

ORDINANCE NO. 17-017

AN ORDINANCE AMENDING THE PROVISIONS OF FORT PIERCE CODE OF ORDINANCES, CHAPTER 2, ARTICLE XIII AND CHAPTER 2, ARTICLE XIII.5 SECTION 2-253 BY ABOLISHING THE FORT PIERCE MUNICIPAL CODE ENFORCEMENT BOARD, TRANSFERRING ALL DUTIES OF THE CODE ENFORCEMENT BOARD TO THE SPECIAL MAGISTRATE, AND DELETING REFERENCES THEREIN TO THE CODE ENFORCEMENT BOARD; REPEALING CHAPTER 2, ARTICLE XIII.5 SECTION 2-253.5; AMENDING CHAPTER 2, ARTICLE XX, SECTION 2-331; CHAPTER 8.5, ARTICLE III, SECTION 8.5-48; CHAPTER 9, ARTICLE XIII, SECTION 9-371(a); CHAPTER 11.5, ARTICLE I, SECTION 11.5-6; CHAPTER 11.5, ARTICLE II, SECTIONS 11.5-28(b) AND 11.5-29; CHAPTER 16, ARTICLE III, SECTIONS 16-51, 16-54, AND 16-55(b); CHAPTER 22, ARTICLE XII, DIVISION 1, SECTION 22-181; AND CHAPTER 23, ARTICLE VII, DIVISION 3, SECTION 23-119(c) BY DELETING REFERENCES TO THE CODE ENFORCEMENT BOARD AND SUBSTITUTING SPECIAL MAGISTRATE; AMENDING CHAPTER 7, ARTICLE III, SECTION 7-33; CHAPTER 9, ARTICLE II, SECTION 9-27(c); CHAPTER 10, ARTICLE III, SECTIONS 10-305(a)(11), 10-306(b), 10-307(d), 10-307(f); AND CHAPTER 17, ARTICLE III, SECTION 17-60 BY DELETING REFERENCES TO THE CODE ENFORCEMENT BOARD; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances of the City of Fort Pierce, Florida established the Fort Pierce municipal code enforcement board; and

WHEREAS, the City of Fort Pierce, Florida has also utilized two special magistrates to preside over municipal code enforcement hearings since 2000; and

WHEREAS, municipal code enforcement hearings are complex because of the nature and variety of laws that must be applied in order to resolve complicated factual scenarios; and

WHEREAS, quasi-judicial matters are better handled by special magistrates; because special magistrates as attorneys have legal expertise and background giving them a better understanding of legal issues and procedural matters relating thereto; and

WHEREAS, special magistrates because of their legal training and expertise in the disposition of quasi-judicial hearings create a complete and accurate record of the proceedings; and

WHEREAS, the City of Fort Pierce, Florida desires to abolish the municipal code enforcement board and utilize special magistrates to conduct municipal code enforcement hearings.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida as follows:

SECTION 1. That chapter 2, article XIII of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

ARTICLE XIII. - MUNICIPAL CODE ENFORCEMENT ~~BOARD~~

Sec. 2-240. - Short title.

This article shall be known as the "City of Fort Pierce Municipal Code Enforcement ~~Board~~ Ordinance."

Sec. 2-241. - Intent.

(a) The position of the City of Fort Pierce code enforcement special magistrate exists~~It is the intent of this article~~ to promote, protect and improve the health, safety and welfare of the citizens of the city by providing an equitable, expeditious, effective and inexpensive method of enforcing the technical codes in force in the city, including, but not limited to, occupational license, fire, building, zoning, and sign codes.

(b) The City of Fort Pierce code enforcement board is abolished. However, all prior actions, orders and liens imposed by the code enforcement board shall remain in full force and effect.

Sec. 2-242. - Definitions.

For the purposes of this article:

Code inspector means any authorized agent or employee of the municipality whose duty it is to ensure code compliance.

~~*Enforcement board* means the code enforcement board.~~

Local governing body means the legislative body of the municipality.

Local governing body attorney means the legal counselor for the municipality.

