



## **Town Council Meeting**

**July 25, 2022 at 6:00 PM**

**Howey-in the-Hills Town Hall**

**101 N. Palm Ave.**

**Howey-in-the-Hills, FL 34737**

---

**Join Zoom Meeting:** <https://us06web.zoom.us/j/82575107434?pwd=MGZra2ZGRUxlQlFQVzdCZ3pBaTlNdz09>  
**Meeting ID:** 825 7510 7434 | **Passcode:** 587552

**Due to COVID-19, the Town of Howey-in-the-Hills is limiting the number of public attendees at meetings to 10 individuals. The Town of Howey-in-the-Hills is also requesting all audience members to wear masks when attending the meeting. The Town encourages everyone who is interested in participating in the meeting to join virtually via ZOOM.**

### **AGENDA**

Call the Town Council Meeting to order  
Pledge of Allegiance to the Flag  
Reading of a Poem by Mr. Jim Steele

### **ROLL CALL**

Acknowledgement of Quorum

### **AGENDA APPROVAL/REVIEW**

### **CONSENT AGENDA**

*Routine items are placed on the Consent Agenda to expedite the meeting. If Town Council/Staff wish to discuss any item, the procedure is as follows: (1) Pull the item(s) from the Consent Agenda; (2) Vote on the remaining item(s); and (3) Discuss each pulled item and vote.*

- 1.** The approval of the minutes and ratification and confirmation of all Town Council actions at the July 11, 2022 Town Council Meeting.
- 2.** The approval of the minutes and ratification and confirmation of all Town Council actions at the July 13, 2022 Town Council Budget Workshop Meeting.

### **PUBLIC HEARING**

- 3.** Consideration and Approval: (Second Reading) **Ordinance 2022-015 - Code Enforcement Citation**

**AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, PERTAINING TO CODE ENFORCEMENT; REVISING CHAPTER 8 OF THE TOWN'S CODE OF ORDINANCES TO AUTHORIZE THE TOWN TO USE A CODE ENFORCEMENT CITATION PROGRAM; DESIGNATING CODE ENFORCEMENT OFFICIALS; PROVIDING FOR PROCEDURES, INVESTIGATION OF VIOLATIONS, AND THE ISSUANCE OF CITATIONS; PROVIDING FOR THE PAYMENT OF FINES, COURT HEARINGS AND ADOPTING A SCHEDULE OF**

**CIVIL PENALTIES AND FINES; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

- Mayor MacFarlane will read the Ordinance title
- Town Administrator/Code Enforcement Officer will explain Ordinance 2022-015
- Mayor MacFarlane will open Public Comment and Questions for this item only.
- Mayor MacFarlane will close Public Comment.
- Motion to approve Ordinance 2022-015
- Council Discussion
- Roll Call Vote

**OLD BUSINESS**

**NEW BUSINESS**

- 4.** Discussion: **Parks & Recreation Board Plan for Parks Expansion in FY23**
- 5.** Consideration and Approval: **Resolution 2022-002 Establishing Fees for Grove Square**
- 6.** Consideration and Approval: **Resolution 2022-003 Proposed Maximum Millage Rate**
- 7.** Consideration and Approval: **Appointment of Town Councilor Vacancy**

**DEPARTMENT REPORTS**

- 8.** Town Hall
- 9.** Town Administrator / Finance Manager - Finance and Development Reports

**COUNCIL MEMBER REPORTS**

- 10.** Mayor Pro-Tem Conroy
- 11.** Councilor Lehning
- 12.** Councilor Gallelli
- 13.** Councilor Klein
- 14.** Mayor MacFarlane

**PUBLIC COMMENTS**

*Any person wishing to address the Mayor and Town Council and who is not on the agenda is asked to speak their name and address. Three (3) minutes is allocated per speaker.*

**ADJOURNMENT**

**To Comply with Title II of the Americans with Disabilities Act (ADA):**

Qualified individuals may get assistance through the Florida Relay Service by dialing 7-1-1. Florida Relay is a service provided to residents in the State of Florida who are Deaf, Hard of Hearing, Deaf/Blind, or Speech Disabled that connects them to standard (voice) telephone users. They utilize a wide array of technologies, such as Text Telephone (TTYs) and ASCII, Voice Carry-Over (VCO), Speech to Speech (STS), Relay Conference Captioning

(RCC), CapTel, Voice, Hearing Carry-Over (HCO), Video Assisted Speech to Speech (VA-STTS) and Enhanced Speech to Speech.

**Howey Town Hall** is inviting you to a scheduled Zoom meeting.

Topic: **Town Council Meeting**

Time: **July 25, 2022 06:00 PM Eastern Time** (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/82575107434?pwd=MGZra2ZGRUxlQlFQVzdCZ3pBaTlNdz09>

Meeting ID: 825 7510 7434

Passcode: 587552

Dial by your location

**+1 646 558 8656 US (New York)**

**+1 346 248 7799 US (Houston)**

Meeting ID: 825 7510 7434

Passcode: 587552

Find your local number: <https://us06web.zoom.us/j/82575107434?pwd=MGZra2ZGRUxlQlFQVzdCZ3pBaTlNdz09>

Please Note: In accordance with F.S. 286.0105: Any person who desires to appeal any decision or recommendation at this meeting will need a record of the proceedings, and that for such purposes may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is based. The Town of Howey-in-the-Hills does not prepare or provide this verbatim record. Note: In accordance with the F.S. 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact Town Hall, 101 N. Palm Avenue, Howey-in-the-Hills, FL 34737, (352) 324-2290 at least 48 business hours in advance of the meeting.



## Town Council Meeting

July 11, 2022 at 6:00 PM

Howey-in the-Hills Town Hall  
101 N. Palm Ave.

Howey-in-the-Hills, FL 34737

### MINUTES

Mayor MacFarlane called the Town Council Meeting to order at 6:00 p.m.  
Mayor MacFarlane led the attendees in the Pledge of Allegiance to the Flag.

#### ROLL CALL

Acknowledgement of Quorum

#### **MEMBERS PRESENT:**

Councilor George Lehning | Councilor Marie V. Gallelli | Councilor Rick Klein (via Zoom) | Mayor Pro-Tem Ed Conroy (via Zoom) | Mayor Martha MacFarlane

#### **STAFF PRESENT:**

Sean O'Keefe, Town Administrator | John Brock, Town Clerk | Rick Thomas, Police Chief | Morgan Cates, Public Works Director | Tara Hall, Library Director | Tom Wilkes, Town Attorney (via Zoom) | Azure Botts, Code Enforcement Officer (via Zoom)

Motion made by Councilor Lehning to allow Mayor Pro-Tem Conroy and Councilor Klein to participate and vote via Zoom due to extenuating circumstances; seconded by Councilor Gallelli. Motion approved unanimously by voice vote.

#### **Voting**

**Yea:** Councilor Lehning, Councilor Gallelli, Mayor MacFarlane

**Nay:** None

#### **AGENDA APPROVAL/REVIEW**

Motion made by Councilor Gallelli to approve the meeting's agenda; seconded by Councilor Lehning. Motion approved unanimously by voice vote.

#### **Voting**

**Yea:** Councilor Lehning, Councilor Gallelli, Councilor Klein, Mayor Pro-Tem Conroy, Mayor MacFarlane

**Nay:** None

**CONSENT AGENDA**

*Routine items are placed on the Consent Agenda to expedite the meeting. If Town Council/Staff wish to discuss any item, the procedure is as follows: (1) Pull the item(s) from the Consent Agenda; (2) Vote on the remaining item(s); and (3) Discuss each pulled item and vote.*

1. The approval of the minutes and ratification and confirmation of all Town Council actions at the June 27, 2022 Town Council Meeting.

Motion made by Councilor Lehning to approve all items on the Consent Agenda; seconded by Councilor Gallelli. Motion approved unanimously by roll-call vote.

