

ORDINANCE NO. 04-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BRINY BREEZES, FLORIDA, AMENDING THE TOWN OF BRINY BREEZES CODE OF ORDINANCES AT CHAPTER 35. CODE ENFORCEMENT SYSTEM. BY ADDING A NEW SECTION 35.15. ALTERNATIVE CITATION PROCESS; AND A NEW SECTION 35.16. CITATION FINE SCHEDULE. TO PROVIDE A CITATION METHOD FOR CODE ENFORCEMENT; AND DELETING AS REDUNDANT CHAPTER 153. LAND DEVELOPMENT CODE. SECTIONS 153.234. CODE ENFORCEMENT AND CITATION SYSTEM, SECTION 153.235. DEFINITIONS, SECTION 153.236. AUTHORITY OF CODE ENFORCEMENT OFFICER, SECTION 153.237. PROCESS AND PROCEDURES, AND SECTION 153.999 PENALTY; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTERS 35 AND 153 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS 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 Council of the Town of Briny Breezes desires to update the Town's code enforcement procedures by providing a method by which the Town can issue citations for violations of the Town Code; and

WHEREAS, the Town Council of the Town of Briny Breezes has determined that the proposed citation method 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: Chapter 35. Code Enforcement System. of the Code of Ordinances of the Town of Briny Breezes, Florida, is hereby amended to add Section 35.15. Alternative Citation Process; providing that Section 35.15 shall hereafter read as follows:

§35.15 ALTERNATIVE CITATION PROCESS.

1. **Authority to Issue Citations.**

A designated or authorized employee or agent of the Town is empowered to issue citations to any person or violator for a violation of this Code, all municipal codes, ordinances and the amendments thereto, when such Code Enforcement Officer has actual knowledge that a violation has been committed.

2. **Citation Form.**

A citation issued by an authorized employee or agent of the Town shall be in a form prescribed by the county or the municipality and shall 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 violation 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 authorized employee or agent issuing the citation.**
- 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.**
- i. **The applicable civil penalty if the person elects not to contest the citation.**
- j. **A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.**

3. Violator's Choices.

Upon receiving a citation, an alleged violator may elect to proceed to an enforcement hearing or may elect to pay the civil penalty if the violation is one that is specifically provided in the fine schedule set forth in section 35.16. If a person elects to contest the citation, they may proceed to a hearing. If a person elects not to contest the violation he shall pay the civil penalty provided in the schedule set forth in section 35.16 within ten days after issuance of the citation.

SECTION 2: Chapter 35. Code Enforcement System. of the Code of Ordinances of the Town of Briny Breezes, Florida, is hereby amended to add Section 35.16. Citation Fine Schedule; providing that Section 35.16 shall hereafter read as follows:

§ 35.16 CITATION FINE SCHEDULE.

Upon receiving a citation for a violation of the Town Code, an alleged violator may elect to pay the civil penalty listed below or, in lieu thereof, may proceed to the code enforcement hearing. The following fines shall be applicable to first and subsequent offenses as defined below. If the matter is referred to a code enforcement hearing, the fine imposed may be higher than prescribed in the schedule below as provided elsewhere in the Town Code. Nothing in this section shall bar or preclude the Town from requiring a mandatory code enforcement hearing.

Class I violations:

First offense\$50.00

Second offense100.00

Third offense250.00

Fourth and subsequent offense500.00

Class II violations:

First offense\$100.00

Second offense200.00

Third offense300.00

Fourth and subsequent offense500.00

Class III violations:

First offense\$250.00

Second and subsequent offense500.00

Code Section		Class
	<i>TITLE VII – TRAFFIC CODE</i>	
	<i>Chapter 72 - Bicycles</i>	
Sec. 72.01	Bell or horn required	1
Sec. 72.02	Lights	1
	<i>TITLE IX – GENERAL REGULATIONS</i>	
	<i>Chapter 91 – Beaches</i>	
	<i>General Provisions</i>	
Sec. 91.01 (c)	Rules and Regulations for Use of Private and Public Beaches	1
	<i>TITLE XIII: GENERAL OFFENSES</i>	
	<i>Chapter 130 – General</i>	
Sec. 130.09	Obstruction of Streets and Sidewalks	1
Sec. 130.10	Balloons and Sky Lanterns	2
Sec. 130.11	Fireworks	3

SECTION 3: Chapter 153. Land Development Code. of the Code of Ordinances of the Town of Briny Breezes, Florida, is hereby amended to delete Sections 153.234. Code Enforcement and Citation System, Section 153.235. Definitions, Section 153.236. Authority of Code Enforcement Officer, Section 153.237. Process and Procedures, and Section 153.999 Penalty; providing that Chapter 153 shall hereafter read as follows:

