



**TOWN OF SURFSIDE**

**CODE COMPLIANCE WORKSHOP**

Wednesday, April 17, 2013 at 6:00 p.m.

Town Commission Chambers  
9293 Harding Avenue  
Surfside, Florida 33154

**AGENDA**

- 1) Introduction of Mayor, Commissioners, and Town Administration**
- 2) History: Prior Ad-Hoc Code Enforcement Committee Recommendations**
- 3) Mission Statement**
- 4) Code Compliance Division Operational Organization & Responsibilities**
- 5) Support from Police Department**
  - a. Police Officer support**
  - b. Non-sworn personnel support**
- 6) Code Compliance Process**
- 7) Current Compliance Policy & Commonly Reported Violations**
  - a. Single Family Districts**
    - i. Recommendations**
  - b. Multi-Family Districts**
    - i. Recommendations**
  - c. Business District**
    - i. Recommendations**
- 8) Challenges to Operations**
- 9) Recommended Enforcement Priorities**
  - a. Single Family Districts**
  - b. Multifamily Districts**
  - c. Business District**
- 10) Recommended Code Amendments**
- 11) Questions and Comments**

*(continued on next page)*

## **12) Action Items**

### **a. Setting of Priorities & Resource Allocation**

- i. Single Family Districts**
- ii. Multifamily Districts**
- iii. Business District**

## **13) Adjournment**

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AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA IS ALSO AVAILABLE ON THE TOWN WEBSITE AT [www.townofsurfsidefl.gov](http://www.townofsurfsidefl.gov)

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.

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# **Elected Officials and Administrative Staff**

## **Elected Officials**

- **Mayor Daniel Dietch**
- **Vice-Mayor Michael Karukin**
- **Commissioner Marta Olchyk**
- **Commissioner Michelle Kligman**
- **Commissioner Joseph Graubart**

## **Town Administration**

- **Town Manager Roger M. Carlton**
- **Town Manager Designee Michael Crotty**
- **Code Compliance Director Joe Damien**
- **Code Compliance Officer Gus Caracas**

# **History**

## **Prior Ad-Hoc Code Enforcement Committee Recommendations**

On June 11, 2010, the Town Building Director, who at that time oversaw the Code Enforcement Division, sent a letter to the then active Code Enforcement Committee requesting specific responses, as to priority, on a variety of code violations (19 in total). The Committee was to rate and assign a priority level of High, Moderate, Low or Eliminate for each violation type. A report dated March 9, 2011, from the Ad-Hoc Code Enforcement Committee provides the results of the 19 issues.

On the following pages you will find copies of the above referenced items, along with a copy of Resolution 2010-1962 (and accompanying Exhibits) creating the Ad-Hoc Committee

**Ad-Hoc Code Enforcement Committee**  
**March 9, 2011**

The Ad-Hoc Code Enforcement Committee comprised of Randal Rubin, Anthony Blate, Barbara McLaughlin, Rick Zambrano, Mitchell Kinzer and Commissioner Edward Kopelman serving as the Town Commission liaison had a total of five meetings during which we discussed the overall philosophy of achieving a balance of reasonable code enforcement given Surfside's eclectic housing and demographic mix. The Committee generally agreed that Objective versus Subjective evaluation of code enforcement issues, not nit picking or extreme strictness seemed to be the desire of "most" residents protecting the unique individuality of our homes, recognizing that subjectively what might be without taste to one is attractive to others. As smaller lot sizes in Surfside encourage residents to really "know each other" a relaxed and "live and let live philosophy" is apparent. On the flip side, *egregious* conditions are magnified by this compactness. Our goal was to prioritize issues concerning public safety, unsightly yards, nuisance behavior, abandoned property, and the perceived appearance of the business district. The focus should be on the obvious, chronic and seemingly un-resolvable cases which clearly infringe on the safety and enjoyment of others.

The Code Enforcement Department asked members to score 19 infraction items in terms of perceived priority with the following results:

**High Priority:**

1. Abandoned or inoperable vehicles
2. Commercial Vehicle Prohibited in Residential Area
3. Vessel/Boat Not Properly Stored
4. Debris/Trash and Vegetation accumulation
5. Exterior property maintenance
6. Unsecured Swimming Pool
7. Work without a permit

**High/Moderate**

8. Sidewalk and or Street obstruction
9. Dogs Barking/Vicious Dog/Feed Stray Cats/Animal Cruelty
10. Failure to display street address
11. Multi-family use in a single family zone
12. Storage P.O.D.S.

**Moderate/High**

13. Lawn and or shrub overgrowth / hedges not to code
14. Vision Clearance
15. Noise

**Moderate:**

16. Trailer on premises
17. Parking on grass or unpaved or unapproved surfaces
18. Illegal Signs

## 19. Fence

The Committee had discussions on various subjects, some seemingly mundane and others more complex requiring more study and discussion by staff, residents and the Town Commission. They included:

1. *Chain link fence ordinance.* A previous six month extension of time for removal has run out. Our committee was divided on recommending enforcing this (in fairness to residents that have already done so) or "grand fathering" them in until the property was sold (in fairness to residents "attached" to the comfort of the fence, or for financial concerns and also considering that the fences were legal at one time with virtually no complaints about their presence). *CONCLUSION: While no new chain link fences are allowed going forward, existing ones could be grand fathered in until the property is sold, with the understanding that they would be maintained, including obscuring by plants wherever possible.*

2. *Power leaf blowers.* While universally annoying, we recommended allowing them as long as debris was blown back onto the property for aesthetic purposes.

3. *Take home commercial vehicles.* While Chief Allan advised us that there were numerous complaints about these (primarily taxi cabs) the committee was sympathetic to residents (especially long time and established) who needed to park these vehicles at their home. Recommendations of considering registration and parking on the owner's property were suggested to the Commission. Of note, this meeting was well attended by residents who owned such vehicles and were obviously in support.

4. *Garage Sales.* It was recommended allowing for not more than twice per year per property and the requirement of a \$10.00 fee.

5. *Registration of abandoned/vacant property, as defined in the code,* to include a \$50.00 fee. This is not to be confused with part time or seasonal residents who can alert the Surfside Police Department of their vacancy.

6. *Registration of all lawn companies operating within the Town* for a fee of \$10.00 per year, with issuance of a decal.

7. *Political signs* to pay a \$50.00 bond to ensure all signs are removed by the candidate 72 hours after the election or run off election.

8. *Consistency of Real estate signs* to avoid a hodgepodge of various and numerous signs in a bad market. Our suggestion is a maximum of 18" x 24" with white background and 2" black letters. An annual fee of \$25.00 per sign was suggested.

