



THE SUNRISE CITY
FORT PIERCE
CODE ENFORCEMENT

Florida

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PART I - GENERAL.

1. Intent and Interpretation.

It is the intent of these administrative procedures to clearly outline the process in which code enforcement activities are moved through the hearing process, establish guidelines of which the city and the Special Magistrate are to follow, and provide clear and concise directives on the hearing process to ensure that due process is provided to all parties.

Additionally, these rules shall outline how financial penalties that arise from a ruling of the Special Magistrate progress from the initial fine, to a lien against the property and/or respondent, to the possible foreclosure on such property due to unpaid obligations to the city.

These administrative procedures have been adopted by resolution of the City Commission and are intended to be supplemental to the City's Code of Ordinances. These rules shall be interpreted so as to be consistent with state law and local ordinances. If any conflict or interpretation of the administrative procedures exist, the Code of Ordinances will prevail.

2. Jurisdiction

The Special Magistrate shall have jurisdiction over proceedings initiated by the Community Response Department, the Building Department, and for all matters assigned to the Special Magistrate by the City Commission for the City of Fort Pierce pursuant to the Code.

3. Sunshine

The Special Magistrate shall not discuss the merits of any pending case with any other person outside the meeting wherein the case is scheduled to be heard. But in the event the Special Magistrate is so contacted by another person, whether orally or in writing, the substance of any such communication will not be deemed prejudicial provided that the subject matter of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before any action by the Special Magistrate on the matter.

4. Transcripts

Pursuant to Section 286.0105, Florida Statutes, the city hereby advises all Respondents that if you or another person decide to appeal any decision made by the Special Magistrate with respect to any matter considered at its hearing, that you or said person will need a record of the proceedings, and that for such purpose, affected persons may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

5. Definitions Unless required otherwise by context, the following words shall have the meanings herein provided for:

Administration costs means a charge as established by resolution that is assessed to assist with covering the actual administration of a case file by the city.

Affidavit means a sworn document certifying that a specific action or event has taken place or condition exists that is signed by the party attesting to such action, event or condition and is notarized.

Code shall refer to the Code of Ordinances of the City of Fort Pierce, Florida.

Code Enforcement Fine means a financial penalty imposed by the Special Magistrate in a written order. Such fine may be a single fee or a fine that accrues for each day the violation continues past the date set for compliance.

Code Enforcement Lien means that an Order Assessing Fine and Imposing Lien has been signed by the Special Magistrate and recorded with the St. Lucie County Clerk of Court. A Code Enforcement Lien is recorded against both the property and, in most cases, against the property owner and shall attach to all properties within St. Lucie County also owned by the property owner.

Department shall mean either:

- The Community Response Department, or as such Department may be hereafter renamed, for violations involving City Ordinances and the International Property Maintenance Code, or
- The Building Department, or as such Department may be hereafter renamed, for violations of City Ordinances, the Florida Building Code, and the International Property Maintenance Code.

Department Clerk means the Department administration personnel assigned to the Special Magistrate.

Hard Costs means any expense or fee paid directly by the city to a vendor or 3rd party, including recording fees.

Massey Notice means a written notice to a Respondent that fines have been assessed either through a code enforcement or nuisance abatement process and providing twenty (20) days to contest the fines in writing, failing which a lien may be filed.

Massey Hearing means a hearing before the Special Magistrate, at the request of the Respondent, to address the fines that have been assessed.

Nuisance Abatement Expense means the actual cost of having any nuisance condition (lot clearing, securing building, demolition, etc.) as provided for in City Code Chapter 24 to be abated or corrected by the city.

Order Determining Violation – see *Special Magistrate Order*

Regular mail means first class mail with postage pre-paid through the US Postal Service.

Respondent means any owner, operator, responsible party, or violator that is the subject of an enforcement action.

Special Magistrate is the person whose office is defined in City Code Section 1-71.

Special Magistrate Order means a written order issued and signed by the Special Magistrate.

PART II – PRE-HEARING

6. Hearings

Hearings of the Special Magistrate shall be scheduled by the Department at a date, time, and place determined by the Department. The Department shall provide the Special Magistrate with reasonable notice of any such hearing.

