

ORDINANCE NO. 12-39

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA AMENDING CHAPTER SEVEN ARTICLE I, CODES ENFORCEMENT OF THE BAY COUNTY CODE; PROVIDING FOR CIVIL INFRACTIONS IN CASES OF REPEAT VIOLATIONS; AMENDING CHAPTER SEVEN, ARTICLE II, CODE ENFORCEMENT BOARD OF THE BAY COUNTY CODE; MODIFYING PROVISIONS PROVIDING NOTICE TO PROPERTY OWNERS; MODIFYING TIME LIMITS FOR LIEN ENFORCEMENT AND FORECLOSURE; PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Bay County, Florida as follows:

SECTION 1. Chapter 7, Article I, Code Enforcement, is amended with additions being identified as underlined text and deletions as strikethroughs as follows:

Sec. 7-1. – Civil Infractions.

(d) Violations procedure.

(1). A code enforcement officer or law enforcement officer 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 Bay County code or ordinance. However, prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with 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 code enforcement officer 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.

SECTION 2. Chapter 7, Article II, Code Enforcement Board, is amended with additions being identified as underlined text and deletions as strikethroughs as follows:

Sec. 7-30. - Enforcement procedure.

(a)

It shall be the duty of the code enforcement officers to issue citations and initiate enforcement proceedings of the various codes and ordinances. However, no member of the codes enforcement board shall have the power to issue citations or initiate such enforcement proceedings.

(b)

Except as provided in subsection (c) and (d), below, if a violation of the codes or ordinances is found, the code enforcement officers shall first notify the violator and give such person a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code enforcement officers may issue a citation and may notify the codes

enforcement board and request a hearing pursuant to the procedure set forth in section 7-31. Written notice of such hearing shall be ~~mailed to such violator~~ provided in accordance with section 7-36.

(c)

If the code enforcement officer has reason to believe a violation presents a serious threat to the public health, safety or welfare or if a repeat violation has occurred, the code enforcement officers may issue a citation immediately and may proceed directly to the hearing procedure set forth in section 7-31 without first notifying the violator and giving such person time to correct the violation.

(d)

In addition to the enforcement procedures set forth herein, the "Supplemental County or Municipal Code or Ordinance Enforcement Procedures" set forth in F.S. ch. 162, part II and F.S. § 125.69, are hereby incorporated herein by reference.

(e)

Expedited abatement of nuisances. As an alternative to the enforcement procedures of this chapter, a code enforcement officer may obtain the abatement of nuisances as follows:

(1)

Upon a finding of a violation of the code and the existence of a public nuisance the enforcement officer shall first notify the violator in writing and give such person a reasonable time to correct the violation and abate the nuisance, not exceeding ten calendar days.

(2)

Should the violation continue beyond the time specified for correction in the notice, the code enforcement officer shall issue a citation to the violator which shall order the violator to abate the nuisance by removing the junk or abandoned motor vehicles, trailers, or watercraft, or removing, cutting, or trimming of the accumulation of undergrowth, or by other means abate the nuisance.

(3)

The code enforcement officer shall also notify the county manager or its designee who shall schedule a public hearing before the Bay County Board of County Commissioners on the citation.

(4)

The public hearing shall be noticed in a newspaper of general circulation and a copy of the notice shall be provided ~~by certified mail to the violator and the owner of the property as identified in the public records of Bay County, and a copy of the notice shall be posted on the property or within a public right-of-way adjacent to the property~~ in accordance with section 7-36.

(5)

The public hearing shall be conducted by the board consistent with the procedures set forth in section 7-31, substituting the board in place of the code enforcement board.

(6)

If the notice is not abated by the date of the public hearing, the board of county commissioners may issue a written order providing that the nuisance shall be abated by county officials, or vendors authorized by Bay County for such purpose, and shall establish a reasonable time for

abatement to occur. A copy of the order shall be mailed to the alleged violator and the owner of the property as identified in the public records of Bay County within ten days after the hearing and a copy shall be provided to the code enforcement officer.

(7)

The reasonable cost of such abatement, and all incidental costs, shall be in addition to, and included in, any fine imposed by the code enforcement board, and such order shall be issued by the code enforcement board pursuant to section 7-33 after a hearing held pursuant to section 7-31, and shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator, pursuant to F.S. § 162.09.

(8)

The violator or owner of the property may at any time appeal the notice or citation of the code enforcement officer or order of the board of county commissioners or code enforcement board issued pursuant to this subsection pursuant to section 7-34 of this Code, however, such appeal shall not act to stay the notice, citation or order of abatement.

(9)

All other methods of enforcement of the Bay County Code shall remain available, and nothing in this section shall prevent simultaneous or subsequent proceedings to enforce the Bay County Code.

Sec. 7-33. - Penalties.

(a)

The code enforcement board, upon notification by the code enforcement officer that a previous order of the code enforcement board has not been complied with by the time set, or upon finding that a repeat violation has been committed, may after a hearing conducted pursuant to section 7-31, order:

(1)

In the case of a first violation, the violator to pay a fine in an amount not to exceed \$1,000.00 per day per violation for a first violation for each day the violation continues past the date set by the code enforcement board's order for compliance for a first violation;

(2)

Five thousand dollars per day per violation for a repeat violation; and

(3)

Up to \$15,000.00 per violation if the code enforcement board finds the violation to be irreparable or irreversible in nature. In addition to such fines, the code enforcement board may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs pursuant to F.S. § 162.09(1). In determining the amount of the fine, if any, the code enforcement board shall consider the following factors:

a.

The gravity of the violation;

b.

Any actions taken by the violator to correct the violation; and

c.

Any previous violations committed by the violator.

(b)

A certified copy of an order imposing a fine or a fine plus repair costs, may be recorded in the public records of the county and, thereafter, shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator in the county; and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property, but shall not be deemed to be a judgment of a court, except for enforcement purposes. If, after ~~six~~ three months from the filing of any such lien, the lien remains unpaid, the codes enforcement board may authorize the county attorney to foreclose on the lien. Nothing in this section shall abridge the constitutional or statutory protection extended to homestead property. A copy of the order shall be mailed to the alleged violator and the owner of the property as identified in the public records of Bay County within ten days after the hearing.

(c)

No lien provided by this article shall continue for a period longer than ~~five~~ twenty years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien affected by the commencement of the action shall not be effective against creditors or subsequent purchase for valuable consideration without notice, unless a notice of lis pendens is recorded.

Sec. 7-36. - Notices.

All notices required by this article shall ~~be by certified mail, return receipt requested or, when mail would not be effective, by hand delivery by the code enforcement officer~~ comply with Florida Statute 162.12.

SECTION 3. SEVERABILITY. It is hereby declared to be the intent of the Board of County Commissioners of Bay County, Florida that if any section, subsection, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 4. INCLUSION IN CODE. It is the intention of the Board of County Commissioners of Bay County, Florida, and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Bay County, Florida: that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention: and that the word "ordinance" may be changed to "section", "article" or other appropriate designation.

SECTION 5. EFFECTIVE DATE. A certified copy of this Ordinance as enacted shall be filed by the Clerk of the Board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this Ordinance shall take effect immediately in accordance with Section 125.66 (2), Florida Statutes.

DULY ADOPTED in regular session this 18th day of December 2012.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BAY COUNTY, FLORIDA

Bill Kinsaul
Bill Kinsaul, Clerk

George B. Garner
George B. Garner, Chairman

Approved as to form:

Tamell Udd
Office of County Attorney

