

ORDINANCE NO. 03-24

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING CHAPTER 37, “DELRAY BEACH CODE ENFORCEMENT”, OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTIONS 37.37 THROUGH 37.39 TO ESTABLISH A CIVIL CITATION PROCEDURE PURSUANT TO FLORIDA STATUTE 162, PART II, AS AN ALTERNATIVE CODE ENFORCEMENT METHOD; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Chapter 162, Florida Statutes, the City Commission of the City of Delray Beach (the “City Commission”) desires to provide an alternative method of enforcement of its Code of Ordinances by utilizing civil citations; and

WHEREAS, Chapter 162, Florida Statutes provides an alternative method of enforcement that authorizes the City to issue citations to a person or property owner when, based upon personal investigation, a code enforcement officer has reasonable cause to believe that a person has committed, or allowed to be committed, upon any property within the City of Delray Beach, Florida, a civil infraction in violation of the City Code of Ordinances; and

WHEREAS, the City Commission finds that the utilization of civil citations would provide an alternative and supplemental method of enforcement that is equitable, expeditious, and effective to further promote, protect, and improve the public health, welfare and safety of the residents and public at large.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

Section 2. Chapter 37, “Delray Beach Code Enforcement”, Section 37.37, “Reserved”, of the Code of Ordinances of the City of Delray Beach, Florida, shall be amended to read as follows:

**Chapter 37 – DELRAY BEACH CODE ENFORCEMENT.**

**Sec. 37.37 –~~RESERVED.~~ AUTHORITY AND PURPOSE.**

This Section is adopted pursuant to F.S. §§ 162, Part II, as an alternative method of enforcing the City of Delray Beach Code of Ordinances.

Section 3. Chapter 37, “Delray Beach Code Enforcement”, Section 37.38, “Reserved” of the Code of Ordinances of the City of Delray Beach, Florida, shall be amended to read as follows:

**Sec. 37.38. —~~RESERVED.~~ CODE ENFORCEMENT CITATION PROCEDURES.**

(A) Designation of code enforcement officer. For the purpose of this Section, the term "code enforcement officer" shall mean any designated employee or agent of the City of Delray Beach whose duty it is to enforce codes and ordinances enacted by the City, and who has received appropriate training as determined by the City of Delray Beach. This shall include, but not be limited to, code inspectors, fire inspectors, building inspectors, and law enforcement officers. Designation of a code enforcement officer and appropriate training for such officer shall be determined by the City Manager or designee.

(B) Citation procedure.

- (1) Any code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance of the City of Delray Beach.
- (2) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a City code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, the code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer shall not be required to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, if a repeat violation is found or if the violation is irreparable or irreversible.
- (3) A citation issued by a code enforcement officer shall be in a form prescribed by the City 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 civil infraction 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 code enforcement officer.
  - 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 the 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.
- (4) After issuing a citation to an alleged violator, a code enforcement officer shall forward the original and one copy of the citation to the Police Department Records Office for filing with the county court.
  - (5) A citation issued shall be subject to contest before county court, as may be provided by City code and applicable law.

(C) Penalties.

- (1) A violation of a code or an ordinance cited and enforced under the provisions of this Section shall be deemed a civil infraction.
- (2) The maximum civil penalty shall not exceed \$500.00.
- (3) A civil penalty of less than the maximum civil penalty shall be assessed if the person who has committed the civil infraction does not contest the citation.
- (4) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or § 775.083.

(D) If a person fails to pay the civil penalty or request a hearing to contest the citation, fails to appear to contest the citation when a hearing has been requested, or fails to appear in court as may be required, the court may enter judgment for an amount not to exceed \$500.00 per infraction. Upon the request of the City, the court may issue a rule to show cause, which shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is

issued such rule fails to appear in response to the court's directive, the person may be held in contempt of court. As an additional remedy, the City may refer cases of violations not paid and not contested within 15 days of issuance to a collection agency for processing, collection, and notification of failure of payment to a collection agent who is registered and in good standing pursuant to F.S. Ch. 559.

(E) Civil penalties assessed pursuant to this Section are due and payable to the City on the last day of the period allowed for the filing of an administrative hearing before a special master, or if proper appeal is made, when the appeal has been finally decided adversely to the named violator.

