

## I. PROJECT DESCRIPTION:

Project Name: Code of Ordinances (COD) Text Amendments- Chapter 2, Article IV (CODE ENFORCEMENT)

Request: Authorize staff to advertise and process an Ordinance approving amendments to Chapter 2, Article IV, Section 2-199(a) of the Wellington Code of Ordinances increasing the potential amount of fine levied for Code violations.

#### II. <u>BACKGROUND:</u>

Wellington experiences a relatively small but significant and growing problem with property owners who do not consider the current fine limits for code enforcement to be a sufficient deterrant to cause them to expeditiously correct existing violations or to not commit repeat or new violations on the same or other properties. Many of the problem property owners own numerous properties within our jurisdiction. Staff believes that many of these property owners see the potential fines and other remedies as minor and are willing to accept them as a cost of doing business. Staff believes that it is necessary to raise the bar with respect to potential penalties. There are two components to the solutions available under the provisions of Chapter 162 of Florida Statutes. One component is the amount of fines that can be levied and the other is other civil penalties. Chapter 2, Article IV of the Wellington Code of Ordinances deals with fine levies and is being addressed by this proposed Ordinance amendment (attached).

The primary purpose of this amendment is to modify the provisions in Chapter 2 of the Wellington Code of Ordinances to increase the potential fine amounts that can be levied for code violations to the maximum amount permitted by Florida Statutes. The amendment will assist Wellington in achieving correction of violations, as well as the payment of established fines and liens.

### III. PROPOSED CODE OF ORDINANCES TEXT AMENDMENT:

Currently, the maximum fine amounts allowed under Chapter 2, Article IV, Section 2-199 of the Wellington Code of Ordinances is \$250 per day for first violations, \$500 per day for repeat violations and a one-time charge of \$5,000.00 for irreparable or irreversible violations. These amounts are the largest allowed universally by Section 162.09(2)(a) of the Florida Statutes. However, Section 162.09(2)(d) allows the establishment of maximum fines of \$1,000 per day for first violations, \$5,000 per day for repeat violations, and a \$15,000 one-time charge for irreparable or irreversible violations in counties or municipalities with a population of 50,000 or more. Wellington, with a population of slightly over 62,000 people, qualifies for these

increased fine limits. It is important to note that the proposed changes do not in any way establish OR mandate a minimum fine.

F.S. Section 162.09(2)(d) also requires that the special magistrate be required to consider certain factors in determining the amount that is levied which, at a minimum shall include:

- 1. The gravity of the violation.
- 2. Any actions taken by the violator to attempt to correct the violation(s) prior to the hearing.
- 3. Any previous violations committed by the same violator on the same or other properties within the Village.

Statutes require that an ordinance establishing this higher maximum fine potential include, at a minimum, the above factors and be adopted by at least a majority plus 1 vote of the governing body. Therefore, approval of the proposed ordinance must achieve at least 4 votes from the Wellington Council.

### IV. ANALYSIS:

The singular practical effect of the proposed amendment is to increase the maximum potential amounts for code enforcement fines that can be levied, based on the opportunities and limitations provided by Florida Statutes. Staff believes that the amendments proposed will significantly improve Wellington's efforts to achieve a higher level of code compliance. Current limitations are often found to be ineffective because the cost of noncompliance is seen as relatively minor in comparison to the convenience or profit that the continued violation provides to the property owner. Although most property owners correct their violations in the face of a small potential fine or without even needing to be fined, there is a relatively small but growing number of property owners who prefer continued and/or repeated noncompliance, because the penalties represent insufficient motivation to comply. Staff believes that the proposed amendments contained in this Ordinance will result in substantially improved compliance.

This compliance tool has been adopted by most of the qualifying jurisdictions in Palm Beach County including Palm Beach County, and the Cities/Towns of West Palm Beach, Boca Raton, and Jupiter. Staff has discussed instances where the greater fines have been imposed and we have been told that they are usually reserved for cases involving life, health and safety issues; and environmental violations.

# V. STAFF RECOMMENDATION:

Staff requests direction from Council to advertise and process the attached proposed Ordinance, which amends Chapter 2, Article IV (CODE ENFORCEMENT) of the Wellington Code of Ordinances to modify maximum fine limits.