

ORDINANCE NO. O-6-14

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES AMENDING CHAPTER 2. ADMINISTRATION. OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH SHORES BY AMENDING SECTION 2-71 TO PROVIDE UPDATED REGULATIONS REGARDING THE RECOVERY OF ADMINISTRATIVE COSTS INCURRED IN CODE ENFORCEMENT PROSECUTIONS, IN CONFORMANCE WITH RECENT COURT RULINGS; 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, the Town Commission of the Town of Palm Beach Shores, Florida desires to amend Chapter 2. Administration. Section 2-71. of the Town Code of Ordinances to provide updated regulations regarding the recovery of administrative costs incurred in code enforcement prosecutions, in conformance with recent court rulings; and

WHEREAS, the Town Commission believes these amendments to its Code of Ordinances is in the best interests of the citizens of the Town 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. Section 2-17 of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended to provide updated regulations regarding the recovery of administrative costs incurred in code enforcement prosecutions, in conformance with recent court rulings; providing that Sections 2-71 shall hereafter read as follows:

Sec. 2-71. Conduct of hearing.

- (a) Upon request of the code inspector, or at such times as may be necessary, the town may schedule hearings of the special magistrate. Minutes shall be kept of all hearings by the special magistrate, and all hearings and proceedings shall be open to the public.
- (b) The special magistrate shall proceed to hear cases on the agenda for that day. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, however, fundamental due process shall be observed and shall govern said proceedings.
- (c) At the conclusion of the hearing, the special magistrate shall issue findings of fact, based upon evidence of record and conclusions of law, and shall issue an order to command whatever steps are necessary to bring the violation into compliance. The order may include notice that it must be complied with by a specific date and that a fine may be imposed if the order is not complied with by said date.
- (d) If the town prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate, and such costs may be included in the lien authorized under section 2-73. If a violation is found, but a

fine is not imposed, ~~the~~ all costs of prosecuting the case may still be included in a lien recorded against the property for the amount of the costs. 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.

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, Florida, shall remain in full force and effect as previously enacted.

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.

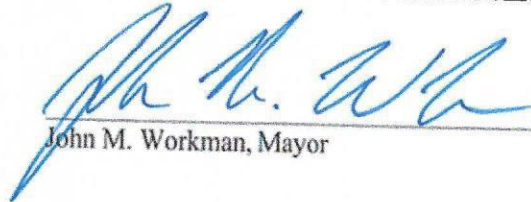
Section 5: Specific authority is hereby granted to codify this Ordinance.

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

FIRST READING this 18th day of August, 2014.

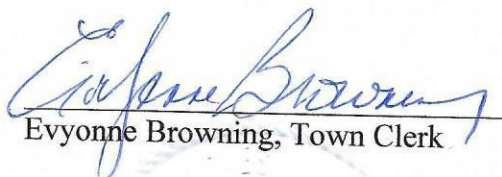
SECOND AND FINAL READING this 15th day of September, 2014.

TOWN OF PALM BEACH SHORES



John M. Workman, Mayor

Attest:



Evyonne Browning, Town Clerk

(Seal)

Approved as to form and legal sufficiency

Keith Davis, Town Attorney