9. *Banner signs in the business district:* A permit fee of \$25.00 for banner signs, not to exceed 20 sq. ft.

10. *Code enforcement procedure* should continue with its current level of enforcement as follows:

- a) First Inspection: Courtesy notice with time to comply
- b) Extenuating circumstance, extend date to comply

c) Second inspection: Non-compliance, civil citation, Special masters and possible fines.

11. *Feral cats*: Manager Roger Carlton is presenting a comprehensive, humane and consistent program to address both population control and specific feeding areas/feeders to minimize the human health issues concerned with this problem

12. *Dog feces*: Mr. Carlton has initiated installation of dog waste stations as well as an educational campaign encouraging owners to clean up after their dogs as well as perpetuating other owners to follow suit.

13. *Paint Palette*- while we realize residents should be encouraged in freedom of expression with regards to painting their homes, extreme colors should be avoided. Mr. Gioia will provide a paint palette of widely acceptable color choices with latitude for comparing the sample to the finished product.

14. *SHORT TERM RENTALS*- The committee discussed this issue at length. Current code restricts leases to six months and one day in the RESIDENTIAL districts, and the committee felt that those restrictions should continue. In the case of Hotels, short term rentals are considered 30 days or less. Condominium-Residential buildings are considered RESIDENTIAL, unless zoned Condominium-Hotel, Condominium-Timeshare, etc. Thus under current code short term rentals are both illegal and in most cases deprive the Town of the required Tourist Tax. Mr. Gioia explained that should a condominium association request these other use classifications and hence a rezoning, all general and specific requirements germane to Hotel/Lodging use would have to be met, specifically but not limited to safety, handicapped access, posting of room rates, etc., beyond the general legal requirements of the individual owners and condominium association. This most complicated issue is being further studied by Tourist Director Tavares and Town Attorney, Dannheisser.

15. A discussion of a Town required and or voluntary (for fee) *PRE SALE inspection*. This controversial requirement/service is being studied and/or implemented in various degrees in municipalities around the country. While interesting and good intentioned we felt that caution had to be exercised as this issue impinged on various legal and property rights issues.

16. Inclusion of *tourist tax on beer served in restaurants*.

17. *Safety issues of overgrown hedges*: The town has certain rules on the books concerning planting in the setbacks which have been informally relaxed over many years. The general feeling was that as long as these were maintained and presented no safety issue they did offer a certain aesthetic and individuality which benefits the Town. Overgrown hedges however (both in height and protrusion over the roadway) pose an obvious safety hazard. To address this, Mr. Gioia suggested implementing the following with regard to hedges and planting IN THE SETBACK AREAS:

(1) *No hedge may be installed, or maintained within six feet of any fire hydrant or other emergency apparatus.*

(2) *No hedge may be installed, or maintained which in any manner creates a visual obstruction to vehicular traffic. In no event shall any hedge which obstructs or obscures vision or any hedge exceed four feet in height within 30 feet of the intersection of official right-of-way lines.*



*(3) Hedge heights will be limited to four feet in the front setbacks so that such hedges do not interfere with vehicular traffic or visibility on public rights-of-way and are neatly trimmed.*

*(4) The property owner responsible for planting the hedge shall maintain the entire hedge, including the sides facing the neighboring properties.*

*(5) Hedge planting is strictly prohibited within the Town right-of-way or easement area.*

General discussion and thoughts going forward

Committee members discussed code enforcement from the resident and staff point of view, recognizing its importance but sympathetic to property owners who have difficulty (financial/age/health) issues complying for which there are creative ways of relief. We recognize too that some people simply refuse to comply forcing Special Master hearings with resultant actions, fines and costs.

The issue is how to encourage people to comply and what our Town at large wants to see going forward. For example should the "open parking" policy of the Town (THE ONLY FREE BEACH) parking in Dade, Broward and Palm Beach counties) continue forward? Some people are wary of the "manicurization" of Surfside. The personal nature of the Town has led to an evolution of how codes are applied, the "Boat Issue" being a prime example Mr. Gioia has suggested that his department hire additional staff as well as a review of the existing codes on the books which may be outdated. Towards this end, the committee felt that reconstitution of a committee of this nature might be worthwhile going forward, helping deliver the type of code enforcement best fitting the Town of Surfside.

Accompanying this report is a summary of 'Most Enforced Codes' prepared by Mike Garcia. We thank him, Dave Allen, and Paul Gioia and Roger Carlton for their help and knowledge of these issues.

Respectfully submitted,

Attachment: Resolution No. 2010-1962

RESOLUTION NO. 2010-1962

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CREATING AN AD HOC COMMITTEE TO STUDY THE CURRENT CODE ENFORCEMENT PROGRAM AND TO IDENTIFY OPPORTUNITIES AND MAKE RECOMMENDATIONS FOR THE FUTURE AND TO REPORT BACK TO THE TOWN COMMISSION.**

**WHEREAS,** the Town of Surfside Town Commission is interested in reviewing the current Code Enforcement program and wish to identify opportunities for potential improvement; and

**WHEREAS,** the Town of Surfside Town Commission recognizes an opportunity to review Code Enforcement to maintain reasonable aesthetic and quality of life standards for a safe community; and

**WHEREAS,** the Town of Surfside Town Commission has determined to review enforcement standards and procedures, short term rentals, and other policies; and

**WHEREAS,** Members of the Town Commission have provided the names of residents who volunteered to be a part of the Committee; and

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA,**

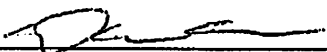
**Section 1. Recitals.** That the above and foregoing recitals are true and correct and are incorporated herein.

**Section 2. Authorization.** The Town Commission hereby appoints an ad hoc Code Enforcement Committee. The members of the committee are listed in Exhibit "A" attached and may be changed from time to time by vote of the Commission.

**Section 3. Implementation.** The Code Enforcement Committee is charged with reporting progress to the Town Commission at their regular meeting on December 14, 2010 and providing the final report and recommendations at the March, 2011 Town Commission meeting.

