
Chapter 2 ADMINISTRATION¹

ARTICLE I. IN GENERAL

Sec. 2-1. Town seal.

The corporate seal of the town shall be a circular impression with the words "Town of South Palm Beach, Florida" around the outer edge and the date "1955" within the center portion.

(Code 1983, § 10.16; Code 1996, § 2-1)

Sec. 2-2. Defense of civil actions against town officials and employees.

- (a) In any civil action for damages or injury suffered as a result of any act or omission of action by any officer, administrative official, employee or agent of the town for an act or omission arising out of and in the scope of his employment or function, the town shall provide a legal defense through an attorney, unless in the case of a tort action, the officer, administrative official, employee, or agent acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The defense of such civil actions shall include, but not be limited to, any civil rights lawsuit seeking relief personally against the officer, administrative official, employee, or agent for an act or omission under color of state law, custom, or usage, wherein it is alleged that such officer, administrative official, employee, or agent has deprived another person of his rights secured under the federal constitution or laws.
- (b) However, any attorney's fees paid from public funds for any officer, administrative official, employee, or agent who is found to be personally liable by virtue of acting outside the scope of his employment, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, may be recovered by the town in a civil action against such officer, administrative official, employee, or agent. If the town fails to provide such attorney, the town shall reimburse any such defendant who prevails in the action for court costs and reasonable attorney's fees.

(Code 1983, § 31.20; Code 1996, § 2-2)

State law reference(s)—Defense of civil actions against public officers, employees or agents, F.S. § 111.07.

Secs. 2-3—2-25. Reserved.

ARTICLE II. TOWN COUNCIL

Sec. 2-26. Salaries of town council and mayor.

- (a) The compensation of council members, except the mayor, is hereby fixed at the sum of \$600.00 per month, and shall be payable each month.

¹State law reference(s)—Municipal Home Rule Powers Act, F.S. ch. 166.

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- (b) The compensation of the mayor is hereby fixed at the sum of \$1,000.00 per month, and shall be payable each month.
 - (c) No increase or reduction in the compensation of a town council member or the mayor shall take effect during the individual term in which such increase or reduction is approved, and no change in such salaries shall be made between the election of a new council and the qualification of the new council pursuant to Charter section 2-4.

(Code 1996, § 2-26; Ord. No. 286, § 1, 2-28-2017 ; Ord. No. 306 , § 2, 10-12-2021)

Secs. 2-27—2-50. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES ²

Sec. 2-51. Building code administrator.

The building code administrator is an appointive administrative official of the town [appointed by the Town Manager](#) within the meaning of the Charter. [In lieu of an appointed building code administrator, town council may contract with an appropriately licensed vendor.](#) The building code administrator shall perform those duties as are prescribed or imposed elsewhere in this Code or by the ordinances of the town.

(Code 1983, § 31.10; Code 1996, § 2-51)

State law reference(s)—Certification of building code administration and inspection personnel, F.S. § 468.601 et seq.

Secs. 2-52—2-75. Reserved.

ARTICLE IV. BOARDS, COMMITTEES AND COMMISSIONS³

DIVISION 1. GENERALLY

Sec. 2-76. Uniform procedure for all boards, committees, commissions.

- (a) *Membership; quorum; terms.* All boards, committees and commissions created in this Code except the community affairs advisory board shall have five members, appointed by the town council from the citizens at large of the town, who shall serve at the pleasure of the town council. Neither the mayor nor any member of the town council shall be a member. The members shall serve three-year staggered terms commencing on May 1 of the applicable year. Three voting members shall constitute a quorum. In order to provide for the staggered terms, the town council shall initially appoint two members for two-year terms, two members for three-year terms and one member for a one-year term. After the expiration of these terms, all regular member appointments shall be for three years.

²State law reference(s)—Code of ethics, F.S. § 112.311 et seq.

³State law reference(s)—Code of ethics, F.S. § 112.311 et seq.

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- (b) *Vacancies.* In case of any vacancies on any town board, committee or commission created by removal, resignation, or otherwise, the town council will select a replacement for that member, who shall serve for the unexpired term of the member. Any member shall be eligible to succeed himself in office.
 - (c) *Alternates.* The town council shall appoint two alternate members of all boards, committees or commissions of the town. The term shall be two years. The alternate members shall be required to attend at least half of the called meetings. At any meeting, an alternate shall take the place of a regular member in the absence of any regular member and shall have the right to vote in that instance. Alternates attending meetings shall have the right to participate in the discussions as a member of the public but shall not act as a board member unless replacing a regular member for that meeting.
 - (d) *Compensation.* Members and alternates of all boards, committees and commissions of the town shall receive no salary or other compensation, except for actual expenses authorized, appropriated, and approved by the town council by resolution.
 - (e) *Officers.* Members of all town boards, committees or commissions shall annually elect a chair and any other officers necessary to conduct the business of the board, committee or commission.
 - (f) *Bylaws and rules.* Any town board, committee or commission may make and adopt bylaws and rules which shall be approved by the town council and which shall not conflict with this Code or the Charter.
 - (g) *Meeting dates.* The boards, committees and commissions shall meet on an as-needed basis. Meetings may be set by the town manager or called by the chairperson or two members of the applicable board, committee or commission.
 - (h) [Virtual Attendance. Members of boards, committees and commissions may upon occasion attend such meetings by telephonic or by other digital means and may utilize teleconferencing and/or other technological means to convene meetings and conduct official business, however, quorum must be established in person,](#)

(Code 1996, § 2-76; Ord. No. 235, § 1, 3-28-2006)

Secs. 2-77—2-90. Reserved.

DIVISION 2. ARCHITECTURAL REVIEW BOARD

Sec. 2-91. Created; rules of procedure; quorum; meetings.

- (a) There is created an architectural review board which shall consist of five members and two alternates appointed by the town council.
- (b) All rules set forth in section 2-76 shall apply.

(Code 1996, § 2-91; Ord. No. 235, § 1, 3-28-2006)

Sec. 2-92. Jurisdiction; initial review and approval of building permits and landscape work; initial review of sign code variances.

- (a) No building permit for the exterior of any structure shall be issued by the building code administrator without prior approval of the town council after initial review on an advisory basis only by the architectural review board, as provided for in this article.

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- (b) No landscaping work which requires a building permit, other than routine maintenance of existing landscaping, whether or not the work requires a building permit, shall be commenced without the prior approval of the town council after initial review on an advisory basis only by the architectural review board.
 - (c) Notwithstanding the provisions of subsection 2-154(b)(1), the architectural review board shall initially consider, on an advisory basis prior to the final consideration for approval by the town council, all requests for variances from the strict interpretation of article IV, division 6, subdivision IV of the town's land development code pursuant to section 26-482. The architectural review board may suggest appropriate conditions and safeguards during its initial review to be considered for adoption by the town council during its final hearing for approval of a sign code variance application; and the time frame applicable to any grant of such variance by the town council shall be the same as for all other types of variances granted pursuant to subsection 2-154(b)(1).

(Code 1996, § 2-92; Ord. No. 235, § 1, 3-28-2006; Ord. No. 269, § 1, 8-27-2013; Ord. No. 279, § 1, 6-23-2015)

Sec. 2-93. Application procedure; site plan.

