

ORDINANCE NO. O-3-20

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING CHAPTER 2. ADMINISTRATION. AT ARTICLE III. BOARDS AND COMMISSIONS., DIVISION 2. CODE ENFORCEMENT; SPECIAL MAGISTRATE. SEC. 2-68 BY ADOPTING AND REVISING DEFINITIONS FOR "POLICE OFFICER", "SPECIAL MAGISTRATE" AND "TOWN ATTORNEY", AND SEC. 2-76 BY UPDATING AND CLARIFYING THE CITATION METHOD OF CODE ENFORCEMENT WITHIN THE TOWN AT THE TOWN'S DISCRETION; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 2. ADMINISTRATION. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Part II of Chapter 162, Florida Statutes, provides for supplemental code enforcement procedures using the citation method of code enforcement; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores desires to update its citation method of code enforcement within the Town; and

WHEREAS, the Town Commission believes these revisions to its Code of Ordinances to be in the best interests of the health, safety, and welfare of the citizens of Palm Beach Shores.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1: Chapter 2. Administration. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Article III. Boards and Commissions. Division 2. Code Enforcement Board; Special Magistrate. Sec. 2-68 by adopting and revising its definitions and Sec. 2-76 by updating and clarifying the citation method of code enforcement within the Town; providing that Sections 2-68 and 2-76 shall hereafter read as follows:

CHAPTER 2. ADMINISTRATION

Article III. Boards and Commissions

Division 2. Code enforcement board; Special magistrate.

Sec. 2-68. - Definitions.

As used in this division, the following terms shall have the meanings indicated:

Code enforcement officer ~~inspector~~: Any authorized agent or employee of the town whose duty it is to assure code compliance.

Police officer: A law enforcement officer authorized through employment or contract to enforce the laws within and for the Town. Generally, a police officer is either a sworn member of the Town's police department or a sworn member of the Palm Beach County Sheriff's Office.

Special magistrate: A Florida licensed attorney appointed by the Town Commission to preside over code enforcement hearings and citation hearings in the Town and issue orders in accordance with this division and Chapter 162, Florida Statutes ~~The code enforcement special magistrate.~~

Town: The Town of Palm Beach Shores.

Town attorney: A Florida licensed ~~An~~ attorney designated by the town to represent the Town of Palm Beach Shores.

Town commission: The legislative body of the Town of Palm Beach Shores.

Sec. 2-76. - Alternate code enforcement procedures.

- (a) *Issuance of citations*. A code enforcement ~~inspector, code compliance~~ officer or police officer is authorized to issue a citation to a person when, based on personal investigation, the code enforcement ~~inspector, code compliance~~ officer or police officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance. The special magistrate will hold a hearing on the violation alleged in the citation if the citation is contested or if the fine is not paid within the time specified in the citation. and this citation will be heard by the county court.
- (b) *Courtesy Warning*. ~~Notice~~. Prior to issuing a citation, a code enforcement ~~inspector, code compliance~~ officer or police officer may, based on the

circumstances and on a case-by-case basis, shall provide a courtesy warning notice to the person that has committed a violation of a code or ordinance and may, based on the circumstances on a case-by-case basis, 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, ~~the a~~ code enforcement ~~inspector, code compliance~~ officer or police officer finds that the person has not corrected the violation within the time period allowed, the code enforcement ~~inspector, code compliance~~ officer or police officer may issue a citation to the person who has committed the violation. If the code enforcement ~~inspector, code compliance~~ officer or police 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, the code inspector, code compliance officer or police officer shall ~~is not obligated to~~ provide the person with a reasonable time period within which to correct the violation prior to the issuance of the citation.

- (c) *Form of citation.* The citation issued by the code enforcement ~~inspector, code~~ compliance officer or police officer shall be in the form prescribed by the town and shall contain the following:
- (1) The date and time of issuance.
 - (2) The name and address of the person to whom the ~~this~~ citation is issued.
 - (3) The date and time the civil infraction was committed and the facts constituting reasonable cause.
 - (4) The number or section of the code or ordinance violated.
 - (5) The name and authority of the code enforcement ~~inspector, code compliance~~ officer or police officer.
 - (6) The procedure for the person to whom the citation is issued to follow in order to pay the civil penalty or contest the citation.
 - (7) The applicable civil penalty if the person to whom the citation is issued elects to contest the citation and is found to have committed the civil infraction after a hearing before the special magistrate.
 - (8) The applicable civil penalty if the person to whom the citation is issued elects not to contest the citation.