7. Emergency Hearings

- A. If a code violation exists that is so severe that it potentially impacts the life, health or safety of the community, the Department may request the Special Magistrate hold an emergency meeting to address the condition.
- B. Notice of the emergency hearing shall be in accordance with State Statute 162.06(4).

8. Recusal and Disqualification

- A. Pursuant to Fla. Stat. §112.3143, the Special Magistrate shall not decide any case which would inure to the Special Magistrate's private gain or loss, or on any measure which inures to the special gain or loss of any principal by whom the Special Magistrate is retained, or to the gain or loss of a parent organization or subsidiary of a corporate principal by which the Special Magistrate is retained, or any matter which the Special Magistrate knows may inure to the special private gain or loss of a relative or business associate.
- B. The Special Magistrate shall likewise not decide any case whenever the Special Magistrate's impartiality might reasonably be questioned, as provided by Canon 3E of the Code of Judicial Conduct. In the event the Special Magistrate determines there are grounds for recusal or disqualification, the Department shall refer the case to another Special Magistrate.
- C. The Special Magistrate shall publicly state the grounds for recusal or disqualification and within 15 days thereafter submit to the Department a completed Form 8B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.

9. Legal Representation

- A. The City Attorney or designee shall represent the City by presenting those certain cases designated for hearing before the Special Magistrate.
- B. The Respondent may be represented by an attorney at any proceeding subject to these rules, provided that the representative of such Respondent files with the Department a written notice of appearance. The notice shall state that the Respondent authorized the representative to speak on behalf of the Respondent and shall include the representative's address and phone number.

The Notice of Appearance should be filed with the Department no later than one week before the representative's first appearance. In the event the notice is filed less than one week immediately preceding the date of the representative's first appearance, the Department may, in its sole discretion, continue or postpone the proceeding to a new date certain upon learning of the representation.

10. Notices

- A. The Department shall provide notice to the Respondent of all proceedings before the Special Magistrate. Notification of violation hearings shall be in the manner set forth in Fla. Stat. §162.12.
- B. Notices of subsequent proceedings provided for by the rules shall be by regular mail, at least ten (10) days in advance of the hearing.

11. Subpoenas

Subpoenas for testimony before the Special Magistrate may be issued by the Department Clerk upon request of the Department, or by any attorney of record on behalf of a Respondent. Every subpoena shall be issued under seal of the city and shall state the action and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. A Respondent unrepresented by counsel may request the Special Magistrate to authorize the Department Clerk to issue a subpoena and the Special Magistrate may do so only if satisfied that the anticipated testimony to be obtained through the subpoena is reasonably relevant to the charge.

12. Continuances

- A. In the event there are circumstances constituting good cause for postponement of a hearing, the Respondent may file a written request for continuance or postponement with the Department.
 - (1) The request must be made within a reasonable time following the date the Respondent became aware of the circumstances which form the basis of the request, and such request must specify the justifying circumstances with particularity.
 - (2) In the event the Department agrees with the request it shall reschedule the hearing.
 - (3) In the event the Department disagrees, it shall immediately contact the Special Magistrate to whom the case is assigned, who will promptly schedule a hearing to be attended by the Special Magistrate, the Department Clerk, counsel for the Department, the Respondent, and a representative of the Department.
- B. After hearing both sides, the Special Magistrate shall determine whether there is good cause for the postponement, and whether such good cause outweighs the public interest, in determining if the hearing is to proceed as originally scheduled. The request will then be either granted or denied.

13. Request for Telephonic Hearing

- A. Respondents that are unable to attend a Special Magistrate hearing in person due to either a serious medical condition or residing out of state must submit a written request to attend the hearing telephonically.
 - (1) The request must be made at least three (3) days prior to the hearing.
 - (2) The request must be in writing and clearly state the reason for the request.