**Section 4. Effective Date.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** this 12th day of October, 2010.



Daniel Dietch, Mayor

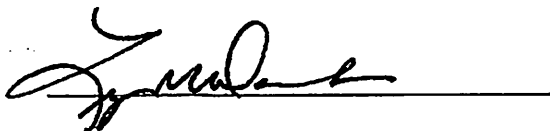
**Attest:**



Debra E. Eastman, MMC

Town Clerk

**Approved as to form and legality for the use  
and benefit of the Town of Surfside only:**



Lynn M. Dannheisser

Town Attorney

*Mover: Comm. Kopelman*

*Second: Vice Mayor Graubart*

*Comm. Kopelman yes  
Comm. Karukin yes  
Comm. Olchyk yes  
Vice Mayor Graubart yes  
Mayor Dietch yes*

**EXHIBIT "A"**  
**CODE ENFORCEMENT AD HOC COMMITTEE**

**Randall Rubins**

**Anthony Blate**

**Barbara McLaughlin**

**Mitchell Kinzer**



## Town of Surfside

**To:** Code Enforcement Committee Members: Randall Rubins, Anthony Blate, Barbara McLaughlin, Mitchell Kinzer

**From:** Roger M. Carlton, Interim Town Manager

**Date:** October 12, 2010

**Subject:** Code Enforcement Ad Hoc Committee

**Objective:** To charter and support the Code Enforcement Ad Hoc Committee to perform a review of Surfside's current code enforcement program and identify opportunities and make recommendations to the Town Commission to improve the program, including, but not limited to the structure, provisions and enforcement that result in the improvements to the program.

**Background:** At its regular meeting in June, 2010, the Surfside Town Commission provided policy direction to the Town Manager to create a Code Enforcement AD Hoc Committee to study and report back to the Town Commission on potential improvements to the Town's code enforcement program.

The Town Commission is charging the Code Enforcement Ad Hoc Committee with reviewing the Town's codes for enforcement for reasonable enforcement, guidelines on enforcement, procedures and standards, short-term rental policy, code enforcement policy (strictness/consistency), public information campaign and an assessment of code enforcement manpower needs for Surfside. The Committee will work with Town Staff including the Town Manager, Building Official, Code Enforcement Officer, Tourist Director, Finance Director, Chief of Police and Planning and Zoning Board to formulate recommendations to the Town Commission for policy direction.

**Consideration:** Effective code enforcement is fundamental to maintaining minimum aesthetic and "quality of life" standards and a safe community. However, uniform code enforcement has been adversely impacted by inconsistent policy over the past few years. The Town Commission recently enacted legislation that provides a 120 day "amnesty" period to allow code violations to be rectified without the imposition of penalties. The exception to this "amnesty" period relates to life-safety violations.

While Town resources are limited, an effective code enforcement program is possible, but it requires clear Commission policy. With the "amnesty" period, this Commission has created a breathing period to review the current code for applicability and clarity and to be prepared to implement a code enforcement program that reflect reasonableness, is easily understandable, and has an enforcement component that relates to the seriousness of the infraction. As an underlying philosophy, code enforcement should educate our residents and business people to obtain voluntary compliance.

Building Official, Paul Gioia and Code Enforcement Officer, Michael Garcia will provide staff support to the Committee. An interim report is expected to the Town Manager and Town Commission for the December 14, 2010 Town Commission meeting. A final report and recommendations are to be made to the Town Commission at their March, 2011 meeting.

Cc: Planning and Zoning Board  
Paul Gioia, Building Official  
Michael Garcia, Code Enforcement Officer  
David Allen, Police Chief  
Duncan Tavares, Tourist Bureau Director  
Martin Sherwood, Finance Director

## **Mission Statement**

The Code Compliance Division strives to provide the Town's residents and business community with a well-balanced code enforcement program and compliance process through a professional, courteous, and stepped approach that will focus on: 1) educating and informing of the provisions of the Town's Codes and Ordinances; 2) provide a better understanding of the underlying principles behind the laws and the benefits of compliance; 3) assisting the affected parties with arriving at mutually agreed upon solutions to compliance; and 4) working with the affected parties in achieving voluntary compliance.

## **Code Compliance Operational Organizational and Responsibilities**

### Current Staffing Levels and Resources

The Code Compliance Division is part of the Town's Executive Department. The Code Compliance Director reports to the Town Manager. The Division currently has only two (2) staff positions: 1) The Division Director; and 2) one Code Compliance Officer. The Division has access to one vehicle that is used for field inspections. There is one desk-top computer (and printer), and one lap-top computer (portable printer) that will serve to facilitate the implementation of the newly acquired Code Compliance iWorQ software in the field. The staff is also equipped with cell phones and a digital camera.

The use of the newly acquired Code Compliance software has been uploaded with current codes, and property information acquired from Miami-Dade County records. We have initially tested the program internally and began preliminary field application tests last week. The addition of the new software should increase our ability to more efficiently notice, cite, document and report on code compliance matters. However, although the new software should serve to address new code related matters going forward, historical data contained in the existing Sungard code compliance, building permit, and financial systems has not been integrated due to inconsistent system requirements and/or contractual issues with Sungard. Reporting and researching (e.g. cross referencing delinquent payments, violations, permits, etc.) continues to prove inefficient as multiple databases must be searched to gather the necessary information.

The Division also receives support from the Police Department. Both sworn police officers and non-sworn police staff have been assisting, as time permits,



with the initial issuance of Courtesy Notices or Civil Citations (See next Section for more detailed information on this program).

Since October of 2011, the Division has issued approximately 340 Courtesy Notices resulting in an 80% compliance rate. An additional 148 Civil Violation Notices were issued resulting in a compliance rate of approximately 71%. There have been 63 Special Magistrate hearings have been scheduled and conducted in five separate sessions. Compliance has achieved on approximately 78% of the cases brought before a Special Magistrate. The cases that remain non-compliant appear to be mainly due to: absentee owners; appeals that have been filed and have yet to be heard; additional time granted by the Special Magistrates for respondents to apply for variances; or a complete disregard by the property owners. Liens have been placed for outstanding fines and costs, as appropriate, in each case.

## **Support from Police and Parking Department**

The Division also receives support from the Police Department. Non-sworn police staff has been assisting, as time permits, with the initial issuance of Courtesy Notices for overgrowth of grass. This has proved to be very effective, especially during the rainy season. Additionally, sworn Police Officers also have the authority, as granted by Commission Resolution, to address a limited and specific number of code provisions, especially during times when Code Compliance staff may not be immediately available to respond (e.g. evenings and weekends). A summary of the history of the program is provided below:

On January 18, 2011, the Mayor and Town Commission adopted Resolution 11-1997 authorizing the Town Manager to appoint all Surfside Police Officers, after receiving the appropriate training, to enforce the following sections of the Town Code.

