

ORDINANCE NO.:17-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA; AMENDING SECTION 2-304 (A) (NOTICES) TO PROVIDE FOR CODE ENFORCEMENT NOTICE CONSISTENT WITH STATE LAW; AMENDING SECTION 10-1.2 (B) (CITY CITATION) TO AUTHORIZE CODE ENFORCEMENT OFFICERS TO ISSUE CITATIONS FOR CERTAIN CODE VIOLATIONS; AMENDING SECTION 2-297 (DEFINITIONS) TO AMEND THE DEFINITION OF CODE ENFORCEMENT OFFICER TO INCLUDE PARKING ENFORCEMENT SPECIALIST; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2-304(a) provides that there is a presumption that a code enforcement notice was received if the certified notice was returned unclaimed/undelivered but another notice was sent by regular mail to the same address and said notice is not returned.

WHEREAS, Florida Statute Section 162.12 provides for posting of the notice on the property and at City Hall instead of sending the notice by regular mail when the certified mail is returned undeliverable/unclaimed.

WHEREAS, City staff would prefer to post the notices instead of sending notice by regular mail as City staff currently posts the property with the notices as a matter of practice.

WHEREAS, the City would like to enforce parking violations through the City's citation process.

WHEREAS, State law provides for a parking enforcement specialist for the enforcement of parking regulations.

WHEREAS, City's code needs to be amended to authorize code

enforcement officers to issue citations and to amend the definition of code enforcement office to include parking enforcement specialist.

WHEREAS, words which are underlined (underlined) are additions to the text and words with strike through (~~strike through~~) the characters are deletions from the text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA:

Section 1. The City Council hereby amends Section 2-304(a)

(Notices) to read as follows:

(a) All notices required by this article shall be provided to the alleged violator by certified mail, return receipt requested, to the address listed in the tax assessors office for tax notices, or by hand delivery by the sheriff or other law enforcement officer, or code enforcement officer, or by leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice. In the case of commercial property, the notice may be provided to the manager or other person in charge. Further, in the event notice is provided by certified mail, return receipt requested, and acceptance of such notice is refused, ~~or is returned to the City or is not signed as received within 30 days from the postmarked date of mailing, the City may provide the notice as provided in (b) (2) below. additional notice is provided using the same address by regular U.S. Mail delivery and said additional notice is not returned to the city, a rebuttable presumption shall arise that the violator has received notice of the violation.~~

The remainder of Section 2-304 shall remain unchanged, in full force and effect.

Section 2. The City Council hereby amends Section 10-1.2

(b) (City Citation) to read as follows:

(2) A city citation issued by a law enforcement officer or code enforcement officer, as defined in Section 2-297, shall

contain identifying information of the person issued the citation; the City regulation(s) alleged to have been violated; a description of the facts that constitute the basis of issuing the citation; the amount of the fine; the time within which the fine must be paid and where the fine can be paid; that the City citation can be challenged with the special magistrate; that failure to pay shall result in violation being referred to the special magistrate and that the special magistrate can levy a fine up to two hundred fifty dollars (\$250.00) for first-time violations and five hundred dollars (\$500.00) for repeat violations.

The remainder of Section 10-1.2 shall remain unchanged, in full force and effect.

Section 3. The City Council hereby amends Section 2-297 (Definitions) to read as follows:

Code enforcement officer shall mean the city manager, assistant city manager, chief building official, code enforcement supervisor, code enforcement officer, fire safety inspector, director of public works, parking enforcement specialist and any other person designated in writing by the city manager.

The remainder of Section 2-297 shall remain unchanged, in full force and effect.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 3. That all ordinances made in conflict with this Ordinance are hereby repealed.

Section 4. That this Ordinance shall become effective immediately upon its adoption.

PASSED upon first reading at a regular meeting of the City

Council of the City of South Daytona held in the City of South Daytona, Florida, on the 9 day of May, 2017.

PASSED AND ADOPTED upon second and final reading at a regular meeting of the City Council of the City of South Daytona held in the City of South Daytona, Florida, on the 13 day of June, 2017.



William C. Hall, MAYOR

ATTEST:



JOSEPH W. YARBROUGH
City Manager