**Voting**

**Yea:** Councilor Lehning, Councilor Gallelli, Councilor Klein, Mayor Pro-Tem Conroy, Mayor MacFarlane

**Nay:** None

**PUBLIC HEARING**

None

**OLD BUSINESS**

2. Consideration and Approval: **Appointment of Mary Arnold to the Parks & Recreation Board**

Town Administrator, Sean O'Keefe, introduced this item and explained that Mrs. Arnold has applied to fill the fifth and final open seat on the Parks & Recreation Board. Mr. O'Keefe also explained that the Parks & Recreation Board met in June and recommended approval of Mary Arnold's appointment to the Parks & Recreation Board.

Mayor MacFarlane asked Mrs. Arnold to speak and explain why she wanted to serve on the Park's & Recreation Board. Mrs. Arnold stated that she thought it was important for residents to have good parks to enjoy.

Motion made by Councilor Gallelli to appoint Mary Arnold to the Parks & Recreation Board; seconded by Councilor Lehning. Motion approved unanimously by roll-call vote.

**Voting**

**Yea:** Councilor Lehning, Councilor Gallelli, Councilor Klein, Mayor Pro-Tem Conroy, Mayor MacFarlane

**Nay:** None

**NEW BUSINESS**

3. Consideration and Approval: (First Reading) **Ordinance 2022-015 - Code Enforcement Citation**

Martha MacFarlane, Mayor, rea Ordinance 2022-010 by title only:

**AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, PERTAINING TO CODE ENFORCEMENT; REVISING CHAPTER 8 OF THE TOWN'S CODE OF ORDINANCES TO AUTHORIZE THE TOWN TO USE A CODE ENFORCEMENT CITATION PROGRAM; DESIGNATING CODE ENFORCEMENT OFFICIALS; PROVIDING FOR PROCEDURES, INVESTIGATION OF VIOLATIONS, AND THE ISSUANCE OF CITATIONS; PROVIDING FOR THE PAYMENT OF FINES, COURT HEARINGS AND ADOPTING A SCHEDULE OF**

**CIVIL PENALTIES AND FINES; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

Mayor MacFarlane opened up councilor comment on this item. Councilor Lehning asked how the Special Magistrate's responsibilities were determined. Mayor MacFarlane explained the Special Magistrate had responsibilities that were clearly outlined by the State, and that the Town has hired a Special Magistrate.

Mayor Pro-Tem Conroy asked what the difference was between a Special Master and a Special Magistrate. Police Chief, Rick Thomas, explained that it was just nomenclature, that both positions were the same, just named differently.

Councilor Gallelli asked if the expenses incurred from hiring a Special Magistrate could be charged back to the individuals that would have to go before the Special Magistrate. Code Enforcement Officer, Azure Botts, explained that some of the costs of prosecuting the case could be recouped from the individuals brought before the Special Magistrate.

Mayor Pro-Tem Conroy asked if the town was required to have a Code Enforcement Board. Town Attorney, Tom Wilkes, explained that the Town was not required to have a board and was allowed to have the Special Magistrate.

Mayor MacFarlane opened Public Comment for this item only. Seeing as there was no comment, Mayor MacFarlane closed Public Comment.

Motion made by Councilor Lehning to approve Ordinance 2022-015; seconded by Councilor Gallelli. Motion approved unanimously by roll-call vote and the Ordinance would move forward to a second reading.

**Voting**

**Yea:** Councilor Lehning, Councilor Gallelli, Councilor Klein, Mayor Pro-Tem Conroy, Mayor MacFarlane

**Nay:** None

4. Consideration and Approval: **Mower Replacement**

Mayor MacFarlane asked Public Works Director, Morgan Cates, to introduce and explain this item. Mr. Cates explained that one of Public Work's Department's two mowers had broken down and the Town needed to buy an additional, third mower that would be more reliable.

Councilor Lehning asked if Mr. Cates had gotten any additional quotes for the mower other than was provided. Mr. Cates stated that he had not, because the John Deere dealership was on the state-approved list of contractors to purchase from. Mr. O'Keefe explained that this was acceptable and followed the Town's procurement policy.

Mayor Pro-Tem asked what would happen to the broken mower. Mr. Cates explained that servicing of mower could take months. Mr. Cates stated that, if the mower could reasonably be repaired, he would have it repaired to be used as a spare.

Mayor MacFarlane opened Public Comment for this item only. Seeing as there was no comment, Mayor MacFarlane closed Public Comment.

Motion made by Mayor Pro-Tem Conroy approve of purchasing a new mower for the Public Works Department; seconded by Councilor Klein. Motion approved unanimously by roll call vote.

**Voting**

**Yea:** Councilor Lehning, Councilor Gallelli, Councilor Klein, Mayor Pro-Tem Conroy, Mayor MacFarlane

**Nay:** None

**DEPARTMENT REPORTS**

## 5. Town Hall

Town Clerk, John Brock, explained that he had given the Councilors a memo showing utility bad debt for June 2022. Mr. Brock also that both the new Utility Billing Clerk, Kimberly Bohrer, and Building Services Clerk, Jack Pavlik, had been hired in June. Mr. Brock also reminded the audience of the of the Charter referendum coming up for vote on August 23<sup>rd</sup>. Mr. Brock also reminded the audience that there would be three Town Councilor seats up for election this year, seats 1, 2, and 3, and that the Election Qualifying Window would begin at noon on August 8<sup>th</sup>. Mr. Brock also reminded everyone that the final day of the Election Qualifying Window was at noon on Friday, August 19<sup>th</sup> and that if anyone had any questions to see him.

## 6. Police Department

Police Chief, Rick Thomas, let everyone know that COVID-19 cases were on the uptick in Lake County and to be careful. Chief Thomas also relayed a story about a police chase that started just outside of the Town's border and ending in a shooting in Mount Dora.

## 7. Code Enforcement

Mayor MacFarlane asked what happened to the Code Enforcement case that had previously been scheduled to appear before the Special Magistrate in May but had been delayed. Code Enforcement Officer Botts explained that it was being settled outside of a hearing and should be signed off by the Special Magistrate soon.

Councilor Klein asked Code Enforcement Officer Botts to explain the process of a Code Enforcement case. Code Enforcement Officer Botts explained the process.

## 8. Public Works

Public Works Director, Morgan Cates, read the June 2022 Public Utilities monthly report and gave an update. Mr. Cates said that the work on Grove Square Park should be completed in the next week or so.

Councilor Lehning asked about the fiber optic boring that was occurring on the north side of town. Councilor Klein stated sidewalk in front of the Lake Hill school looked good, but the sidewalk on the other side was overgrown and needed to be edged.

## 9. Library

Library Director, Tara Hall, stated that the library had 32 new patrons in June. Mrs. Hall also stated that the children who participated in the Summer Reading Program in June had collectively read 441 books during the month.

Mayor Pro-Tem Conroy suggested that the library add programming for residents that would train them to use their smartphones and computers.

## 10. Parks &amp; Recreation Advisory Board / Special Events

Nothing to report

11. Town Attorney

Nothing to report

12. Town Administrator / Finance Manager - Finance and Development Reports

Town Administrator, Sean O'Keefe, stated that the Town had sent escrow funds for the Well #5 land purchase and had executed the contract with FGUA for their consulting services. Mr. O'Keefe stated that the Town did not receive the CDBG-MIT grant for the construction of a Police Station. Mr. O'Keefe gave a development update for Golden Hills and Thompson Groove

Mr. O'Keefe reminded all those in attendance about the Town Council Budget Workshop scheduled for July 14, 2022 at 9 am and the Charter Education Meeting on Tuesday, July 26, 2022, at the Marianne Beck Memorial Library at 6 pm. Mr. O'Keefe also explained that the fee schedule project was moving forward.

### **COUNCIL MEMBER REPORTS**

13. Mayor Pro-Tem Conroy

Mayor Pro-Tem Conroy stated that he would be resigning from the Town Council after the July 27, 2022, Budget Workshop meeting. Mayor Pro-Tem Conroy stated that he was hoping that, by resigning now, it would allow the Mayor to appoint someone to fill his spot on the Town Council and for that person to get some experience. Mayor MacFarlane thanked Mayor Pro-Tem Conroy for his hard work and dedication through the years.

