

ORDINANCE NO.:17-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING SECTION 10-1.2 TO PROVIDE A WAIVER OF RIGHT TO CONTEST A CITY CITATION AND A PRESUMPTION THAT VIOLATIONS EXIST IF VIOLATOR FAILS TO PAY FINE OR REQUEST SPECIAL MAGISTRATE HEARING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City currently uses a citation process for certain code violations.

WHEREAS, the City's current regulations provide the alleged violator the option to pay a fine amount or request a hearing before the Special Magistrate. However many individuals issued a citation do not respond at all. Currently, the City Code requires staff to schedule the case before the Special Magistrate, mail out the required notice, conduct the Special Magistrate hearing and the violator still fails to attend.

WHEREAS, the City would like to streamline the process to save the City the time and money of scheduling Special Magistrate hearings when the violator fails to respond to the citation.

WHEREAS, the City staff has proposed that if the violator who receives a citation fails to pay the fine or request a hearing before the Special Magistrate, the violator shall be deemed to waive the right to contest the violation before the Special Magistrate, to be in violation and a fine levied, including applicable late fees.

WHEREAS, words which are underlined (underlined) are additions to the texts and words which strike through (~~strike through~~) the characters are deletions from the text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA:

Section 1. The City Council of the City of South Daytona hereby amends Section 10-1.2 (City Citation) as indicated below:

Sec. 10-1.2. - City citation.

(a) Certain code violations shall be issued a City citation that provides the violator with the option of contesting the violation or paying the fine. The specific code violations that can be enforced through this procedure, and the fine amount and the time period to pay the fine or request a Special Magistrate hearing to contest the citation shall be established by resolution. In the event the person issued the City citation does not pay the fine amount within the required time, it shall be presumed that the violator waives the right to a hearing to contest the citation and shall be deemed to be in violation and the fine amount, including all late fees, shall be levied. ~~desires to contest the violation.~~ In the event a violator elects to contest the violation and the Special Magistrate finds a violation, the Special Magistrate shall have the right to levy the maximum fine allowed under the law without regard to the fine amount set forth in the City citation.

(b) A City citation issued by a law enforcement officer shall contain identifying information of the person issued the citation; the City regulation(s) alleged to have been violated; a description of the facts that constitute the basis of issuing the citation; the amount of the fine; the time within which the fine must be paid and where the fine can be paid; that the City citation can be challenged with the Special Magistrate; ~~that failure to pay shall result in violation being referred to the Special Magistrate and that the Special Magistrate can levy a fine up to two hundred fifty dollars (\$250.00) for first-time violations and five hundred dollars (\$500.00) for repeat violations~~ if citation is contested and found guilty; and that if the fine is not paid or a Special Magistrate hearing requested, the right to contest the citation before the Special Magistrate is waived, a violation will be deemed to exist with a fine levied, plus all applicable late fees.

Section 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 3. That all ordinances made in conflict with this Ordinance are hereby repealed.

Section 4. That this Ordinance shall become effective immediately upon its adoption.

PASSED upon first reading at a regular meeting of the City Council of the City of South Daytona held in the City of South Daytona, Florida, on the 10 day of October, 2017.

PASSED AND ADOPTED upon second and final reading at a regular meeting of the City Council of the City of South Daytona held in the City of South Daytona, Florida, on the 14 day of November, 2017.

William C. Hall, MAYOR

ATTEST:

JOSEPH W. YARBROUGH  
City Manager