code or ordinance. Nothing contained in this subchapter shall prohibit the town from enforcing its codes and ordinances by any other means.
- (Ord. 90-11, passed 7-19-90)

33.15 - Definitions.

For purposes of this subchapter, the following definitions shall apply:

"Code enforcement officer" means any designated employee or agent of the town, including law enforcement officers, whose duty it is to enforce codes and ordinances enacted by the town. Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of F.S. §§ 943-085—943.255.

"Town" shall mean the incorporated area of the Town of Longboat Key.

"Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

"Repeat violation" means a violation of a provision of a code or ordinance by a person whom the code enforcement board has previously found to have violated or who has admitted violating the same provision within five years prior to the violation, notwithstanding the violations occur at different locations.

(Ord. No. 90-11, § 1, 7-19-90; Ord. 2010-10, § 8, passed 4-5-10)

33.16 - Authority to issue citations.

Any code enforcement officer is hereby empowered to issue citations to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted Town Code or ordinance and that the county court will hear the charge.

(Ord. No. 90-11, § 1, 7-19-90; Ord. 2010-10, § 9, passed 4-5-10)

33.17 - Ordinances enforced and penalties assessed.

All town codes and/or ordinances may be enforced by this subchapter, by citation to the appropriate County Court of Sarasota or Manatee County, except where prohibited by law or statute. If the violation is not contested, initial violations of codes and ordinances shall carry a civil penalty in an amount shown on the Schedule of Violations and Fines attached hereto [following [section 33.18](#)] and made a part hereof. Each repeat uncontested violation shall carry a fine equal to 150 percent of the scheduled fine, not to exceed \$400.00. The Schedule of Violations and Fines shall be applicable only if the violation is not contested by the violator. If the citation is contested, the maximum civil penalty shall be \$500.00 and shall be determined by the court.

(Ord. No. 90-11, § 1, 7-19-90)

33.18 - Violations, procedure.

- (A) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible.
- (B) A code enforcement officer shall issue a citation in a form prescribed by the town, and it shall contain:
- (1) The date and time of issuance.
 - (2) The name and address of the person to whom the citation is issued.
 - (3) The date and time the civil infraction was committed.
 - (4) The facts constituting reasonable cause.
 - (5) The number or section of the Code or ordinance violated.
 - (6) The name and authority of the code enforcement officer or law enforcement officer.
 - (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - (8) The applicable civil penalty if the person elects to contest the citation.
 - (9) The applicable civil penalty if the person elects not to contest the citation.
 - (10)

A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citations, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

- (C) After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the appropriate clerk of the county court within ten days of issuance.
- (D) Violation of the Town Code or an ordinance is a civil infraction that can be contested in the appropriate county court.
- (E) The maximum civil penalty shall not exceed \$500.00.
- (F) A civil penalty of less than \$500.00 is provided for in the "Schedule of Violations and Fines" attached hereto [following this section] and shall be imposed if the person who has committed the civil infraction does not contest the citation.
- (G) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

TOWN OF LONGBOAT KEY
 SCHEDULE OF VIOLATIONS AND FINES
 (ORDINANCE 90-11)

CATEGORY	FINE
CATEGORY	I \$ 40.00
CATEGORY	II 70.00
CATEGORY	III 90.00
CATEGORY	IV 120.00
CATEGORY	V 400.00

All fines include the \$2.00 and \$3.00 fees authorized by F.S. §§ 938.01 and 938.15.

PUBLIC WORKS		
Building Sewers and Connections:		
(I)	<u>52.05</u>	Unlawful Disposal
(II)	<u>52.06</u>	Sanitary Requirements for Disposal
(V)	<u>52.16</u>	Prohibited Connections
Use Regulations:		
(V)	<u>52.30</u>	Unlawful Discharges
(V)	<u>52.32</u>	Stormwater; Unpolluted Drainage
(V)	<u>52.33</u>	Interceptors
(V)	<u>52.34</u>	Preliminary Treatment of Flow-Equalizing Facilities
(V)	<u>52.35</u>	Manholes
Water and Water Shortage Orders:		
(I)	<u>53.10</u>	Emergency Water Use

(II)	<u>54.03</u>	Declaration of Shortage; Emergency
TRAFFIC		
Bicycles:		
(I)	<u>73.04</u>	Bicycle Regulations
(I)	<u>73.05</u>	Use of Bicycle Paths
GENERAL REGULATIONS		
Aircraft:		
(V)	<u>90.03</u>	Landing Within Town Limits
Animals:		
(I)	<u>91.02</u>	Animals Within Town Limits
(II)	<u>91.03</u>	Confinement in Unattended Motor Vehicles
(II)	<u>91.04</u>	Injuring or Destroying Peafowl
(I)	<u>91.13</u>	Dogs and Cats At Large
(I)	<u>91.15</u>	Unsanitary or Dangerous Animals
(V)	<u>91.16</u>	Cruel and Inhumane Treatment
(I)	<u>91.17</u>	Prohibited on Beaches
(I)	<u>91.18</u>	Dog Excreta
Vicious Animals:		
(II)	<u>91.31</u>	Regulation of Vicious Animals
(I)	<u>91.33</u>	Signs
(V)	<u>91.34</u>	Dog Fighting
Beaches and Parks:		
(I)	<u>92.02</u>	Hours of use for town parks, public beaches, and public beach accesses
(I)	<u>92.03</u>	Possession of Alcoholic Beverages
(I)	<u>92.05</u>	Prohibited Activities
(I)	<u>92.22</u>	Dead Fish, Duty of Beach Owner To Remove
Boats and Waterways:		
(II)	<u>93.01</u>	Speed Limits
(III)	<u>93.02</u>	Reckless Operation