~~§ 153.234 CODE ENFORCEMENT AND CITATION SYSTEM.~~

~~—(A) Short title. Sections 153.234 through 153.237 shall be known and cited as the Code Enforcement Citation Procedure of the town.~~

~~—(B) Purpose and intent. The purpose and intent of §§ 153.234 through 153.237 is to enable the town to exercise the fullest power and authority granted to municipal~~

~~governments pursuant to Chapter 89-268, Laws of Florida, 1989, including, without limitation thereof, the following:~~

~~—(1) To establish a supplemental procedure for the enforcement of the town codes and ordinances;~~

~~—(2) To designate its agents and employees as code enforcement officers whose duty it is to assure compliance with the town codes and ordinances and the state statutes prohibiting littering and pertaining to abandoned property;~~

~~—(3) To establish a system for issuing citations for violations of the codes and ordinances of the town as part of its enforcement procedures; and~~

~~—(4) To establish a separate system of fines for violation of this chapter and other town ordinances when prosecuted hereunder.~~

~~—(C) Rules of construction. For the purpose of administration and enforcement of this subchapter, unless otherwise stated herein, the following rules of construction shall apply.~~

~~—(1) In case of any difference of meaning or implication between the text of this subchapter and the caption, illustration, summary table or illustrative table, the text shall control.~~

~~—(2) The word “shall” is always mandatory and not discretionary; the word “may” is permissive.~~

~~—(3) The phrase “used for” includes “arrange for”, “designated for” or “occupied for”.~~

~~§ 153.235 DEFINITIONS.~~

~~—For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words not herein defined shall have the meanings given in recognized standard dictionary.~~

~~—CITATION. A notice to appear at a designated time and place before the County Court of Palm Beach County, Florida, and shall be in a form and content as prescribed by the laws of the state, in such case made and provided.~~

~~—CODE. The Land Development Code of the town and any ordinance duly enacted by the town presently or hereafter in effect within the town limits, except as may be specifically excluded from application hereunder.~~

~~—CODE ENFORCEMENT OFFICER. Any designated or authorized employee or agent of the town whose duty it is to enforce or assure compliance with codes and ordinances~~

~~enacted by the town. This definition includes, without limitation, the town's Building Official and its Zoning Official.~~

~~§ 153.236 AUTHORITY OF CODE ENFORCEMENT OFFICER.~~

~~—(A) Citations. Code Enforcement Officers of the town, as defined and designated by this subchapter, are authorized and empowered to issue citations to any person or violator for violation of this Code, all municipal codes, ordinances and the amendments thereto, when such Code Enforcement Officer has actual knowledge that a violation has been committed.~~

~~—(B) Limitation on scope of enforcement. A Code Enforcement Officer may not issue a citation for a violation of the Town Building Codes adopted pursuant to F.S. Ch. 553.73, as the same applies to construction. Code Enforcement Officers shall have no power of arrest nor shall they be subject to the provisions of F.S. Ch. 943.085 through 943.255.~~

~~§ 153.237 PROCESS AND PROCEDURES.~~

~~—(A) Issuing notices of violations. Prior to issuing a citation, the Code Enforcement Officer shall provide notice to the violator that the person has violated a provision of the code or of the town ordinances.~~

~~—(B) Time for compliance. At the time of issuing a notice of violation, the Code Enforcement Officer shall establish and state therein a reasonable time period within which the person or violator to whom issued must correct the violation so noted. Such time period shall be of reasonable duration commensurate with the facts and circumstances pertaining to the violation and the degree of complexity required on the violator's part to correct same, but not to exceed 30 days.~~

~~—(C) Waiver of time period. If the Code Enforcement Officer has reason to believe that the violation involved presents a serious threat to the public health, safety or welfare, or if the violation involved is irreparable or irreversible, the Code Enforcement Officer shall make appropriate notation thereof on the notice of violation which shall excuse the requirement for providing the violator with a reasonable time period within which to correct the violation. In such case, the Code Enforcement Officer is authorized to immediately issue a citation for the violation involved.~~

~~—(D) Failure to comply. If, upon personal investigation, the Code Enforcement Officer finds that the person so noticed or the violator has not corrected the violation within the~~

~~time period provided, the Code Enforcement Officer may proceed to issue a citation to the person who has committed the violation.~~

~~—(E) Contents of citation. The citation so issued shall state and contain the following information:~~

