

**CITY OF HOLMES BEACH
ORDINANCE NO 22-12**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HOLMES BEACH AMENDING CHAPTER 2 – ADMINISTRATION, ARTICLE VIII. – BUILDING PERMIT FEE SCHEDULE, SECTION 2-201. – APPLICATION FEES AND BUILD PERMIT FEES; AMENDING CHAPTER 2 – ADMINISTRATION, ARTICLE V. – CODE ENFORCEMENT, SECTION 2-127. – SUPPLEMENTAL ENFORCEMENT PROCEDURES FOR CITY CODES AND ORDINANCES; AMENDING CHAPTER 4 – REGULATION OF VACATION RENTAL UNITS, SECTION 4-10. – FEES AND SECTION 4-11. – VIOLATIONS AND PENALTIES; REPEALING AND RESERVING CHAPTER 14 – BUILDINGS AND BUILDING REGULATIONS, SECTION 14-2. – FEES ADDITIONS; AMENDING CHAPTER 26 – EMERGENCY SERVICES, SECTION 26-34. – FINES FOR ALARM VIOLATIONS; AMENDING CHAPTER 58 – TAXATION, SECTION 58-67 - SCHEDULE; AMENDING SECTION 1.5 – PERMITS AND FEES, OF THE LAND DEVELOPMENT CODE; TO REMOVE ALL CODIFIED FEE AND FINE SCHEDULES AND CLARIFYING FEE SCHEDULES BE ADOPTED VIA RESOLUTION; PROVIDING FOR CONFLICTS, SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, many sections of the City’s Code of Ordinances designate that fee amounts shall be established by resolution of the City Commission; and

WHEREAS, in order to promote uniformity in the Code, the City Commission of the City of Holmes Beach desires to remove all codified fee schedules from the City’s Code of Ordinances as those fee schedules are matters of administration and should be adopted via resolution; and

WHEREAS, Article VIII, Section 2, of the Florida Constitution and Section 166.021(1), Florida Statutes, provide that a municipality may exercise any power for municipal purposes, except when expressly prohibited by law.

NOW, THEREFORE, be it ordained by the City Commission of the City of Holmes Beach, Florida, as follows:

SECTION 1. The above "whereas" clauses are adopted herein as findings of fact.

SECTION 2. Article VIII. – Building permit fee schedule, Section 2-201. – Application fees and build permit fees, of the City’s Code of Ordinances is amended as follows:

Sec. 2-201. Application fees and build permit fees.

- (1) All permits are subject to non-refundable fees, the amount of which will be established by resolution of the City Commission and may be amended from time to time. Fees may only be waived by the building official. Fee waiver applications must be in writing.
- (2) All after-the-fact permit fees are assessed at double the normal fee, plus original fees.
- (3) Permit valuations will be determined by the building official for the proposed work or contract signed by the owner and contractor. Valuation documentation must be submitted at the time of permit application.
- (4) All permit plan reviews will incur a plan review fee, which shall be a percentage based on total permit costs associated with Florida Building Code Compliance.
- (5) State surcharge fees of 1.5% for the Florida Department of Business and Professional Regulation and 1% for the Building Code Administrators and Inspectors Fund associated with Florida Building Code compliance will be collected for all permits pursuant to Sections 553.721 and 468.631, Florida Statutes. The minimum charge shall be \$4.00.
- (6) Permit applications may require City engineer, city planner, and/or West Manatee Fire District review in addition to Building Code review. Separate fees may apply.
- (7) A re-inspection fee applies to all failed inspections.

SECTION 3. Article V. – Code Enforcement, Section 2-127. – Supplemental enforcement procedures for City Codes and Ordinances, of the City’s Code of Ordinances is amended as follows:

Sec. 2-127. Supplemental enforcement procedures for City Codes and Ordinances.

- (a) *Establishment.* There is hereby established pursuant to F.S. § 162.21, a collateral and supplemental procedure, process and remedy for the effective enforcement and compliance of all codes and ordinances, or any subsequent amendments thereto, of the city pursuant to the schedule set forth by the City Commission, through the issuance of citations by code enforcement officers of the city for violation of such codes and ordinances.
- (b) *Code enforcement officers.* As used in this section, the term, "code enforcement officer" shall mean any designated employee or agent of the city whose duty it is to enforce codes and ordinance enacted by the city and a certified police officer employed by the city. The term is synonymous with the term "code inspector" utilized elsewhere in the city's ordinances.
- (c) *Designation of certain city employees or agents as code enforcement officers.* City code enforcement officers (CEO) shall be designated and appointed, in writing, by the mayor. The training and qualifications necessary for designation or appointment as a CEO shall be determined by and within the discretion of the mayor. However, those employees of the city who may be designated as CEO are hereby declared to include, but are not limited to, code inspectors, law enforcement officers, fire safety inspectors and building inspectors. Designation of an employee as a CEO, other than those employees who are certified law enforcement officers, does not provide the CEO with the power of arrest or subject the CEO to the provisions of F.S. §§ 943.085 through 943.255.

(d) *Issuance of citations and procedures:*

- (1) A CEO is authorized to issue a citation to a person when, based upon personal investigation, the CEO has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance of the city and that the county court will hear the charge.
- (2) Prior to issuing a citation, a CEO shall provide notice to the violator that he has committed a violation of a code or ordinance of the city and shall establish a reasonable time period within which the violator must correct the violation. The designation of a reasonable time period for correction of the violation shall be within the sole discretion of the CEO, taking into consideration and utilizing as factors for such, the nature of the violation, the circumstances surrounding the violation, the efforts necessary to reasonably correct the violation, the length of time the violation has been in effect and whether the violation is a repeat offense. Nevertheless, such time period for correction shall not exceed 30 days. If upon personal investigation, a CEO finds that the violator has not corrected the violation within the time period provided in the notice, a CEO may issue a citation to the violator. A CEO does not have to provide a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the CEO has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible.
- (3) A citation issued by a CEO shall be in a form prescribed by the city and shall, as a minimum, contain:
 - a. The date and time of issuance;
 - b. The name and address of the person to whom the citation is issued;
 - c. The date and time the civil infraction was committed;
 - d. The facts constituting reasonable cause;
 - e. The number or section of the code or ordinance violated;
 - f. The name and authority of the CEO;
 - g. The procedure for the person to follow in order to pay the civil penalty or to contest the citation;
 - h. The applicable civil penalty, if the person elects to contest the citation (including an administrative fee to be paid to the clerk of the circuit court);
 - i. The applicable civil penalty, if the person elects not to contest the citation (including an administrative fee to be paid to the clerk of the circuit court); and,
 - j. A conspicuous statement that if the person fails to pay the civil penalty or, alternatively, request a hearing, in writing, to contest the citation within 15 days of issuance (on a form prescribed by the city and approved by the court) or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, a judgment may be entered against the person for an amount up to the maximum civil penalty.
- (4) After issuing a citation to the violator, a CEO shall deposit the original citation and one copy of the citation with the county court by filing with the clerk of the circuit court.

- (e) *Schedule of violations and penalties.* A violation of the city ordinances and provisions of the Code of Ordinances (City Code) shall be a civil infraction and subject the violator to civil penalties, the amount of which will be established by resolution of the City Commission and may be amended from time to time.:
- (f) *Willful refusal to sign or accept a citation.* Any person who willfully refuses to sign and accept a citation issued by a CEO shall be in violation of this section and shall be in violation of and subject to the provisions of F.S. § 162.21(6), and the penalties provided for by law.
- (g) *Exclusion of application to certain building codes.* The provisions of this section shall not apply to the enforcement pursuant to F.S. §§ 553.79 and 553.80, of building codes adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the city. For the purpose of this section, "building codes" means only those codes adopted pursuant to F.S. § 553.73.
- (h) *Additional or supplemental means of enforcement.* The provisions of this section are an additional, collateral and supplemental means of enforcing the city's codes and ordinances. Nothing contained in this section shall prohibit the city from enforcing its codes or ordinances by any other lawful means.
- (i) *Providing for the adoption of procedural rules for implementation by resolution.* The city commission is specifically authorized hereby to adopt, by resolution, those administrative procedures or rules as necessary to provide for the effective administration and enforcement of the provisions of this section.

SECTION 4. Chapter 4 – Regulation of Vacation Rental Units, Section 4-10. – Fees and Section 4-11. – Violations and penalties, of the City’s Code of Ordinances are amended as follows:

Sec. 4-10. Fees.

In order to secure a vacation rental certificate, the applicant must pay all application and inspections fees, the amount of which will be established by resolution of the City Commission and may be amended from time to time.

Sec. 4-11. Violations and penalties.

- (a) A code enforcement officer is authorized to issue a written notice of violation (NOV) for any violation relating to the vacation rental unit ordinance including any of the violations set forth below. Each designated violation set forth below includes a specific period within which the violation shall be corrected.
- (b) The notice of violation shall be served as provided in section 2-125 of the Code of Ordinances. The code enforcement procedure set forth in chapter 2, article V, of the Code of Ordinances shall be followed for processing violations; provided, however, in the event of conflict between the procedures set forth in this chapter and the procedures set forth in chapter 2, article V, the procedures in this chapter shall govern.
- (c) Violations relating to the vacation rental unit ordinance shall include any of the violations set forth below. Each designated violation set forth below includes a specific period within which

the violation shall be corrected. If the violation is corrected within the prescribed time, the city will take no further action although the violation is deemed admitted as set forth in (e), below. Violations which do not have a designated period for correction shall be corrected within the time designated by the code enforcement officer.

- (1) Advertising without a valid vacation rental certificate issued by the city (48 hours).
- (2) Advertising that violates this chapter or any other city code or ordinance (48 hours).
- (3) Advertising that fails to specifically state the minimum stay requirements as set forth in the city's Land Development Code (48 hours).
- (4) Advertising which exceeds the authorized occupancy requirements (48 hours).
- (5) Failure to list the vacation rental certificate number on all advertising (48 hours).
- (6) Failure to list the number of on-site parking spaces in all advertising (48 hours).
- (7) Failure to register any new agent with the city within 15 business days (48 hours).
- (8) Failure to schedule an inspection within 30 days of application (48 hours).
- (9) Failure to schedule a re-inspection within 30 days of an inspection failure (48 hours).
- (10) Improper placement of short-term rental sign on property (24 hours).
- (11) Renting a property without a valid vacation rental certificate issued by the city (48 hours).
- (12) Renting a property for an improper length of stay.
- (13) Exceeding the maximum occupancy limits.
- (14) Failure to comply with any advertising requirement set forth in this chapter, including but not limited to the failure to post the following statement:

"You are vacationing in a residential area. Please be a good neighbor by keeping the noise to a respectful level during the day and night. Excessive and unreasonable noise can deprive neighbors of the peaceful enjoyment of their private property."

- (d) The fines and penalties for single or multiple violations shall be assessed as set forth by resolution of the city commission and may be amended from time to time. The fines and penalties for a violation of this section shall not be as provided in chapter 2, article V.
- (e) A violator shall pay the fine to the city clerk within ten business days of receiving the notice of violation even if the violation has been corrected within the prescribed time. Correcting a violation does not eliminate or mitigate the fine. If a violator timely pays the fine, fails to pay the fine within ten business days of receiving the notice of violation, or fails to file a request for a hearing to contest the issuance of the notice of violation within ten business days of receiving the notice of violation, the violation will be deemed admitted. If a person receiving a notice of violation desires to challenge the notice, the person shall request a hearing before the city's special magistrate by filing a request for hearing with the city clerk within ten business days of receipt of the notice of violation. The request for hearing must be received by the city clerk during regular business hours. The city clerk, or the clerk's designee, shall thereafter schedule a hearing before the special magistrate to be held no more than 20 business days after receiving the request for hearing.

- (f) Notwithstanding the foregoing, all repeat violations shall be scheduled for a hearing before the special magistrate and the violator shall not have the option of paying a fine prior to the hearing.
- (g) The special magistrate shall conduct a hearing as provided chapter 2, article V, of the Code of Ordinances. Within a reasonable time following the conclusion of the hearing, the special magistrate shall render a written decision consisting of findings of fact and conclusions of law. If the special magistrate determines the violation as set forth in the notice of violation occurred, the special magistrate shall levy a fine on the violator in such amounts authorized by the provisions of chapter 2, article V, of the Code of Ordinances. The special magistrate shall also include with the fine an amount equal to the administrative costs recoverable by the city as provided chapter 2, article V, of the Code of Ordinances, including all costs and fees incurred by the city for the proceeding before the special magistrate. The written decision is considered the final decision on the matter and subject to such appeal as is available under Florida law. If the special magistrate determines that the property was not in violation as alleged in the notice of violation, the notice of violation along with all fines and costs associated with the notice of violation shall be deemed void. Any fine and hearing costs imposed by the special magistrate shall be paid to the city no later than ten business days following the rendering of the special magistrate's final order. If the fine and costs remain unpaid after ten business days, a late fee equal to the sum of the fine and the hearing costs shall be assessed by the special magistrate as a ministerial act, and a certified copy of the special magistrate's order shall be filed in the public records of Manatee County, where it shall be deemed a lien upon the property upon which the violation exists, along with any other property belonging to the violator. The city is authorized to pursue the collection of the violator's indebtedness to the city in accordance with any applicable remedy available under Florida law, including but not limited to the foreclosure of the lien on the violator's property.

SECTION 5. Chapter 14 – Building and building regulations, Section 14-2. – Fees additions, of the City’s Code of Ordinances is hereby repealed in its entirety and the section is reserved for future use.

SECTION 6. Chapter 26 – Emergency services, Section 36-34. – Fines for alarm violations, of the City’s Code of Ordinances is amended as follows:

Sec. 26-34. Fines for alarm violations.

There shall be a fine for alarm violations, the amount of which will be established by resolution of the City Commission, and amended from time to time.

SECTION 7. Chapter 58 – Taxation, Section 58-67. – Schedule, of the City’s Code of Ordinances is amended as follows:

Sec. 58-67. Schedule.

The business taxes, per annum, as required under this article, shall be established by resolution of the City Commission, and may be amended from time to time pursuant to applicable law

SECTION 8. Article I – General, Section 1.5 – Permits and fees, of the City’s Land Development Code, is amended as follows:

1.5 Permits and fees.

- A. *Land use application fee schedule.* All petitions and applications invoking the land use mechanisms described herein must be accompanied by the specified nonrefundable fee. In addition to the fees established by the City Commission by resolution, which may be amended by time to time, applicants shall be responsible for all required advertising and notices.

- B. *Land use application fee schedule.* The nonrefundable fees payable in accordance with the fee schedule set by resolution of the City Commission shall be payable in addition to all application and permit fees, except for any fees that may be duplicative, in which case the higher fee shall apply.

SECTION 9. Severability. If any section, subsection, paragraph, sentence, clause, or phrase in this Ordinance is held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions of this Ordinance.

SECTION 10. Conflicting Ordinances. Any section or provision in the City's Code of Ordinances that conflicts with the provisions of this Ordinance is hereby superseded.

SECTION 11. Effective Date. This Ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Holmes Beach.

PASSED AND ADOPTED, by the City Commission of the City of Holmes Beach, Florida, in regular session assembled, this 26th day of July, 2022.


First Reading: 6-28-22

Publication Date: 7-12-22

Second Reading and Public Hearing Date: 7-26-22



Carol Soustek



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Kim Rash



Jayne Christenson

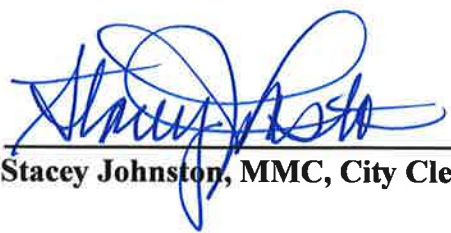


Pat Morton

APPROVED BY ME THIS 27th DAY OF July, 2022.



Judy Titsworth, Mayor

ATTEST: 

Stacey Johnston, MMC, City Clerk