(F) The provisions of this Section are additional and supplemental means of enforcing City codes or ordinances, adopting a schedule of violations and penalties. Nothing contained in this Section shall prohibit the City of Delray Beach from enforcing its codes or ordinances by other means.

Section 4. Chapter 37, “Delray Beach Code Enforcement”, Section 37.39, “Reserved” of the Code of Ordinances of the City of Delray Beach, Florida, shall be amended to read as follows:

**Sec. 37.39. – ~~RESERVED.~~ SCHEDULE OF CIVIL PENALTIES.**

(A) These provisions are enforceable pursuant to the procedures described in this Section and violators of such provisions shall be subject to the following penalties:

Code		Civil Penalty	
Code Section	Description of Violation	Noncontested	Contested
<b>CITY CODE OF ORDINANCES</b>			
<b>GARBAGE AND TRASH</b>			
51.02	Dumping on private property is prohibited	200.00	275.00
51.03	Garbage shall be placed in containers	150.00	225.00
51.20 (A) and (B)	(A) Removal of building materials—Contractor's responsibility (B) Removal of building material from minor home repairs—if meets requirements for trash collection must be bundled.	100.00	175.00
51.22	Vegetative waste collection	100.00	175.00
51.23	Bulk trash collection	100.00	175.00
51.35—51.40	Required and approved trash containers, roll-offs, maintenance, placement	100.00	175.00
51.41—51.44	Garbage preparation; containers shall be covered; use of containers	50.00	125.00
51.45	Construction and demolition sites and collection of construction and demolition debris	150.00	225.00
51.55—51.59	Ashes; Contagious disease refuse and hypodermic needles; Out-of-town refuse; Offensive deposits; recycling	100.00	175.00
	All other violations of Section 51	100.00	175.00
<b>UTILITIES</b>			

Code		Civil Penalty	
Code Section	Description of Violation	Noncontested	Contested
52.83(A)	Unpermitted installation, removal or bypass of backflow preventer	150.00	250.00
52.83(D)	Failure to perform required annual certified inspection and operational test of backflow preventer	100.00	175.00
53.057(E)	Failure to properly maintain grease trap and oil water separator	150.00	250.00
<b>ABANDONED PROPERTY JUNK, TRASH AND DEBRIS</b>			
90.02 (A) and (B)	(A) No person shall store wrecked, dismantled, unlicensed or inoperable vehicles or vessels on public property; (B) Procedures for removing abandoned property	150.00	225.00
90.03	Abandoned property; Exceptions; Notice and procedures	150.00	225.00
90.07	Repair work shall be within enclosed buildings or screened in by wall or fence; storage of dismantled vehicles	150.00	225.00
90.16	Unlawful to operate a junk yard without obtaining required permits	250.00	325.00
	All other Section 90 violations	100.00	175.00
<b>ANIMALS</b>			
91.18	Unlawful retail sales of dogs and cats; failure to post or falsified Certificate of Source	400.00	500.00
91.20	Running at Large	100.00	175.00
91.22	Prohibiting Dogs in Public Buildings, Places of Business	250.00	325.00
<b>FIRE SAFETY</b>			
96.02	Inspections required for all buildings annually	100.00	175.00
96.04	Open burning prohibited on public or private property	200.00	275.00
96.05	Fire hydrants placed in a position to be accessible at all times from a paved road; Fire hydrant spacing	150.00	225.00
96.08	Authority to initiate action; Recovery of costs of hazardous substances and hazardous waste clean up	100.00	150.00
96.16	Adoption of N.F.P.A.—Any other violation of N.F.P.A.	150.00	225.00
<b>GARBAGE ON PRIVATE PROPERTY</b>			
98.03(A)	No person shall deposit garbage except in a covered closed receptacle	150.00	225.00
98.03(B)	Existence of exposed garbage shall be prima facie evidence that owner put garbage on property	150.00	225.00
<b>LITTER ON PRIVATE PROPERTY</b>			
98.04(A)	No person shall throw or deposit litter on any occupied private property	150.00	225.00
98.04(B)	Existence of litter on property shall be prima facie evidence that owner caused litter to be on property	150.00	225.00
98.04(C)	Property to remain free of litter	150.00	225.00
<b>LITTER ON BUSINESS</b>			
98.05(A)	No person occupying a business shall deposit litter into a gutter or street and businesses shall be kept free of litter	150.00	225.00