- (9) A conspicuous statement if the person fails to pay the civil penalty within the time allowed or fails to appear before the town's special magistrate in court to contest the citation, ~~he~~ the person to whom the citation is issued shall be deemed to have waived ~~their~~ his right to contest the citation and that, in such case, judgment may be entered against the person to whom the citation was issued for an amount up to the maximum civil penalty.
- (d) *Disposition by the special magistrate county court*. After issuing a citation to an alleged violator, a code enforcement inspector, ~~code compliance~~ officer or police officer shall provide ~~deposit~~ the original citation and one copy of the citation to the town clerk for further ~~with the county court for further~~ disposition.
- (e) *Schedule of violations and penalties*. The town has deemed the following sections of the Code to be enforceable through these alternate code enforcement procedures ~~the citation method~~ in addition to the enforcement procedure provided in Sec. 2-70 ~~code compliance special magistrate method~~ and has provided a schedule of violations and civil penalties to be assessed in the event these alternate code enforcement procedures are ~~the citation method of code compliance~~ is utilized, as follows:

Class I offenses—\$50.00

Sec. 6-4—Hours of sale (alcoholic beverages): first offense.

Sec. 6-5—Possession or consumption in parking lots prohibited (alcoholic beverages): first offense.

Sec. 6-6—Consumption or possession in and upon public property prohibited: exceptions (alcoholic beverages): first offense.

Sec. 10-1—Keeping a nuisance (animals): first offense.

Sec. 10-26—Running at large prohibited (dogs): first offense.

Sec. 10-27—Prohibited on beaches (dogs): first offense.

Sec. 10-28—Removal of feces (pet): first offense.

Sec. 10-30—County license required (dogs and cats): first offense.

Sec. 18-42—Approved application required (solicitors): first offense.

Sec. 18-44—Issuance; expiration of permit (failure of solicitors to carry permit): first offense.

Sec. 18-46—Prohibited acts (solicitors): first offense.

Sec. 30-68—Fireworks: first offense.

Sec. 42-2—Littering: first offense.

Sec. 42-41—Noise disturbances prohibited generally: first offense.

Sec. 42-42—Specific prohibitions (noise): first offense.

Sec. 42-43—Decibel measurement standards for noise other than operating motor vehicles: first offense.

Sec. 42-44—Amplified noise upon public streets prohibited: first offense.

Sec. 48-2—Park property (no fishing from gazebo): first offense.

Sec. 48-3—Sanitation (trash): first offense.

Sec. 48-4—Traffic (parks and parkway): first offense.

Sec. 48-5—Recreational activities: first offense.

Sec. 48-6—Behavior (intoxicating beverages, fireworks and explosives, loitering and boisterousness, vending and peddling, signs on town park or beach property): first offense.

Sec. 48-7—Park operating policy (park hours): first offense.

Sec. 54-30—Parking (garage sale): first offense.

Sec. 62-1—Obstruction prohibited: first offense.

Sec. 62-3—Damaging streets prohibited: first offense.

Sec. 70-4—Identification of commercial vehicles: first offense.

Sec. 70-32—Parking prohibitions: penalties: first offense.

Sec. 70-52—Parking on streets unlawful: first offense.

Sec. 70-75—Unregistered vehicles prohibited: first offense.

Sec. 82-32—Vehicles prohibited (beach): first offense.

Sec. 82-87—Mooring and anchoring vessels: first offense.

Class II offenses—\$250 75.00

Sec. 6-4—Hours of sale (alcoholic beverages): second and subsequent offenses.

Sec. 6-5—Possession or consumption in parking lots prohibited (alcoholic beverages): second and subsequent offenses.

Sec. 6-6—Consumption or possession in and upon public property prohibited: exceptions (alcoholic beverages): second and subsequent offenses.

Sec. 10-1—Keeping a nuisance (animals): second and subsequent offenses.