- (a) All applications for a building permit, and all requests for approval of landscaping work, and all requests for approval of amended plans pursuant to subsection 10-62(e), shall be made to the building code administrator. If, in the opinion of the building code administrator, the work contemplated by an application or request is of a minor nature and will not affect the beauty and appearance of the town, the administrator may grant the permit or approve the amended plans, without submitting the matter to the architectural review board for its approval, notwithstanding any other provisions of this section or this article.
- (b) In all cases where architectural review is required, preliminary sketches of the design of a proposed structure, alteration, or proposed landscaping plan, shall be submitted to the building code administrator for informal review so that an applicant may be informed of architectural review board policies prior to preparing working drawings. If approved, the sketches shall serve as a guide in further consideration of the same proposed building or structure.
 - (1) The applicant, when subject to the requirements of this article, shall submit to the building code administrator a site plan, as defined by subsection (d) of this section, exterior elevations, and an eight-inch by ten-inch photograph of the architectural rendering, and any other data as will assist the architectural review board and the building code administrator in evaluating the proposed building or structure.
 - (2) All submitted plans and elevations shall be drawn by a state-licensed architect to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this article. The first sheet of each set of plans shall give the street address of the work and the name and address of the owner and the person who prepared them. The plot plan shall conform to subsection (d) of this section. Work not thus presented may be rejected by the building code administrator.
- (c) The building code administrator shall refer the plans submitted pursuant to subsection (b) of this section to the architectural review board at its next meeting. If the meeting is not scheduled within the period set for architectural review board action, a special meeting shall be called. The architectural review board shall act on the application within 30 days after the filing of full and complete data unless an extension of time is consented to by the applicant.
- (d) The site plan submitted under this section shall be drawn to scale and shall indicate the following information:
 - (1) Dimensions and orientation of the parcel.

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- (2) Location of buildings and structures, both existing and proposed.
 - (3) Location of off-street parking, including pedestrian walkways.
 - (4) Location of points of entry and exit for motor vehicles and internal circulation pattern and traffic signs.
 - (5) Location of walls and fences and indication of their height and materials of construction.
 - (6) Exterior lighting standards and devices.
 - (7) Location and size of exterior signs and outdoor advertising.
 - (8) The landscaping plan.
 - (9) Any other architectural and engineering data as may be required to permit necessary findings that the provisions of all town ordinances are being complied with.
 - (10) Where an attachment or minor addition to an existing building or structure is proposed, the site plan shall indicate the relationship of the proposal to the existing development.

(Code 1996, § 2-93; Ord. No. 235, § 1, 3-28-2006)

Sec. 2-94. Criteria for approval of applications.

- (a) The town council shall approve, approve with conditions, or disapprove an application for site development, after initial review by the architectural review board on an advisory basis; and such determination occurs only after consideration by both the board and the council of whether the following criteria are deemed to have been met. Determinations by the architectural review board and the town council shall be rendered at quasi-judicial hearings noticed at least ten days prior to both the initial advisory hearing by the architectural review board and the final hearing before the town council.
 - (1) The plan for the proposed building, structure, or landscaping plan is in conformity with good taste, and good design, and will in general contribute to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm, and high quality.
 - (2) The plan for the proposed building or structure provides for reasonable protection against external and internal noise, vibrations, and other factors which may tend to make the local environment less desirable.
 - (3) The proposed building, structure, or landscaping plan is not of inferior quality so as to cause the nature of the local environment to materially depreciate in appearance and value.
 - (4) The proposed building, structure, or landscaping plan is in harmony with existing or proposed developments on land in the general area.
 - (5) The proposed development is in conformity with the standards of this article and other applicable ordinances or laws insofar as the location and appearance of the buildings and structures are involved.
- (b) If the requirements of this article and the above criteria in this section are deemed to have been met, the application shall be approved by the architectural review board. Such advisory determination may also provide for either approval with suggested conditions or disapproval of the application in whole. Conditions may be applied when the proposed building, structure, or landscaping plan does not comply with the criteria contained in this article and shall bring the building, structure, or landscaping plan into conformity. If an application is disapproved by the architectural review board, it shall detail in its rendered findings the criteria that appear not to have been met. The action taken by the architectural review board shall be reduced to writing and signed by the chairperson, and a copy shall be made available to the applicant and provided to the town council prior to the final hearing on the application.

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- (c) A decision or order of the town council or of the building code administrator based upon such order shall become effective on the date which a ruling of the town council has been rendered.

(Code 1996, § 2-94; Ord. No. 235, § 1, 3-28-2006; Ord. No. 279, § 1, 6-23-2015)

Sec. 2-95. Appeals procedure.

Any appeals of the town council's final decisions as provided for in this article shall be to the circuit court of the 15th Judicial Circuit.

(Code 1996, § 2-95; Ord. No. 235, § 1, 3-28-2006; Ord. No. 279, § 1, 6-23-2015)

Secs. 2-96—2-150. Reserved.

DIVISION 3. PLANNING BOARD, LOCAL PLANNING AGENCY⁴

Sec. 2-151. Created.

There is created a town planning board, which shall consist of five members, and two alternate members appointed by the town council.

(Code 1996, § 2-151; Ord. No. 255, § 1, 6-22-2010)

Sec. 2-152. Rules of procedure.

All rules set forth in section 2-76 shall apply.

(Code 1996, § 2-152; Ord. No. 255, § 1, 6-22-2010)

Sec. 2-153. Local planning agency; designated.

Pursuant to and in accordance with F.S. § 163.3174, the town planning board is hereby designated and established as the local planning agency for the town.

(Code 1996, § 2-153; Ord. No. 255, § 1, 6-22-2010)

Sec. 2-154. Jurisdiction; duties and responsibilities; variances.

- (a) *Local planning agency.* The planning board acting as the local planning agency, in accordance with the Community Planning Act, F.S. § 163.2511 et seq., shall be responsible for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

- (1) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the town council regarding the adoption or amendment of such plan. During the preparation of the plan or plan amendment and prior to any recommendation to the town council, the local planning agency shall hold at least one public hearing, with due public notice, on the

⁴State law reference(s)—Comprehensive planning, F.S. § 163.3161 et seq.

proposed plan or plan amendment. The town council, in cooperation with the local planning agency, may designate any agency, committee, department, or person to prepare the comprehensive plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment to the town council shall be the responsibility of the local planning agency.