14. Councilor Lehning

Councilor Lehning volunteered himself to take Mayor Pro-Tem Conroy's spot on the MPO. Councilor Lehning asked about the status of the SWOT. Mr. O'Keefe stated that, due to budget season, the SWOT was on hold.

15. Councilor Gallelli

Nothing to report

16. Councilor Klein

Councilor Klein thanked Mayor Pro-Tem Conroy for his nine years of service.

17. Mayor MacFarlane

Mayor MacFarlane stated that she would need a list of people that would be interested in volunteering to serve on the Town Council. Mayor MacFarlane stated that the Town needed someone to volunteer to chair the Christmas Festival Committee, because she would not be in town or be able to fill this role. Mayor MacFarlane also stated that the proposed Oktoberfest Event would not be occurring this year as there was not enough time to get ready for it; it was being planned for 2023.

### **PUBLIC COMMENTS**

*Any person wishing to address the Mayor and Town Council and who is not on the agenda is asked to speak their name and address. Three (3) minutes is allocated per speaker.*



**Tina St. Clair, 135 E Central Ave** – Mrs. St. Clair stated that there was a problem with residents sticking sticks in their front yards next to the road in the right-of-way and wondered what could be done about this. She stated that this was a safety concern if there were two cars or trucks passing near them. Mayor MacFarlane stated that Mrs. St. Clair should inform the Code Enforcement Officer, Azure Botts, about the problem.

### **ADJOURNMENT**

**There being no further business to discuss, a motion was made by Councilor Gallelli to adjourn the meeting; Councilor Lehning seconded the motion. Motion was approved unanimously by voice vote.**

The Meeting adjourned at 6:46 p.m. | **Attendees: 25**

\_\_\_\_\_  
Mayor Martha MacFarlane

ATTEST:

\_\_\_\_\_  
John Brock, Town Clerk



## Town Council Budget Workshop

July 13, 2022 at 9:00 AM  
Howey-in the-Hills Town Hall  
101 N. Palm Ave.  
Howey-in-the-Hills, FL 34737

### MINUTES

Mayor MacFarlane called the Town Council Budget Workshop to order at 9:00 a.m.  
Mayor MacFarlane led the attendees in the Pledge of Allegiance to the Flag.

### ROLL CALL

Acknowledgement of Quorum

### **MEMBERS PRESENT:**

Councilor George Lehning (Initially Absent, arrived at 9:04 a.m.) | Councilor Marie V. Gallelli | Councilor Rick Klein (via Zoom) | Mayor Pro-Tem Ed Conroy (via Zoom) | Mayor Martha MacFarlane

### **STAFF PRESENT:**

Sean O'Keefe, Town Administrator | John Brock, Town Clerk | Rick Thomas, Police Chief | Morgan Cates, Public Works Director | Tara Hall, Library Director | James Southall, Public Utilities Supervisor

### NEW BUSINESS

#### 1. Discussion: **Fiscal Year 2022-2023 Budget**

Mayor MacFarlane asked Town Administrator, Sean O'Keefe, to introduce this topic. Mr. O'Keefe gave an overview of the proposed budget. Mr. O'Keefe explained that there was a shortfall between the proposed expenditure and revenue for the General Fund, with the millage rate staying the same as the previous year at 7.5. Mr. O'Keefe said that the currently proposed General Fund budget was short by \$395,943.

Tara Hall, Library Director, presented the proposed budget for the library. Mrs. Hall explained that the library was looking to extend hours on Saturday; that was due to requests from patrons. This increase in hours would increase staffing costs.

James Southall, Public Utilities Supervisor, presented the proposed budget for the Water / Sanitation Fund. Mr. Southall stated that the biggest changes were additional equipment that would be needed due to the Town getting larger. An example of this was additional lift stations, retrofitting the Town's primary water tanks, and a larger supply of chemicals. Mr. Southall also said the Utilities department was looking to hire an additional full-time employee and part of the cost for this employee would be covered from lowering the usage of the Town's current contractor, URE. Mayor MacFarlane explained that there would be a larger

amount of work falling on the Utility department in the coming year due to the Hillside Groves development and the new Venezia Town Homes development. Mayor Pro-Tem Conroy asked what the expectation was for exactly how many new homes were coming “on-line” during the next year. Mayor MacFarlane stated that there were 30 to 40 new homes to be built next year in Talichet, 121 new town homes in Venezia Town Homes, and Hillside Groves would start their infrastructure buildout next year.

Morgan Cates, Public Works Director, presented the Public Works Department budget, the Parks & Recreation budget, and the Cemetery budget. Mr. Cates explained that the Public Works department was looking to hire an additional staff member who could not only assist with grounds maintenance, but also with building maintenance. Mr. Cates stated that the Public Works Department would like to add an additional larger mower to maintain the rights-of-way in Town. Mr. Cates stated that, with the additional funding to the Cemetery budget, this would allow for removal of fill dirt, fix the fence, and add ADA-compliant sidewalks. Mr. Cates said the largest addition to the Parks & Recreation budget was to make improvements to the Sara Maude Mason Nature Preserve.

Police Chief, Rick Thomas, presented the proposed budget for the Police Department. Chief Thomas stated he wanted to add an additional full-time Officer that would work as a second officer during night shift duty. The decision to ask for an additional night shift officer comes from feedback from the current officers saying they do not feel safe at night. Other increases in the Police Department’s budget were due to migrating to Office 365, refilling the propane tank used to run the Police Department generator, the annual fee for the new roadside message board, an increase in the repair and maintenance of vehicles, a \$5,000 increase in marketing materials, gas and oil prices increasing, and ammunition prices increasing. Mayor Pro-Tem Conroy suggested that, instead of adding an additional night shift officer, Chief Thomas and Mr. O’Keefe should ask the County Sheriff to do more night drive-throughs in the Town.

Town Clerk, John Brock, presented the proposed Legislative, Finance and Administration, and Other General Government budgets. Mr. Brock stated that the Legislative budget had a \$6,000 increase and was primarily due to a \$5,000 Town Hall audio upgrade, and an additional \$1,000 training budget to train new Town Councilors. Mr. Brock also said the increase to the Financial and Administrative budget was in the amount of \$15,000. Mr. Brock stated the increase was primarily due to insurance increases, Account and Auditing contractors’ increases, and Telephone and Communication increases. Mr. Brock also stated that the Other General Government account funding was decreasing due to the Building Inspector contractor pay moving under the Building Fund.

Mr. O’Keefe presented the Code Enforcement and Special Events proposed budgets. Mayor Pro-Tem Conroy wanted to know why there was 10% salary increase projections for all of the Town’s employees and wanted a salary study/rationale. Mr. O’Keefe committed to presenting the Town Councilors with a countywide comparison of salaries.

Mr. O’Keefe also presented the Building Fund, Infrastructure, and Impact Fees budgets. Mayor MacFarlane said she would like the Town to apply for grants from the Safe Streets for All (SS4A) grants. Police Chief Thomas stated that he would like to use a portion of the Police Impact Fees to purchase a Drug Incinerator. Mr. Southall explained that he had submitted a request of \$384,000 for the purchase of a Thompson pump, an upgrade to the main water plant, and a covered enclosure for all the water equipment at Public Works.

Mr. Cates explained that the Parks & Recreation Impact Fees expenditure budget would come out to \$208,000. The projects that this would cover included adding the following to the Central Park: a Sunshade over the swings, a misting fan, a “kiddy” basketball area (replacing the foursquare area), expanding the existing basketball court to regulation size, and running power to the Central Park pavilion. Other projects that would fall under the Parks & Recreation impact fees would include expanding the entry way in the Sara Maude Mason Nature Preserve and adding improvements to the Venezia Park. Mayor Pro-Tem Conroy wanted Mr. Cates to submit a more detailed plan for what the Parks & Recreation board expansion plan was at a future Town Council meeting. Mayor Pro-Tem Conroy also suggested that, at the next budget meeting, Mr. Southall should review all the financial plans for the new water plant. Mayor MacFarlane stated that the

Town Councilors could be presented with a high-level conceptual plan for the water plant and what the next steps were for the project.