1. Section 90-79: Restricted and Prohibited Parking
2. Section 74-01: Commercial Vehicles in Residential Area
3. Section 54-02: Handbill Distribution
4. Section 54-63: Sidewalk or Street Obstruction
5. Section 54-78: Prohibited Noises
6. Section 14-29: Construction Work without Permit
7. Section 34-28: Illegal Deposit of Debris
8. Section 10-28: Leash Laws
9. Section 10-32: Fecal Disposal
10. Section 10-33: Dogs on the Beach
11. Section 10-36: Barking or Vicious Dogs
12. Section 34-78: Litter Ordinance\*
13. Section 34-79: Litter Ordinance\*
14. Section 34-80: Litter Ordinance\*

\*These sections were added on September 13, 2011 (Resolution 11-2043)

The program has allowed the Town to be more responsive to the residents and business community by providing the added ability to react to code related matters at nights and on weekends, when Code Compliance staff may not be available to readily respond. The program has been implemented with sensitivity and the Police Officers have been able to use the additional powers granted to them to immediately respond to the most egregious concerns, such as construction without permits, noise, open and abandoned houses, construction without permits, abandoned vehicles, illegal dumping and other code related illegal activities. The program was deemed to have been extremely successful, as it increased our effectiveness at no extra cost and has engendered only satisfaction from the complainants and predominantly voluntary compliance from the violators. Based on this result, the Commission adopted Resolution 12-2069 authorizing for the program to remain effective permanently.

In each case, when appropriate, referrals were forwarded to the Code Compliance Office for follow-up.

# **Code Compliance Operational Responsibilities**

## **Enforcement of:**

- Town Property Maintenance Standards
- County's Minimum Housing Code
- Town Zoning Code
- Miscellaneous Town Code provisions
- Certain Florida Building Code provisions
- Stop Work Orders on construction without permits
- Town Resort Tax Delinquency and audit avoidance
- Town Local Business Tax Receipt delinquency
- Town Certificate of Use delinquency

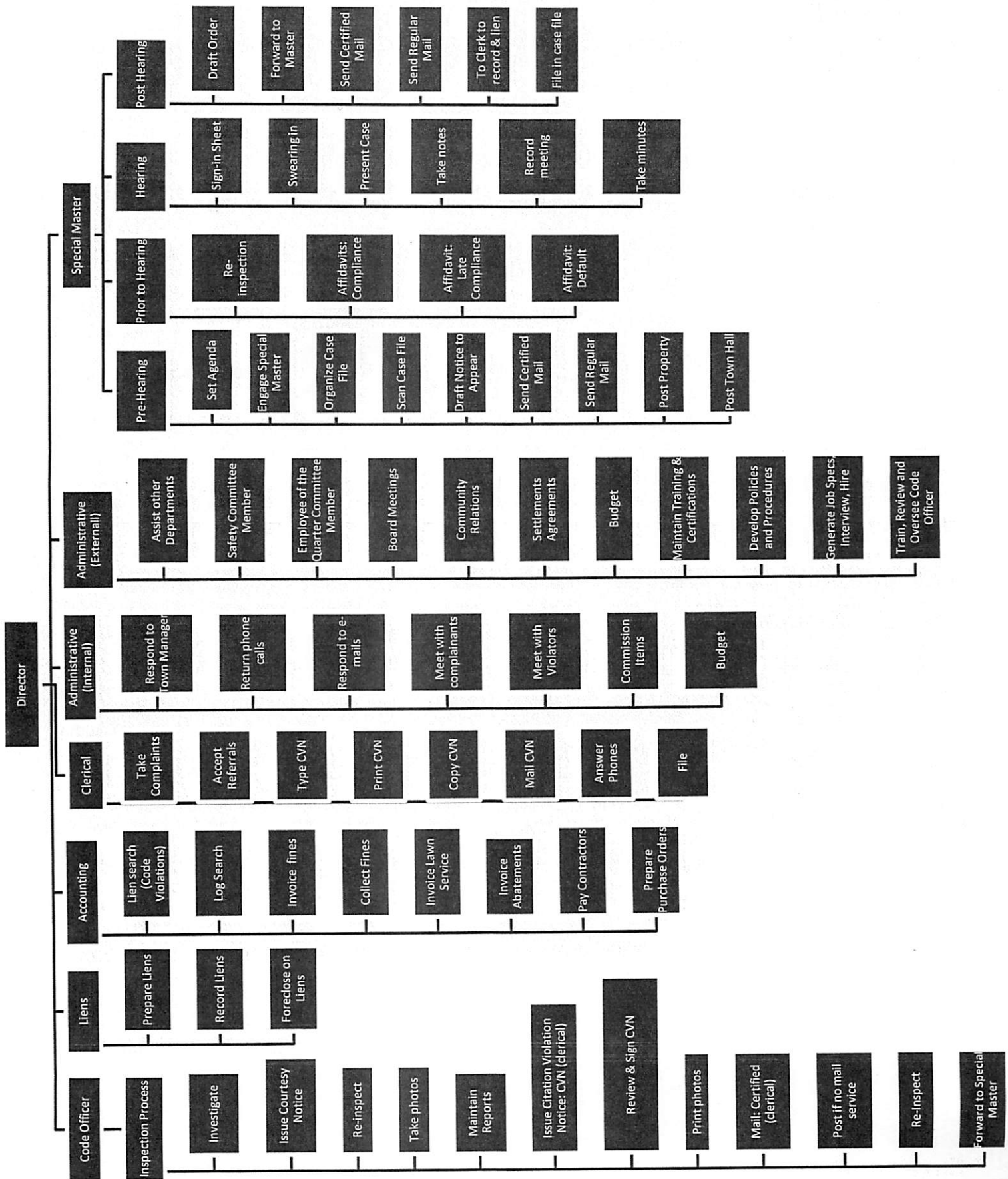
## **Special Master Process:**

- Communications to Special Master
- Setting of Agenda
- Preparation and service of Notices to Appear
- Preparation of case files and presentation at hearing
- Preparation of Orders and mailing
- Preparation of Liens

## **Other Responsibilities:**

- Public Education on Codes
- Violation Abatement/Remediation
  - Property board-up
  - Lawn cutting
  - Mosquito control
  - Property clean-up
- Lien satisfaction preparation
- Billing for fines and abatement reimbursements
- Check requests
- Preparation of Settlement Agreements
- Divisional day-to-day administration and operation

*(See Operational Chart on Following Page)*



## **Code Compliance Enforcement Process**

Currently the Division is engaged in a mostly reactive enforcement program, although certain areas of concern have been proactively pursued if multiple complaints have been received associated with the same issue or if proliferation of a particular violation is observed. Reactive enforcement action is initiated as a result of a: 1) complaint received from the public; 2) referral from another department or outside agency; or 3) direct field observation.