- (2) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the town council such changes in the comprehensive plan as may from time to time be required, including preparation of the periodic reports required by F.S. § 163.3191.
 - (3) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the town council as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the town requires review by both the local planning agency and the land development regulation commission.
 - (4) Perform any other functions, duties, and responsibilities assigned to it by the town council or by general or special law.
- (b) *Planning board.* The planning board shall have the following additional duties and responsibilities whenever it acts as an advisory body to the town council on variances:
- (1) *Variances.* The town council, after initial review by the planning board on an advisory basis, shall authorize upon appeal such variance from the terms of the zoning code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the zoning code will result in unnecessary and undue hardship. This shall include any alterations to nonconforming or grandfathered uses or structures. In order to authorize any variance in the terms of the zoning code, both the town council and the planning board must consider the following and shall find that:
 - a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same land development district.
 - b. The special conditions and circumstances do not result from the actions of the applicant.
 - c. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same land development district.
 - d. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same land development district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
 - e. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
 - f. The grant of the variance will be in harmony with the general intent and purpose of this chapter.
 - g. Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

In granting any variance, the town council may prescribe appropriate conditions and safeguards, which also may be suggested by the planning board prior to final determination by the town council. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Under no circumstances shall the town council grant a variance to permit a use not allowed in the applicable zoning district as a permitted or special exception use. No nonconforming or grandfathered use of neighboring lands, structures or buildings in the land development district shall be considered grounds for the authorization of a variance. Financial

hardship shall not be considered as sufficient evidence of a hardship for the grant of a variance. A variance granted under the provisions as set forth herein shall automatically lapse if building construction, in accordance with the plans for which such variance was granted, has not been initiated within six months from the date of granting of such variance by the board, or, if judicial proceedings to review the board's decision are instituted, from the date of entry of the final order in such proceedings, including all appeals. However, one six-month extension may be granted administratively if the written request for same is received prior to the expiration date.

(2) *Appeals from decisions of administrative official.*

- a. An appeal taken from the requirement decision or determination made by an administrative official charged with the enforcement or interpretation of any land development regulation adopted pursuant to this Code shall be filed with the town clerk for presentation to the planning board. The appeal shall be filed by a person aggrieved by the decision of the administrative official and specify the grounds thereof and shall be filed in writing within ten days of the decision being appealed.
- b. The administrative official from whom the appeal is taken shall, upon notification of the filing of the appeal, forthwith transmit to the town clerk all documents, plans and papers constituting the record of the action from which the appeal was taken. Such documents shall be forwarded to the planning board for the public hearing to be held on the matter.

(Code 1996, § 2-154; Ord. No. 255, § 1, 6-22-2010; Ord. No. 280, § 1, 6-23-2015)

Sec. 2-155. Application for variances and appeals.

- (a) All requests for variances and/or appeals of administrative decisions shall be initiated by filing with the town an application on forms prescribed by the town. Such application shall be executed and sworn to by the owners of the property described in the application, or by the tenants, with the owner's written, sworn-to consent, or by duly authorized agents, evidenced by a written power of attorney or other type of written authorization if not a member of the Florida Bar; or by contract purchasers with the owner's consent. Appeals of administrative decisions shall be filed in writing within ten days of the decision made by the planning board.
- (b) All properties described in one application for an appeal or variance pursuant to this section must be contiguous and immediately adjacent to one another.
- (c) Only applications over which the town council and/or the planning board has jurisdiction shall be accepted for filing, and no application for an appeal or variance pursuant to this division shall be considered or construed to be filed until the required fee has been paid.

(Code 1996, § 2-155; Ord. No. 255, § 1, 6-22-2010; Ord. No. 280, § 1, 6-23-2015)

Sec. 2-156. Public hearing required; notice.

- (a) No action shall be taken on any application for a variance or appeal from a decision of the administrative official until a public hearing has been held with due public notice described as follows:
 - (1) There shall be publication of notice of the time, place, and purpose of the hearing in a newspaper of general circulation in the area, at least ten days prior to any hearing.
 - (2) A courtesy notice for any variance application containing substantially the same information as the published notice may be mailed by the town clerk, to the condominium/co-op associations or single-family homeowners of record, if applicable, within a radius of 300 feet of the property described prior

to the hearing before the town council. However, failure to mail or receive this courtesy notice shall not affect any action or proceeding taken pursuant to such notice.

- (b) Within 45 days after the town certifies an application for inclusion on the town council's or the planning board's official agenda, a public hearing shall be held by the town council or the planning board, whichever is applicable.
- (c) Any hearing may be continued from time to time or postponed; however, the public hearing shall be concluded within 90 days after the date of the first public hearing on the matter still at issue by either the planning board or the town council.

(Code 1996, § 2-156; Ord. No. 255, § 1, 6-22-2010; Ord. No. 280, § 1, 6-23-2015)

Sec. 2-157. Withdrawal, denial, continuance or postponement of application.

- (a) Upon the denial of an application under this division, in whole or in part, a period of one year must run prior to the filing of a subsequent application affecting the same property or any portion thereof.
- (b) Upon the withdrawal of an application for a variance under this division, in whole or in part, a period of six months must run prior to the filing of a subsequent application affecting the same property or any portion thereof, unless, however, the decision of the planning board is without prejudice. Applications for administrative appeals may be withdrawn, but, if so, may not be refiled. The period of limitation for variances shall be increased to a two-year waiting period if such an application, in whole or in part, has been twice or more denied or withdrawn.
- (c) An application under this division may be withdrawn without prejudice by the applicant as a matter of right, provided the request for withdrawal is in writing and executed in a manner and on a form prescribed by the town, and filed with the town within the two-week period subsequent to the deadline for filing an application; otherwise, all such requests for withdrawal shall be with prejudice. No application may be withdrawn after final action has been taken. When an application is withdrawn without prejudice, the time limitations for reapplication provided in this section shall not apply.
- (d) An application under this division may be continued or postponed at the request of the applicant or the planning board by majority vote, but the public hearing shall be concluded within 90 days after the date of the first public hearing.

(Code 1996, § 2-157; Ord. No. 255, § 1, 6-22-2010)

Sec. 2-158. Meetings and procedures.

- (a) All meetings of the town council and the planning board shall be open to the public, as provided by law.
- (b) The administrative official or his designee shall attend all meetings and be permitted to propose questions and give evidence and make recommendations.
- (c) The town clerk or the designated deputy clerk may administer oaths, and the chairperson or acting chairperson may compel the attendance of witnesses in the same manner as prescribed in the circuit court.
- (d) No action shall be taken on any application under this division unless a quorum of three members of the town council or the planning board is present, and action shall be taken only upon a majority vote of all members present and voting. No member shall be permitted to abstain from voting unless he has a conflict of interest pursuant to the provisions of F.S. ch. 112.
- (e) Minutes will be kept of all public meetings and proceedings of the town council and the planning board and shall include and state the vote of each member on each question, and the motion shall state the reason

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upon which it is made, such reason being based upon the prescribed guides and standards of good land development and planning principles. If a member is absent or abstains from voting due to a conflict of interest as noted above, the minutes shall so indicate.

- (f) The town council and the planning board shall keep accurate records of its public hearings, which shall be filed, together with its minutes, with the town, and the records shall be open for public inspection at reasonable times and hours.
- (g) The administrative official shall furnish from the town such staff as may be necessary to assist and advise the town council or the planning board in the fulfillment of its duties, and is authorized to retain a qualified reporter or clerk to record and transcribe the public proceedings of the hearings, if necessary.
- (h) All decisions at the hearings shall be by motion. The decision of the planning board shall be final as to administrative action on an appeal from decisions made by an administrative official of the town. Appeals of final determinations by the town council on variance applications shall be as provided under law for quasi-judicial actions.

(Code 1996, § 2-158; Ord. No. 255, § 1, 6-22-2010; Ord. No. 280, § 1, 6-23-2015)

Sec. 2-159. Staying of work on premises.

When an appeal from the decision of an administrative official has been taken and filed with the planning board, all proceedings and work on the premises concerning which the decision was made shall be stayed.

(Code 1996, § 2-159; Ord. No. 255, § 1, 6-22-2010)

Sec. 2-160. Review of decisions; precedence; costs of actions.

