

CITY OF GREENACRES

Council Agenda Memo
#2016.05B7.04

TO: Mayor and City Council

THROUGH: Andrea McCue, City Manager

FROM: Michael Grimm, Director/CBO, Building Department

SUBJECT: **Ordinance No. 2016-07** Code Enforcement Special Magistrate and Citation System, City Council Agenda Item for 06-06-2016

DATE: May 31, 2016

COPIES: James D. Stokes, City Attorney
Denise McGrew, City Clerk

Background:

The procedures to enforce many codes within the City of Greenacres are found in the Greenacres Code of Ordinances, Chapter 2 "Administration", Article III "Boards, Committees, Commissions", Division 2 "Code Enforcement Board". This division creates a quasi-judicial hearing board made up of city residents appointed by the City Council and outlines the process to cite violators of the code in compliance with Florida Statutes Chapter 162.

The use of a Special Magistrate and a revised citation system were a discussion item at the January 4, 2016 Council meeting. The Council directed city staff to go forward with drafting an ordinance to implement these items while also maintaining the existing Code Enforcement Board and process.

The City Council approved this Ordinance on first reading May 16, 2016 by a vote of 3-1.

Analysis:

Code Enforcement Boards and Special Magistrates each have perceived benefits and drawbacks in their use. A paid Special Magistrate can be beneficial in the enforcement of major housing code violations and citation systems, particularly when a violation is not tied to real property. Special Magistrates are attorneys and therefore have a greater understanding of the law. Also, they are typically not residents of the City and therefore may appear to be more impartial than a Code Board. Special Magistrates are efficient in that they can hear more cases in less time but may sometimes appear to be harsh or without knowledge of local conditions.

Code Enforcement Boards are volunteer residents of the City that have local knowledge and concern for the welfare of the City. They are often beneficial for first time offenders, minor violations and for use as a nuisance abatement board. Code Boards are perceived as a jury of your peers where different views and opinions are discussed and motions voted on. These deliberations typically take a longer time per case but allow the airing of different viewpoints and interaction with the cited party.

The proposed ordinance will keep intact the current violation notice process as outlined in City Code Sec 2-72 but revises the alternate citation system procedures outlined in Sec 2-72.1. The current citation system requires citations to be heard at the Palm Beach County Circuit Court whereas the proposed system will utilize a City hired Special Magistrate to conduct the hearing. The current system has not been utilized by Code Enforcement staff for many years due to the time and costs of bringing violations to the County court. The use of the proposed citation system will allow the City code officers to improve efficiency by increasing the number of violations issued, saving time and costs of certified mailings, saving time and costs of appearing at County court, and creating a quicker process. The City Attorney has also identified that he cannot simultaneously represent the City as City Attorney and serve as the attorney for the Code Enforcement Board. The Special Magistrate can serve as the attorney for the Code Enforcement Board as is common practice now in other jurisdictions.

The proposed ordinance will utilize the benefits of each type of system while giving code officers more options in gaining compliance with the codes, which is the ultimate goal of all code enforcement activity.

Financial:

Building Department staff has researched the fees paid by several other local municipalities for the services of a Special Magistrate and found that the hourly rate ranges from \$150-\$200. For budget purposes, staff is utilizing \$185 an hour. With a proposed average of one (1) meeting per month for the Special Magistrate and eight (8) meeting per year as counsel for the Code Enforcement Board, and an average of three (3) hours per meeting, staff estimates the total cost for the services of a Special Magistrate to be approximately \$11,100 annually.

The use of the citation system may result in increased revenue from fines due to higher productivity in citation issuance.

Legal:

The Ordinance has been prepared in compliance with City Code and Florida State Statutes.

Staff Recommendation:

Approval of Ordinance 2016-07 establishing a Special Magistrate and amending the alternate citation system.

Michael Grimm CBO
Director Building Department

Attachments:

1. Ordinance No. 2016-07