



**TOWN OF HIGHLAND BEACH
ORDINANCE NO 19-010 O**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION", ARTICLE V "BOARDS AND COMMITTEES", BY ENACTING DIVISION 5 "SUPPLEMENTAL CODE COMPLIANCE PROCEDURES", TO PROVIDE A CODE CITATION PROCESS; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town wishes to establish a code citation process as an alternate process to notices of violations under the code enforcement process; and

WHEREAS, the Town Commission believes the amendments to the Town of Highland Beach Code of Ordinances as specified in this Ordinance are in the best interest of the Town of Highland Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2. The Town of Highland Beach Code of Ordinances, Chapter 2 "Administration", Article V "Boards and Committees", is hereby amended by enacting Division 5 "Supplemental Code Compliance Procedures" to read as follows:

DIVISION 5. – SUPPLEMENTAL CODE COMPLIANCE PROCEDURES.

Sec. 2-170. - Authority and purpose.

- (a) This division is adopted pursuant to F.S. §§ 162.03(2), 162.13, and 162.22, as an alternate and supplemental method of enforcing municipal codes and ordinances, and is enacted to promote, protect and improve the health, safety and welfare of the citizens of the town.
- (b) The Town's special magistrate or the code enforcement board appointed to hear code matters under Division 2 of this Chapter is authorized to hear citations as set forth in this division.
- (c) When not inconsistent with the intent and purpose of this division, the definitions set forth in section 2-110 shall apply herein.

Sec. 2-171. - Civil infraction.

For purposes of this division, a violation of a code or an ordinance of the town is a civil infraction.

Sec. 2-172. - Code citation procedures; appeals.

- (a) As used in this division, "code officer" means any designated employee or agent of the town whose duty it is to enforce the codes and ordinances enacted by the town.
- (b) The town may designate certain of its employees or agents as code officers. The training and qualifications of the employees or agents for such designation shall be determined by the town. Employees or agents who are designated as code officers include code officers employed or contracted with in the building department or law enforcement officers. The town, through its town manager, may designate additional employees as necessary. Designation as a code officer does not provide the code officer with the power of arrest or subject the code officer to the provisions of F.S. §§ 943.085 through 943.255.
- (c) A code officer is authorized to issue a warning or 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 code or ordinance for which a fine has been set under this article.
- (d) A citation issued pursuant to this section 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.
 - (5) The number or section of the code or ordinance violated.
 - (6) The name of the code officer.
 - (7) The applicable civil penalty if the person elects not to contest the citation.
 - (8) The applicable or maximum civil penalty if the person elects to contest the citation.
 - (9) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - (10) The date the property must be brought into compliance, if applicable.
 - (11) A conspicuous statement that if the person fails to appear before the special magistrate to contest the citation, he or she shall be deemed to have waived his or her right to contest the citation and that, in such case, an order may be entered against the person for an amount up to the maximum civil penalty.
- (e) If a fine or costs, or both, is not paid in accordance with the citation and the violator did not contest the citation within the time frame allowed, the violator shall have waived all rights to a hearing. Thereafter, an order may be entered by the special magistrate/code enforcement board against the violator in the amount stated in the citation. Further, if the fine and costs are not timely paid prior to the hearing and the special magistrate/code enforcement board

determines a violation occurred, the violator may be subject to additional administrative costs and fees. Once a fine is paid, or if unpaid, after the date set for payment in the code citation, it is deemed to be conclusive proof of the violation for the purpose of establishing a later repeat violation.

The violator may elect to appear before the special magistrate/code enforcement board to contest the violation cited, and at that time must bring any witnesses or evidence to be presented at the special magistrate/code enforcement board hearing.

The hearing shall be conducted in accordance with section 2-115 of this chapter. If a violation is found to have occurred, the special magistrate/code enforcement board may enter an order requiring compliance and the payment of fines and administrative costs in accordance with this section and section 2-117 of this chapter.

- (f) A certified order assessing fines and/or costs may be recorded as a lien as set forth in section 2-117 of this chapter or as otherwise provided by law.
- (g) Appeals. An aggrieved party, including the local governing body, may appeal an order of a special magistrate/code enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate/code enforcement board. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed. The town attorney or designee is hereby authorized to defend such appeals on behalf of the town and/or special magistrate.

Sec. 2-173. - Civil penalties.