- (a) No person aggrieved by any decision of the town council or the planning board may apply to the court for relief unless he has first exhausted the remedies provided for in this division and taken all available steps provided by this division. The decision of the council or the board may be reviewed by the appropriate court in accordance with the law.
- (b) No change of venue from the area in which the premises affected is located shall be had in any cause arising under the provisions of this division.
- (c) In any court action appealing the decision of the town council or the planning board, the town attorney shall provide for legal defense in such action. If the town council shall challenge a decision of the board, the planning board shall be entitled to independent special counsel, paid for by the town council, to defend the action, which action may be brought by the town attorney on behalf of the town council.

(Code 1996, § 2-160; Ord. No. 255, § 1, 6-22-2010; Ord. No. 280, § 1, 6-23-2015)

Sec. 2-161. Exhaustion of remedies.

No person aggrieved by any land development decision, order, requirement, resolution, or determination of an administrative official, or by any decision of the town council, may apply to the court for relief unless the person has first exhausted the remedies provided for in this division and taken all available steps provided by this division.

(Code 1996, § 2-161; Ord. No. 255, § 1, 6-22-2010)

Secs. 2-162—2-230. Reserved.

DIVISION 4. COMMUNITY AFFAIRS ADVISORY BOARD

Sec. 2-231. Creation; members.

There is created a community affairs advisory board which shall consist of residents of the town who are appointed by the town council.

(Code 1996, § 2-231; Ord. No. 235, § 2, 3-28-2006)

Sec. 2-232. Appointment; terms.

All community affairs advisory board members will be appointed for a term of two years. Appointments shall be made every year such that Group A, consisting of ~~13~~9 members, will be appointed on every even year and Group B, consisting of ~~12~~8 members, will be appointed every odd year.

(Code 1996, § 2-232; Ord. No. 235, § 2, 3-28-2006)

Sec. 2-233. Purpose.

The board is created to provide improved communications and civic involvement between residents, condominium and cooperative associations, and the town council and also to obtain input and advice concerning the betterment of the town. The board shall act in an advisory capacity, making recommendations to the town council and town manager.

(Code 1996, § 2-233; Ord. No. 235, § 2, 3-28-2006)

Sec. 2-234. Organization; quorum.

- (a) *Generally.* The general organization of the board shall be: the general membership (~~25~~17 persons including chair and vice chair and volunteers providing services.); ~~the executive committee (chairperson, two vice-chairs, and four others); the activities committee (the executive committee and chairpersons of activities committees); the activities committees (volunteers providing services);~~ and such other committees that shall from time to time be recommended by the membership and approved by the town council.
- (b) *Quorum.* For the purposes of conducting its business as the full general membership of the ~~25~~17-member board, the presence at a meeting of ~~nine~~five board members shall constitute a quorum, due to the nature of how the board operates and seasonal nature of residency. Notwithstanding anything to the contrary in section 2-76, the presence at a meeting of ~~a majority of the~~ five board members of a duly constituted committee as set forth hereinabove shall constitute a quorum due to the nature of the board. ~~(e.g., four members of the executive committee shall constitute a quorum).~~

(Code 1996, § 2-234; Ord. No. 235, § 2, 3-28-2006; Ord. No. 273, § 1, 6-24-2014)

Sec. 2-235. Duties.

- (a) The board's role shall be that of facilitator for all residents in the areas of cultural and recreational activities in order to assist the council and administration in efforts to provide suitable activities to serve all leisure time needs and activities.
- (b) The board shall not become an advocacy forum for any individual, group, or organization.
- (c) The board may call upon the administration, through the town manager, to render such assistance to the board as may be reasonably required.
- (d) The board shall undertake such other assignments or studies on cultural or recreational needs as may be requested by the town council.
- (e) The board shall not have the power to commit funds or enter into contracts on behalf of the town.
- (f) The board shall be subject to, and follow, all rules of procedure for boards and committees that may be adopted by the town council that do not conflict with the provisions of the enabling ordinance.

(Code 1996, § 2-235; Ord. No. 235, § 2, 3-28-2006)

Secs. 2-236—2-265. Reserved.

ARTICLE V. DEPARTMENTS⁵

DIVISION 1. GENERALLY

Secs. 2-266—2-290. Reserved.

DIVISION 2. POLICE DEPARTMENT

Sec. 2-291. Created.

In order to provide for the public safety, there is created and established a police department. [In lieu of a town police department, town council may contract with any properly licensed police or law enforcement agency, including but not limited to Palm Beach County Sheriff's Office, to meet the public safety service and law enforcement needs of the town, as determined by town council.](#)

(Code 1983, § 32.15; Code 1996, § 2-291)

Sec. 2-292. Assignment of officers.

Upon being employed as a police officer of the town, each officer shall be assigned by the chief of police. Officers shall be under the direction and control of the chief of police.

⁵State law reference(s)—Code of ethics, F.S. § 112.311 et seq.

(Code 1983, § 32.17; Code 1996, § 2-292)

Sec. 2-293. Duties of chief of police.

- (a) It shall be the duty of the chief of police to preserve peace, maintain order, and enforce the provisions of this Code and other ordinances of the town. Any neglect of this duty shall be grounds for the immediate removal of the chief from office by the town council.
- (b) It shall be the duty of the chief of police to execute the commands of the town council from time to time, as well as those of the mayor in the line of his duty, and to execute all processes issued by authority of the town council, mayor, or town administrator. The chief shall have supervision of the police department, subject to the commands of the town council, and shall have police powers of arrest.
- (c) The chief of police shall assign to members of the police department the duties which each officer shall perform in accordance with this Code and other ordinances of the town, subject to the rules and regulations adopted by the town council.
- (d) Placement of traffic regulation signs.
 - (1) Within 60 days of the adoption of the ordinance from which this section is derived, the chief of police shall be responsible for making and thereafter maintaining a survey of traffic regulatory signs on public and private property and rights-of-way. The chief shall designate requirements for signage based upon sight distance, speed limits, natural and artificial obstructions, pedestrian and vehicular, and other safety related criteria.
 - (2) Upon completion of the survey required above, traffic regulatory signs, including, but not limited to, "stop," "slow" and "pedestrian crossing" shall be placed on private property in multifamily parking lots, and driveways at locations ordered by the chief of police.
 - (3) Private property owners, including condominium and cooperative associations owning common lands, shall be responsible for erecting and properly maintaining, at their own cost, such traffic regulation signs as may be ordered by the chief of police, from time to time. The chief shall give not less than 30 days' written notice to such owners for the initial or original erection of a sign.
 - (4) In the event that a sign is found by the chief to be in need of repair or replacement, the chief shall give the owner of the property upon which the sign is placed not less than 30 days' written notice for such repair or replacement, unless to do so may cause a traffic hazard, in which case a shorter time may be ordered.
 - (5) Any private property owner who is ordered by the chief of police to place, repair or replace any sign required by this section, shall have the right to appeal such order by filing a written objection and appeal of traffic sign order with the town clerk, citing the reasons for such objections, and by appearing at the next regular town council meeting, or at a special meeting convened for the purpose of hearing such appeal within 30 days of receipt of the objection. If a property owner fails to take an appeal within 30 days of receiving an order from the chief of the department of public safety, the decision of the chief shall be deemed final and the property owner shall thereafter be in violation of this section. Upon a hearing, the decision of the town council shall be final agency action. If the town council shall fail to hear such appeal within 30 days, or within the time of any extension granted by the town council for hearing same, the objection and appeal shall be deemed granted and the signage not required.