Code		Civil Penalty	
Code Section	Description of Violation	Noncontested	Contested
98.05(B)	Existence of litter around the business shall be prima facie evidence that the owner/manager caused the litter to be put on premise	150.00	225.00
<b>LITTER IN PUBLIC PLACE</b>			
98.06	Unlawful to throw or deposit litter in a public place except in receptacles provided	250.00	325.00
<b>LITTER ON STREET</b>			
98.07(A)	No person shall deposit litter into gutter, street or other public place	250.00	325.00
98.07(B)	Existence of litter on sidewalk, right of way or parking area of premises shall be prima facie evidence of violation	150.00	225.00
<b>LITTER ON VACANT LOTS</b>			
98.08(A)	Unlawful deposit of litter on open or vacant private property	150.00	225.00
98.08(B)	Existence of litter on private property shall be prima facie evidence that owner put litter on property	150.00	225.00
<b>LITTER IN WATER</b>			
98.10	Unlawful to deposit litter in water	150.00	225.00
98.20	Unlawful to throw or scatter litter on street, sidewalk, alley, public or private property	150.00	225.00
<b>THROWING LITTER FROM VEHICLES</b>			
98.21	Unlawful for driver or passenger to throw or deposit litter on any street, public place, or private property	150.00	225.00
<b>VEHICLES TRANSPORTING REFUSE OR LOOSE MATERIALS</b>			
98.22(A)	Unlawful to operate a vehicle transporting loose materials without a cover that prevents blowing or dropping of loose materials	200.00	275.00
98.22(C)	Collectors of refuse shall use a watertight vehicle with a tight cover to prevent offensive odors from escaping	250.00	325.00
98.23	No person in aircraft shall deposit any litter	250.00	325.00
98.30(A)	Waste tire dumpster required to register	250.00	325.00
98.30(B)	License required for waste tire collection	250.00	325.00
98.30 (C)(1)	Violation to transport waste tires without license	250.00	325.00
98.30(C)(2)	Violation to give false identification	100.00	175.00
98.30(C)(3)	Unlawful to subcontract with another person to transport waste tires	200.00	275.00
	All other Sections of Chapter 98	100.00	175.00
<b>NOISE CONTROL</b>			
99.03	Unlawful for a person to make unreasonably loud, excessive, or unnecessary noise	250.00	325.00
<b>GENERAL REGULATIONS</b>			
100.01(A)(1)	Unlawful existence of weeds, undergrowth, brush trash or garbage on property is a public nuisance and prohibited	150.00	225.00
100.01(A)(2)	Existence of weeds, grass, plant life over 12 inches high is a public nuisance and prohibited	150.00	225.00

Code		Civil Penalty	
Code Section	Description of Violation	Noncontested	Contested
100.01(A)(3)	Unlawful existence of vegetative trash mixed with other refuse	150.00	225.00
100.01(A)(4)	Accumulations of bulky, heavy, unbundled or uncontainerized items is a public nuisance and prohibited	150.00	225.00
100.01(B)	The existence of vegetation trees and shrubs that impair traffic safety is prohibited	250.00	325.00
100.01(C)	The existence of any vegetation, trees or shrubs that interferes with street lights, signs, sidewalks or other public improvements is prohibited	200.00	275.00
100.01(D)	The adjoining public right-of-way must be maintained	150.00	225.00
100.01(E)	Pyramid or similar type markers are prohibited; Dome-shaped decoratives may be placed in public right of way	150.00	225.00
100.02	Debris, vegetation, or structure on property which may create a hazard in times of hurricane shall be corrected	250.00	325.00
100.03	Unlawful to accumulate sand, rock, debris, or spoil over 3 feet a on lot	100.00	175.00
100.05(A), (B)	Unlawful to maintain standing water where mosquitoes may breed	150.00	225.00
100.06(A), (B)	Unlawful excavation which is in dangerous or unsafe condition; declared a nuisance	250.00	325.00
100.07(A)	Any portion of a lot not covered with a building, structure, parking area, or walkway shall be sodded or covered with appropriate ground cover	100.00	175.00
100.07(B)	All landscape materials shall be maintained in a healthy condition	100.00	175.00
<b>EXTERIOR BUILDING WALLS</b>			
100.08(A)	All building walls shall be maintained in a secure and attractive manner. All defective material shall be repaired. All loose materials, cornices, trim and window frames shall not be deteriorated, shall be structurally sound, and exposed materials shall be painted	100.00	175.00
<b>PETS ON THE BEACH, PARKS OR RECREATIONAL FACILITIES</b>			
	All Sections of Chapter 101 except 101.27(B) and 101.36(E)(1)	100.00	175.00
101.27(B)	No person shall bring into any park or municipal beach site, any cat, dog or other animal without a permit from the Parks and Recreation Department	100.00	175.00
101.36(E)(1)	No person shall bring into any recreational facility any cat, dog, or other animal	100.00	175.00
<b>STREETS AND SIDEWALKS—CONSTRUCTION, EXCAVATION, AND REPAIR</b>			
102.01(A), (B)	Construction in right-of-way (permit required)	250.00	325.00
102.17	Construction on street (permit required)	250.00	325.00
102.20	Requirements and conditions for street plans and specifications; Construction standards for public r-o-w	250.00	325.00
102.40	Regulation of placement for movable news racks	100.00	175.00
102.43	News rack standards	100.00	175.00