Special Magistrate means an attorney and member of the Florida Bar who shall be appointed by the city commission for a term of two (2) years to preside over code enforcement matters and who may be discharged by the city commission at its discretion, with or without cause.

Sec. 2-243. – ~~Organization~~ Special Magistrate.

Pursuant to F.S. § 162.03, the local governing body adopts a code enforcement system that gives the office of the special magistrate the authority to hold hearings and assess fines against violators of the codes and ordinances of the city. The special magistrate shall have the jurisdiction and authority to hear and to decide alleged violations of the codes and ordinances of the city, and exercise the powers of a code enforcement board as provided in F.S. ch. 162, and this Code.

~~(a) *Membership Appointment; qualifications.* The local governing body may appoint a seven-member code enforcement board and legal counsel for the enforcement board. Members of the enforcement board shall be residents of the municipality. Appointments shall be made in accordance with the city charter on the basis of experience or interest in the fields of zoning and~~

~~building control. The membership of the enforcement board shall, whenever possible, include an architect, a businessman, an engineer, a general contractor, a subcontractor, and a realtor.~~

~~(b) Same Terms, vacancies, removal. The initial appointments to the enforcement board shall be as follows:~~

- ~~(1) Two (2) members appointed for a term of one (1) year;~~
- ~~(2) Three (3) members appointed for a term of two (2) years;~~
- ~~(3) Two (2) members appointed for a term of three (3) years;~~
- ~~(4) One (1) alternate member for a term of three (3) years.~~

~~Thereafter, all appointments shall be made for a term of three (3) years. A member may be reappointed for any number of successive terms upon approval of the local governing body. Appointments to fill any vacancy on the enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two (2) out of three (3) successive meetings without cause and without prior approval of the chairman, the board shall declare the member's office vacant, and the local governing body shall promptly fill such vacancy. The members shall serve in accordance with the ordinances of the local governing body and may be suspended and removed for cause, as provided in such ordinances for removal of members of boards.~~

~~(c) Chairman, quorum, compensation, expenses. The members of the enforcement board shall elect a chairman from among its members. The presence of four (4) or more members shall constitute a quorum of the enforcement board. Members of the enforcement board shall each receive compensation in the amount of ten dollars (\$10.00) per month, contingent upon attendance at a minimum of one meeting per month, payable on a quarterly basis. Responsibility for reporting attendance to receive compensation shall be placed with the board's staff coordinator. Members may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as otherwise provided by law.~~

~~(d) Local governing body attorney. The local governing body attorney shall either be counsel to the code enforcement board or shall represent the city by presenting cases before the board; but in no case shall the local governing body attorney serve in both capacities.~~

Sec. 2-244. - Enforcement procedure.

- (a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; provided, however, no ~~member of the board~~ **special magistrate** shall have the power to initiate such enforcement proceedings.
- (b) Except as provided in subsection (c), if a violation of the codes is found, the code inspector shall notify the violator and give him such violator a reasonable time to correct the violation. The notice shall be in writing, delivered either through regular mail or by hand delivery of the code inspector. Should the violation continue beyond the time specified for correction, the code inspector shall notify the ~~enforcement board~~ **special magistrate** and request a hearing pursuant to the procedure in section 2-245. Written notice shall be mailed to said violator as provided in this article.
- (c) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety and welfare, the code inspector may proceed directly to the procedure in section 2-245 without notifying the violator.

Sec. 2-245. - Conduct of hearing.

- (a) The ~~chairman of the enforcement board~~ **special magistrate** may call code enforcement hearings ~~of the enforcement board; hearings may also be called~~

~~by written notice signed by at least three (3) members of the enforcement board.~~ The enforcement board special magistrate at any hearing may set a future hearing date. The enforcement board special magistrate shall attempt to ~~convene~~ hold a hearing no less frequently than once every two (2) months, but ~~it the special magistrate~~ may ~~meet~~ hold a hearing more or less often as the demand necessitates. Minutes shall be kept of all hearings by the enforcement board special magistrate, and all hearings and proceedings shall be open to the public. The local governing body shall provide clerical and administrative personnel as may be reasonably required by the enforcement board special magistrate for the proper performance of ~~its the special magistrate's~~ duties.