Whether reactive or proactive, once we engage, investigations and inspection time will vary depending on the type of violation being responded to. Violations that deal with property exteriors, whether property maintenance, zoning, or building code issues, are generally easy to identify and determination on whether the violation exists can be made in the field. Other types of violations such as those of an interior nature (e.g. minimum housing standards), or violations associated with illegal uses (e.g. short term rentals, multiple families in a single-family home) may take considerably more time and resources. Notwithstanding the type of violation pursued, once the situation escalates beyond the Courtesy Notice, the volume of clerical work required far exceeds the amount fieldwork. Under the current policy and procedures being followed, with the currently available resources, field work generally involves approximately 20% to 25% of actual time spent on a case, with the balance of the time (75% to 80%) dedicated to clerical work, which includes research, typing, report documentation, photo processing, mailings, affidavits, noticing, etc.

On the following pages is an example outlining a specific code compliance operation associated with a complaint about “overgrown grass.” Although these procedures are burdensome, time consuming, and sometimes costly, they are a necessary due to Town policy, Town Code, Florida Statute, or other federal due process provisions.

# Example of Grass Overgrowth Violation Processing

1. (EXAMPLE) Overgrowth of Grass or Weeds
  - a. Complaint received or observation in the field
  - b. Inspection to determine validity
  - c. Courtesy Notice issued, with compliance date (5 days+/-)
  - d. Re-inspection to ascertain compliance
    - i. If complied, case closed
    - ii. If non-compliant, generate a Civil Violation Notice (CVN)
      1. Ascertain property ownership (via County Records)
      2. Input ownership information
        - a. Owner's name
        - b. mailing address
        - c. folio number
        - d. legal description
      3. Input violation information
        - a. code section violated
        - b. explanation of Violation
        - c. compliance requirements
        - d. Time for Compliance
      4. Print CVN
      5. Sign CVN
      6. One file copy made
      7. Three labels generated & printed
      8. Prepare Certified Mail package
        - a. Green Card
          - i. filled out by hand
          - ii. attach Certified Receipt Number label to card
          - iii. stamp Town address on card
          - iv. attach property address label to card
        - b. White Receipt



- i. filled out by hand
    - ii. attach property address label to receipt
  - c. Label attached to envelope
  - d. CVN placed in envelope
  - e. White receipt attached to envelope
  - f. Envelope sealed
  - g. Green Card attached to envelope
  - h. Stamp machine set-up for Certified Mail
    - i. Push "on" button
    - ii. Enter "security code"
    - iii. Enter "department"
    - iv. Enter "type" (1<sup>st</sup> Class letter)
    - v. Enter "1<sup>st</sup> class stamp" amount)
    - vi. Enter "Certified Mail"
    - vii. Enter "Return Receipt"
    - viii. Enter "Completed"
    - ix. Pass envelope through stamp machine
  - i. Send to Post Office
- 9. Once compliance time expires
  - a. Re-inspection to ascertain status
    - i. If complied, close case
    - ii. If not complied
      - 1. make note in case file
      - 2. forward to lawn contractor to cut
      - 3. re-inspect once cut
      - 4. Make note that compliance attained
      - 5. await invoice for cutting
      - 6. generate Check Request for lawn contractor
        - a. Make a copy of request
        - b. Submit to Finance Department
      - 7. generate Invoice for Property Owner
        - a. make a copy of Invoice

- b. generate an envelope
- 8. Stamp machine set-up for Regular Mail
  - a. Push "on" button
  - b. Enter "security code"
  - c. Enter "department"
  - d. Enter "type" (1st Class letter)
  - e. Enter "1st class stamp" amount)
  - f. Enter "Completed"
  - g. Pass envelope through stamp machine
  - h. Send to Post Office
- 9. Set matter to go to Special Master to request  
Order for Judgment & Lien
  - a. Go to Step 2 (Prosecution)

## **2. PROSECUTION OF NON-COMPLIANT CASES**

- a. Special Master Process
  - i. Notice to Appear
    - 1. Fill out Notice to Appear (NTA)
      - a. Name of violator
      - b. Address
      - c. Folio Number
      - d. Case Number
      - e. Special Master Case Number
      - f. Specific Code Section violated
      - g. Date & Time of Hearing
  - ii. Affidavit of non-compliance
  - iii. Affidavit of Compliance
  - iv. Affidavit of Late-Compliance
  - v. Special Master Order
    - 1. Drafting of Order
    - 2. Execution of Order
    - 3. Mailing of Order

4. Recording of Order
5. Enforcement of Order
6. Releasing of Order
7. Recording Release of Order
- vi. Fines
  1. Generation of Invoice for fines and administrative costs
  2. Mailing of Invoice for fines
  3. Collection of Fines
  4. Foreclosure on Lien
- vii. Release after Compliance

## **Current Enforcement Policy**

The current enforcement policy includes meeting with individual in charge of the property (usually the owner or tenant) that is the subject of the violation and issuance of a verbal warning or Courtesy Notice; if a verbal warning, we follow-up with a Courtesy Notice shortly thereafter if compliance is not attained. In the absence of direct contact, a Courtesy Notice is posted on the property or sent via regular first class mail. The Division uses its best efforts to educate and inform on the code requirement, explain its intention, the importance of complying with the code and the benefit to the property owner and the Surfside community as a whole. Failure to comply after the Courtesy Notice compliance period expires, generally results in the issuance of a Civil Violation Notice (CVN), also referred to as a Citation. The CVN is served via certified mail, return receipt requested, or by other legally available means of service (such as hand delivery or posting). The CVN usually provides additional time to comply. Once the alleged violator is in receipt of the CVN he or she has 20 days to appeal the Code Compliance Officers determination that a violation exists. This appellate process is addressed by way of a Special Magistrate hearing:

- If an appeal is filed, the matter is set for a hearing before a Special Magistrate to determine the validity of the appeal. If the Magistrate rules in favor of the alleged violator, the matter is dismissed. If not, the Special Magistrate will hear the case and render an Order (the process is similar to that described below and the issue is treated as non-compliant).

- If no appeal is filed, and there is no compliance after the compliance period expires, a fine will begin to accrue for each and every day the violation remains uncured. If non-compliance continues after the fine begins to accrue, only then do we forward to a Special Magistrate, at which time we seek to obtain an Order confirming the violator is in default and the imposition of a lien.

To date, most Special Magistrates have allowed for additional time for compliance, tolled the fines for the additional compliance time granted, but have not waived any of the fines that have accrued to date. After compliance is attained, the property owner may seek a mitigation hearing to request a reduction in fines. If compliance is attained prior to the hearing, but after the original compliance period expired, the Special Magistrates have considered and provided relief by reducing the fines at the same hearing.