(Code 1983, § 32.18; Code 1996, § 2-293; Ord. No. 181, § 1, 3-26-1996)

Sec. 2-294. Reserve force.

- (a) *Established; supervision; divisions.* In order to provide for the public safety, there is hereby created and established a police department reserve force for the town. The reserve force shall be under the supervision, direction and control of the chief of police. The reserve force shall be responsible for assisting the regular department with public safety functions related to traffic control and general law enforcement.
- (b) *Qualifications of applicants.* The reserve force applicants shall have such physical and mental qualifications as may be prescribed by law. The character and reputation of the applicants for membership in the reserve force may be investigated by the chief of police.
- (c) *Oath of officers.* Before entering upon the duties of a reserve officer of the town, each officer shall make an oath before the town clerk that he will uphold and defend the Constitution of the United States and of this state, and that he will enforce the provisions of this Code and other ordinances of the town and the lawful orders, rules and regulations promulgated under authority of the Charter and ordinances of the town.
- (d) *Call to duty.* Reserve officers may be called from time to time by the chief of police for training and service with the regularly employed police officers of the town. They may also be subject to call for active duty at such times and places within the town as the chief of police may deem necessary in order to fully protect life and property within the town.
- (e) *Powers and duties of officers.* While on duty under the orders of the chief of police, reserve officers shall possess all of the powers and perform all of the duties and functions of regular police officers.
- (f) *Uniform and insignia.* When called for training and service or for active duty, reserve officers shall wear such identifying uniform and insignia as may be provided from time to time by the chief of police. It shall be unlawful for any reserve officer to wear such identifying uniform and insignia except while on duty. It shall also be unlawful for any reserve officer to attempt to enforce any provision of this Code or other ordinance or to carry out any order, rule or regulation of the town while such reserve officer is not wearing such identifying uniform and insignia, except when expressly authorized by the chief of police.
- (g) *Employment status and compensation of officers.* Reserve officers shall be deemed and considered, while on active duty or training and service, as part-time employees of the town. The salary of such officers shall be determined by the town council.

(Code 1983, § 32.20; Code 1996, § 2-294)

State law reference(s)—Oath, F.S. § 876.05; qualifications, training, etc., of law enforcement officers, F.S. § 943.13.

Secs. 2-295—2-320. Reserved.

ARTICLE VI. ELECTIONS

Sec. 2-321. Adoption of Florida Election Code; exemption from early voting requirements.

- (a) All town elections shall be conducted in accordance with the provisions of the Florida Election Code, except as may be otherwise provided in this article.
- (b) The town shall be exempt from the provisions of F.S. § 101.657, regarding early voting for municipal elections, as the section may be amended from time to time.

(Code 1983, § 33.01; Code 1996, § 2-321; Ord. No. 234, § 1, 1-24-2006)

State law reference(s)—Florida Election Code, F.S. chs. 97—107.

Sec. 2-322. Qualification of council candidates.

Candidates for the office of town council shall qualify for election to the office by filing with the town clerk a written notice of candidacy, and paying any such fees as may be required by law, no earlier than 12:00 noon on the second Tuesday in November, and no later than 12:00 noon on the fourth Tuesday in November of the year preceding the calendar year in which the election is to be held. The names of all candidates shall be received by the supervisor of elections of the county from the town clerk by 5:00 p.m. on the first Monday after the close of qualifying or no later than 5:00 p.m. on the 95th day before the municipal election date.

(Code 1983, § 33.03; Code 1996, § 2-322; Ord. No. 113, § 4, 9-27-1983; Ord. No. 288, § 2, 11-28-2017; Ord. No. 305, § 2, 8-17-2021)

Sec. 2-323. Canvassing board; town election representative.

- (a) The town council delegates all canvassing duties, as defined in applicable Florida Statutes and the Florida Administrative Code, to the county canvassing board appointed by the Palm Beach County Commission and the Chief Judge of the Fifteenth Judicial Circuit. The county canvassing board will be composed of the supervisor of elections, a county court judge, who shall act as chair, and the chair of the board of county commissioners, or their respective alternates or substitutes.
- (b) The town clerk, or designee, shall be the official representative of the town and the town council in all transactions with the Supervisor of Elections of Palm Beach County, Florida, in relation to matters pertaining to the use of the registration books and records related to the holding of municipal elections.

(Ord. No. 305 , § 3, 8-17-2021)

Editor's note(s)—Ord. No. 305 , § 3, adopted Aug. 17, 2021, repealed § 2-323 and enacted a new section as set out herein. Formerly, § 2-323 pertained to the canvassing and certification of elections and derived from Code 1983, § 30.03; Code 1996, § 2-323; Ord. No. 259, § 1, adopted Feb. 22, 2011; Ord. No. 261, § 1, adopted Dec. 19, 2011; and Ord. No. 282, § 1, adopted Sept. 29, 2015.

Secs. 2-324—2-345. Reserved.

ARTICLE VII. REFERENDA AND INITIATIVES

Sec. 2-346. Initiatives.

The voters of the town shall have the power to propose ordinances and resolutions to the town council, and if the town council fails to adopt an ordinance or resolution so proposed without material change in substance, such voters may adopt or reject such ordinance or resolution at a town election pursuant to this article, provided that such power shall not extend to adoption of the budget or the levy of taxes, but may extend to capital programs or other ordinances relating to appropriation of money.

(Code 1983, § 35.01; Code 1996, § 2-346)

Sec. 2-347. Referenda.

The voters of the town shall have the power to require reconsideration by the town council of an adopted ordinance or resolution and, if the town council fails to repeal an ordinance or resolution so reconsidered, such voters may approve or reject such ordinance or resolution at a town election pursuant to this article, provided that such power shall not extend to adoption of the budget or the levy of taxes, but may extend to capital programs or other ordinances relating to appropriation of money.

(Code 1983, § 35.02; Code 1996, § 2-347)

Sec. 2-348. Commencement of proceedings.

Any five town voters may commence initiative or referendum proceedings by filing with the town clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form. The affidavit must state the names and addresses of the members of the petitioners' committee, specify the address to which all notices to the committee are to be sent, and set out in full the proposed initiative ordinance or resolution or cite the ordinance or resolution sought to be reconsidered.

(Code 1983, § 35.03; Code 1996, § 2-348)

State law reference(s)—Procedure for placement on ballot, F.S. § 101.161; referendum election, procedure, F.S. § 100.342 et seq.

Sec. 2-349. Petition requirements generally.

- (a) *Number of signatures.* Initiative and referendum petitions must be signed by voters of the town equal in number to at least 15 percent of the total number of voters registered to vote at the last regular town election.
- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the residence address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance or resolution proposed or sought to be reconsidered.
- (c) *Affidavit of circulator.* Each copy of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the petition, the number of signatures thereon, that all the signatures were affixed in his presence, that he reasonably believes them to be the genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance or resolution proposed or sought to be reconsidered.
- (d) *Time for filing.* Referendum petitions must be filed within 60 days after the town council has adopted the ordinance or resolution sought to be reconsidered. Initiative and referendum petitions must be filed at least 90 days prior to the regular election at which the initiative or referendum question will be placed on the ballot.