- (b) Each case before the enforcement board special magistrate shall be presented by either the local governing body attorney or by a member of the administrative staff of the local governing body.
- (c) The enforcement board special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board special magistrate shall take testimony from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern said proceedings.
- (d) At the conclusion of the hearing, the enforcement board special 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 in this article. ~~The finding shall be by motion approved by a majority of those present and voting, except that at least four (4) members of the enforcement board must vote for the action to be official.~~

Sec. 2-246. - Powers.

The enforcement board special magistrate shall have the power to:

- (1) Adopt rules for the conduct of its special magistrate hearings;
- (2) Subpoena alleged violators and witnesses to its special magistrate hearings. Subpoenas may be served by the sheriff of the county, code inspector, or by any other person designated by the city commission;
- (3) Subpoena evidence;
- (4) Take testimony under oath;
- (5) Issue orders having the force of law, commanding whatever steps are necessary to bring a violation into compliance.

Sec. 2-247. - Administrative fines; liens.

The enforcement board special magistrate, upon notification by the code inspector that a previous order of the enforcement board special magistrate has not been complied with by the set time, may order the violator to pay a fine not to exceed two hundred fifty dollars (\$250.00) for each day the violation continues past the date set for compliance. A certified copy of an order imposing a fine 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 and may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. After one year from the filing of any such lien which remains unpaid, the enforcement board special magistrate may authorize the city attorney to foreclose on the lien.

Sec. 2-248. - Duration of lien.

No lien provided by this article shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected 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. 2-249. - Appeals.

An aggrieved party, including the local governing body, may appeal a final administrative order of the ~~enforcement board~~ special magistrate to the circuit court. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

Sec. 2-250. - Notices.

All notices required by this article except as otherwise provided, shall be by certified mail, return receipt requested, or where mail would not be effective, by hand delivery by the code inspector.

Sec. 2-251. - Provisions of article supplemental.

Nothing contained in this article shall prohibit the city commission from enforcing its codes by any other means. It is the legislative intent of this article to provide an additional or supplemental means of obtaining compliance with local codes.

SECTION 2. That chapter 2, article XIII.5, section 2-253 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 2-253. - Definitions.

Citation means the notice issued by a code enforcement officer in a form prescribed by the city and shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the person to whom the citation is issued.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting reasonable cause.
- (5) The number or section of the code or ordinance violated.
- (6) The name and authority of the code enforcement officer.
- (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest

the citation and that, in such case, judgment may be entered against that person for an amount up to the maximum civil penalty.

Code enforcement officer means any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city, and may include code inspectors, building inspectors, law enforcement officers and animal control officers. The training and qualifications of the employees or agent shall be determined by the city.

Person means any natural person, firm, co-partnership, association, or corporations, or individual acting on behalf of or employed by a business. If other than a natural person, the citation shall be issued in the name of an individual who is an officer, director, or partner of the firm, co-partnership, association, or corporation.

~~*Special magistrate* means an attorney and member of the Florida Bar who shall be appointed by the city commission for a term of two (2) years to preside over code enforcement matters from time to time as necessary and who may be discharged by the commission at its discretion, with or without cause. The special magistrate shall have the same jurisdiction and authority of the code enforcement board to hear and to decide any alleged violations of the codes and ordinances of the city and as same may be amended from time to time shall have the meaning set forth in section 2-242 of this Code.~~

SECTION 3. That chapter 2, article XIII.5, section 2-253.5 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby repealed so that the same shall read as follows:

Sec. 2-253.5. - ~~Proceedings before special magistrate~~Reserved.

~~The department of code enforcement is authorized in its discretion, to refer enforcement proceedings, otherwise subject to chapter 2, article XIII, to a special magistrate, whose proceedings shall be subject to the provisions of article XIII. The special magistrate shall have the same status as the code enforcement board and references in this Code to the enforcement board shall include and apply to the special magistrate where context permits. The city attorney or designee shall represent the city by presenting those certain cases designated for hearing before the special magistrate.~~

SECTION 4. That chapter 2, article XX, section 2-331 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 2-331. - Dead or diseased tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to the other trees within the city. The city tree board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of the owners to comply with such provisions, the city tree board shall forward the matter to the ~~code enforcement board~~special magistrate for appropriate action.