The Division has not objected to reduction of fines if: 1) compliance is attained prior to hearing date; or 2) if the property owner continuously and diligently pursued compliance, may have asked for additional time to comply because of a specific hardship, and as long as compliance was attained within the additional time granted.

Either party may appeal the Special Magistrate's determination through the courts.

## **Enforcement in Single Family Districts**

To date, a mostly reactive program has been observed, except with issues such as overgrowth of grass, illegal trash piles (mostly tree trimmings and grass clippings) and construction without permits, which we look-out for whenever we are in the field. We continue to respond to complaints on a case-by-case basis, although we have pursued more proactive programs in response to similar and multiple complaints such as: corner visibility issues (hedges/fences/walls); trash piles; non-compliant real estate signs; and other commonly reported violations or observed. Commonly reported or observed violations by frequency include:

1. Grass overgrowth
2. Construction without permits
3. Exterior Property Maintenance (unkempt yards)
4. Trash on R-O-W (tree trimmings, grass clippings, garbage/cans)
5. Trash and garbage cans, curbside, on private property
6. Signs on Public R-O-W (e.g. garage sale signs, lost pets)
7. Real Estate Signs
8. Barking dogs
9. Trees/shrubs overhanging neighboring property
10. Sight-Triangle (corner visibility) on hedges/shrubs
11. Hedge Heights (front, rear and side yards)
12. Exterior Paint/Roof
13. Derelict Vehicles or parking on grass
14. Fence Heights (side and rear yards)
15. Stagnant pools, fountains, and ponds
16. Chain Link Fences
17. Squawking birds
18. Bee hives
19. Non-domestic animals kept (chickens, rabbits, tortoise)
20. Boats parked in yards
21. Additional Areas of Concern
  - a. POD type storage units
  - b. Whitefly on hedges/trees
  - c. Short term rentals

## **Other Recommendations for Discussion:**

**Level 1:** It is recommended that with appropriate staffing levels, and properly allocated resources, that a more comprehensive program be initiated beginning with a block-by-block assessment of each Single-Family Property to initially determine the condition of each property, the type, scope and severity of any violations identified. A determination on whether to proceed on each violation type may be made once all information is considered. Violations deemed to be of a level or type that may immediately affect the health, safety and welfare of the community should be considered for initial enforcement action.

**Level 2:** Violations of an aesthetic nature, that which may become a health, safety, or welfare concern should be considered for second tier enforcement.

**Level 3:** Violations of an aesthetic nature, that are not considered to affect the health, safety, or welfare of the community should be considered for third tier enforcement.

None of these considerations should serve to limit the Town's ability to continue to respond to any type of complaint received on any issue that may be in violation of Town, or any other applicable Code.

## **Enforcement in Multi-Family Districts**

To date, a mostly reactive program has also been observed, except with issues such as construction without permits and illegal trash piles (e.g. tree trimmings) which we monitor on a regular basis. We continue to respond to complaints associated with minimum housing violations in rental buildings and units. However, we have yet to pursue a proactive program in this area. Commonly reported or observed violations by frequency include:

1. Construction without permits
2. Exterior property maintenance
3. Signs on R-O-W
4. Exterior facades deteriorating (in need of pressure cleaning or painting)
5. Trees/shrubs overhanging R-O-W
6. Barking dogs
7. Non-compliant Real Estate Signs
8. Interior Violations on Rental Units (Minimum Housing Standards, property maintenance, sanitary, health & safety)
9. Local Business Tax Receipt and Certificate of Use delinquency
10. Additional Areas of Concern
  - a. Unkempt roof surfaces
  - b. Parking lot maintenance
  - c. Whitefly on hedges/trees
  - d. Short term rentals

A proactive enforcement program for multi-family rental buildings would require a Letter of Intent (LOI) to inspect the whole property (i.e. Complete LOI), which would require the Owner (or Property Manager) to provide access all exterior and common areas of the building, as well as to each and every unit for physical inspection. Depending on the size of the property and the number of units, this type of inspection may take from 15 to 20 minutes (on average) depending on the condition of each individual unit, plus an



additional 30 minutes to over an hour to assess the exterior of the building(s) and the common areas.

A more limited Exterior LOI process may only include the inspection of the exterior premises and exterior surfaces of the buildings and building's address number. Although this limited program takes less time, and is less invasive, no internal common area or rental unit issues would be identified or addressed.

A thorough review of the Town and County records should provide the total number of multi-family residential rental units and buildings, which are estimated to include more than 50 rental apartment buildings. Rented condominium units would also be subject to this type of inspection program, although they may be much more difficult to identify. Condominium properties in general may also be considered for inclusion as part of the limited exterior LOI program, and inspections would be limited to exterior surfaces and areas only, or slightly expanded to common areas, if desired.

**Other Recommendations for Discussion:**

Level 1: It is recommended that with appropriate staffing levels, and properly allocated resources, that an Exterior LOI program be initiated beginning with a block-by-block assessment of each property to initially determine the condition of the exterior of each building and premises.

Level 2: It is recommended that with appropriate staffing levels, and properly allocated resources, that a Complete LOI program be initiated beginning with a block-by-block assessment of each rental building and

common areas to initially determine the condition of each and severity of any issues that are identified.

**Level 3:** It is recommended that with appropriate staffing levels, and properly allocated resources, that an Exterior LOI program be initiated beginning with a block-by-block assessment of each Condominium building to initially determine the condition of each.

In each of the above cases, if the severity of the condition warrants, then further inspection and more thorough inspection program could be pursued.

## **Enforcement in Business Districts**

To date, a mostly reactive program has been observed. We have responded on a case-by-case basis to complaints received, although in certain cases we have conducted limited sweeps to address commonly reported or observed violations. However, we proactively monitor the District for construction without permits on a regular basis. Commonly reported or observed violations by frequency include:

1. Deteriorating or unkempt facades (in need of pressure cleaning or painting depending on surface materials)
2. Construction without permits
3. Sidewalks:
  - a. Obstructions (chairs, mannequins, pots, signs)
  - b. Sidewalk Café furniture and equipment and expansion
4. Signs
  - a. Signs remaining from prior businesses
  - b. Window signs (as to number, placement, neon/electronic)
  - c. A-frame signs on R-O-W
  - d. Installation without permits or approvals
5. Awnings (e.g. deteriorated or missing)
  - a. Illegal signage
  - b. Installation without permits
6. Local Business Tax Receipt and Certificate of Use delinquency
7. Resort Tax delinquency
8. Other Property maintenance
9. Dumpster maintenance
10. Alley cleanliness
11. Rear (at alley)
  - a. Exterior property maintenance
  - b. Area used for staging and equipment repository
12. Parking Lot maintenance
13. Additional Areas of Concern
  - a. Roof maintenance
  - b. Interior violations (maintenance, sanitary, health & safety)
  - c. Grease traps

## **Other Recommendations for Discussion:**

Level 1: It is recommended that with appropriate staffing levels, and properly allocated resources that an Exterior LOI program, similar to that outlined in the (Rental Multi-Family Districts) be initiated beginning with a block-by-block assessment of each commercial building to initially determine the condition of each and severity of conditions. This would include exterior facades, awnings, exterior signs, alleys, roofs, right-of-way impediments and other externally visible items.