- (3) The request must also include an explanation of the need for a telephonic hearing in lieu of a request for continuation, allowing time for the Respondent to either arrange to be heard in person or for a representative to appear on their behalf.
- (4) An email address of the respondent must be provided to the city so that a copy of all exhibits is able to be provided to the Respondent prior to the hearing.
- (5) If the request is granted by the Department, the Respondent must make themselves available to answer the call on a specific date within a 4-hour window.
- (6) Failure to answer the call after two (2) attempts will be considered a failure to appear and the hearing will proceed in its normal course.

PART III – CONDUCT OF HEARINGS

14. Order of Business

- A. Cases will be called in the order in which they appear on the agenda, except that the Special Magistrate may take cases out of order as appropriate.
- B. The outline for the regular meeting or hearing agenda shall be as follows:
 - (1) Call to Order
 - (2) Pledge of Allegiance
 - (3) Administrative Business
 - a. Administration of Oath to Witnesses
 - b. Identification of Cases in Compliance, Dismissed, or Continued
 - (4) Public Hearings
 - a. Citations
 - b. Violation Cases
 - c. Other Cases
 - (5) Old or Unfinished Business
 - a. Requests for Rehearing
 - b. Requests for Reduction in Penalty
 - c. Requests for Extension of Compliance Date
 - (6) New Business
 - (7) Adjournment

15. Conduct of Hearings

- A. All hearings and proceedings shall be open to the public. However, this is a quasi-judicial hearing, not a public meeting, and there is no provision for comments from the public.
- B. Formal rules of evidence shall not apply, but fundamental due process shall be observed.
- C. The Department shall go first and present evidence in support of the charge. The Respondent may next present evidence in opposition to the charge.
- D. Each side may present witnesses.
- E. Both sides shall have a right of cross-examination.
- F. The Special Magistrate may, in an exercise of reasonable discretion, continue a hearing in the interest of justice, should there be a determination that further information is necessary from either party, whereupon there shall be declared a date certain for continuation of the proceeding.
- G. The Special Magistrate may act to exclude irrelevant, immaterial, or unduly repetitious evidence, 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. The Special Magistrate may question any witness or call any witness believed necessary.
- I. Any member of the public having direct knowledge of the facts of the case and desiring to testify may be recognized by the Special Magistrate as appropriate.
- J. The Special Magistrate shall rule following the hearing. The Special Magistrate shall orally issue findings of fact based on record evidence and conclusions of law and shall issue an order, affording the proper relief consistent with the powers provided by state law and the Code.
- K. The Special Magistrate's order shall be reduced to writing and a copy of the order shall be mailed to the Respondent through regular mail. The attestation of mailing shall be signed by the Department Clerk on the day the order is placed in the mail. The time by which the Respondent is to comply begins to run when the order is mailed.
- L. The Department Clerk may cause a copy thereof to be recorded with the St. Lucie County Clerk of Court.

16. Stipulations

- A. The Department and Respondent may enter into a written stipulation prior to the hearing whereby there is agreement that the Respondent is in violation.
 - (1) For code enforcement violation(s) that require time to cure, the stipulation shall include the time needed for compliance and the daily fine amount in the event the Respondent fails to comply within the agreed upon time.
 - (2) For any violation in which a flat rate fee is assessed, the stipulation shall state the amount of the penalty and the time in which the penalty is to be paid.
- B. Such written stipulation shall be filed with the Department Clerk whereupon an order of violation shall be entered thereon and signed by the Special Magistrate without necessity for any further proceedings as otherwise provided by this Rule. The stipulation shall include this certification:

I certify that I am the person charged with the violation described in this stipulation or am authorized to act on behalf of such person (copy of written authorization attached). I have read the stipulation, or its contents were explained to me, and I fully understand what it says, or any questions were answered to my satisfaction. I enter into this stipulation freely and voluntarily, without coercion or duress. I understand that I have a right to a hearing and voluntarily waive such right. I realize that I have a right to be represented by an attorney or was able to consult with an attorney and waive that right. I will contact the Department as soon as I am in compliance so that such compliance may be verified.