~~—(1) The date and time of issuance;~~

~~—(2) The name and address of the person in violation;~~

~~—(3) The date of the violation;~~

~~—(4) The section of the code or ordinance violated, or subsequent amendments thereto;~~

~~—(5) The name of the Code Enforcement Officer; and~~

~~—(6) The date and time when the violator must appear in County Court.~~

~~—(F) Delivery of citation to the Court. After issuing the citation to the alleged violator, the Code Enforcement Officer shall deposit the original and one copy of the citation with the Clerk of the County Court.~~

~~§ 153.999 PENALTY.~~

~~—(A) Generally. Except where specific penalties are otherwise provided, the violation of the provisions of the Land Development Code shall be punishable as a misdemeanor by a fine not to exceed \$500, or by imprisonment for not more than 60 days, or by both such fine and imprisonment. Each and every day that a violation continues shall constitute a separate violation.~~

~~—(B) Specific penalties under this procedure.~~

~~—(1) Civil infraction. A prosecution for the violation of the code or the town ordinances prosecuted under this subchapter shall be deemed to be a civil infraction only.~~

~~—(2) Maximum penalty. The maximum civil penalty which may be imposed upon conviction of a violation prosecuted under this subchapter shall not exceed \$500 per violation.~~

~~—(3) Penalty where not contested. Any person who has committed a civil infraction and does not contest the citation issued hereunder shall be assessed a penalty in accordance with the official uniform schedule of fines and penalties established by and for the County Court, which schedule is incorporated herein by reference and made a part hereof.~~

~~—(4) Repeat violations. Repeat violators are subject to being assessed fines in the next higher class of offense as specified in the aforesaid uniform fine schedule. Third time~~

~~violators are subject to being fined for a Class IV violation, or in an additional amount of \$100, whichever is greater.~~

~~—(5) Additional penalty for refusal to sign citation. Any person who willfully refuses to sign and accept a citation for a violation issued by a Code Enforcement Officer shall be guilty of a misdemeanor of the second degree and punishable by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 60 days, or by both fine and imprisonment.~~

~~—(6) County Court jurisdiction. The County Court in and for the Fifteenth Judicial Circuit of the county, shall hear all charges for the violation of the code or the ordinances of the town pursuant to the issuance of citations under this subchapter. Any person so charged may contest the citation in the County Court.~~

~~—(7) Provisions supplemental. The provisions of this subchapter are an additional and supplemental means of enforcing this chapter and other town ordinances. Nothing contained in this subchapter shall prohibit enforcement by any other means.~~

~~—(C) Any person violating any of the provisions of § 153.124(D), upon conviction thereof, may be sentenced to pay a fine, not to exceed \$500, within the discretion of the court. Any act, which is a violation of § 153.124(D) and which by its nature, is continuous, shall be deemed a separate violation for each day such violation exists.~~

~~—(D) Any person violating any of the provisions of § 153.126, upon conviction thereof, may be fined in a sum not to exceed \$100, or may be imprisoned for a period not to exceed 30 days, or may both so fined and imprisoned within the discretion of the court. Any act which is a violation of § 153.126 and which by its nature may be continuous, shall be deemed a separate violation for each day such violation continues.~~

SECTION 4: Each and every other section and subsection of Chapter 35. Code Enforcement System. and Chapter 153. Land Development Code. shall remain in full force and effect as previously adopted.

SECTION 5: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 6: 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 7: Specific authority is hereby granted to codify this Ordinance.

SECTION 8: This Ordinance shall take effect immediately upon adoption.

FIRST READING this 22 day of September, 2022.

SECOND AND FINAL READING this 27th day of October 2022.

TOWN OF BRINY BREEZES

TOWN COUNCIL OF THE TOWN OF BRINY BREEZES



Samuel Gene Adams, Mayor




Susan Thaler, President



Christina Adams, Alderman


(SEAL)



Elizabeth (Liz) Loper, Alderman



Bill Birch, Alderman



Kathleen Gross, Alderman

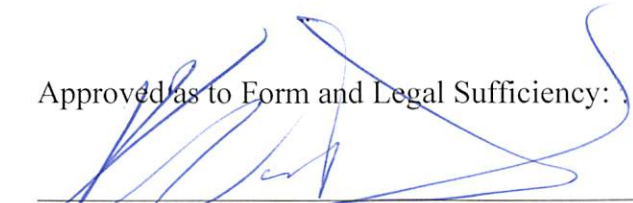


Attest:



Sandi DuBose, Town Clerk

Approved as to Form and Legal Sufficiency:



Kerth W. Davis, Town Attorney
TOWN OF BRINY BREEZES