- (a) The maximum civil penalty for a civil infraction cited under this division shall be five hundred dollars (\$500.00). A civil penalty may also be referred to as a citation fine. Reinspection fees shall be set forth in a resolution adopted by the Town Commission.
- (b) If the person who has committed a civil infraction does not contest the citation and pays the penalty and complies the property in accordance with the citation, the civil penalty shall be as set forth herein. These penalties may hereafter be amended by resolution of the Town Commission. Reinspection fees shall be set forth in a resolution adopted by the Town Commission.
 - (1) For a Class I infraction, fifty dollars (\$50.00) plus a reinspection fee, if required.
 - (2) For a Class II infraction, fifty dollars (\$50.00) for first time offense and one hundred dollars (\$100.00) for repeat violations plus a reinspection fee, if required.
 - (3) For a Class III infraction, two hundred dollars (\$200.00) for first offense and repeat violations plus a reinspection fee, if required.
- (c) If the person who has committed a civil infraction contests the citation, the special magistrate/code enforcement board shall have the discretion to determine the amount of the fine and administrative costs as set forth in section 2-172 (e) above.

Sec. 2-174. - Classification of infractions.

(a) Class I.

- (1) Violations of the parking code of the town, as adopted in Chapter 16 of the Code of Ordinances.

- (2) Violations involving recreational vehicles or boats.
- (3) Obstruction of public right-of-way.
- (4) Violations involving solid waste, refuse, garbage, rubbish or trash.

(b) Class II

- (1) Violations of the building code of the town, as adopted in section 6-26 of the Code of Ordinances, not specifically enumerated in this division.
- (2) Violations of the Property Maintenance Code, as adopted in section 6-29 of the Code of Ordinances, and as amended from time to time, not specifically enumerated in this division.
- (3) Violations involving fences, walls or hedges.
- (4) Violations of the sign code, as adopted in Chapter 23 of the Code of Ordinances, not specifically enumerated in this division.
- (5) Abandoned property on private property.
- (6) Violations involving landscaping.
- (7) Violations involving a required visibility triangle.
- (8) Violations of the Code of Ordinances not specifically enumerated in this division.
- (9) Repeat parking violations.

(c) Class III.

- (1) Performing work without a required permit.
- (2) Violations of the construction site code, as adopted in Chapter 16 of the Code of Ordinances.
- (3) Violations of the zoning ordinance, as adopted in Chapter 30 of the Code of Ordinances, not specifically enumerated in this section.
- (4) Violations of licenses and license taxes code, as adopted in Chapter 15 of the Code of Ordinances.
- (5) Prohibited or unsafe signs.
- (6) Violations of "cease and desist" or "stop work" orders.
- (7) Repeat violations.

Sec. 2-175. - Additional and supplemental means of enforcement.

The provisions of this division are additional and supplemental means of enforcing town codes or ordinances and may be used for the enforcement of any code or ordinance. Nothing contained in this division shall prohibit the town from enforcing its codes or ordinances by any other method. These enforcement methods include the issuance of a notice of violation, the issuance of a citation,

a summons, or a notice to appear in county court, or arrest for violation of municipal ordinances as provided in F.S. ch. 901. The governing body of the town may designate additional enforcement methods and penalties to be imposed for the violation of ordinances adopted by the town.





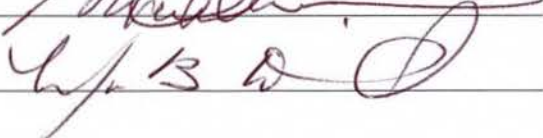
Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances, or all resolutions or parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. Section 2 of the Ordinance may be made a part of the Town Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "division," or any other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption at second reading.

The foregoing Ordinance was moved by Vice Mayor Babij, seconded by Commissioner Donaldson and upon being put to the vote, the vote was as follows:

	<u>AYE</u>	<u>NAY</u>	
Mayor Zelniker	X	_____	
Vice Mayor Babij	X	_____	
Commissioner Gossett-Seidman	X	_____	
Commissioner Donaldson	X	_____	
Commissioner David	X	_____	

PASSED on first reading at the Regular Commission meeting held on this 5th day of November 2019.

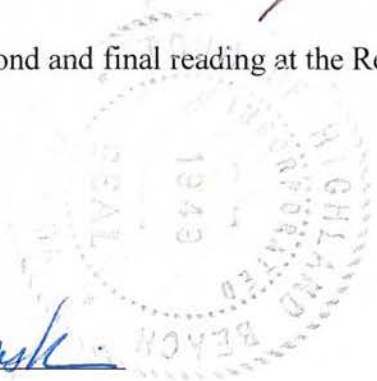
The foregoing Ordinance was moved by Commissioner Gossett-Seidman, seconded by Commissioner David and upon being put to the vote, the vote was as follows:

	AYE	NAY	
Mayor Zelniker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Rhoda Zelniker</u>
Vice Mayor Babij	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>[Signature]</u>
Commissioner Gossett-Seidman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Peggy Gossett-Seidman</u>
Commissioner Donaldson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>[Signature]</u>
Commissioner David	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>[Signature]</u>

PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on this 3rd day of Dec. 2019.

ATTEST:

By: Lanelda Gaskins
Lanelda Gaskins, MMC
Town Clerk



APPROVED AS TO FORM AND LEGALITY:

By: [Signature]
Glen J. Torcivia Town Attorney