Name

PART IV – POST HEARING

17. Rehearing

A. *As of Right.*

Within twenty (20) days of the date the Special Magistrate's written order is mailed to the Respondent, the Respondent may file with the Department a written request for rehearing. The request shall include a description of new evidence or circumstances not presented or considered at the original hearing. The request should also state why any such new information was not presented at the original hearing. The Department shall schedule the request for rehearing by the Special Magistrate, with notice to the Respondent. No such request shall stay the terms of any order, except as otherwise provided for in these rules.

B. *Discretionary.*

There is no right to reconsideration of any ruling by the Special Magistrate if such request is not timely made pursuant to Rule 17(A). But at the sole discretion of the Special Magistrate, a request for reconsideration may be considered at any time, within one year following the period provided by Rule 17(A) above, upon a finding that there is good cause, in the interest of justice, to excuse untimeliness of the request. In the event a request for reconsideration is granted, the matter shall be reset for the next regular meeting, for a reconsideration of the original issues.

18. Appeals and Stays

A. *Appeals.*

Either the Department or Respondent may appeal a ruling or order of the Special Magistrate to the Circuit Court. An appeal must be filed within thirty (30) days of the date the written order is signed. The scope of review shall be limited to the record made in the hearing and shall not be a trial de novo.

B. *Stays.*

An appeal does not automatically stay enforcement of the order. A stay may be requested when an appeal is filed. It shall be submitted in writing to the Department which shall schedule it for hearing before the Special Magistrate with its recommendation, upon notice to the Respondent.

If the Respondent believes that potential prejudice may accrue by delaying resolution of the request until the Special Magistrate's regular meeting, the Respondent may additionally request an emergency hearing which the Department shall immediately transmit to the Special Magistrate who may schedule a hearing within forty-eight (48) hours to be attended by the Special Magistrate, the Department Clerk, the Department's attorney, the Respondent, and a representative of the Department.

After hearing both sides, the Special Magistrate shall temporarily either grant or deny the request, until able to act upon the request for stay at its regular meeting.

Commented [PA1]: This section has been repeated in each amended version. But do we need it?

19. Extensions of Compliance Date

A. *Extension by Department.*

The Department may, within its discretion, give a Respondent additional time, not exceeding ninety (90) days, to comply with the Special Magistrate's order.

B. *Requests for Extension.*

A Respondent in violation may request an additional extension of time within which to comply with an order of the Special Magistrate. The Respondent must request the extension in writing, addressed to the Department, prior to the date originally set in the order for compliance. The Department shall then forward the request, with its recommendation, to the Special Magistrate for decision at a regularly scheduled meeting, with notice to the Respondent. Consideration of such request shall be limited to extenuating details preventing compliance as originally ordered, such as, but not limited to, financial or health circumstances. The Special Magistrate shall not consider any substantive matters involving the case itself, which shall only be considered in the context of a rehearing pursuant to these rules.

PART V – FINES AND LIENS

20. Assessing Fines

A fine shall be assessed against a property and/or Respondent as a result of failure to comply with an Order Determining Violation issued by a Special Magistrate and/or an expense of the City due to the abatement of a nuisance.

A. Code Enforcement Fines

- (1) An Affidavit detailing and documenting the non-compliance of the Special Magistrate's order shall be recorded with the St. Lucie County Clerk of Court.
- (2) A Massey notice shall be sent regular mail to the Respondent providing notice that the fine exists, the amount of the fine, the opportunity to be heard, and the notice that a lien may be issued.
- (3) A copy of the Special Magistrate's order shall be included with the Massey notice.

B. Nuisance Abatement Fines

- (1) Upon recording of the Affidavit of Non-Compliance required in Rule 20(A)(1), the case shall be forwarded to an outside vendor or city department for abatement of the nuisance.
- (2) Upon submittal of an invoice by the vendor to the City for the expense of abating the nuisance condition, a bill for services shall be issued to the Respondent in the amount to cover the abatement and any other costs or fees. The bill for services shall be sent regular mail.
- (3) A Massey notice shall be sent regular mail to the Respondent providing notice that the fine exists, the amount of the fine, the opportunity to be heard, and the notice that a lien may be issued.
- (4) A copy of the Special Magistrate's Order, the bill for services and the Massey Notice shall be forwarded to the Finance Department.

