

M E M O R A N D U M

To: Tom Harmer, Town Manager

From: Allen Parsons, AICP
Director, Planning, Zoning and Building Department

Report date: September 22, 2022

Meeting date: October 3, 2022

Subject: Ordinance 2022-12, Amending Chapter 33, Code Enforcement and Resolution 2022-16, Citations Administrative Fine Schedule

Recommended Action

Adopt Ordinance 2022-12 and Resolution 2022-16.

Background

Ordinance 2022-12 provides a clean-up of Town Code provisions that reference the make-up, organization, and hearing process of the cases that were heard by the Town's former Code Enforcement Board. This Board sunset on September 30, 2019 and has been replaced by a Special Magistrate (per Ord. 2018-03).

Ordinance 2022-12 was presented at the September 12, 2022, Regular Meeting. Following first reading, the Town Commission forwarded the Ordinance to the October 3, 2022, Regular Meeting for second reading and public hearing with no changes recommended to the ordinance.

Following the September 12, 2022 Regular Meeting staff did discover one additional change that is recommended and is highlighted in Ordinance 2022-12. The recommended change is to Section 33.05(D), Enforcement Procedure. The change would eliminate a 30-day maximum compliance timeframe to correct a violation. The code presently indicates that the time to correct a violation "shall not exceed 30 days." This maximum compliance timeframe is not found nor derived from state statutes¹. Staff does not see a benefit in limiting ability to extend a violation compliance date after a Notice of Violation has been issued, without having requested a hearing and action from the Special Magistrate. This is especially the case with violations (e.g. requiring building permits), which can routinely take longer than 30 days to correct.

At the September 12, 2022 Regular Meeting the Commission also previewed Resolution 2022-16, which would provide for an expansion of the Town Code provisions subject to a citation process. As noted previously, staff has had four years of experience with citations as an additional Code Enforcement tool and believes they are effective for point-in-time

¹ Florida Statute 162.06(2) "Except as provided in subsections (3) and (4), if a violation of the codes is found, the code inspector shall notify the violator and **give him or her a reasonable time to correct the violation**. Should the violation continue beyond the time specified for correction, the code inspector shall notify an enforcement board and request a hearing.

type violations that are egregious or where a violator has been adequately informed of applicable Code requirements and continues to violate Town Code on a short-duration or repeated basis. The issuance of citations in specific circumstances where contested by a violator have been upheld by the Special Magistrate.

With this experience staff believes this is an opportune time to include additional Code provisions that can have short-duration type violations and is proposing the addition of another ten Code provisions. These additional Code provisions have been coordinated with the Police Department and include two Town Code Sections (Dogs or Cats Prohibited on Beaches and Dog Excreta) that, when violated, law enforcement have requested be eligible for citations rather than pursuing through the county court systems. The additional Code provisions include:

- Stormwater; Unpolluted Drainage as provided for in Section 52.31, Town Code.
- Emergency Water Use Restrictions as provided for in Section 53.10, Town Code.
- (Dogs or Cats) Prohibited on Beaches as provided for in Section 91.17, Town Code.
- Dog excreta as provided for in Section 91.18, Town Code.
- Accumulations Prohibited; Exceptions as provided for in Section 95.25, Town Code.
- Property Maintenance Standards, as provided for in Chapter 104, Town Code.
- Sound Regulations as provided for in Section 130.02, Town Code.
- Annoying Spotlights or Floodlights as provided for in Section 130.03, Town Code.
- Construction Materials as provided for in Section 130.08, Town Code.
- Sign Code as provided for in Chapter 156, Town Code.

Immediately following adoption of Ordinance 2022-12 and Resolution 2022-16, staff will initiate outreach efforts to make the public aware of the additional Code provisions enforceable by civil citations. Outreach will include press releases, social media postings, web page information, information provided to groups such as Homeowners Associations, Chamber of Commerce, Federation of Condominiums, Property Management Groups, Longboat Key Turtle Watch and other associated organizations.

Staff Recommendation

Adopt Ordinance 2022-12 and Resolution 2022-16.

Attachments

- A. Ordinance 2022-12, Amending Chapter 33, Code Enforcement (Available in Town Clerks Office)

- B. Resolution 2022-16, Schedule of Violations and Fines (Available in Town Clerks Office)
- C. PowerPoint Presentation (Available in Town Clerks Office)

End of Agenda Item