### **PUBLIC COMMENTS**

*Any person wishing to address the Mayor and Town Council and who is not on the agenda is asked to speak their name and address. Three (3) minutes is allocated per speaker.*

None

### **ADJOURNMENT**

**There being no further business to discuss, Mayor MacFarlane adjourned the meeting.**

The Meeting adjourned at 11:25 a.m. | **Attendees: 11**

---

Mayor Martha MacFarlane

ATTEST:

---

John Brock, Town Clerk



**Date:** July 7<sup>th</sup>, 2022

**To:** Mayor and Town Council

**From:** Azure Botts

**Re:** Ordinance, Code Enforcement Citation

**Objective:**

Amend Part II, “Administrative Legislation,” Chapter Eight “Code Enforcement Board and Special Master Procedure” of the Code of Ordinances; to correct existing verbiage, add a Code Enforcement citation program, and remove Sec. 8-17.

**Summary:**

Currently, the town does not have a Code Enforcement citation program. This program will allow the town’s Code Enforcement Officer to issue citations to an individual for the following circumstances,

fails to comply with a Notice of Violation; or

is a repeat violation; or

is a violation that presents a serious threat to the public health, safety, or welfare; or

the violation is irreparable or irreversible.

**Possible Motions:**

*The Town Council has the following options:*

1. The Town Council motions to approve  
OR
2. The Town Council motions to approve with the following conditions  
OR
3. Motion to Deny

**Fiscal Impact:**

*Will create revenue for the Town.*

**Staff Recommendation:**

Staff recommends the adoption of this ordinance.

**ORDINANCE NO. 2022-015**

**AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, PERTAINING TO CODE ENFORCEMENT; REVISING CHAPTER 8 OF THE TOWN'S CODE OF ORDINANCES TO AUTHORIZE THE TOWN TO USE A CODE ENFORCEMENT CITATION PROGRAM; DESIGNATING CODE ENFORCEMENT OFFICIALS; PROVIDING FOR PROCEDURES, INVESTIGATION OF VIOLATIONS, AND THE ISSUANCE OF CITATIONS; PROVIDING FOR THE PAYMENT OF FINES, COURT HEARINGS AND ADOPTING A SCHEDULE OF CIVIL PENALTIES AND FINES; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

*Whereas*, Chapter 8 of the Town of Howey-in-the-Hill's Code of Ordinances provides for the use of a code enforcement board or special magistrate to hold hearings and assess fines against violators of the Town's codes and ordinances.

*Whereas*, Part II of Chapter 162 of the Florida Statutes provides the Town Council with the ability to use additional and supplemental means of enforcing the Town's codes and ordinances, such as issuing citations.

*Whereas*, Subsection 162.21(5) of the Florida Statutes provides that the Town may enact an ordinance establishing procedures for issuing citations, including adopting a schedule of violations and penalties to be assessed by code enforcement officers.

*Whereas*, the Town Council now desires to amend the Chapter 8 of the Town's Code of Ordinances to provide the Town with the ability to issue citations to violators of the Town's codes and ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA:**

**Section 1. Recitals.** The recitals set forth above are true and correct and constitute the legislative findings of the Town Council.

**Section 2. Amendments to the Town of Howey-in-the-Hills' Code of Ordinances.** Chapter 8 of the Town of Howey-in-the-Hills' Code of Ordinances is amended as shown by the addition of the underlined language and the deletion of the strike-through language as follows:

**Chapter 8 - CODE ENFORCEMENT ~~BOARD AND SPECIAL MASTER PROCEDURE~~**

**Sec. 8-1. - Legislative findings.**

The Town Council hereby makes the following legislative findings and declares them to be, in part, the legislative, legal, and public-policy basis for the enactment of this chapter:

(a) Pursuant to Chapter 162 of the Florida Statutes, the Town Council is empowered to create or abolish by ordinance local government code enforcement boards or special magistrates which have the authority to hold hearings and assess fines against violators of the Town's codes and ordinances.

(b) Additionally, pursuant to Chapter 162 of the Florida Statutes, the Town Council is empowered to use additional and supplemental means of enforcing Town codes and ordinances, such as issuing citations.

(c) It is the intent of this chapter to promote, protect and improve the health, safety and welfare of the citizens of the Town by (i) authorizing the creation of an Administrative Board and/or Special ~~Master~~ Magistrate with the authority to impose administrative fines and other non-criminal penalties, and/or (ii) enforce the Town's various codes and ordinances by citation to provide an equitable, expeditious, effective and inexpensive method of enforcing the codes and ordinances in force in the Town where a pending or repeated violation continues to exist, including but not limited to occupational license, fire, building, zoning and sign codes.

(c) The provisions of this chapter do not prohibit any alleged violation of the Town's ordinances or various codes from also being enforced in any court of competent jurisdiction.

## **Sec. 8-2. - Definitions.**

In this chapter, the following terms shall have the meanings indicated:

*Board Attorney* means the Legal Counselor who represents the ~~board~~ Code Enforcement Board.

*Code Enforcement Officer* means any designated employee or agent of the Town whose duty it is to enforce codes and ordinances enacted by the Town.

*Town Attorney* means the Legal Counselor for the Town, including any assistant or designee.

*Code Enforcement Board* means the Town of Howey-in-the-Hills Code Enforcement Board or its Special ~~Master~~ Magistrate appointed by the Mayor and Town Council. Both have the same duties and functions.

*Mayor* means the Mayor of the Town of Howey-in-the-Hills or their designee.

*Repeat violation* means a violation of a provision of a code or ordinance by a person who has been previously found through a board or any other quasi-judicial or judicial process, to have

violated or who has admitted violating the same provision within five (5) years prior to the violation, notwithstanding the violations occur at different locations.

*Various codes* mean occupational license, fire, building, zoning, sign, and other similar technical codes.

## **ARTICLE I. CODE ENFORCEMENT BOARD AND SPECIAL MAGISTRATE**

Sec. 8-3. - Code Enforcement Board created; composition; appointment; term of office; residency requirement; removal and vacancies; organization.

(a) The Town Council may appoint a five-member Code Enforcement Board (hereinafter the "Board"). All members shall be residents of the Town and shall serve without compensation, but may be reimbursed for such travel, mileage, and per-diem expenses as may be authorized by the Town Council or as otherwise provided by law. The Town Council may appoint up to two alternate members to serve on the Board in the absence of board members.

(b) Appointments to the Board shall be made on the basis of experience or interest in the subject matter jurisdiction of the Board, in the sole discretion of the Town Council. The membership shall whenever possible, include:

- (1) An architect;
- (2) A businessperson;
- (3) An engineer;
- (4) A general contractor;
- (5) A subcontractor;
- (6) A realtor.

(c) The initial appointments to the Board shall be as follows:

- (1) Two members shall be appointed for a term of one year each.
- (2) Two members shall be appointed for a term of two years each.
- (3) One member shall be appointed for a term of three years.

Thereafter, any appointment shall be made for a term of three years each. A member may be reappointed by the Town Council. Appointments to fill any vacancy on the Board shall be for the remainder of the unexpired term of office.

(d) If any member of the Board fails to attend two of three successive meetings without cause and without prior approval of the chairperson of the Board, the



Board shall declare that member's office vacant, and the Town Council shall promptly fill such vacancy.

(e) Members of the Board may be suspended and removed from office for cause by the Town Council.

(f) At the first meeting of the Board, the members thereof shall elect a chairperson and a vice-chairperson, who shall both be voting members, from among its members. The presence of three or more members shall constitute a quorum of the Board necessary to take action.

(g) Minutes shall be maintained of all meetings and a record shall be maintained of all evidence considered by the Board at its hearings, and all meetings, hearings and proceedings shall be open to the public.

(h) The Town Council shall provide clerical and administrative support to the Board as may be reasonably required by the Board for the proper performance of its duties.