SECTION 5. That chapter 7, article III, section 7-33 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 7-33. - Enforcement and penalties.

Provisions of this Article may be enforced by the city as a civil violation pursuant to chapter 2, article XIII, ~~whether any such proceeding is before the code enforcement board or special magistrate,~~ or chapter 2, article XIII.5 (Supplemental

Municipal Code Enforcement Procedures), or may be enforced by the police department as a misdemeanor, pursuant to F.S. §162.22.

SECTION 6. That chapter 8.5, article III, section 8.5-48 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 8.5-48. - Penalty and enforcement.

Any person who violates any provisions of this article shall, upon conviction, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate violation. This article shall also be subject to enforcement by the Local Government Code Enforcement Board's Act, Chapter 162, Florida Statutes, as amended, through the city ~~code enforcement board~~ special magistrate. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

SECTION 7. That chapter 9, article II, section 9-27(c) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 9-27. - Delinquent business tax receipt; doing business without a receipt; receipt obtained by fraud; enforcement.

- (c) In addition to the foregoing penalties, any person engaged in any trade, business, profession or occupation within the city without a receipt, or under a receipt issued upon false statement made by said person or in his behalf, shall be subject to prosecution and upon conviction thereof shall be punished as provided by section 1-5 of this Code, or may alternatively be prosecuted pursuant to Chapter ~~52~~, Article XIII (Municipal Code Enforcement ~~Board~~) or Chapter 2, Article XIII.5 (Supplemental Municipal Code Enforcement Procedures). Upon a finding of violation, all utility services to the premises occupied by the business, occupation or profession shall be immediately discontinued until the violator is eligible for and receives a business tax receipt. Any notification that a violation of this section is being charged shall include this statement: "In the event you are found in violation of section 9-27(b) for doing business without a business tax receipt, all utility services to the business premises will be suspended while the violation continues."

SECTION 8. That chapter 9, article XIII, section 9-371(a) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 9-371. - Penalties.

- (a) Violation of any of the sections of this article is subject to the powers of the ~~code enforcement board~~ special magistrate.

SECTION 9. That chapter 10, article III, sections 10-305(a)(11), 10-306(b), 10-307(d), and 10-307(f) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 10-305. - Owner responsibility; defenses.

- (a)(11) There exists any other valid defense why the violation notice should be voided, dismissed, or excused as found by the ~~code enforcement board~~ or special magistrate after an appeal hearing.

Sec. 10-306. - Enforcement.

- (b) *Jurisdiction.* Jurisdiction over violations of Section 10-302 and appeals of violation notices issued for such violations shall be vested in the ~~code enforcement board~~ and special magistrates of the city pursuant to Chapter 2 of this Code and not in the county court.

Sec. 10-307. - Rights of owner; appeal hearings.

- (d) *Conduct of hearings; orders.* The hearing shall be conducted by the ~~code enforcement board~~ or special magistrate and appropriate orders entered pursuant to Chapter 2 of this Code.

- (f) *Findings after hearing; penalties and costs.* If, after the hearing, the ~~code enforcement board~~ or special magistrate finds that the violation occurred and that the owner is responsible pursuant to this article, the civil penalty in the amount specified on the violation notice shall be assessed against the owner, plus the costs of the administrative hearing and the costs of enforcement. The owner shall not be liable for the payment of any civil penalty or costs if the finding is that the violation did not occur or that a valid defense to the violation exists.

SECTION 10. That chapter 11.5, article I, section 11.5-6 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 11.5-6. - Enforcement.

The provisions of this chapter may be enforced by:

- (a) A suit brought by the city commission in the circuit court to restrain, enjoin or prevent a violation of this chapter; or
- (b) Enforcement proceedings by the city ~~code enforcement board~~ special magistrate; or
- (c) Criminal prosecution as provided by the Florida Statutes.

