MEMORANDUM

Date:	September 14, 2023
To:	Honorable Mayor and Commissioners
Via:	Albert P. Childress City Manager
From:	Jim Young Director of Code Compliance
Subject:	Amending Chapter 62, titled Streets and Sidewalks, Article II Sidewalks, Section 62-31 Maintenance of area between property line and adjacent paved roadway. To allow Code Compliance to issue a Notice of Code Violation as an option to arrest for violations of Article II and to change the authorization for plantings from the Tree Commission to the City's Urban Forestery Manager and to disallow obstructing the City right of way by parking of vehicles.

Introduction

This measure proposes to amend Chapter 62, titled Streets and Sidewalks, Article II Sidewalks, Section 62-31 Maintenance of area between property line and adjacent paved roadway. To allow Code Compliance to issue a Notice of Code Violation as an option to arrest for violations of Article II. To allow Code Compliance to issue a Notice of Code Violation as an option to arrest.

Background

Upon researching Volume One of the City's Code of Ordinances it was discovered that Code Compliance could not issue a notice of code violation in several sections of the code of ordinances including Section 62-3. The City Manager as well as the City Attorney determined that those ordinances should be amended to allow both Code Compliance and KWPD to cite violators.

Section 1-15 General penalty states.

(a) Except as provided in subsection (c) hereof, whenever in this Code of Ordinances section 1-15 is referred to as providing a penalty for violation, the violation shall be punishable by a fine of not more than $500.00 or a term of imprisonment not to exceed 60 days or both a fine and term of imprisonment.

(b) All such violations may be enforced by notice to appear in the county court as provided by F.S. § 901.28 or for a threat to public health, safety and welfare by arrest as provided in F.S. § 901.15 (1), except where prohibited by law.

(c) Through section 86-11 hereof, a violation of a city zoning or land development regulation is deemed a civil infraction, unless such a specific regulation provides for criminal penalties. The special master of the city, under his or her authority to impose administrative fines and non-criminal penalties, may hear cases of alleged violations of the zoning or land development regulations.

The first reading of this Ordinance was at the July 13, 2023 City Commission meeting. A motion was made by Commissioner Hoover and seconded by Commissioner Carey, that the Ordinance be passed to second reading. The motion passed by unanimous vote. No changes to the ordinance have been made between first and second reading.

Recommendation

The City Manager's Office recommends the Mayor and City Commission approve the Ordinance on second and final reading amending Chapter 62, to allow the Code Compliance Department to issue a Notice of Code Violation as an option to arrest for violations of Article II.

Exhibit A

Article II Streets and Sidewalks

Sec. 62-31. - Maintenance of area between property line and adjacent paved roadway.
It shall be the duty of owners and occupants of property to keep clean the area between their property line and the nearest adjacent paved roadway, including both the swale and sidewalk. This area shall be kept clean and free of weeds, trash, debris and other such obstructions, including garbage cans except as provided in section 58-31. Any planting in such area must be authorized by the city engineer and ~~tree commission~~ the city urban forester and thereafter maintained in such a way as to allow clear passage for pedestrians~~.~~ , and shall not obstruct the parking of motor vehicles on the City's right of way.~~Any planting Any owner or occupant who, after code enforcement notice, fails to comply with this section shall, upon conviction, be punished as provided in section 1-15.~~ Violations of this section shall be punished as provided in section 1-15. and may be punishable pursuant to the code enforcement authority of the special magistrate in sections 2-633 and 2-634.

(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)