#### **Sec. 8-4. - Special ~~Master~~ Magistrate.**

(a) A Special ~~Master~~ Magistrate may be appointed as needed by the Town Council, and shall have all the duties and responsibilities and shall carry out the same functions and procedures as the Board.

(1) The Special ~~Master~~ Magistrate shall serve at a rate of compensation to be determined by the Town Council.

(2) If the Special ~~Master~~ Magistrate fails to attend two of three successive hearings without cause, the position shall be considered vacant, and the Town Council shall promptly fill such vacancy.

(3) The Special ~~Master~~ Magistrate may be suspended and removed from office for cause by the Town Council.

(b) Regular hearings before the Special ~~Master~~ Magistrate may be held as often as necessary.

(c) Minutes shall be maintained of all hearings and a record shall be maintained of all evidence considered by the Special ~~Master~~ Magistrate, and all hearings shall be open to the public.

(d) The Town Council shall provide clerical and administrative support to the Special ~~Master~~ Magistrate as may be reasonably required by the Special ~~Master~~ Magistrate for the proper performance of his or her duties.

#### **Sec. 8-5. - Jurisdiction.**

The Board and Special ~~Master~~ Magistrate shall have the jurisdiction to hear and decide alleged violations of all various codes and ordinances of the Town of Howey-in-the-Hills including all amendments thereto.

**Sec. 8-6. - Legal counsel.**

(a) An attorney may be appointed by the Town Council in accordance with applicable law and ordinances to be counsel to the Board.

(b) The Town's Attorney shall represent the Town, when necessary.

(c) In no event may the Town's Attorney serve in both capacities.

**Sec. 8-7. - Powers of the Code Enforcement Board and Special ~~Master~~ Magistrate.**

The Code Enforcement Board and Special ~~Master~~ Magistrate shall have the power to:

(a) Adopt rules for the conduct of their hearings.

(b) Subpoena alleged violators and witnesses to their hearings, which subpoenas shall be served by the sheriff's office.

(c) Subpoena records, surveys, plats and other documentary evidence to its hearings, which subpoenas shall be served by the sheriff's office.

(d) Take testimony under oath.

(e) Issue orders having the force and effect of law, commanding whatever steps are necessary to bring a violation into compliance.

(f) Establish and levy fines.

**Sec. 8-8. - Enforcement procedures.**

(a) It shall be the duty of the Code Enforcement Officer to initiate enforcement proceedings of the various codes and ordinances. No member of the Board or Special ~~Master~~ Magistrate shall have the power to initiate such enforcement proceedings.

(b) Except as provided in subsections (c) and (d) below, if a violation of the codes or ordinances is found, the Code Enforcement Officer shall first notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Enforcement Officer shall notify the Board or Special ~~Master~~ Magistrate and request a hearing. The Board or Special ~~Master~~ Magistrate, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand-delivered or mailed as provided by this chapter to said violator. At the option of the Board or Special ~~Master~~ Magistrate, notice may additionally be served by

publication or posting as provided pursuant to section 8-16 of this chapter. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the Code Enforcement Officer, the case may be presented to the Board or Special ~~Master~~ Magistrate even if the violation has been corrected prior to the hearing, and the notice shall so state.

(c) If the Code Enforcement Officer has reason to believe a violation or the condition causing a violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the Code Enforcement Officer shall make a reasonable effort to notify the violator and may immediately notify the Board or Special ~~Master~~ Magistrate and request a hearing.

(d) If a repeat violation is found, the Code Enforcement Officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The Code Enforcement Officer, upon notifying the violator of a repeat violation, shall notify the Board or Special ~~Master~~ Magistrate and request a hearing. The Board or Special ~~Master~~ Magistrate, through their clerical staff, shall schedule a hearing and shall provide notice pursuant to section 8-16 of this chapter. The case may be presented to the Board or Special ~~Master~~ Magistrate even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.

(e) If the owner of property which is subject to an enforcement proceeding before an enforcement Board, Special ~~Master~~ Magistrate, or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:

(1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

(2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.

(3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(4) File a notice with the Code Enforcement Official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.

A failure to make the disclosures described in subsections (1), (2), and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

**Sec. 8-9. - Hearing procedures.**

- (a) Upon request of the Code Enforcement Officer or at such other times as may be necessary, the chairman of the Board may call a hearing of the Board, or the Special ~~Master~~ Magistrate may call a hearing. A hearing may also be called by written notice signed by at least two members of the Board.
- (b) Upon scheduling of a hearing, the Board or the Special ~~Master~~ Magistrate shall cause notice therefor to be furnished to the alleged violator by certified mail, return-receipt requested, by publication, or by personal service as further described in section 8-16 of this chapter. Said notice of hearing shall contain the date, time and place of the hearing and shall include the Code Enforcement Officer's sworn statement setting forth the nature of the violation and reference to the appropriate code or ordinance.
- (c) Assuming proper notice of the hearing has been provided to the alleged violator as provided in subsection (b) above, a hearing may proceed in the absence of the alleged violator.
- (d) At the hearing, the burden of proof shall be upon the Code Enforcement Officer to show, by a preponderance of the evidence that a violation exists.
- (e) All testimony shall be under oath and shall be recorded. The Board or Special ~~Master~~ Magistrate shall take testimony from the Code Enforcement Officer and alleged violator and from such other witnesses as may be called by the respective parties.
- (f) Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern said proceedings.
- (g) Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of the State of Florida.
- (h) Any member of the Board or the Special ~~Master~~ Magistrate, or the attorney representing the Board or Special ~~Master~~ Magistrate, may inquire of any witness before the Board or Special ~~Master~~ Magistrate. The alleged violator, or his attorney, and the Code Enforcement Officer shall be permitted to inquire of any witness before the Board or Special ~~Master~~ Magistrate and shall be permitted to present brief opening and closing statements.
- (i) At the conclusion of the hearing, the Board or the Special ~~Master~~ Magistrate shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted by Chapter 162, Florida Statutes, and this chapter. In a Board hearing, the finding shall be by motion approved by a majority of those members present and voting; except that at least three members of the Board must vote in order for the action to

be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in section 8-10 of this chapter, the cost of repairs may be included along with the fine if the order is not complied with by said date. The order shall be reduced to writing and mailed to the alleged violator within 15 working days after the hearing. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the Board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

- (j) Each case before the Board or the Special ~~Master~~ Magistrate may be presented by the Code Enforcement Officer or a member of the Town's administrative staff. If the Town prevails in prosecuting a case before the Board, the Town shall be entitled to recover all costs incurred in prosecuting the case before the Board or Special ~~Master~~ Magistrate, ~~the Town shall be entitled to recover all costs incurred in prosecuting the case before the Board or Special Master,~~ and such costs may be included in the lien authorized by section 8-13.

#### **Sec. 8-10. - Fine authorized.**

The Board, upon notification by the Code Enforcement Officer, through the Code Enforcement Manager, that a previous order of the Board has not been complied with by the set time, or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in section 8-11 for each day the violation continues past the date set by the Board for compliance or, in the case of a repeat violation continues beginning with the date the repeat violation is found to have occurred by the Code Enforcement Officer. In addition, if the violation is a violation described in F.S. § 162.06(4), the Board shall notify the Town Council, which may make all reasonable repairs required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine. If a finding of a violation or a repeat violation has been made, a hearing shall not be necessary for issuance of the order imposing the fine. If after due notice and hearing the Board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in section 8-11.

#### **Sec. 8-11. - Amount of fine.**

A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs incurred by the Town to enforce its code and all repairs pursuant to section 8-10. However, if the Board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.

**Sec. 8-12. - Determination of fine amount.**

(a) In determining the amount of the fine, if any, the Board shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

(b) The Board may reduce a fine imposed pursuant to this chapter.

**Sec. 8-13. - Recording of fine, lien.**

A certified copy of an order imposing a fine/lien may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator. The Board may petition the Circuit Court for enforcement of the order in the same manner as a court judgment by the sheriffs of this state, including levy against the person's property; but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this chapter shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the Town Council, and the Town Council may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien that remains unpaid, the Board may authorize the Town Attorney to foreclose on the lien. No lien created pursuant to the provisions of this section may be foreclosed on real property that is a homestead under Fla. Const., art. X, § 4.