Code		Civil Penalty	
Code Section	Description of Violation	Noncontested	Contested
102.44	Moveable fixtures should not be placed in any public r-o-w, paved road or clear zones	250.00	325.00
	All other violations of Section 102	100.00	175.00
<b>LOCAL BUSINESS TAX RECEIPT</b>			
110.02	Local Business Tax Receipt required	100.00	175.00
110.08	State license required for any person applying for a receipt to practice regulated professions	100.00	175.00
110.113	Commercial vehicles—Required name (4 inches) to be displayed	100.00	175.00
110.116	Local business tax receipt requests required to have an on-site inspection	75.00	150.00
	All other violations of Section 110	100.00	175.00
<b>ALARMS</b>			
112.21	Alarm registration required; penalty for failure to register	50.00	125.00
112.23	Alarm registration decal shall be posted at front entrance of premises; Conditions for denial of registration	50.00	125.00
112.26	verification of alarm; Required response to alarm; alarm user responsibility; alarm malfunction	75.00	150.00
112.27	Multiple malfunction violations (more than 3 false alarms is excessive)		
	1st offense	0.00	0.00
	2nd offense	0.00	0.00
	3rd offense	0.00	0.00
	4th offense	25.00	50.00
	All other violations of Section 112	100.00	175.00
<b>HANDBILLS/SOLICITING</b>			
118.01	Unlawful distribution of handbills	100.00	175.00
<b>MOBILE FOOD TRUCKS</b>			
120.01	Location restrictions and prohibitions; Permit required; Operating requirements; Unlawful operation of a mobile food truck shall be punishable by a fine of up to \$500 or imprisonment not to exceed 60 days	250.00	325.00
<b>SKATEBOARDING</b>			
132.09	Unlawful skateboarding/roller skating on sidewalk along Atlantic Avenue between State Road A-1-A and I-95	50.00	100.00
	All other Sections of City Code not mentioned	100.00	175.00
<b>CITY LAND DEVELOPMENT REGULATIONS</b>			
4.3.2(A)—(C)	Use Determination—Allowed and incompatible uses	200.00	275.00
4.3.3(A)—(Z)	Special requirements for specific uses/District Regulations	200.00	275.00
4.3.4(A)—(K)	Base district development standards;		
	Setbacks; lot coverage; density; zoning matrix	100.00	175.00