Sec. 10-26—Running at large prohibited (dogs): second and subsequent offenses.

Sec. 10-27—Prohibited on beaches (dogs): second and subsequent offenses.

Sec. 10-28—Removal of feces (pet): second and subsequent offenses.

Sec. 10-30—County license required (dogs and cats): second and subsequent offenses.

Sec. 18-42—Approved application required (solicitors): second and subsequent offenses.

Sec. 18-44—Issuance; expiration of permit (failure of solicitors to carry permit): second and subsequent offenses.

Sec. 18-46—Prohibited acts (solicitors second and subsequent offenses.

Sec. 30-68—Fireworks: second and subsequent offenses.

Sec. 42-2—Littering: second and subsequent offenses.

Sec. 42-41—Noise disturbances prohibited generally: second and subsequent offenses.

Sec. 42-42—Specific prohibitions (noise): second and subsequent offenses.

Sec. 42-43—Decibel measurement standards for noise other than operating motor vehicles: second and subsequent offenses.

Sec. 42-44—Amplified noise upon public streets prohibited: second and subsequent offenses.

Sec. 48-2—Park property (no fishing from gazebo): second and subsequent offenses.

Sec. 48-3—Sanitation (trash): second and subsequent offenses.

Sec. 48-4—Traffic (parks and parkway): second and subsequent offenses.

Sec. 48-5—Recreational activities: second and subsequent offenses.

Sec. 48-6—Behavior (intoxicating beverages, fireworks and explosives, loitering and boisterousness, vending and peddling, signs on town park or beach property): second and subsequent offenses.

Sec. 48-7—Park operating policy (park hours): second and subsequent offenses.

Sec. 54-30—Parking (garage sale): second and subsequent offenses.

Sec. 62-1—Obstruction prohibited: second and subsequent offenses.

Sec. 62-3—Damaging streets prohibited: second and subsequent offenses.

Sec. 70-4—Identification of commercial vehicles: second and subsequent offenses.

Sec. 70-32—Parking prohibitions: penalties: second and subsequent offenses.

Sec. 70-52—Parking on streets unlawful second and subsequent offenses.

Sec. 70-75—Unregistered vehicles prohibited second and subsequent offenses.

Sec. 82-32—Vehicles prohibited (beach): second and subsequent offenses.

Sec. 82-87—Mooring and anchoring vessels: second and subsequent offenses.

Class III offenses—\$125.00

~~Sec. 10-26—Running at large prohibited (dogs): third offense.~~

~~Sec. 10-27—Prohibited on beaches (dogs): third offense.~~

~~Sec. 10-28—Removal of feces (pets): third offense.~~

~~Sec. 18-42—Approved application required (solicitors): third offense.~~

~~Sec. 42-2—Littering: third offense.~~

~~Sec. 42-42—Specific prohibitions (noise): third offense.~~

~~Sec. 42-43—Decibel measurement standards for noise other than operating motor vehicles: third offense.~~

~~Sec. 42-44—Amplified noise upon public streets prohibited: third offense.~~

~~Sec. 62-1—Obstruction prohibited.~~

~~Sec. 62-3—Damaging streets prohibited.~~

~~Sec. 70-52—Parking on streets unlawful.~~

Class IV offenses—\$250.00

~~Sec. 6-4—Hours of sale (alcoholic beverages).~~

~~Sec. 6-5—Possession or consumption in parking lots prohibited (alcoholic beverages).~~

~~Sec. 6-6—Consumption or possession in and upon public property prohibited: exceptions (alcoholic beverages).~~

~~Sec. 10-26—Running at large prohibited (dogs): fourth or subsequent offense.~~

~~Sec. 10-27—Prohibited on beaches (dogs): fourth or subsequent offense.~~

~~Sec. 10-28—Removal of feces (pets): fourth or subsequent offense.~~

~~Sec. 18-42—Approved application required (solicitors): fourth or subsequent offense.~~

~~Sec. 18-46—Prohibited acts (solicitors).~~

~~Sec. 42-2—Littering: fourth or subsequent offense.~~

~~Sec. 42-42—Specific prohibitions (noise): fourth or subsequent offense.~~

~~Sec. 42-43—Decibel measurement standards for noise other than operating motor vehicles: fourth or subsequent offense.~~