**Sec. 8-14. - Duration of lien.**

No lien provided by this chapter shall continue for a longer period than 20 years after the certified copy of an order imposing a fine/lien has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee incurred in the foreclosure. The Town Council shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice unless a notice of lis pendens is recorded.

**Sec. 8-15. - Appeals.**

(a) An aggrieved party, including the Town Council, may appeal a final administrative order of the Board or Special ~~Master~~ Magistrate to the circuit court. Any such appeal shall be filed within 30 days of the execution of the order to be appealed.

- (b) Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Board or Special ~~Master~~ Magistrate.

**Sec. 8-16. - Notice requirements.**

- (a) All notices required by this chapter shall be provided to the alleged violator by certified mail, return receipt requested, or by hand-delivery by the Town's law enforcement agency, Code Enforcement Officer, or other person designated by the Town Council, or by leaving the notice at the violator's usual place of residence with any person residing there who is above 15 years of age and informing such person of the contents of the notice.
- (b) In addition to providing notices as set forth in subsection (a), notice may also be served by publication or posting, as follows:
- (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under Chapter 50 of the Florida Statutes for legal and official advertisements.
  - (2) Proof of publication shall be made as provided in sections 50.041 and 50.051 of the Florida Statutes.
  - (3) In lieu of publication as described in subsection (b)(1) such notice may be posted for at least ten days in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at Town hall.
- (c) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
- (d) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand-delivery or by mail as required under subsection (a) of this section.
- (e) Evidence that an attempt has been made to hand-deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this section have been met, without regard to whether the alleged violator actually received such notice.

**Sec. 8-17. – Reserved**

**Sec. 8-18. - Conflict of interest provisions.**

The following conflict of interest provisions shall apply to the members of the Board and to the Special ~~Master~~ Magistrate; failure on the part of a Board member or the Special ~~Master~~ Magistrate to comply with the provisions of this section shall constitute grounds for removal by the Town Council:

- (a) Upon appointment, each member of the Board and the Special ~~Master~~ Magistrate shall comply with the disclosure requirements imposed by Florida law; including sections 112.313 and 112.3145, of the Florida Statutes.
- (b) Additionally, each member of the Board and each Special ~~Master~~ Magistrate shall comply with the voting requirements imposed by Florida law; including sections 286.012 and 112.3143, of the Florida Statutes.
- (c) For a period of one year from the date of termination of office as a member of the Board or as Special ~~Master~~ Magistrate, such person is hereby expressly prohibited from acting as agent or attorney in any proceedings, petition or other matter before the Board or Special ~~Master~~ Magistrate.
- (d) No person who is or may become a party to a hearing before the Board or Special ~~Master~~ Magistrate shall communicate ex parte with any member of the Board or the Special ~~Master~~ Magistrate concerning that violation. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such said person may have a direct personal or financial interest in the property subject of the alleged violation.
- (e) Nor shall any member of the Board or Special ~~Master~~ Magistrate communicate ex parte on his own volition with any party, representative of a party, or interceding person concerning an alleged violation; however, a member of the Board or the Special ~~Master~~ Magistrate may consider a request regarding the scheduling or continuance of hearings when such request is made in writing.

## ARTICLE II. CODE ENFORCEMENT CITATION PROGRAM

### **Sec. 8-25. - Authorization of the code enforcement citation program.**

The Town hereby creates a supplemental and additional method of enforcing its codes and ordinances by the issuance of citations for violation of various codes and ordinances. Nothing contained herein shall prohibit the Town's enforcement of its codes or ordinances by any other means.

### **Sec. 8-26. – Designation of code enforcement officers.**

- (a) The Mayor is hereby authorized to designate agents and certain employees as code enforcement officers. Code enforcement officers so designated shall have the powers and limitations prescribed herein and by statute.



- (b) The training and qualifications of the code enforcement officers shall be established by the Mayor.

**Sec. 8-27. – Applicable codes and ordinances.**

Each of the various codes and ordinances of the Town may be enforced pursuant to the supplemental code enforcement citation procedures contained in this article. The various codes and ordinances shall include such codes and ordinances as they may be from time-to-time amended, renumbered, codified or recodified including codes and ordinances enacted subsequent to the adoption of this Article.

**Sec. 8-28. - Procedures; investigation of violations; issuance of citations.**

- (a) A code enforcement officer is authorized to issue a citation to any person for violation of any town code or ordinance when, based upon personal investigation, the code enforcement officer has reasonable cause to believe that a violation has occurred. The word “person” includes individuals, sole proprietorships, partnerships, companies, corporations, and all other business entities of all kinds.
- (b) Except as provided by subsection (c) below, the code enforcement officer shall provide notice to the person that the person has committed a violation of such code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period to correct the violation shall not exceed thirty (30) days.
- (c) If a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible, a code enforcement officer is not 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.
- (d) Written warning notices, if applicable, and citations shall be provided to the alleged violator by hand delivery by the code enforcement officer. In the absence of the alleged violator, issuance of a written warning notice or citation may be accomplished by leaving a copy at the alleged violator’s residence with any person residing in it who is above 15 years of age and informing the person of the contents, or by registered or certified mail, return receipt requested.
- (e) Issuance of a written warning notice or citation to a business may be accomplished by leaving a copy at the business during regular business hours with any employee and informing the employee of the contents, or by registered or certified mail, return receipt requested. Each employee of the business shall be deemed to be an agent of the business for service of warning notices and citations.
- (f) If upon personal investigation the code enforcement officer finds that the violation has not been corrected within the specified time period, a code

enforcement officer may issue a citation for a civil infraction to the person accused of committing the violation.

- (g) A citation shall include but not be limited to the following:
- (1) Date and time of issuance;
  - (2) Name of the code enforcement officer and jurisdiction;
  - (3) Name and address of the violator;
  - (4) Code section that has been violated;
  - (5) Brief description of the nature of the violation, including location, date and time of violation;
  - (6) Amount of the applicable civil penalty;
  - (7) Procedure for the person to follow to pay the civil penalty, or to contest the citation;
  - (8) Notice that if the person fails to pay the civil penalty within the time allowed, and fails to appear in court (if assigned to county court), or fails to request an administrative hearing within ten (10) calendar days of service (if the case is assigned to a special magistrate), then the person shall be deemed to have waived his or her rights to contest the citation and that, in such case, judgment may be entered up to the maximum civil penalty; and
  - (9) Notice that the person may be liable for reasonable costs of the hearing should the violator be found guilty of the violation.
- (h) Each violation of a Town code or ordinance is a separate civil infraction. Each day that such violation continues shall be deemed to constitute a separate civil infraction.
- (i) The maximum civil penalty or fine for each violation shall not exceed five hundred dollars (\$500.00).
- (j) After issuing a citation to an alleged violator, the code enforcement officer shall:
- (1) Provide the person cited with 1 copy;
  - (2) Retain 1 copy in the code enforcement officer's department or division file; and
  - (3) Deposit the original citation and 1 copy of the citation with the Lake County Clerk of Court.
- (k) If the person cited refuses to sign the citation, the code enforcement officer shall write the words "refused" or "refused to sign" in the space provided for the person's signature. The code enforcement officer shall then leave a copy of the citation with the person cited, if possible, and shall notify the Town's law enforcement and request filing of the necessary reports alleging a violation of Subsection 162.21(6) of the Florida Statutes, which provides that a 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 Sections 775.082 or 775.083 of the Florida Statutes.

