

RESOLUTION 24-54

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, ADOPTING UPDATED CIVIL PENALTIES AND FINES FOR ENFORCEMENT OF THE CITY'S CODE OF ORDINANCES UTILIZING THE NOTICE OF VIOLATION PROCEDURE; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, On December 1, 2014, the City Council of the City of Marco Island, Florida, ("City Council") adopted Ordinance Number 14-14 (the "Code Enforcement Ordinance"), which sets forth the procedures for enforcement of the City's Code of Ordinances (the "City Code"); and

WHEREAS, the Code Enforcement Ordinance authorizes code enforcement officers to issue citations, notices of violations, and notices to appear for civil violations that are reasonably believed to be violations of the City Code; and

WHEREAS, Resolution No. 15-31, as may be amended by subsequent Resolution, establishes a schedule of civil penalties with fines for enforcement of the City Code utilizing the civil violation citation procedure; and

WHEREAS, when violations are prosecuted using the Notice of Violation procedure, the fine amounts for the violations specified in Resolution No. 15-31 serve as guidelines for the Special Magistrate; and

WHEREAS, the City Code establishes additional guidance to the Special Magistrate for certain violations; and

WHEREAS, the City Council wishes to remove such provisions from the City Code and adopt them by Resolution, as set forth in Exhibit "A" hereto.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The minimum and maximum fines for certain City Code violations are hereby established and adopted pursuant to Exhibit "A," which is hereto and incorporated herein by reference.

Section 3. That all prior resolutions or parts of resolutions, insofar as they are inconsistent or in conflict with the provisions of this Resolution, are hereby repealed.

Section 4. If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered eliminated and will in no way affect the validity of the other provisions of this Resolution.

Section 5. This Resolution shall be effective immediately upon adoption by the City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 9th day of September 2024.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Joan Taylor, City Clerk

By: _____
Jared Grifoni, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney

EXHIBIT “A”

CIVIL PENALTIES AND FINES FOR SPECIFIED VIOLATIONS UNDER NOTICE OF VIOLATION PROCEDURE

The table below sets forth the minimum and maximum civil penalties that a Special Magistrate may impose in the enforcement of certain provisions of the City of Marco Island Code of Ordinances (the “City Code”) for offenses that are not found to be irreparable or irreversible in nature. The Special Magistrate shall base the specific penalty amount on factors that include (i) the gravity of the violation, (ii) any actions taken by the violator to correct the violation, and (iii) any previous violations committed by the violator.

Penalties for violations enforced through the Notice of Violation process, that are not included in this resolution, shall be determined by a Special Magistrate using the schedule of civil penalties adopted via separate resolution as a guide.

For each City Code article or section listed in this resolution, the entirety of that article or section may be enforced via the mechanisms provided in Chapter 14 of the City Code.

In addition to the imposition of a fine for any violation found by a Special Magistrate, the violator shall be assessed an administrative fee of fifty dollars (\$50.00).

Violations of Chapter 18, Article III., Fertilizer Regulations:

- (1) First violation: a fine up to \$150.00; and
- (2) Each subsequent violation: a fine not to exceed \$300.00.

Violations of Chapter 18, Article IV, Noise Control:

- (1) First violation: a fine up to \$250.00 (excluding the violation that resulted in the property owner’s first warning); and
- (2) Second violation: a fine up to \$500.00; and
- (3) Third violation: a fine up to \$1,000; and
- (4) Fourth violation: a fine up to \$2,000; and
- (5) Fifth violation: a fine up to \$4,000.00; and
- (6) Sixth and subsequent violations occurring within one year after a finding of violation of the previous offense or the payment of a citation for a violation of Article IV: a fine up to \$5,000.00

Violations of Chapter 18, Article V., Endangered, Threatened or Listed Species Protection:

- (1) First violation: a minimum fine of \$150 not to exceed \$500.00 as provided in F.S. §162.22; and
- (2) Second violation: a minimum fine of \$500, not to exceed \$1,500.00 as provided in F.S. §162.09; and

- (3) Third violation: a minimum fine of \$1,500 not to exceed \$2,000 as provided in F.S. §162.09

Violations of Chapter 46, Article II, Cable Telecommunications Services: ~~(each day or part thereof that each violation occurs or continues is a separate offense)~~

- (1) Failure to complete construction in accordance with the franchise: a fine of up to \$500.00 for each offense; and
- (2) Failure to provide, upon written request, data, documents, reports, and/or information: a fine of \$100.00 per offense; and.
- (3) Failure to test, analyze and report on the performance of the system following a written request to do so: a fine of \$250.00 per offense; and
- (4) Failure to provide in a continuing manner the types of services proposed in the accepted application or renewal proposal, unless the city council specifically approves a delay or change or the franchisee has obtained modification of its obligation pursuant to 47 USC 545 of the Cable Communications Policy Act of 1984, as amended: a fine of \$500.00 per offense; and
- (5) Failure of a franchisee to comply with operational, maintenance, or technical standards or consumer protection standards: a fine of \$500.00 for each offense; and
- (6) Failure to comply with any material provision in this article for which a penalty is not otherwise specifically provided: a fine of up to \$100.00 for each offense; and
- (7) Any other action or inaction by the franchisee, as agreed upon between the city and the franchisee, and set forth in the franchise agreement. A separate and distinct offense shall be deemed committed each calendar day on which a violation occurs or continues.

Violations of Chapter 54, Article V., Sea Turtle protection:

After one warning in a calendar year, excluding an irreparable and irreversible event:

- (1) First violation: a minimum fine of \$150 not to exceed \$500; and
- (2) Second violation: a minimum fine of \$500.00, not to exceed \$1,500.00; and
- (3) Third offense: a minimum fine of \$1,500.00, not to exceed \$2,000.00.