

## **ORDINANCE NO. 17-027**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA AMENDING THE PROVISIONS OF FORT PIERCE CODE OF ORDINANCES **CHAPTER 2**, ARTICLE XIII.5, ENTITLED "**SUPPLEMENTAL MUNICIPAL CODE ENFORCEMENT PROCEDURES**"; AMENDING SECTION. 2-259. - **PROCESSING CITATIONS**; PAYMENT OF FINES; HEARINGS; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to the authority granted by Sections 162.21-162.23 of the Florida Statutes, in October 2000, the City of Fort Pierce, Florida adopted Article XIII.5 of Chapter 2 of the Code of Ordinances of the City of Fort Pierce, Florida that provides procedures for an additional and supplemental means of enforcing the codes and ordinances of the City of Fort Pierce, Florida; and

**WHEREAS**, said procedures include authorizing a enforcement officers to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a violation of any kind or ordinance set forth in Section 2-260 of the Code of Ordinances of the City of Fort Pierce, Florida, which is deemed to be a civil infraction to be heard by the county court in and for St. Lucie County; and

**WHEREAS**, the Special Magistrate has been granted authority to hear and determine the final outcome and fines associated with the issuance of citations by enforcement officers of the City; and

**WHEREAS**, the City of Fort Pierce, Florida has determined that the process for processing unpaid citations should be revised in accordance with the provisions of this Ordinance.

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

**SECTION 1.** Section 2-259 of the Code of Ordinances of the City of Fort Pierce are hereby amended so that same shall read hereinafter as follows:

Sec. 2-259. - Processing citations; payment of fines; court hearings.

(a) If the person elects not to contest the citation, such person shall pay in full the applicable reduced civil penalty, as set forth in this article, to the city within thirty (30) calendar days of the issuance of the citation.

(b) If the person cited elects to pay the applicable reduced civil penalty set forth herein, the person shall be deemed to have admitted the infraction and waived the right to a hearing. If the person cited fails to pay the civil penalty by the thirtieth (30th) calendar day after issuance of the citation or fails to request a hearing within the time prescribed, the code enforcement officer shall request a hearing be scheduled before the special magistrate and may request a fine be assessed up to the maximum civil penalty plus court costs of ten dollars (\$10.00).

(c) If the person elects to contest the citation, the person shall request a hearing before the special magistrate within fourteen (14) calendar days of the date of citation. The code enforcement clerk shall notify the code enforcement officer of any contested

citations and of the date when such contested citation may be scheduled to be heard by the special magistrate. The case shall be presented by the code enforcement officer who issued the citation and the standard of proof shall be a preponderance of the evidence. A contest of the citation shall be deemed a waiver by the person of any right to pay the reduced civil penalty and upon a finding by the special magistrate that the person cited committed the civil infraction charged, the special magistrate may order the violator to correct the violation and may impose a civil penalty up to the maximum civil penalty plus all applicable costs of prosecution, plus court costs of ten dollars (\$10.00) but in no event, however, shall any such civil penalty imposed by the special magistrate be less than the reduced civil penalty as provided in this article. The special magistrate may provide for the civil penalty to be paid, and the violation to be corrected, within such time as the special magistrate determines to be appropriate. If the person found to be in violation fails to pay the civil penalty or to correct the violation within the time provided, ~~a civil judgment shall be entered against that person up to the maximum civil penalty the citation shall be referred to the Clerk of Courts for enforcement as provided by §318.325 Florida Statutes, and may be punishable as provided in §316.1967 Florida Statutes (2016).~~

(d) Should the person cited schedule a hearing as provided for herein and thereafter fail to appear at such hearing, the person shall be deemed to have waived the right to contest the citation and ~~a civil judgment~~ Order Determining Violation shall be entered against the person in an amount not to exceed the maximum civil penalty; provided, however, that the special magistrate shall have the discretion to continue or reschedule any hearing when it determines that doing so will further the interest of justice. In such event, the code enforcement clerk shall notify the code enforcement officer and the person cited of the date and time of the hearing as rescheduled.

~~(e) In the event that a civil judgment is entered against the person cited as provided herein, the city may record the judgment in the official records of the county and the same shall thereafter constitute a lien against the land on which the violation exists, if the violator is the owner of such property, and upon any other real or personal property owned by the violator.~~

~~(f)~~ In the event an order is entered finding that a violation of the ordinance cited has been committed, the city may record said order in the official records of county and the same shall thereafter constitute notice to and be binding upon the violator and 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 any subsequent purchasers, successors in interest, or assigns if the violation concerns real property.

~~(g)~~ If the person cited has been previously cited for the same violation at least two (2) times within a twelve (12) month period or commits a violation that requires a mandatory court appearance, upon issuance of the citation, the person shall not have the option of paying a reduced civil penalty but instead shall appear before a county court judge to answer the charge.

~~(h)~~ Payment of any civil penalty imposed by this article shall be made to the the city, if a judgment has been entered for the civil penalty and satisfied, the code enforcement officer shall be notified that the judgment is satisfied and a satisfaction of judgment shall then be prepared and recorded in the official records of the county.

~~(i)~~ The Florida Rules of Civil Procedure and the Florida Evidence Code shall apply.

**SECTION 3.** 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 4.** All Ordinances or parts of Ordinances in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

**SECTION 5.** This Ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM & CORRECTNESS:

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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.17-027 was duly advertised by title only in the St. Lucie News Tribune on August 25, 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 September 5, 2017; and was duly introduced, read by title only, and passed on second and final reading September 18, 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 18th day of September, 2017.

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Linda Hudson,  
Mayor Commissioner

**ATTEST:**

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Linda W. Cox,  
City Clerk

**(City Seal)**