- 493  
494 (l) Each person issued a citation shall have the following options: (i) to correct the  
495 violation and pay the civil penalty in the manner indicated on the citation, if not  
496 timely corrected; or (ii) Appear on the designated court date and contest the  
497 citation before a Lake County judge. Failure to appear in county court on the  
498 designated court date shall be deemed a waiver of the rights of the person to  
499 contest the citation and may result in the imposition of a fine against the violator  
500 for an amount up to the maximum civil penalty.  
501

502 **Sec. 8-29. - Payment of fines; court hearings.**

- 503 (a) If the person elects not to contest the citation, the person shall pay in full the  
504 applicable civil penalty within 14 days after issuance of the citation.  
505  
506 (b) If the person elects to pay the civil penalty the person shall be deemed to have  
507 admitted the infraction and waived the right to a hearing.  
508  
509 (c) If the person cited fails to pay the civil penalty by the 14th day after issuance of  
510 the citation or fails to request a court hearing within the time prescribed, the  
511 person shall have waived any right to contest the citation and a judgment shall be  
512 entered against the person cited in an amount up to the maximum civil penalty,  
513 which shall not exceed \$500.00 per citation.  
514  
515 (d) If the person elects to contest the citation, the person shall appear in court before a  
516 county court judge within 21 days of issuance of the citation to request a hearing  
517 date.  
518  
519 (e) A county judge, after a hearing on the citation, shall make a determination  
520 whether or not a violation of this article has been committed. If a violation is  
521 found to have occurred, the county judge may impose a civil penalty up to the  
522 maximum civil penalty in an amount not to exceed \$500.00 per citation, plus all  
523 applicable court costs.  
524  
525 (f) The judge may provide for the civil penalty to be paid within such time as the  
526 judge determines to be appropriate. If the person found to be in violation fails to  
527 pay the fine within the time provided, a civil judgment shall be entered against  
528 that person in the amount up to the maximum civil penalty, not to exceed \$500.00  
529 per citation.  
530  
531 (g) Should the person cited schedule a hearing as provided for herein, and thereafter  
532 fail to appear at such hearing, the person shall be deemed to have waived the right  
533 to contest the citation and a civil judgment shall be entered against the person in  
534 an amount up to the maximum civil penalty; provided, however, that the court  
535 shall have the discretion to continue or reschedule any hearing when it determines  
536 that doing so will further the interest of justice. In such an event, the clerk shall

notify the code enforcement officer and the person cited of the date and time of the new hearing.

**Sec. 8-30. – Procedures for payment of civil penalty.**

Payment of any civil penalty and applicable court costs imposed by civil judgment or county judge shall be made to the Clerk of the Court for Lake County. Thereafter, the clerk of the court shall remit the remaining balance to the Town. Once a judgment has been satisfied and all violations of the code or ordinance are brought into compliance, the necessary satisfaction of judgment shall be prepared by the code enforcement department for the Town and recorded in the Official Records of Lake County.

**Sec. 8-31. - Violations and penalties.**

Violations of the Town's codes or ordinances and the applicable civil penalties shall be classified as follows:

<u>Violation</u> <u>Classification</u>	<u>First</u> <u>Offense</u>	<u>Second (repeat)</u> <u>Offense</u>	<u>Third (repeat)</u> <u>Offense</u>
<u>Class I</u> <u>Property Maintenance</u>	<u>\$50.00</u>	<u>\$100.00</u>	<u>\$150.00</u>
<u>Class II</u> <u>Permits</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$300.00</u>
<u>Class III</u> <u>Environment</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$450.00</u>
<u>Class IV</u> <u>Life &amp; Fire Safety</u>	<u>\$200.00</u>	<u>\$350.00</u>	<u>\$500.00</u>

**Section 3. Severability.** The provisions of this Ordinance are declared to be separable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Codification.** The provisions in Section 2 of this Ordinance shall become and be made a part of the Town's Code of Ordinances.

**Section 5. Effective Date.** This Ordinance takes effect immediately upon final adoption by the Town Council.

**PASSED AND ORDAINED** on \_\_\_\_\_, 2022, by the Town Council of the Town of Howey-in-the-Hills, Florida.

\_\_\_\_\_  
Martha MacFarlane, Mayor

**ATTEST:**

**APPROVED AS TO FORM AND LEGALITY**  
for use and reliance by the Town of Howey-in-the-Hills, Florida, only.

\_\_\_\_\_  
John Brock, Town Clerk

\_\_\_\_\_  
Thomas J. Wilkes, Town Attorney

First Reading held \_\_\_\_\_, 2022

Second Reading, Public Hearing and Adoption held \_\_\_\_\_, 2022

Advertised \_\_\_\_\_, 2022



---

**Date:** July 25, 2022  
**To:** Mayor and Town Council  
**From:** Morgan Cates  
**Re:** Discussion: **Parks & Recreation Board Plan for Parks Expansion in FY23**

**Objective:**

To inform the Mayor and Town Council of the recommended Park Expansion for FY23.

**Summary:**

The Public Works Director and the Parks & Recreation Board are recommending Park Expansions for the Fiscal Year 2023 that will include expansion to the following Parks:

- Central Park
- Sara Maude Mason Nature Preserve
- Venezia Park (Pine Park)

\*Please see the attached document with additional information\*

**Fiscal Impact:**

There is an initial fiscal impact to the Town of \$

- Impact Fees: \$208,000
- General Fund (Parks and Recreation): \$26,000

**Staff Recommendation:**

The Public Works Director and the Parks & Recreation Board would like the Mayor and Town Council to consider the recommended Park Expansions as part of the upcoming budget for Fiscal Year 2023.

## **Parks & Recreation Board Plan for Parks Expansion FY23**

### **Impact Fees:**

#### **SMMNP:**

- Redesign Lakeshore Blvd. entrance to accommodate additional parking, new sign, and update landscaping with Florida native plants.

#### **Central Park:**

- Add sunshade over swing set, add electrical and fans to covered seating area.
- Added electrical and fans to covered seating area.
- Expand basketball court to regulation size to accommodate pickleball court.
- Add kid sized basketball court (remove 4 square court).

#### **Pine Park (Venezia Park):**

- Design Pine Park

### **General Fund:**

#### **Central Park:**

- Replace water fountain with new dog friendly fountain.

#### **Finger Piers:**

- Repair/Upgrade existing piers.

#### **SMMNP:**

- Repair existing boardwalk.







**Date:** July 25, 2022

**To:** Mayor and Town Council

**From:** Morgan Cates

**Re:** **Consideration and Approval:** Resolution 2022-002 Establishing Fees for Grove Square

**Objective:**

To establish fees for Grove Square.

**Summary:**

During the 7/14/2022 Parks and Recreation Board Meeting, recommendations were made to establish fees for Grove Square to include: \$200.00 per month for food trucks/trailers (exclusive of water/electric); \$20.00 per day for food trucks/trailers (inclusive of water/electric); \$20.00 per day per vendor for future artisan stall spaces.

**Recommended Motions:**

*The Town Council has the following options:*

1. The Town Council motions to approve  
OR
2. The Town Council motions to approve with the following conditions  
OR
3. Motion to Deny

**Fiscal Impact:**

This would generate nominal revenue for the Town of no more than \$5,000 annually.

**Staff Recommendation:**

The Public Works Director recommends the fees to include:

\$200.00 per month, per spot for a food truck/trailer (exclusive of water/electric)

\$50.00 per day, per spot for a food truck/trailer (inclusive of water/electric)

\$10.00 per day, per vendor for future artisan market spaces

## RESOLUTION 2022-002

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA; AMENDING THE TOWN OF HOWEY-IN-THE-HILLS' FEE SCHEDULE TO ADOPT A GROVE SQUARE RENTAL FEE SCHEDULE; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council desires to amend Chapter 30, Article II, Section 30-3 of the Code of Ordinances in order to implement a fee schedule for usage of Grove Square; and

**WHEREAS**, pursuant to Ordinance 93-101, the Town Council is authorized to amend the provisions of Section 30-3 of the Code of Ordinances by resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA.**

**Section 1.** The Town Council hereby approves and adopts the following fee and amends Section 30-3 of Chapter 30 of the Code of Ordinances to add the following Section 30-3(B)(14):

<b>Grove Square Rental Fee Schedule</b>			
<b>Food Trucks</b>			
	Monthly (exclusive of water/electric)	\$200.00	
	Daily (inclusive of water/electric)	\$50.00	
<b>Artisan/Farmer Market Stall Spaces</b>			
	Daily	\$10.00	
-			

**Section 2.** The provisions of this resolution are intended to be incorporated into the Code of Ordinances of the Town of Howey-in-the-Hills, Florida and the sections of this resolution may be renumbered, relettered, and the word “resolution” may be changed to “section,” “article,” or such other word or phrase in order to accomplish such intention.