21. Contesting Fines

- A. If a written request is received by the Department that complies with the Massey notice, a hearing shall be scheduled before the Special Magistrate. Such notice shall include the date, time, and location of the hearing. Notice of the hearing date shall be sent to the requesting party via regular mail, and by electronic means if an email address is provided, no later than 10 days prior to the hearing date.
- B. A Massey Hearing is not a re-hearing, and the validity of the violation(s) is not at issue. The matters to be determined are:
 - (1) If the violations were complied, and
 - (2) If the compliance was completed in a timely manner, and
 - (3) If the resulting fine is appropriate.
 - a. In determining the appropriate amount of the fine, the Special Magistrate's decision shall be based upon consideration of the following criteria:

- i. The gravity of the violation(s); and
 - ii. Any actions taken by the Respondent to correct the violation(s); and
 - iii. Any previous violations committed by the violator.
- C. Any action to impose a lien shall be suspended unless and until the Special Magistrate finds that the Respondent is or was non-compliant and reconsiders the amount of the fine.
- D. In the event the Special Magistrate reduces the amount of the fine otherwise to be given lien status, any such reduction shall be expressly conditioned upon payment by the Respondent of the reduced amount by a specified date not to exceed six (6) months.
- E. Failure to pay the reduced amount within the time specified will result in the fine returning to the amount presented to the Special Magistrate for reduction, plus any interest and penalties that were temporary held in abeyance, such interest and penalties shall resume accruing, and a lien will be entered. The Order shall be reduced to writing and mailed to the Respondent by regular mail. The Department Clerk may cause a copy of the order to be recorded in the Public Records of the county.
- F. Failure of a requesting party to attend the scheduled Massey hearing is considered a waiver of their request and the Department may ask that the Special Magistrate affirm the fine and impose the lien.

22. Imposing a Lien

- A. If a Massey hearing is not requested or the conditions specified in the order resulting from the Massey hearing are not met, the Special Magistrate shall, after considering the Affidavit of Non-Compliance and any other documentation presented by the Department in support of the Affidavit, issue an Order Assessing Fine and Imposing Lien.
- B. Such Order Assessing Fine and Imposing Lien shall authorize the city attorney to initiate foreclosure proceedings if the lien remains unpaid and all legal requirements for foreclosure have been met.
- C. A certified copy of the lien shall be provided by the City Clerk, which may then be recorded in the St. Lucie County Clerk of Court.

23. Lien Reductions

- A. Per Chapter 1, Article II, Section 1-80, imposed liens may qualify for a reduction if the following requirements are met, however, there is no guarantee a reduction will be granted of any lien that was legally placed upon the person or property.
- B. All requests to reduce a lien imposed by the city must meet the following requirements:
 - (1) For code enforcement liens, a Respondent may request a reduction of the lien only after the original violation is in compliance and the Department has issued an Affidavit of Compliance.
 - (2) The request must be in writing on a form provided by the Department and submitted along with the applicable fee as set by city resolution.

- (3) The request must be made by the owner. If the request is made by any other interested party, written proof of permission to act on behalf of the owner must be provided.
- (4) A copy of the deed, showing title transfer to the current owner, must be provided.
- (5) If the property was conveyed via Special Warranty Deed or Warranty Deed, the owner must provide proof of their attempt to have the guaranteeing party take responsibility for the debt without success.
- (6) A statement or explanation as to why the city should consider the request for reduction. The request should include a narrative with any supporting documentation to be considered in furtherance of such request.
- (7) The requesting party is responsible for determining the method in which the reduction is processed. Once the request has been properly submitted and a determination made, no secondary or supplemental request shall be accepted.