(Code 1983, § 35.04; Code 1996, § 2-349)

Sec. 2-350. Procedure for filing petitions.

- (a) *Certificate of clerk; amendment.* Within five days after an initiative or referendum petition is filed, the town clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioners' committee by certified mail.

Grounds for insufficiency are only those specified in section 2-349. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intent to amend with the town clerk within two days after receiving the copy of the certificate and files a supplementary petition within ten days after receiving the certificate. Such supplementary petitions shall comply with the requirements of subsections (b), (c) and (d) of section 2-349. Within five days after the supplementary petition is filed, the town clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of the certificate to the petitioners' committee by certified mail as in the case of an original petition. If a petition or an amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request town council review under subsection (b) of this section within the time required, the town clerk shall promptly present the certificate to the town council and the certificate shall be a final determination as to the sufficiency of the petition.

- (b) *Council review.* If a petition has been certified insufficient and the petitioners' committee does not file a notice of intent to amend or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the town council. The town council shall review the certificate at its next regular meeting following the filing of such request and approve or disapprove it. The town council's determination shall be a final determination as to the sufficiency of the petition.

(Code 1983, § 35.05; Code 1996, § 2-350)

Sec. 2-351. Referendum petitions; suspension of effect of ordinance or resolution.

When a referendum petition is filed with the town clerk, the operation, force, effect and enforcement of the ordinance or resolution sought to be reconsidered shall be suspended. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition;
- (2) The petitioners' committee withdraws the petition;
- (3) The town council repeals the ordinance or resolution; or
- (4) A vote of the town voters on the ordinance or resolution has been certified.

(Code 1983, § 35.06; Code 1996, § 2-351)

Sec. 2-352. Action on petitions.

- (a) *Action by town council.* When an initiative or referendum petition has been finally determined sufficient, the town council shall promptly consider the proposed initiative ordinance or resolution or reconsider the referred ordinance or resolution. If the town council fails to adopt a proposed ordinance or resolution without any substantial change or fails to repeal the referred ordinance or resolution within 60 days after the date the petition was finally determined sufficient, the town council shall submit the proposed or referred ordinance or resolution to the town voters.
- (b) *Submission to voters.* The vote of the town voters on a proposed or referred ordinance or resolution shall be held at the next regular town election, provided that the petition was filed at least 90 days prior to the election. Notwithstanding, the town council may, in its discretion, provide for a special election at an earlier date, provided that such special election may only be held in the months of December, January, or February. Copies of the proposed or referred ordinance or resolution shall be made available at the polls.
- (c) *Withdrawal of petition.* An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the town voters by filing with the town clerk a request for the

withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(Code 1983, § 35.07; Code 1996, § 2-352)

Sec. 2-353. Results of election.

- (a) *Initiative.* If a majority of the town voters voting on a proposed ordinance or resolution vote in its favor, the proposed ordinance or resolution shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances or resolutions of the same kind adopted by the town council. If conflicting ordinances or resolutions are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (b) *Referendum.* If the majority of the town electors voting on a referred ordinance or resolution vote against it, the referred ordinance or resolution shall be considered repealed upon certification of the election results.

(Code 1983, § 35.08; Code 1996, § 2-353)

Secs. 2-354—2-380. Reserved.

ARTICLE VIII. FINANCE⁶

Sec. 2-381. Dishonored checks; service fee.

Whenever any person shall give or cause to be given to the town or any department or agency thereof a check or draft drawn on a bank in purported payment of any obligation due the town, which check or draft is dishonored or unpaid by reason of the drawer having no account, having insufficient funds therein, or having stopped payment on the check or draft, there shall be added to the obligation due the town a service fee in the amount established by resolution to cover the additional cost to the town thereby entailed. This service fee shall be collected in the same manner as any other indebtedness due the town. Any receipt theretofore given in reliance upon the check or draft shall be null and void and no other receipt shall be given for the payment of the original indebtedness until the charge has also been paid. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by the collector of the fee.

(Code 1983, § 10.17; Code 1996, § 2-381)

State law reference(s)—Service fee for dishonored checks, F.S. § 166.251.

Sec. 2-382. Additional assessment of court costs; use of funds.

- (a) There shall be assessed the sum of \$2.00 as a portion of court costs against every person convicted of the violation of this Code or any ordinance of the town, except parking violations, together with the sum of \$2.00 from every bond estreature or forfeited bail bond related to such violation. Such charges shall be considered as costs assessed against persons convicted of the violation of this Code or any ordinance.
- (b) The additional assessment imposed in subsection (a) of this section shall be utilized for criminal justice education degree programs and training courses.

⁶State law reference(s)—Municipal borrowing, F.S. § 166.101 et seq.; financial matters, F.S. ch. 218.

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- (c) The assessment provided in subsection (a) of this section shall be in addition to all sums required to be assessed and collected and paid over to the state under state law or court order.

(Code 1983, § 10.98; Code 1996, § 2-382)

State law reference(s)—Assessment authorized, F.S. § 938.15.

Secs. 2-383—2-405. Reserved.

ARTICLE IX. CODE ENFORCEMENT⁷

Sec. 2-406. Declaration of legislative intent; applicability; definitions.

- (a) *Intent.* It is the intent of this article to promote, protect and improve the health, safety and welfare of the citizens of the town by providing a board and/or special magistrate with the authority to impose administrative fines and other non-criminal penalties in conformance with F.S. ch. 162, in order to provide an equitable, expeditious, effective and inexpensive method of enforcing all the codes and ordinances of the town.
- (b) *Applicability.* The code enforcement board and/or special magistrate shall enforce and have jurisdiction over all the codes and ordinances of the town. References in this article to a code enforcement board shall hereafter also include a special magistrate, even if not specifically referenced. The code enforcement board and the special magistrate shall have the same jurisdiction, power and authority.
- (c) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Code inspector means any authorized agent or employee of the town whose duty it is to ensure code compliance.

Enforcement board means the code enforcement board.

Town attorney means an attorney designated by the town to represent the Town of South Palm Beach.

(Code 1996, § 2-406; Ord. No. 262, § 1, 12-19-2011)

Sec. 2-407. Enforcement board; organization.

The town council may appoint a five-member code enforcement board and legal counsel for the enforcement board in accordance with the town Charter at section 2-8. [The town manager, upon approval by the town council,](#) may also appoint a special magistrate to hear code enforcement cases, if desired. The members of the board shall have the following qualifications and terms of office:

- (1) *Membership.* Appointments shall be made by the town council on the basis of experience or interest in the subject matter jurisdiction of the enforcement board. The membership of the enforcement board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (2) *Term.* In order that the terms of office of all members will not expire at the same time, the initial appointments of the enforcement board shall be as follows: One member shall be appointed for a term

⁷State law reference(s)—Local Government Code Enforcement Boards Act, F.S. § 162.01 et seq.

of one year; two members shall be appointed for a term of two years each; and two members shall be appointed for a term of three years each. Thereafter, any appointment shall be made for a term of three years. Members shall serve, and may also be removed, at the pleasure of the town council.

- (3) *Vacancy and removal.* Appointments to fill any vacancy on the enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two out of three successive meetings without cause and without prior approval of the chairperson, the enforcement board shall declare the member's office vacant, and the town council shall promptly fill such vacancy. The members shall serve in accordance with the Charter and the ordinances of the town.
- (4) *Organization.* The members of the enforcement board shall elect a chairperson from among the members of the board. The presence of three or more members of the board shall constitute a quorum of the enforcement board. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by town council.
- (5) *Town attorney.* The town attorney shall either be counsel to the enforcement board or shall represent the town by presenting cases before the enforcement board, but in no case shall the town attorney serve in both capacities.
- (6) *Special magistrate.* Should the town council appoint a special magistrate to hear cases, the town attorney shall act as prosecutor for the town.

(Code 1996, § 2-407; Ord. No. 262, § 1, 12-19-2011)

State law reference(s)—Local government code enforcement boards; organization, F.S. § 162.05.

Sec. 2-408. Enforcement procedure; notices.

- (a) *Initiation of proceeding.* It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes, however, no member of the board shall have the power to initiate such enforcement proceedings.
- (b) *Hearings.* Except as provided in subsections (c) and (d) of this section, if a violation of the codes is found, the code inspector shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the enforcement board and request a hearing pursuant to the procedures set forth in this section. The code enforcement board, through ~~its~~ [the town's](#) clerical staff, shall schedule a hearing, and written notice of such hearing shall be given as provided in subsection (e) of this section.
- (c) *Health, safety or irreparable/irreversible violations.* If the code inspector has reason to believe a violation or the condition causing the violation represents one of the following categories, then the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing: presents a serious threat to the public health, safety and welfare; the violation is irreparable or irreversible in nature; or the violations are of an itinerant or transient nature as defined by the town's Code of Ordinances.
- (d) *Repeat violation.* If a repeat violation is found, the code inspector shall notify the violator, but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the enforcement board and request a hearing. The code enforcement board, through [the town](#)~~its~~ clerical staff, shall schedule a hearing and shall provide notice pursuant to subsection (e) of this section. The case may be presented to the code enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement board [or special magistrate](#) retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator.

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(e) *Notices.*

- (1) All notices required by this section shall be provided to the alleged violator as follows:
 - a. Certified mail, and, at the option of the town, return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. The town may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in this section.
 - b. Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the town; or
 - c. Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice.
- (2) In addition to providing notice as set forth in subsection (e)(1) of this section, at the option of the code enforcement board or the town, notice may be served by publication or posting, as follows:
 - a. Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
 - b. In lieu of publication as described in subsection (e)(2)a of this section, such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be the town hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
 - c. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (e)(1) of this section.
- (3) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (e)(1) of this section, together with proof of publication or posting as provided in subsection (e)(2) of this section, shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the alleged violator actually received such notice.

(Code 1996, § 2-408; Ord. No. 262, § 1, 12-19-2011; Ord. No. 268, § 1, 9-19-2012)

State law reference(s)—Similar provisions, F.S. §§ 162.06, 162.12.

Sec. 2-409. Conduct of hearing; powers of board/special magistrate.

- (a) *Minutes.* Upon request of the code inspector, or at such times as may be necessary, the town may schedule hearings of the enforcement board or special magistrate. Minutes shall be kept of all hearings by the enforcement board or special magistrate, and all hearings and proceedings shall be open to the public.
- (b) *Quasi-judicial.* The enforcement board or 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.

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- (c) *Orders.* At the conclusion of the hearing, the enforcement board or 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 finding shall be by motion approved by a majority and at least three members must vote. 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) *Administrative costs.* If the town prevails in prosecuting a case before the enforcement board or special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the enforcement board or special magistrate, and such costs may be included in the lien authorized under section 2-410. If a violation is found, but a fine is not imposed, the costs of prosecuting the case may still be included in a lien recorded against the property for the amount of the costs.
 - (e) *Powers.* The enforcement board or special magistrate shall have the power to:
 - (1) Adopt rules for the conduct of the hearings;
 - (2) Subpoena alleged violators and witnesses to the hearings;
 - (3) Subpoena evidence to the hearings;
 - (4) Take testimony under oath;
 - (5) Issue orders having the force of law; and
 - (6) Reduce fines, after compliance, upon application to the enforcement board or special magistrate for such relief.

(Code 1996, § 2-409; Ord. No. 262, § 1, 12-19-2011)

State law reference(s)—Similar provisions, F.S. §§ 162.07, 162.08.

Sec. 2-410. Fines; liens; appeal.

- (a) *Fines.* The enforcement board or special magistrate, upon notification by the code inspector that a previous order of the enforcement board has not been complied with by the time set, may order the violator to pay a fine. A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and in addition, may include costs of repairs.
- (b) *Liens.* A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the town, and the town may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, the enforcement board or special magistrate may authorize the town attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under section 4, article X of the State Constitution. The money judgment provision of this section shall not apply to real property or personal property which is covered under section 4(a), article X of the State Constitution.
- (c) *Appeal.* An aggrieved party, including the town, may appeal a final administrative order of an enforcement board to the circuit court of the county. Such an appeal shall not be a hearing de novo, but shall be limited to

appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

(Code 1996, § 2-410; Ord. No. 262, § 1, 12-19-2011)

State law reference(s)—Similar provisions, F.S. §§ 162.09, 162.10.

Sec. 2-411. Alternative code enforcement procedures; citations.

(a) *General provisions.*

- (1) This section is an alternative code enforcement procedure and may be used for the enforcement of any town code or ordinance.
- (2) The enforcement board or special magistrate appointed pursuant to section 2-407 shall have the authority to preside over hearings relative to the civil citations issued pursuant to this section.
- (3) For purposes of this section, a violation of a code or an ordinance of the town is a civil infraction.

(b) *Definitions.* When not inconsistent with the intent and purpose of this section, the definitions set forth in section 2-406 shall apply herein. The following additional words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Continuing violations means those violations that remain uncorrected beyond the reasonable time period for compliance given by the code inspector.

Uncorrectable violations means those violations that cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an ongoing condition or circumstance.

(c) *Issuance of citations.* A code inspector 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 ordinance or code.

(d) *Notice.*

- (1) *Generally.* Notice shall be delivered in accordance with section 2-408(e).
- (2) *Continuing violations.* Prior to issuing a citation, a code inspector shall provide notice to the person that has committed a violation of an ordinance or code and shall establish a reasonable time period within which the person must correct the violation. If, upon personal investigation, a code inspector finds that the person has not corrected the violation within the time period allowed, the code inspector may issue a citation to the person who has committed the violation.
- (3) *Other violations.* If the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable, irreversible or uncorrectable, the code inspector is not required to provide the person with a reasonable time period to correct the violation and may immediately issue the person a citation.

(e) *Form of citation.* The citation 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.