**Section 3.** If any section, sentence, clause, or phrase of this resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this resolution.

**Section 4.** This ordinance shall be effective upon passage.

**PASSED AND RESOLVED** this 25th day of July, 2021, by the Town Council of the Town of Howey-in-the-Hills, Florida.

\_\_\_\_\_  
Martha MacFarlane, Mayor

Attest:

\_\_\_\_\_  
John Brock, Town Clerk

Approved as to form and legality:

\_\_\_\_\_  
Tom Wilkes, Town Attorney

**RESOLUTION NO. 2022-003**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, PERTAINING TO THE MILLAGE RATE FOR 2022; SETTING THE GENERAL TOWN MILLAGE RATE OF AD VALOREM TAX NECESSARY TO FUND THE TOWN'S TENTATIVE BUDGET FOR FISCAL YEAR 2022-2023 AS REQUIRED BY SEC. 200.065(2)(a) OF FLORIDA STATUTES; SETTING THE DATE, TIME AND PLACE OF THE FIRST PUBLIC HEARING ON THE TAX LEVY AND BUDGET FOR FISCAL YEAR 2022-2023; PROVIDING FOR OTHER RELATED MATTERS AND AN EFFECTIVE DATE.**

**WHEREAS**, it has been determined by the Town that a millage rate of 7.5 mills, or \$7.50 per \$1,000.00 of assessed value of taxable property, will result in revenue in an amount equal to \$1,162,630, which is the amount necessary to fund the operation and expenses of the Town during Fiscal Year 2022-2023; and

**WHEREAS**, the Town Council intends now to declare the proposed rate of the general Town millage for 2022 and to take other related actions in connection with the proposed millage.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA:**

1. The general Town millage rate for Fiscal Year 2021-2022 was 7.5 mills. The proposed millage for upcoming Fiscal Year 2022-2023 is set at a rate not to exceed 7.5 mills.
2. The Town has no debt-service millage, no voted millage, and no special-district millage. The rates for those millages are set, therefore, at zero.
3. The first budget hearing to receive public comment on the proposed millage rate and budget will be held September 8, 2022 at 5:05 p.m. in the Howey-in-the-Hills Town Hall, 101 N. Palm Avenue, Howey-in-the-Hills, Florida 34737.
4. As required by section 200.065(2)(b) of Florida Statutes, the Mayor and Town Administrator are authorized and directed to advise the Lake County Property Appraiser of the proposed rate of the general Town millage, the Town's rolled-back millage rate, and date, time, and place of the budget hearing.

5. This Resolution shall become effective immediately upon its approval by the Town Council of the Town of Howey-in-the-Hills, Florida.

**RESOLVED** this 25th day of July, 2022.

**Town of Howey-in-the-Hills, Florida**

By: its Town Council

By: \_\_\_\_\_  
Hon. Martha MacFarlane,  
Mayor

**ATTEST:**

\_\_\_\_\_  
John Brock  
Town Clerk

## ARTICLE 2. - MAYOR AND TOWN COUNCIL.

### Sec. 1. - The Town Council.

There shall be a Town Council of five members, who shall be residents and electors of the town, elected by the qualified voters of the Town.

All legislative powers of the Town shall be vested in the Town Council, except as otherwise provided by law or this Charter, and the Town Council shall provide for the exercise thereof and for performance of all duties and obligations imposed on the Town by law.

The Town Council shall consist of five members, to be titled "councilors," who shall hold five seats numbered consecutively 1 through 5 and shall be elected for a term of four years. Councilors shall hold their seats for the term of office for which they are elected. Elections shall be conducted the first Tuesday following the first Monday in November of each even-numbered year.

Elections for councilor seats 1, 2, and 3 shall be held in numbered years not evenly divided by 4 and for Seats 4 and 5 in numbered years evenly divided by 4. Council seats will be filled by the three candidates or the two candidates, as applicable, receiving the highest number of votes. If the qualifying candidates are not opposed, the seats shall be assigned by the Clerk in alphabetical order. If the qualified candidates are fewer than the open seats, the Council shall deem vacant the seats remaining unfilled after the election and proceed accordingly.

All persons running for the office of councilor shall be at least 21 years of age, a registered voter, and a resident of the Town for at least one year prior to the first day of the qualifying period. To qualify, each candidate must file with the Clerk a petition signed by no fewer than 25 Town electors nominating the candidate for Town Council. The petition must be filed no earlier than noon on the 92nd day, and no later than noon on the 81st day, before the date of the election for which qualifying is sought. Elector signatures on the petition must be verified by the supervisor of elections. The candidate shall also provide a statement that, if elected, he/she will serve, and if not the Council shall omit his/her name from the ballot.

The newly elected Council members shall take their oath and assume office at the first regular Council meeting after certification of the ballot.

### Sec. 2. - Disqualification for any Town Office.

Any person convicted of a felony shall be ineligible for employment by the Town and disqualified from seeking election to an office or appointment to any board, commission, committee or agency in the Town. No more than one family member may hold a seat on the Council. Therefore, a councilor's family members are disqualified from seeking election to the Council unless the family members' terms will not be concurrent. A family member includes parents, siblings, children or spouses.

### Sec. 3. - Vacancies; Forfeiture of Office; Filling of Vacancies.

- (a) **Vacancies.** A Council member's seat shall become vacant upon death, resignation, or removal from office in any manner authorized by law or forfeiture of the office, such forfeiture to be declared by the remaining members of the Council.
- (b) **Forfeiture of Office.** The Mayor or a Council member shall forfeit office if the member: (i) Fails to meet residency requirements; (ii) Is convicted of a felony or a crime involving moral turpitude; (iii) Violates the express provisions of the charter; (iv) Fails to attend three consecutive regularly scheduled Council meetings without Council approval or (v) Brings an action against the Town, its elected officials, executive officers, or employees for damages in tort or for civil-rights violation. The Town Council, by majority vote, shall be the judge of the grounds for forfeiture of a Council seat and may declare a seat vacant where the member has failed to meet the requirements or has violated any of the provisions stated above.

- (c) **Filling Vacancies.** Whenever a vacancy shall occur on the Town Council more than 180 days preceding the next general election, it shall be the duty of the Town Council to order an election to fill the vacancy, and until such election is held the Town Council shall fill such vacancy by appointment. The newly elected member shall hold the seat for the remainder of the original term.

Should a vacancy occur within 180 days of the next general election, the Mayor shall appoint an elector of the town to fill the vacancy. The appointment is subject to the approval by a majority of the membership of the Town Council. The appointee approved in such a manner shall serve until an elected successor takes office.

- (d) **Holding Office.** Except where expressly authorized by law, no Council member shall hold any other elected public office during the term for which the member is elected. No Council member shall hold any other Town office, other than Mayor, or town employment during the term for which they are elected.
- (e) **Prohibitions.** Except for the purpose of enquiries and investigations, Council members shall deal with the Town officers and employees solely through the Mayor and shall not give orders to a Town officer or employee either publicly or privately. Nothing prohibits individual members of the Council from asking questions and seeking information to assist in the formulation of sound policies to be considered by Council and otherwise to enable the performance of councilor duties. No former member of Town Council shall hold any compensated appointive office or employment with the Town until one year after the expiration of the term for which the member was elected.

Unless approved by the Council, any Town official or employee, acting in his/her official capacity, is forbidden from causing the Town to do business with a firm in which he/she has a material interest, and the Town shall make no transactions with a firm in which a Town official or employee's spouse, parent, sibling or child has a material interest. Nor shall an official or employee acting in a private capacity transact business with the Town. The Town official must declare the interest and recuse himself/herself from any vote on the matter. A Town official or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and subject to forfeiture of his/her office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Mayor or the Town Council.