C. Administrative Review and Release

- (1) If any of the following conditions are met, the Department has the authority to process a lien reduction request and submit a Release of Lien to the Special Magistrate for signature without the need for a hearing. However, if the Department believes it is in the best interest of the city for additional review, the Department may decline the Requestor's application for administrative review and forward the matter for a hearing before the Special Magistrate.
- (2) The Department and Requestor shall enter into an agreement to settle the lien reduction. Any signed agreement between the requesting party and the Department to settle the lien reduction shall constitute a waiver of hearing by the Special Magistrate by both parties.
 - a. The amount of settlement for a property zoned residential with less than four (4) dwelling units is \$5,000 or more and is payable in less than 30 days.
 - b. The amount of the settlement for a property either zoned residential with four (4) or more dwelling units, zoned commercial, or zoned industrial is \$10,000 or more and is payable in less than 30 days.
 - c. The settlement is based upon the receipt of excess tax sale proceeds that have been received by the City and respectively cover the administrative costs incurred.
 - d. For partial releases wherein the property receiving the benefit of the reduction is located outside the city, the amount of settlement is equal to 3% of the lien to be released or \$2,500.00, whichever is greater.
 - e. For partial releases wherein the property receiving the benefit of the reduction is located inside the city, the amount of settlement is equal to 5% of the lien to be released or \$2,500.00, whichever is greater.
 - f. The amount of settlement for nuisance abatement liens is equal to or greater than the hard costs for service plus 50% of the interest, penalties, and administration fees assessed by the city.

D. Special Magistrate Review and Release

- (1) If the requesting party chooses to not waive his or her right to a hearing, or the Department has determined the request requires additional review, the Department shall schedule a hearing of the request before the Special Magistrate, with notice to the Requestor. Such notice shall include the date, time, and location of the hearing. Notice of the hearing date shall be sent to the requesting party via regular mail, and by electronic means if an email address is provided, no later than 10 days prior to the hearing date.
- (2) The lien reduction hearing shall not be a hearing de novo of the original case but shall be limited solely to the issue of whether the lien assessed should be reduced. The burden of proof shall be on the applicant to show cause for reducing the lien. The matters to be determined are:
 - a. If the request to release the lien below the limits of the administrative review provided in Sec. 23(B)(2) is warranted.
 - b. If determined to be warranted, to what amount the lien should be reduced.
 - c. The time for the amount due to be paid.
- (3) The Department shall make the initial presentation to the Special Magistrate. Such presentation shall include, but is not limited to, the facts of the case, the total amount due to the city, a breakdown of the administration costs for processing the case and any information available to the Department to support the Special Magistrate's review of the reduction criteria.
- (4) The requesting party may make a presentation through both oral testimony and submitted evidence to the Special Magistrate detailing the reason for the reduction request.
- (5) After hearing testimony and reviewing the evidence presented by both parties, the Special Magistrate shall make a determination based upon consideration of the following criteria:
 - a. The person who was responsible for the original violation that resulted in the lien.
 - b. Extenuating circumstances that prevented timely compliance and/or any extenuating circumstances that support the reduction below the minimum administrative review amount provided in Sec. 23(B)(2).
 - c. Current code enforcement action on this property or any other property under common ownership.
 - d. The type and number of lien reductions granted for this property or any other property under common ownership in the past 24 months.
 - e. If the granting of the reduction is in the best interest of the city.
- (6) If the Special Magistrate determines that the request for reduction is to be approved, the following conditions must be met:
 - a. For code enforcement liens, the reduced amount is no less than an amount sufficient to cover the administration costs for processing the case. If foreclosure proceedings have been initiated, all costs associated with the process must be paid in addition to any reduction.

- b. For nuisance abatement liens, the reduced amount is no less than the amount sufficient to cover the hard costs for services plus administration costs, which must include all mailing and recording fees plus any additional costs or fees as may be necessary to cover the processing of the case.
 - c. The standard time to pay the reduced amount is six (6) months but may be extended up to twenty-four (24) months if sufficient evidence to support the extension is provided by the Respondent. In no event shall the time to pay exceed twenty-four (24) months.
 - d. The Respondent shall be solely responsible for ensuring the total amount due is paid within the time frame provided. The city will not establish a payment plan for the Respondent, however partial payments will be accepted.
 - e. Failure to pay the reduced amount in the time ordered will result in the amount of the lien reverting to the amount presented to the Special Magistrate for reduction plus any interest and penalties that were held in abeyance, and interest and penalties shall resume accruing.
- (7) The Order shall be reduced to writing and mailed to the Respondent by regular mail. The Department Clerk may cause a copy of the order to be recorded with the St. Lucie County Clerk of Court.
- (8) Failure of a requesting party to attend the scheduled Lien Reduction hearing is considered a waiver of their request and the Department may ask that the Special Magistrate dismiss the request.