- Sidewalk café ordinance enforcement may also be included as a separate program once the Ordinance's enforcement provisions are initiated.

Level 2: As a second tier, the program could move to address internal issues that are visible from the right-of-way, such as window signage, electronic displays, etc.

Level 3: It is recommended that with appropriate staffing levels, and properly allocated resources, that a coordinated joint Interior LOI program with other agencies, (i.e. State Division of Restaurant, County Fire, Building Department) may be considered to address commercial business interior areas, and address accessibility, ingress and egress, restrooms, sanitary, grease traps, etc.

We would also recommend continued encouragement of business owners to take advantage of the grants made available via County Commissioner Sally Heyman's "Mom and Pop" grant program. Each year the Town's Office of Tourism, Economic Development and Community Services, offers assistance with and keeps business owners apprised of the Programs application deadlines.

## **Challenges to Operations**

The Division has strived to maintain a soft approach to addressing properties found to be in violation of code, unless the violation is considered to pose a threat to the health, safety and welfare of the community. We attempt to meet with the individual in charge of the property and inform of the problem and suggest a solution. We may or may not issue a Courtesy Notice at that time, depending on the severity of the situation, but will issue a Courtesy Notice if compliance is not attained in a timely manner. The Division uses its best efforts to educate and inform on the code requirement, explain its intent and the importance and benefit of compliance. Most comply in a timely manner.

However, over the last year and a half, our experience has been that of those who did not comply within the time granted, did not do so until they received a Notice to Appear at a Special Magistrate Hearing. Although the process that is followed includes:

- a Courtesy Notice, and in many cases personal contact with the property owner (or other responsible individual); and
- a follow-up Civil Violation Notice (served via certified mail, hand delivered or posted)

Still, many of the reasons given for non-compliance include:

- not receiving any notice; or
- misunderstanding or not understanding the notice; or
- not being aware of the urgency; or
- not being aware of impact of not complying with the notice; or
- disagreement with the code provision; or
- disagreement with the application of the code

We believe that in cases where the resident or business owner is sincere, either the notices are not being read completely and thoroughly, or there is a

lack of counsel being sought when the content of the notices are not fully understood.

In other cases there is an appearance that the respondents are not taking the notices seriously. There are arguments of no prior enforcement of the specific code, or of being told previously that it was all right to commit the infraction or allow the specific condition to remain. In these cases, the respondent has no expectation that the Town will enforce, prosecute, and much less that any type of fine would be imposed.

Every Courtesy Notice provided by the Division includes the compliance officer's contact information, in the event the respondent has any questions or needs clarification. Every Civil Violation Notice includes language that the respondent must contact the Compliance Officer once compliance is attained, and informs of that a daily fine will ensue once the compliance period expires.

### Varying Opinions

There are also varying opinions and positions on what should or should not be enforced, and on whether a specific code provision should be added or removed. These vary from location to location, resident to resident, and business to business. As compliance officers we often get pressure to: address neighbor disputes; explain why code provisions exist that are inconsistent with their specific view; why we are not willing to discontinue the case on their specific violation or pursue another type of violation more aggressively.

## Specific Challenges

- Hedge Height: Aesthetics(public safety) vs Privacy(private safety)
- Site Triangle: Safety (public) vs. Privacy and Safety (private)
- Trees and hedge overhanging private property
- Bikes on elevated walking path
- Powered leaf blowers
- Short term rentals
- Home based businesses
- Store owners who are struggling and compliance costs (actual or perceived)

# **Recommended Enforcement Priorities**

## **Importance of Establishing Priorities**

There are hundreds of different code provisions that are currently contained in the Town Code, Miami-Dade County Code, and other applicable codes that could be enforced. As such, it is important to establish clear priorities for the Division because of the limited resources currently allocated for this program.

Below is a list of commonly reported or observed violations which are included in the Town Code, County Code, or Florida Building Code.

## **Single Family Districts**

### **1. Exterior Property Maintenance**

- a. Grass overgrowth
- b. Stagnant water in pools, fountains, ponds, or yards
- c. Garbage Cans left out at days end
- d. Trash on Curb
- e. Trash on Yard
- f. Exterior Surfaces of Houses
- g. Trees/shrubs overhanging R-O-W
- h. Roof Surfaces
- i. Non-domestic animals kept (chickens, rabbits, tortoise)
- j. Trees/shrubs overhanging neighboring property

### **2. Zoning**

- a. Sight-Triangle (corner visibility) on hedges/shrubs
- b. Hedge Heights (front, rear and side yards)
- c. Derelict Vehicles or parking on grass
- d. Improper or unpermitted use of POD type storage units
- e. Chain Link Fences
- f. Fence Heights (side and rear yards)
- g. Real Estate Signs
- h. Garage Sale Signs
- i. Political Signs
- j. Boats parked in yards

### **3. Other**



- a. Construction without permits
- b. Barking dogs
- c. Other Noise
- d. Garage Sales (unpermitted)

### Multi-Family Districts

- 1. Exterior Property Maintenance
  - a. Overgrowth of Grass
  - b. Exterior Surfaces (paint or pressure clean)
  - c. Overgrowth unto right-of-way
- 2. Construction without permits
- 3. Interior Property Maintenance (Rentals)
  - a. Minimum Housing Standards in interior of units
- 4. Inadequate or inappropriate parking
- 5. Barking dogs
- 6. Other noise
- 7. Improper or unpermitted use of POD type storage units
- 8. Short term rentals
- 9. Real estate signs

### Business District

- 1. Exterior Property Maintenance
  - a. Exterior Surfaces (paint or pressure cleaning)
  - b. Rear at Alley
  - c. Overgrowth of weeds (at alleys)
  - d. Dumpster maintenance
  - e. Alley cleanliness
  - f. Rear areas used for staging and equipment repository
  - g. Roof tops
- 2. Construction without permits
- 3. Signs
  - a. Old signs remaining from prior businesses
  - b. Deteriorated signs
  - c. Window signs
    - i. Electronic Signs
    - ii. Installation without permits or approvals
  - d. Obstructions (chairs, mannequins, pots, signs)
- 4. Sidewalks:
  - a. Sidewalk Café furniture and equipment and expansion
  - b. Signs on R-O-W
  - c. Sweep or pressure clean