SECTION 11. That chapter 11.5, article II, sections 11.5-28(b) and 11.5-29 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 11.5-28. - Suspension and revocation of permits.

- (b) *Suspension for violation of building, fire, health or zoning provision, code, ordinance or regulation.* In the event a permittee is found, pursuant to section 11.5-7, to be in violation of a building, fire, health or zoning provision, code, ordinance or regulation, whether federal, state or local, including section 11.5-40 of this chapter, and such permittee fails to cure the violation within such time as might be specified by the ~~code enforcement board~~ special magistrate or court, the department shall promptly notify the permittee that the permit is suspended, such suspension to remain in effect until the department determines that the violation has been corrected.

Sec. 11.5-29. - Suspension and revocation proceedings.

- (a) *Challenge to suspension or revocation.* If the department notifies a permittee in writing of the suspension or revocation of a permit, then in such event the suspension or revocation shall become final and effective twenty (20) days after mailing to the permittee's record address, or fifteen (15) days after actual delivery of the notice to the permittee, unless prior to the expiration of such period the permittee files with the department a written response stating the reasons why the suspension or revocation is alleged to be an error or inappropriate and files a written notice of intent to challenge the suspension or revocation with request for a hearing.
- (b) *Hearing on suspension or revocation.* When a permittee files a written response and notice of intent to challenge a suspension or revocation, then a public hearing to determine if the suspension or revocation will become

effective and final shall be held before the ~~code enforcement board~~ special magistrate in accordance with section 2-245. The permittee shall be given reasonable notice of such hearing and appeal may be made from the ~~board's~~ special magistrate's decision, in accordance with section 2-249.

(c) *Effective date of suspension or revocation.* The suspension or revocation of a permit shall take effect:

(1) After the period has elapsed which was available to file a notice of challenge with the department, in the event such notice was not filed; or

(2) The day following entry of a written order by the ~~board of code enforcement~~ special magistrate denying the challenge but such suspension or revocation shall be abated during any appeal from the ~~board's~~ special magistrate's decision.

(d) *Effect of final revocation.* If a permit is revoked, the permittee of the adult entertainment establishment shall not be allowed to obtain another adult entertainment permit for a period of one year, and no adult entertainment permit shall be issued to any other person for the location upon which the adult entertainment establishment was situated.

SECTION 12. That chapter 16, article III, sections 16-51, 16-54, and 16-55(b) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 16-51. - Removal and disposition of motor vehicles.

In the event a motor vehicle is declared by the department to be a nuisance in violation of this article, upon notice as provided by section 16-49, and upon an interested party's failure to timely request a hearing before the ~~code enforcement board~~ special magistrate then, in such event, the department may elect, in lieu of exercising procedures specified in section 16-50, to notify the police department. The police department shall then assign a tow truck operator to remove the vehicle all within the manner provided for by Chapter 9, Article IX (sections 9-301 through 9-310), the provisions of which are incorporated within, and adopted for this article.

Sec. 16-54. - Penalties.

Any person who has violated or who has been cited for violation of any of the provisions of this article shall be subject, in addition to the provisions of this article, to all provisions regarding enforcement of Ordinances contained in this Code including, but not limited to, reference of the violator to the ~~code enforcement board~~ special magistrate.

Sec. 16-55. - Enforcement of lien.

(b) After abatement of the nuisance, the department shall certify to the director of finance the expense incurred in abating the nuisance and shall include copies of all notices above described and a copy of any order entered by the ~~code enforcement board~~ special magistrate, whereupon such expense shall become payable within thirty (30) days, after which a special assessment lien and charge will be made upon the property, which shall be payable with interest at the rate of six per cent (6%) per annum from the date of such certification until paid. There shall be included in such assessment an additional charge amounting of one hundred dollars (\$100.00) for administrative costs incurred by the city.

SECTION 13. That chapter 17, article III, section 17-60 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 17-60. - Enforcement remedies.

