

MEMORANDUM

TO: Mayor David Coviello
Vice Mayor Bob Anderson
Commissioner Fred Jonas
Commissioner Roxanne Ross
Commissioner Barbara Watts

CC: Village Manager Heidi Seigel
Village Clerk Maria Camara

FROM: John J. Hearn, Village Attorney

RE: Administrative Citations

DATE: January 28, 2016

Attached please find proposed language to implement an administrative citation concept. Adopting the proposed changes will allow for penalties for repeatable violations which can be corrected with minimal effort. Although the current procedure is effective for violations which can take significant time to correct, it is inefficient for violations which are easily corrected, are health and safety violations, or irreparable or irreversible violations. The proposed Code revisions will allow a code compliance officer to issue administrative citations and provides the procedures in which to follow.

If the Commission would like to move forward, the language will be further revised and tightened.

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WHEREAS, the current notice of violation procedure is effective and efficient for certain violations of the Village Code that take significant time to correct; and

WHEREAS, the current notice of violation procedure is cumbersome and inefficient for violations of the Village Code that do not take much time to correct or are not correctable; and

WHEREAS, an administrative citation process would create a streamlined and efficient way of enforcing easy to correct violations of the Village Code that do not take much time to correct or are not correctable; and

WHEREAS, the Village Commission finds it to be in the best interests of the residents of the Village of Biscayne Park to create and enact an administrative citation process.

Section 1. The above WHEREAS clauses are ratified as being true and correct and are incorporated herein.

Section 2. It is the intent of the Village Commission that administrative citations are issued to violations that can be corrected with minimal effort, are health and safety violations, or irreparable or irreversible.

Section 3.

Appendix A, Part II, Chapter 6.3.3

(a) The Village Commission finds that aesthetics are paramount to maintaining an attractive and marketable community. The violations enumerated below severely damage the image of the community immediately upon commission. Such damage cannot be repaired or reversed. Therefore, the Village Commission hereby deems a violation of this Section 6.3.3 an irreparable and irreversible violation.

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(~~ab~~) It shall be the duty of each owner/occupant to prevent the continued, excessive and unsightly accumulation of garbage, trash and other types of waste and rubbish.

(~~bc~~) Each owner/occupant shall place domestic trash at the property line in front of the property the evening not more than twenty-four (24) hours before the scheduled collection time. Each owner/occupant shall remove their trash container from the front of the property within twenty-four (24) hours after collection.

(~~ed~~) Failure to comply with the provisions of this section shall constitute a violation of this Code.

14.5. - Other penalties and remedies.

14.5.1 *Planning board determination.* If the planning board determines that the code enforcement process would otherwise be an inadequate response to a given violation, it may pursue the following penalties and remedies, as provided by law.

* * * *

14.5.3 ~~Civil~~ Administrative citation. For any violation against this code and to enforce any provisions of this code, ~~civil~~ administrative citation procedures may be used along with a fine of twenty-five dollars (\$25.00).

15.1.7

Compliance procedure.

- (a) It shall be the duty of the code compliance officer to initiate enforcement proceedings of the various codes; provided, however, no member of the code compliance board shall have the power to initiate such enforcement proceedings.

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(f) The Village of Biscayne Park adopts supplemental and alternative code enforcement procedures pursuant to Sections 162.13 and 162.22, Florida Statutes, as amended, to authorize code compliance officers to issue administrative citations for review before the code compliance board. A code compliance officer shall have the sole discretion in determining whether the issue an administrative citation or a notice of violation. In the issuance of a citation, the following procedures shall be used:

(1) A code compliance officer who, upon personal investigation, has reasonable cause to believe that there is a violation of this Code or the Land Development Code shall have the authority to issue an administrative citation to the alleged violator and/or owner of the property.

(2) Prior to the issuance of a citation, the code compliance officer shall set a reasonable time period for the alleged violator and/or property owner to comply with the relevant section of the Code. The time period to correct shall not exceed 30 days. Notwithstanding the foregoing, after a reasonable effort to notify the violator and/or property owner, a code compliance officer does not need to give a reasonable time to correct for violations that are consistent with subsections (c) and (d) above or if the violation is irreparable or irreversible,

(3) The citation issued shall in a form approved by the Village Manager and shall contain:

(A) The date and time of issuance.

(B) The name and address of the person to whom the citation is issued.

(C) The date and time the violation was committed.

(D) The facts constituting reasonable cause.

(E) The Section of the Code that is violated.

(F) The name of the code compliance officer.

(G) The procedure for the person to follow in order to pay or contest the citation.

(H) The penalty if the person elects to contest the citation.

(I) The penalty if the person elects to pay the citation.

(J) A conspicuous statement that if the person fails to pay the penalty within the time allowed, or fails to appear before the code

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compliance board, then the person shall be deemed to have waived his or her right to contest the citation and that, in such case, a final order and/or judgment may be entered against the person up \$500.

(4) After issuing the citation, the code compliance officer shall deposit an original with the Village Manager or their designee.

(5) A person who has been served with a citation shall elect either to:

_____ (A) Correct the violation and pay within ten (10) days of service of the citation the penalty in the manner indicated on the citation; or

_____ (B) Attend the hearing before the code compliance board.