5. Awnings
  - a. Deteriorated awnings
  - b. Missing awning, with frame remaining
  - c. Illegal signage
  - d. Installation without permits
  - e. Installed without permits
6. Noise, smoke, or other nuisance
7. Parking Lot Maintenance
8. Local Business Tax Receipt and Certificate of Use delinquency
9. Resort Tax delinquency
10. Interior Violations (maintenance, sanitary, health & safety, grease trap)

## **Recommended Code Amendments for Review**

There are several sections of the Town Code or certain policies that also present a challenge to enforcement, as they may be outdated, ambiguous, repetitive or internally conflicting. Moreover, there are some sections that conflict with State Statute or Administrative Code. For example, many neighbor-on-neighbor complaints, which only impact the complainant, may not legally require a response from the Town. A policy or code amendment supporting a more appropriate and alternative method available to the complainant should be considered. In the event wherein a complainant's issue only affects his or her property, it is recommended that it be considered a private matter and addressed through the civil court process between the neighbors. If the enforcement of a specific code provision does not affect others in the community, except for the complaining party, consideration should be given to amending or eliminating same. Some issues that deal with overhanging trees, hedge overgrowths, fences, noise and other property line encroachments are increasingly difficult to enforce because the Town has the burden to prove where the property lines lie and who the tree, shrub, or fence belongs to. These issues are extremely difficult to address without the use of a survey or surveying equipment, which will increase enforcement time and costs.

Below are some of the issues that should be considered for review:

- Town Sign Ordinance (total)
- Temporary Sign Section
- Construction Signs
- Banners
- Noise
- Boat/trailer parking
- Boat mooring
- Overhanging trees and shrubs
- Garbage cans
- Trash and debris
- Tree trimming & yard clipping

Additionally, although it has not been an issue to date, a review of the fine schedules and fine reduction policy should be memorialized in policy or codified. That will eliminate, or at minimum reduce any future issues that may arise in the future on the consistency of application.

Currently, there are a limited number of items that have a specific fine scheduled. We have generally been using a \$100 per day fine in the majority of Civil Violation Notices issued.



# **ACTION ITEMS**

## **Priorities Going Forward**

In closing the Code Compliance Division is seeking clear direction on where to focus our overall efforts, and more specifically what our focus should be in each: the Single Family Districts; Multi-family Districts; and Business District. Consideration should be given to the number of staff and other resources dedicated to the Division to accomplish this goal. On the following pages there are lists of violations that that have commonly reported or observed in each of the three district types: Single Family Districts, Multi-family Districts, and Business District.

Please provide your recommended priority level on each of the below items, in order of importance. 1 for High, 2 for Moderate, 3 for Low, or 4 for None (or minimal).

## **As to Single Family Districts Priorities**

- Exterior Property Maintenance
  - Exterior Surfaces of Houses
  - Roof Surfaces
  - Trash on Curb
  - Trash on Yard
  - Grass overgrowth
  - Stagnant pools, fountains, and ponds
  - Garbage Cans left out at days end
  - Trees/shrubs overhanging R-O-W
  - Trees/shrubs overhanging neighboring property
  - Non-domestic animals kept (chickens, rabbits, tortoise)
- Zoning
  - Hedge Heights (front, rear and side yards)
  - Fence Heights (side and rear yards)
  - Derelict Vehicles or parking on grass
  - Sight-Triangle (corner visibility) on hedges/shrubs

- Real Estate Signs
- Garage Sale Signs
- Political Signs
- Boats parked in yards
- Boats on moored or docked on waterside
- POD type storage units
- Chain Link Fences
- Other
  - Construction without permits
  - Garage Sales (unpermitted)
  - Barking dogs
  - Squawking birds
  - Other Noise
  - Bee hives

**As to Multi-family Districts Priorities**

- Exterior Property Maintenance
  - Exterior Surfaces (paint or pressure clean)
  - Overgrowth of Grass
  - Overgrowth unto right-of-way
- Interior Property Maintenance (Rentals)
  - Minimum Housing Standards in interior of units
- Construction without permits
- Inadequate or inappropriate parking
- Barking dogs
- Other Noise
- Real Estate Signs
- Improper or unpermitted use of POD type storage units
- Short Term rentals

**As to Business District Priorities**

- Exterior Property Maintenance
  - Exterior Surfaces (paint or pressure cleaning)
  - Roof Tops
  - Rear at Alley
    - Dumpster maintenance
    - Alley cleanliness
    - Area used for staging and equipment repository
    - Overgrowth of weeds (at alleys)

- Sidewalks:
  - Obstructions (chairs, mannequins, pots, signs)
  - Sidewalk Café furniture and equipment and expansion
  - Signs on R-O-W
  - Sweep or pressure clean
- Signs
  - Old signs remaining from prior businesses
  - Deteriorated signs
  - Window signs
  - Electronic Signs
  - Installation without permits or approvals
- Awnings
  - Deteriorated awnings
  - Missing awning, with frame remaining
  - Illegal signage
  - Installation without permits
- Construction without permits
- Noise, smoke, or other nuisance
- Parking Lot Maintenance
- Local Business Tax Receipt and Certificate of Use delinquency
- Resort Tax delinquency
- Interior Violations (maintenance, sanitary, health & safety)
- Grease traps

To facilitate the achievement of these priorities, it is recommended that there is support for: 1) Training, and Continuing Education Programs; 2) Additional Certification programs; 3) a clerical position; 4) an additional desktop computer and laser printer; and 5) an update to the existing vehicle or addition of a 2<sup>nd</sup> vehicle.

It is further recommended that we pursue a more aggressive public education campaign by inclusion of a new “Code Compliance Corner” in the Gazette that shows commonly occurring violations, items of interest, and sharing of information. We are also exploring the use of a link from the Town website



directly to the newly initiated code compliance software system to facilitate processing of complaints.

Additional policy related issues should be solidified, as we move forward, such as:

- Should collection of accrued fines be pursued if compliance is attained prior to a Special Master hearing, or should consideration be given to dismissal.
- Certain violation types that include lengthy staff investigation time and additional resources should only be pursued when adequate resources are available.
- Consideration should be given to eliminate code or policy requirements for violations that only affect a single party or property, if said violation does not negatively affect the rest of the community.

~ End of Program ~