(II)	<u>93.03</u>	Disturbing Peace From Watercraft
(III)	<u>93.04</u>	Mooring of Boats
(II)	<u>93.041</u>	Placing of Nets or Other Obstructions
(I)	<u>93.05</u>	Boat Equipments; ID Numbers
(V)	<u>93.06</u>	Abandonment of Boats
(V)	<u>93.07</u>	Sanitary, Health Regulations for Boats
(II)	<u>93.08</u>	Skiling, Skin Diving or Swimming
(II)	<u>93.09</u>	Designated Areas for Water Activities
Fire Prevention Code:		
(V)	<u>94.27</u>	Carelessness With Fire
(I)	<u>94.28</u>	Smoking
(III)	<u>94.29</u>	Unauthorized Burning
(IV)	<u>94.30</u>	False Alarms
(I)	<u>94.31</u>	Posting Fire Safety Regulations
(V)	<u>94.32</u>	Inoperative Fire Safety Equipment
(III)	<u>94.33</u>	Required Access for Fire Apparatus
(V)	<u>94.35</u>	Fire Doors
(V)	<u>94.36</u>	Interference With Fire Protection Equipment
(II)	<u>94.38</u>	Fumigation
(IV)	<u>94.39</u>	Storage on Roofs, Fire Escapes
(IV)	<u>94.40</u>	Duty To Prevent Overcrowding
(IV)	<u>94.41</u>	Obstruction of Aisles and Passageways
(III)	<u>94.42</u>	Failure To Vacate
(II)	<u>94.43</u>	Combustible Decorations
(I)	<u>94.44</u>	Marking of Occupancies for Emergency Use
(V)	<u>94.45</u>	Automatic Detection and Fire Alarm Systems
(V)	<u>94.46</u>	Automatic Extinguishing Systems
(V)	<u>94.48</u>	Alarm Annunciator
Garbage, Rubbish and Junk:		
(I)	<u>95.02</u>	Garbage and Trash Receptacles

(I)	<u>95.03</u>	Duty To Provide Refuse Containers
(I)	<u>95.04</u>	Location, Inspection of Refuse Containers
(I)	<u>95.06</u>	Preparation of Refuse for Collection
Garbage, Ashes and Filth:		
(I)	<u>95.16</u>	Unlawful Deposits
(I)	<u>95.17</u>	Throwing, Spilling Refuse From Vehicles
(I)	<u>95.18</u>	Burning or Burying Rubbish
Junk and Discarded Material:		
(I)	<u>95.25</u>	Accumulations Prohibited
Health and Sanitation:		
Maintenance of Premises:		
(II)	<u>96.02</u>	Failure to Maintain Deemed Public Nuisance
(II)	<u>96.04</u>	Mosquito Breeding Sites
Overgrowth of Vegetation:		
(I)	<u>96.11</u>	Accumulation of Brush Prohibited
(I)	<u>96.12</u>	Duty To Keep Premises Cleared
Food and Drink Establishments:		
(IV)	<u>96.31</u>	Permit Required; Inspection and Fee
(II)	<u>96.33</u>	Construction or Alteration of Premises
(II)	<u>96.34</u>	Training Requirements for Management
(II)	<u>96.35</u>	Work Card for All Employees
Pollution Control:		
(II)	<u>96.46</u>	Prohibited Acts
Trees:		
(III)	<u>98.02</u>	Permit Required
(V)	<u>98.03</u>	Requirements for Removal
(V)	<u>98.06</u>	Relocation or Replacement
(V)	<u>98.07</u>	Protection of Trees
(I)	<u>98.08</u>	Prohibited Plantings
(I)	<u>98.09</u>	Tree Trimming

Sea Turtles:

(II)	<u>100</u>	Any Violations of This Chapter
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BUSINESS REGULATIONS

Alcoholic Beverages:

(IV)	<u>110</u>	Any Violations of This Chapter
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Business Tax Receipts: (In addition to penalties set by F.S. § 205)

(IV)	<u>111</u>	Any Violations of This Chapter
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Peddlers:

(II)	<u>112</u>	Any Violations of This Chapter
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GENERAL OFFENSES

(I)	<u>130.02</u>	Loud and Unnecessary Noise
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(I)	<u>130.03</u>	Annoying Spotlights or Floodlights
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(IV)	<u>130.05</u>	Nudity in Establishments Selling Alcoholic Beverages
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(IV)	<u>30.06</u>	Impersonating Law Enforcement Officers
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LAND DEVELOPMENT CODE

Signs:

(II)	<u>156.02</u>	Sign Permit Required
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(II)	<u>156.03</u>	Permit Fees
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(II)	<u>156.05</u>	Prohibited Signs
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(II)	<u>156.06</u>	Types of Signs; Regulations
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(II)	<u>156.07</u>	Area; Number of Signs Permitted
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(II)	<u>156.08</u>	Construction and Safety Standards
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(II)	<u>156.09</u>	Nonconforming Signs; Removal
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(V)	<u>156.11</u>	Unsafe or Unlawful Signs
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Subdivision Regulations:

(V)	<u>157</u>	Any Violations of This Chapter
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Zoning:

(V)	<u>158</u>	Any Violations of This Chapter
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VIOLATIONS OF ANY OTHER TOWN CODES

(l)	Violations of any other town codes not specifically set forth herein	
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Per section 33.17, the "Schedule of Violations and Fines" shall be applicable only if the violation is not contested by the violator. If the citation is contested, the maximum civil penalty shall be \$500.00 and shall be determined by the court, plus court costs.

(Ord. 2010-10, passed 4-5-10; Ord. 2011-09, passed 6-6-11; Ord. 2011-32, passed 9-26-11; Ord. 2015-15, passed 7-6-15)



End of Agenda Item