24. Appeal to the City Commission.

- A. An aggrieved party who wishes to further their request for a lien reduction may appeal the decision of the Special Magistrate. The appeal must be filed within 30 days of the date the written order is signed by submitting a written notice of appeal and the appeal fee, as established by resolution, with the city clerk of the city.
- B. The notice of appeal shall state the decision that is being appealed, the date of such decision, the grounds for the appeal, and a brief summary of the relief which is sought. Any materials the Respondent wishes to be considered in support of their appeal must be attached to the appeal as no additional evidence may be introduced at the commission meeting.
- C. The decision of the city commission shall constitute final administrative review, and no petition for rehearing or reconsideration shall be considered by the city. The decision of the city commission shall be in writing and a copy of the decision shall be forwarded to the Department Clerk and the appealing party.

PART VI - FORECLOSURE

25. Authority to Foreclose

In accordance with Fla. Stat. §162.09(3) and the City of Fort Pierce Code of Ordinances Section 1-77(4), after three (3) months from the filing of a lien which remains unpaid, the city may initiate foreclosure action.

26. Department Review

- A. The Department shall determine if a lien qualifies for foreclosure action, to include the following:
- (1) Confirm the property is not homesteaded.
 - (2) Confirm that all notice requirements have been met.
 - (3) Confirm that the owner has been provided the opportunity to be heard prior to the imposition of the lien being recorded.
 - (4) Confirm that the lien remains unpaid.
 - (5) Confirm that a tax deed sale is not pending for the property.
 - (6) An Affidavit attesting to these actions shall be placed in the file.

27. Notice of Intent to Foreclose

- A. The Department shall issue an Intent to Foreclose notice to the property owner of record.
- (1) The Intent to Foreclose notice shall be provided to the property owner through the use of a process server, providing 15 days to resolve any outstanding liens before the matter is forwarded to the attorney handling the foreclosure process.
 - (2) The notice shall include a copy of all liens included in the foreclosure.
 - (3) If the process server is unable to complete the service and Proof of Non-Service is received, the notice shall be sent certified mail, return receipt requested and a copy of the notice shall be posted at the property. An Affidavit of Mailing and Posting attesting to these actions shall be completed.
 - (4) Proof of service/non-service, a copy of the Intent to Foreclose, copies of the liens, plus any relevant affidavits, shall be forwarded to the attorney handling the foreclosure for their records.

28. Foreclosure process

- A. Once the foreclosure file is forwarded to the foreclosure attorney, all further communications with the property owner must be through the attorney's office.
- B. Settlement agreements may be entered into upon approval from the City Manager or his/her designee if it is determined that it is in the best interest of the city.

PART VII – FLOODPLAIN MANAGEMENT

29. Appeals and Variances

- a. All requests for appeals and requests for variances of the city's Floodplain Management Ordinance must meet the following requirements:
 - i. The request must be in writing on a form prescribed by the Department.
 - ii. The request must be made by a person aggrieved by the decision or determination made by the floodplain administrator in administration of the city's Floodplain Management Ordinance.
 - iii. A statement or explanation as to why the city should consider the request for appeal or variance. The request should include a narrative with any supporting documentation to be considered in furtherance of such request.
 - iv. There shall be established an application fee of \$500.00 for all requests for appeals and variances. Such fee shall be paid at the time of submittal of the request. Application fees shall not be reduced, waived, or refunded.
 - v. Upon a receipt of a request, a hearing shall be set before the Special Magistrate. Notice of the hearing and the procedures of the hearing shall follow the Code and the Rules of Procedure herein.

PART VIII - AMENDMENTS

30. These rules may be amended upon request of the Special Magistrate or Department providing further that any such amendment shall not be effective unless or until subsequently approved by the City Commission.