- (a) In addition to any other remedies available at law or equity or provided in this article, the city, at its option, may apply any one or combination of the following remedies in the event that a permit applicant, permit holder, or any other person violates this article, or applicable local law or order related to use of any site for dredge material storage. In determining which remedy or remedies are appropriate, the city shall take into consideration the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the city determines are appropriate to the public interest.
- (b) Failure to comply with the provisions of this article or other law applicable may result in imposition of penalties to the city in an amount of not less than one hundred dollars (\$100.00) per day or part thereof that the violation continues.
- (c) Before imposing a fine pursuant to this section, the city engineer or designee shall give written notice of the violation and the intention of the city to assess such penalties, which notice shall contain a description of the alleged violation. Notice shall be by regular U.S. mail or by hand delivery. Following receipt of such notice, the person committing the violation shall have thirty (30) days to either:
 - (1) Cure the violation to the city's satisfaction; or
 - (2) File a written appeal with the city ~~code enforcement board or~~ special master magistrate to contest the alleged violation.
- (d) Upon receipt of the written appeal, or the violator's failure to cure the violation, the city engineer or designee shall place the matter ~~on the city code enforcement board agenda, or~~ before a special master magistrate, for consideration within forty-five (45) days.
- (e) Any violation that is not cured within that thirty-day period, shall accrue fines as provided herein, beginning with the first day of the violation, through any means allowed by law.
- (f) In the event that the city engineer or his designee has reason to believe that a violation of this article presents a serious threat to the public health, safety, welfare the city engineer or his designee may directly refer the matter to ~~the code enforcement board or~~ any special master magistrate appointed by the city commission.
- (g) Failure of the city to enforce any requirements of this article shall not constitute a waiver of the city's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (h) In any proceeding before the city regarding performance of obligations pursuant to this article, opportunity shall be afforded to provide such information as may be relevant concerning compliance with the terms and conditions of this article.
- (i) After hearing any matter relating to violations of this article the ~~code enforcement board or~~ 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 this article and the powers granted under state and local law.
- (j) Any officer who has probable cause to believe that any person has committed a violation of any kind, or any part of this article is hereby authorized to issue a citation to that person, as set forth in section 2-269 and the county court in and for St. Lucie County will hear the charge. Such citation for violation shall

be a civil infraction with a maximum civil penalty of five hundred dollars (\$500.00) per violation. The form of written citation issued shall be in a form prescribed by the city commission or by administrative order of the chief judge of the nineteenth judicial circuit.

SECTION 14. That chapter 22, article XII, division 1, section 22-181 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-181. - Enforcement.

After the twenty-four-month establishment period for landscaping subject to section 22-180, the city will inspect the required landscaping and maintenance at least one time a year. Maintenance shall include the replacement of all unhealthy/dead material within thirty (30) days after a notification of violation in conformance with the approved site plan or landscape plan. Violations of this article, or failure to maintain all required landscaping as reflected in the approved landscaping plan, shall be grounds for referral to the ~~code enforcement board~~ special magistrate for appropriate action. The thirty-day rule for compliance may be extended when necessary, by the city manager to permit recovery from acts of nature such as a hurricane or freeze.

SECTION 15. That chapter 23, article VII, division 3, section 23-119(c) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 23-119. - Revocation.

- (c) Proceedings under this section may also be initiated following a finding by the ~~code enforcement board~~ special magistrate that a housing code violation has occurred. The historic preservation board shall provide notice to the current owner of record to the property and hold a hearing in the same manner as in a review of a certificate of appropriateness as specified in article VI.

SECTION 16. The provisions of this Ordinance are declared to be severable 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, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 17. All ordinances, rules or regulations or parts of ordinances, rules or regulations in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

SECTION 18. This Ordinance is and the same shall become effective immediately upon final passage.

APPROVED AS TO FORM & CORRECTNESS:



James M. Messer, Esq., City Attorney

STATE OF FLORIDA

COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No.17-017 was duly advertised by title only in the St. Lucie News Tribune on April 7, 2017; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on April 17, 2017; and was duly introduced, read by title only, and passed on second and final reading May 1, 2017 by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this ____ day of May, 2017.

MAYOR COMMISSIONER

CITY CLERK

(CITY SEAL)