~~Sec. 42-44—Amplified noise upon public streets prohibited: fourth or subsequent offense.~~

~~Sec. 48-4—Traffic (parks and parkway).~~

~~Sec. 82-32—Vehicles prohibited (beach).~~

Upon receipt of a citation, the person alleged to have committed a civil infraction violated the town code may request a hearing before the town's special magistrate court appearance. The special magistrate county court judge may assess the maximum civil penalty not to exceed \$500.00 if it is determined that the civil infraction was committed by the person contested. If the citation is not contested, the amount of fine is the face value of the citation plus all costs incurred in prosecuting the case before the special magistrate. For purposes of this section, the term "all costs" includes the following:

- (1) Attorney's fees incurred by the town in prosecuting all aspects of any case brought before the special magistrate;
- (2) Special magistrate fees incurred by the town for all aspects of the case heard by the special magistrate;
- (3) Costs incurred by the town for providing notice, including postage costs;
- (4) Costs incurred by the town for creating and presenting photographic or other evidence of the violation for the special magistrate hearing;
- (5) Costs incurred by the town for the actual presentation of the case to the special magistrate (this does not include time spent on regular code compliance duties not specific to the prosecution/presentation of the case.
- (6) Expert witness fees incurred by the town in prosecuting any case brought before the special magistrate.

- (f) *Code violations—Civil infractions.* All violations of this Code shall be considered as civil infractions with a maximum civil penalty not to exceed \$500.00, plus all costs.
- (g) *Citation contested—Special Magistrate. ~~County court~~.* Should any person receiving a citation desire to contest same, such person shall have the right to appear before the town's special magistrate ~~in county court~~ in order to present his ~~their~~ case and have the determined position made by the town's special magistrate court.
- (h) *Failure to accept citation—Misdemeanor.* Any person who willfully refuses to sign and accept a citation issued by a code inspector, code compliance officer or police officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or § 775.083.
- (i) *Citations not applicable to certain portions of building code.* The provisions of this section shall not apply to enforcement pursuant to sections 553.79 and 553.80 of the building codes adopted pursuant to section 553.73 as they apply to construction, provided that a building permit is either not required or has been issued by the municipality. For the purpose of this subsection, "building" codes means only those codes adopted pursuant to section 553.73.
- (j) The provisions of this division ~~section~~ are additional and a supplemental means of enforcing certain town ~~municipal~~ codes and ordinances and may be used for the enforcement of such ~~any~~ codes ~~or ordinances~~ ~~or for the enforcement of all codes and ordinances except~~ as set forth hereinabove. Nothing contained in this division ~~section~~ shall prohibit the town from enforcing its codes or ordinances by any other means.

Section 2: Each and every other section and subsection of Chapter 2. Administration. of the Code of Ordinances of the Town of Palm Beach Shores, shall remain in full force and effect as previously adopted.

Section 3: All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a Court of competent

jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.


Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon adoption.

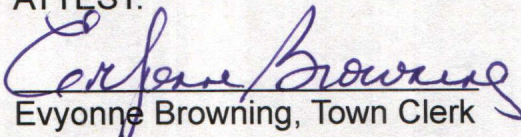
FIRST READING this 24th day of August 2020.

SECOND AND FINAL READING this 29th day of September 2020.

TOWN OF PALM BEACH SHORES

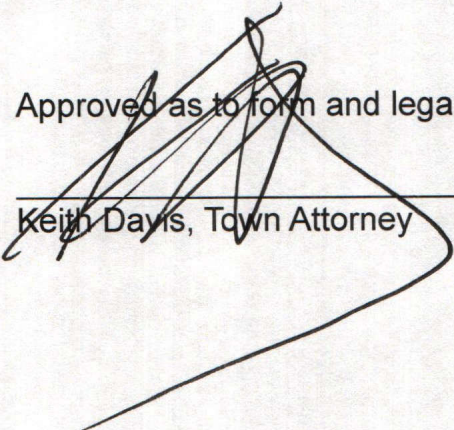

Alan Fiers, Mayor

ATTEST:


Evyonne Browning, Town Clerk

(Seal)

Approved as to form and legal sufficiency.


Keith Davis, Town Attorney



Final