

ORDINANCE NO. 02-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BRINY BREEZES, FLORIDA, AMENDING ORDINANCE 5-2017 WHICH ADOPTED A CODE ENFORCEMENT SYSTEM FOR THE TOWN, BY REVISING THE ELIGIBILITY REQUIREMENTS FOR THE APPOINTMENT OF A CODE ENFORCEMENT SPECIAL MAGISTRATE; AND BY PROVIDING FOR THE RECOVERY OF ALL ADMINISTRATIVE COSTS INCURRED BY THE TOWN IN PROSECUTING CODE ENFORCEMENT HEARINGS IN ACCORDANCE WITH STATE LAW; PROVIDING THAT ORDINANCE 5-2017 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED AS AMENDED HEREIN; PROVIDING A CONFLICT CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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

WHEREAS, Chapter 162, *Florida Statutes* authorizes municipalities to establish code enforcement procedures as a means to provide an equitable, expeditious, effective, and inexpensive method of enforcing any codes and ordinances within a municipality's respective jurisdiction; and

WHEREAS, the Town of Briny Breezes has previously established its code enforcement procedures as set forth in Ordinance 5-2017; and

WHEREAS, the Town Council of the Town of Briny Breezes desires to update the Town's code enforcement procedures by revising the eligibility requirements for the appointment of a code enforcement special magistrate, and by providing for the recovery of all administrative costs incurred by the Town in prosecuting code enforcement hearings in accordance with state law; and

WHEREAS, the Town Council of the Town of Briny Breezes has determined that the proposed revisions to the Town's code enforcement procedures as set forth herein shall safeguard the health, safety, and welfare of the citizens of the Town of Briny Breezes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRINY BREEZES, FLORIDA, THAT:

SECTION 1: Town of Briny Breezes Ordinance 5-2017 is hereby amended at Section 3. "CODE ENFORCEMENT SYSTEM" by revising the eligibility requirements for the appointment

of a code enforcement special magistrate as set forth in subsection 5. "Special Magistrate;" providing that this subsection shall hereafter read as follows:

Section 5 Special Magistrate

Special magistrates shall be attorneys licensed to practice law in the State of Florida, and members in good standing of the Florida Bar ~~and either a certified mediator under the rules of the Florida Supreme Court, an arbitrator qualified by a recognized arbitration association, or a former judge.~~ Special magistrates shall be authorized to hear and decide cases involving code violations in the same manner as the CEB.

SECTION 2: Town of Briny Breezes Ordinance 5-2017 is hereby amended at Section 3. "CODE ENFORCEMENT SYSTEM" by providing for the recovery of all administrative costs incurred by the Town in prosecuting code enforcement hearings in accordance with state law, as set forth in subsection 8. "Conduct of Hearing," paragraph 2; providing that this paragraph shall hereafter read as follows:

Section 8 Conduct of Hearing

- (1) [THIS PARAGRAPH SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]
- (2) Each case before the CEB or special magistrate shall be presented by the local governing body attorney or by a member of the administrative staff of the Town. If the Town prevails in prosecuting a case before the ~~the~~ CEB or special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the CEB or special magistrate and such costs may be included in the lien authorized under s.162.09(3). For purposes of this section, the term "all costs" includes the following:
 - (a) Attorney's fees incurred by the Town in prosecuting all aspects of any case brought before the CEB or special magistrate;
 - (b) CEB or special magistrate fees incurred by the Town for all aspects of the case heard by the CEB or special magistrate;
 - (c) Costs incurred by the Town for providing notice, including postage costs;
 - (d) Costs incurred by the Town for creating and presenting photographic or other evidence of the violation for the hearing; and

(e) Expert witness fees incurred by the Town in prosecuting any case brought before the CEB or special magistrate.

(3) [THIS PARAGRAPH SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

(4) [THIS PARAGRAPH SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED]

SECTION 3: Each and every other section subsection and paragraph of Ordinance 5-2017 shall remain in full force and effect as previously adopted.

SECTION 4: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 5: Should any subsection or provision of this Ordinance, or any portion thereof, be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 6: Specific authority is hereby granted to codify Ordinance 5-2017 as amended herein.

SECTION 7: This Ordinance shall take effect immediately upon adoption.

FIRST READING this 25 day of March 2021

SECOND AND FINAL READING this 22nd day of April 2021

PASSED AND ADOPTED by the Town Council of the Town of Briny Breezes, Florida, in regular session on first reading on March 25, 2021, and in regular session on second reading on April 22, 2021.

TOWN COUNCIL OF THE TOWN OF BRINY BREEZES

Samuel G. Adams
MAYOR SAMUEL G. ADAMS

Sue Thaler
PRESIDENT SUE THALER

Christina Adams
ALDERMAN CHRISTINA ADAMS

(SEAL)

ABSENT
ALDERMAN CHICK BEHRINGER

Bill Birch
ALDERMAN BILL BIRCH

Kathleen M. Gross
ALDERMAN KATHLEEN GROSS



Attest:

Sandi Dubose
SANDI DUBOSE, DEPUTY TOWN CLERK

Approved as to Form and Legal Sufficiency:

Keith W. Davis
KEITH W. DAVIS, TOWN ATTORNEY
TOWN OF BRINY BREEZES