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- (5) The number or section of the code or ordinance violated.
 - (6) The name and authority of the code inspector.
 - (7) The procedure for the person to follow in order to pay the civil fine or to contest the citation.
 - (8) The applicable civil fine if the person elects to contest the citation.
 - (9) The applicable civil fine if the person elects not to contest the citation.
 - (10) A conspicuous statement that if the person fails to pay the civil fine within the time allowed, or fails to timely contest the violation by the delivery of a written request for a hearing before the enforcement board or special magistrate, or fails to appear at such hearing, he or she 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 fine.
- (f) *Procedures.*
- (1) *Options.* A person issued a citation may:
 - a. Pay the civil fine to the town clerk within the timeframe provided for in the citation; or
 - b. Deliver a written request for a hearing before the enforcement board or special magistrate to contest the citation. The written request must be received by the town clerk within ten calendar days of the date the citation was issued. Requests received after the ten days shall be untimely.
 - (2) *Waiver; hearings; appeals.*
 - a. If the person fails to pay the civil fine within the time allowed, or fails to timely contest the violation by written request for a hearing, or fails to appear at such hearing, he or she shall be deemed to have waived his or her right to contest the citation and a judgment may be entered against the person for an amount up to the maximum civil fine.
 - b. Hearings, administrative costs, civil fines and liens shall be handled in accordance with the procedures set forth in this article. However, if, after due notice and hearing, the enforcement board or special magistrate, finds a violation to be irreparable, irreversible, or otherwise uncorrectable, it may immediately order the violator to pay a fine.
 - c. Appeals of final administrative orders issued under this section shall be in accordance with section 2-410(c).
- (g) *Fines.* The amount of civil fines for specific ordinance or code violations shall be established from time to time by resolution of the town council and shall not exceed \$500.00.

(Ord. No. 289 , § 2, 6-12-2018)

Secs. 2-412—2-435. Reserved.

ARTICLE X. HARASSMENT POLICY AND PROCEDURE

Sec. 2-436. Intent.

The town is committed to maintaining a collegial business environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere which promotes equal opportunities, and which prohibits discriminatory practices, and harassment, including that related to age, race, physical disability, national origin, religion, gender or sex.

(Supp. No. 2)

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(Code 1996, § 2-411; Ord. No. 193, § 1, 12-16-1997)

Sec. 2-437. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Harassment.

- (1) The term "harassment" means unwarranted and unwanted verbal or nonverbal conduct which threatens, intimidates, pesters, annoys or insults another person, where such conduct has the purpose or effect of creating an offensive, intimidating, degrading, or hostile environment, or interferes with or adversely affects a person's work performance.
- (2) The term "harassment" does not include the lawful conduct or actions of supervisors intended to provide legitimate employee guidance or discipline, such as deficiency notices, performance evaluations, oral warnings, reprimands or other supervisory actions intended to promote positive performance, nor shall it unlawfully restrain the exercise of a person's First Amendment right of free speech.

Sexual harassment means unwelcome sexual advances, requests or demands for sexual favors, and other verbal or physical advances of a sexual nature. It is the town policy to fully support enforcement of state and federal anti-discrimination laws which provide that sexual harassment is prohibited where:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment (quid pro quo);
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual (quid pro quo); or
- (3) Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment (hostile environment).

(Code 1996, § 2-412; Ord. No. 193, § 1, 12-16-1997)

Sec. 2-438. Individuals covered; policy construed.

The prohibitions and protections of this article cover all full-time, part-time, and temporary employees, appointed and elected officials. It also covers volunteers, such as appointed board members, as well as persons doing business with the town government, including suppliers, contractors, and the public, while they are conducting business with the town. In its most simple expression, the town council shall not permit or tolerate unlawful harassment or sexual harassment, as defined in section 2-437, in any form.

(Code 1996, § 2-413; Ord. No. 193, § 1, 12-16-1997)

Sec. 2-439. Procedures for reporting a complaint.

- (a) It is the right of any covered person, at any time, to seek redress for unlawful harassment through the Florida Human Rights Commission, the Federal Equal Employment Opportunities Commission, or through a court of law. However, while not required, covered persons and especially employees are encouraged to use and exhaust the town's administrative procedures and remedies, set forth in this section, before consulting outside agencies regarding harassment.

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- (1) A covered person should attempt to resolve the problem of harassment between himself, and the person they feel is harassing them. They may wish to meet with a supervisor or other person in authority to act as intermediary, and confront and resolve the issue.
 - (2) In any case in which a supervisor or appointed official is a witness to a situation or act of harassment, such person in authority shall immediately notify the offending party that harassment is not appropriate, and shall not be tolerated. Disciplinary action or sanctions will be considered, and determined upon the completion of the reporting procedure. Failure of a supervisor to make an on the spot correction for an act of harassment, shall constitute a separate offense for which the supervisor may also be disciplined.
 - (3) Any employee subject to any form of unlawful harassment should immediately report such activity to his non-involved supervisor, department head, or directly to the town administrator.
 - (4) A non-involved supervisor is required to report harassment cases to his department head who, in turn, is required to report the matter to the town administrator. Such reports to superiors are to be made regardless of how knowledge of the case was acquired, and failure to notify superiors shall constitute a separate offense for which the supervisor may also be disciplined.
 - (5) The town administrator, so long as he is non-involved, or the town council's designee, shall investigate and report the facts of the case, make a determination regarding the allegation of unlawful harassment, and recommend appropriate discipline or sanctions.
 - (6) Confidentiality shall be maintained throughout the reporting and investigation to the extent practical and appropriate under the circumstances.
 - (7) The results of the investigation and the nature of the recommended disciplinary action will be communicated by the town administrator, or designee, to both the complainant and the offender. Either party may appeal the decision of the town administrator in writing, within ten days of the written rendering of the decision, to the town council, which shall hear the matter in special session not later than 30 days following receipt of the appeal.
- (b) Prompt reporting of a complaint is strongly encouraged, as it allows for rapid identification and resolution of objectionable behavior or conditions for the complaining individual and any other affected person.
 - (c) The town will not retaliate against an individual who makes a report of harassment, nor permit any other person under its control to do so. Any person found to have retaliated against an individual for reporting harassment will be subject to appropriate disciplinary procedures or sanctions as described in section 2-440.
 - (d) The town shall maintain a complete written record of each complaint and how it was investigated and resolved. Written records shall be maintained by the town clerk, in a confidential manner to the extent practical, lawful and appropriate. Except as otherwise required by state law, written records shall be maintained for five years from the date of the resolution.

(Code 1996, § 2-414; Ord. No. 193, § 1, 12-16-1997)

Sec. 2-440. Disciplinary action and sanctions.

Employees, or appointed officials, found to have engaged in misconduct constituting any form of harassment will be disciplined up to and including discharge. Elected officials, volunteers, suppliers, contractors, or members of the public who engage in unlawful harassing behavior will be sanctioned by the town council, upon the recommendation of the town administrator. These sanctions are supplemental to any other penalties for violation of ordinances.

- (1) For employees, discipline may include:

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- a. Mandatory referral to counseling;
 - b. Withholding promotion;
 - c. Reassignment;
 - d. Temporary suspension without pay;
 - e. Demotion; and
 - f. Discharge.
- (2) For other covered persons found responsible for harassment, sanction may include:
- a. Cancellation of contract and debarment;
 - b. Removal from advisory board membership;
 - c. Limitation on contact between the harassing party and complainant; and
 - d. Suspension or expulsion from the town's facilities, except to exercise voting rights.

(Code 1996, § 2-415; Ord. No. 193, § 1, 12-16-1997)