Code		Civil Penalty	
Code Section	Description of Violation	Noncontested	Contested
4.4.2	Rural residential zone district;	250.00	325.00
<b>SIGNS</b>			
4.6.7 (F)	Permits required for signs	100.00	175.00
4.6.7 (E)(2) (a)	Sign area, height, setbacks	100.00	175.00
4.6.7(J)	Prohibited signs	150.00	225.00
	All other violations of Section 4.6.7	100.00	175.00
<b>LIGHTING</b>			
4.6.10	Off-loading requirements	250.00	325.00
4.6.11	Outside storage of materials, supplies, products, and vehicles shall only be allowed if specified in the district	250.00	325.00
4.6.13(A)	Parking and storage of commercial vehicles, boats, trucks, and similar vehicles in a residential district; Prohibitions and restrictions in residential districts	250.00	325.00
4.6.13(B)	Permissible parking	250.00	325.00
4.6.14	Site triangle visibility measurements	250.00	325.00
4.6.15	Enclosures required for private pools	250.00	325.00
<b>LANDSCAPING</b>			
4.6.16(E)(12)	Artificial Turf	250.00	325.00
4.6.16(F)	Irrigation requirements	150.00	275.00
4.6.16(G)	Prohibited and controlled species	150.00	225.00
4.6.16(H)	Minimum landscape requirements		
	(1) Single Family (new)	50.00	125.00
	(2) Duplex (new)	75.00	150.00
	(3) Multi-Family, Commercial, Industrial (new)	150.00	225.00
	(4) Foundation landscaping requirements	100.00	175.00
	(5) special landscape regulations for properties within CBD	250.00	325.00
4.6.16(I)	Minimum requirements		
	(1) General	100.00	175.00
	(2) Yard management, composting and use of mulches	200.00	275.00
4.6.19	Tree Preservation, protection, enforcement, and maintenance	250.00	325.00
<b>WORK IN PUBLIC RIGHT-OF-WAY</b>			
6.3.2	Permit required for work in public right-of-way	250.00	325.00
<b>SIDEWALK CAFE REQUIREMENTS</b>			
6.3.3(B)	Permit required for sidewalk cafes	100.00	175.00
6.3.3(F)	Use, design, and maintenance guidelines		
6.3.3(F)(1)—(13)	Path of egress, no table zones, hours of operation, cleanliness, etc.	150.00	225.00
<b>BUILDING REGULATIONS</b>			
7.1.2	Work done by homeowner; Required plans, permit and/or fee	100.00	175.00
7.1.3	Florida Building Code adopted by reference (all Sections)	100.00	175.00

Code		Civil Penalty	
Code Section	Description of Violation	Noncontested	Contested
7.1.3(B)(1)—(4)	Florida Building Code Standards amendments and additions to the code	100.00	175.00
7.1.4	Property Maintenances; Building Standards; Hurricane precautions		
7.1.4 (C)(1)	Buildings	150.00	225.00
	(a), (b) Safety	150.00	225.00
7.1.4(C)(2)	No debris/storage on partially vacant lot or contiguous sidewalk	150.00	225.00
7.1.4(D)(1)	Hurricane precautions		
	(a) Required canvas awnings, tents to be removed	150.00	225.00
	(b) Construction materials to be secured	250.00	325.00
	(c) Outdoor furniture and materials to be secured	250.00	325.00
7.1.4(D)(2)(b)	Required repairs after hurricane (unsafe structure); structure must be approved by Building Official	250.00	325.00
7.1.5	Required numbers on buildings; Numbering system identified by the City of Delray Beach Addressing and Street Naming Manual	100.00	175.00
		50.00	125.00
7.1.7	Seawalls required to be in good repair	100.00	150.00
<b>ELECTRICAL CODE</b>			
7.2.1(A)(1), (2)	Required electrician for work	100.00	175.00
7.2.1(A)(1), (3)	Required sign electrician for work	100.00	175.00
7.2.1(B)	National Elec. Code and National Fire Code adopted by reference violations	100.00	175.00
7.2.1(C)	Allowing another person to obtain permit or do work under your license	200.00	275.00
7.2.2(A)(1)—(3)	Issuance of permits to licensed electricians; exceptions	100.00	175.00
7.2.2(B)	It shall be unlawful to conceal work before final inspection	150.00	225.00
7.2.2(C)	It shall be unlawful to use non-approved apparatus/fixtures	200.00	275.00
7.2.5(C)	Unlawful for any person to interfere with the electrical inspector	150.00	225.00
	All other Section 7 violations	100.00	175.00
<b>BUILDING MAINTENANCE</b>			
7.8.3	Buildings shall be maintained by Owner	100.00	175.00

(B) Any violation of the Code enforced pursuant to the procedures set forth in this Section that is not provided for above shall be assessed a civil penalty of \$100.00.

(C) If the person who has committed the civil infraction does not contest the citation, and the penalty amount specified above for the subject violation is \$500.00, the penalty amount shall be reduced to \$450.00.

Section 5. Should any section or provision of this Ordinance or any portion thereof, any

paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 6. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 7. Specific authority is hereby given to codify this Ordinance.

Section 8. That this ordinance shall become effective immediately upon passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the \_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Shelly Petrolia, Mayor

First Reading\_\_\_\_\_

Second Reading\_\_\_\_\_

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney