

ORDINANCE NO. 1222

AN ORDINANCE OF THE CITY OF OKEECHOBEE, FLORIDA; AMENDING CHAPTER 18, ARTICLE II OF THE CODE OF ORDINANCES; AUTHORIZING THE CODE ENFORCEMENT MAGISTRATE TO CONSIDER FINE REDUCTIONS; INCREASING ADMINISTRATIVE FEES AS PROVIDED IN THE ORDINANCE; AMENDING OTHER REVISIONS TO REFLECT THE USE OF A MAGISTRATE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 162, Florida Statutes permits municipal code enforcement programs to be administered using a Special Magistrate to handle code enforcement proceedings; and

WHEREAS, the City Council finds that it is more efficient to have the Special Magistrate consider fine reduction requests to the Special Magistrate; and

WHEREAS, the City Council wishes to increase the administrative fees for processing a code enforcement case and make other revisions to the Code of Ordinances to reflect the use of a Magistrate; and

WHEREAS, it is in the best interests of the City of Okeechobee and its residents to institute these more efficient measures for carrying out the City's Code enforcement program.

NOW, THEREFORE, the City Council of the City of Okeechobee hereby enacts the following revisions to the Code of Ordinances, which have been presented at a duly advertised public meeting; and passed by majority vote of the City Council; and properly executed by the Mayor or designee, as Chief Presiding Officer for the City:

SECTION 1: Amendment and Adoption to Chapter 18, Article II Code Enforcement.

That the City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart A-General Ordinances, providing for amendments to Chapter 18-Code Enforcement, Article II-Code Enforcement Board; Procedure as follows:

ARTICLE II. - CODE ENFORCEMENT ~~BOARD~~; PROCEDURE

SECTION 2: Amendment and Adoption to Section 18-33.

That the City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart A-General Ordinances, providing for amendments to Chapter 18-Code Enforcement, Article II-Code Enforcement Board; Procedure, Section 18-33 Adoption of State Statute as follows:

Sec. 18-33. - Adoption of state statute.

F.S. ch. 162, parts I and II, "Local Government Code Enforcement Boards Act," is adopted in its entirety, as presently written or as hereafter amended by the state legislature, as substantive authority for, and to proscribe procedures for, the establishment, organization, and operations of the local code enforcement ~~board~~ program for the city.

SECTION 3: Amendment and Adoption to Section 18-34.

That the City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart A-General Ordinances, providing for amendments to Chapter 18-Code Enforcement, Article II-Code Enforcement Board; Procedure, Section 18-34 Administrative Procedures as follows:

Sec. 18-34. - Administrative procedures.

All code enforcement operations for the city shall be administratively handled through the police chief, who shall provide the appropriate forms; take complaints; process complaints; direct the code enforcement officers or law enforcement officers in the investigation into such complaints; schedule code ~~board meetings~~ enforcement hearings; provide a tape recorded record of such meetings; prepare and record official acts and

orders of the ~~board~~ special magistrate; prepare and file any liens as directed by the ~~board~~ special magistrate; and to generally be responsible for all operation and record keeping for the city's code enforcement ~~board~~ program. The ~~code enforcement board~~ special magistrate may from time to time forward on to the city council as an agenda item, or for general consideration, any matter, request, suggestion or concern the ~~board~~ special magistrate may ~~vote~~ approve upon at a regular or special ~~meeting~~ hearing that it ~~he/she~~ determines should be addressed by the city council.

SECTION 4: Amendment and Adoption to Section 18-34.

That the City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart A-General Ordinances, providing for amendments to Chapter 18-Code Enforcement, Article II-Code Enforcement Board; Procedure, Section 18-35 Administrative Staff Fees as follows:

Sec. 18-35. - Administrative staff fees.

- (a) Any first-time violators of any city ordinance or code, or those not considered to be repeat violators as defined in section 18-32, are required to correct the alleged violation upon receipt of a first notice of violation from the city. If such violation is not corrected, and a second notice must be sent, then the city shall assess and collect from the violator an administrative fee of \$250.00 for processing the complaint, plus any additional expense incurred in long distance phone charges; certified mail expense, recording charge, or any such other reasonable administrative expense incurred in processing the complaint, which excludes the salary of the code enforcement officer or city employees, regardless of whether the violator should come into compliance with the cited ordinance or code prior to the public hearing on the violation.
- (b) For those persons who qualify as repeat violators by this article, upon the initiation and processing by the city of any complaint for being in violation of a city ordinance or code, the city shall assess and collect from the violator an administrative fee of \$25100.00 for processing the complaint, plus any additional expense incurred in long distance phone charges; certified mail expense, recording charge, or any such other reasonable administrative expense incurred in processing the complaint, which excludes the salary of the code enforcement officer or city employees, regardless of whether the violator should come into compliance with the cited ordinance or code prior to the public hearing on the violation.

SECTION 5: Amendment and Adoption to Section 18-36.

That the City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart A-General Ordinances, providing for amendments to Chapter 18-Code Enforcement, Article II-Code Enforcement Board; Procedure, Section 18-36 Effect of No Violation as follows:

Sec. 18-36. - Effect of no violation.

If any alleged violator should appear or contest the violation through the code enforcement officer, or before the ~~code enforcement board~~ special magistrate, or before the county court and the ~~board~~ special magistrate or county court should find as a matter of law and fact from the evidence or witnesses presented by the code enforcement officer representing the city at such hearing, that no violation occurred by the alleged violator, then no administrative charge or expense as provided in this article shall be assessed against the alleged violator, and such allegations shall not constitute a violation so as to form a basis for treating the alleged violator as a repeat violator under this section, unless such violator would otherwise qualify for such designation as defined in section 18-32.

SECTION 6: Addition and Adoption of Section 18-38.

That the City Council for the City of Okeechobee, Florida, adds herein Part II of the Code of Ordinances, Subpart A-General Ordinances, providing for amendments to Chapter 18-Code Enforcement, Article II-Code Enforcement Board; Procedure, Section 18-38 Powers of Magistrate as follows:

Sec. 18-38. – Powers of magistrate.

1. The magistrate shall have all powers created by F.S. ch. 162. Additionally, the magistrate shall have all powers delegated by the city commission council relating to the exercise of its police powers pursuant to F.S. ch. 166. The magistrate shall have the express power to:
 - a) Adopt rules for the conduct of code enforcement meetings and hearings.
 - b) Subpoena alleged violators and witnesses.

- c) Subpoena evidence as necessary for hearings, including but not limited to physical and documentary evidence, such as records, surveys, plats and photographs.
 - d) Take testimony under oath.
 - e) Issue orders having the force and effect of law which can command whatever steps are necessary to bring a violation into compliance, such decision to be made at the hearing and reduced to writing and mailed to the violator within ten working days thereafter.
 - f) Establish and enforce fines pursuant to this municipal code.
 - g) Authorize the reduction of any fine he or she has imposed.
2. Any aggrieved party may appeal an order of the magistrate to the circuit court as provided in Section 162.11, Florida Statutes, including by not limited to the magistrate's determination of a fine reduction.


SECTION 7: Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: Severability. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.


SECTION 9: Inclusion in the Code. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Okeechobee.

SECTION 10: Effective Date. This Ordinance shall take effect immediately upon its passage.

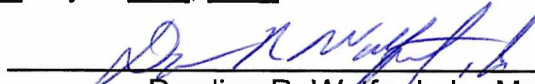
INTRODUCED for First Reading and set for Final Public Hearing on this 2nd day of March, 2021.


Dowling R. Watford, Jr., Mayor

ATTEST:


Lane Gamiotea, CMC, City Clerk


Postponed at the **April 6, 2021, Second Reading and Public Hearing**, to hold the **Final Adoption** at a duly noticed **Public Hearing** on this 18th day of May, 2021.


Dowling R. Watford, Jr., Mayor

ATTEST:


Lane Gamiotea, CMC, City Clerk

REVIEWED FOR LEGAL SUFFICIENCY:


John J. Fumero, Esq., City Attorney