

# CITY OF FORT PIERCE

## CONFERENCE AGENDA

Amended 3/8/2024

Conference Agenda Meeting - Monday, March 11, 2024 - 9:00 a.m.

City Hall - Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **New Business**
  - a. Discussion on the Indian Hills Golf Course Expansion Project.
  - b. Review of proposed amendments to Chapter 24 - Nuisances.
  - c. Army Corps of Engineers response update regarding shoaling in the Intracoastal Waterway
  - d. City Attorney 6-month performance evaluation
  - e. Discussion regarding Pinewood Park

### 5. **COMMENTS FROM THE PUBLIC**

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to thirty minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.

### 6. **City Commission Boards and Committees Updates**

7. **Adjournment**

Immediately following adjournment, please move toward the doors and exit the chambers. This allows for the safe and courteous exit of all persons, and those on the dais. Conversations after the meeting should be held outside of chambers, in the foyer or elsewhere, but not in the commission chambers where lights will be out as soon as the chambers are empty.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772) 467-3065 at least 48 hours prior to the meeting.

**City Commission Conference Agenda - 9:00 a.m.**

**4. a.**

**Meeting Date:** 03/11/2024

**Re:** Discussion on the Indian Hills Golf Course Expansion Project

**Submitted For:** Danny Visconti, Golf Course Manager, Indian Hills Golf Course

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**SUBJECT:**

Discussion on the Indian Hills Golf Course Expansion Project.

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**Attachments**

Clubhouse Overall Plans

Clubhouse Floor Plan

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**Form Review**

**Inbox**

City Manager

Form Started By: Danny Visconti

Final Approval Date: 03/06/2024

**Reviewed By**

Nick Mimms

**Date**

03/06/2024 04:50 PM

Started On: 03/06/2024 10:20 AM

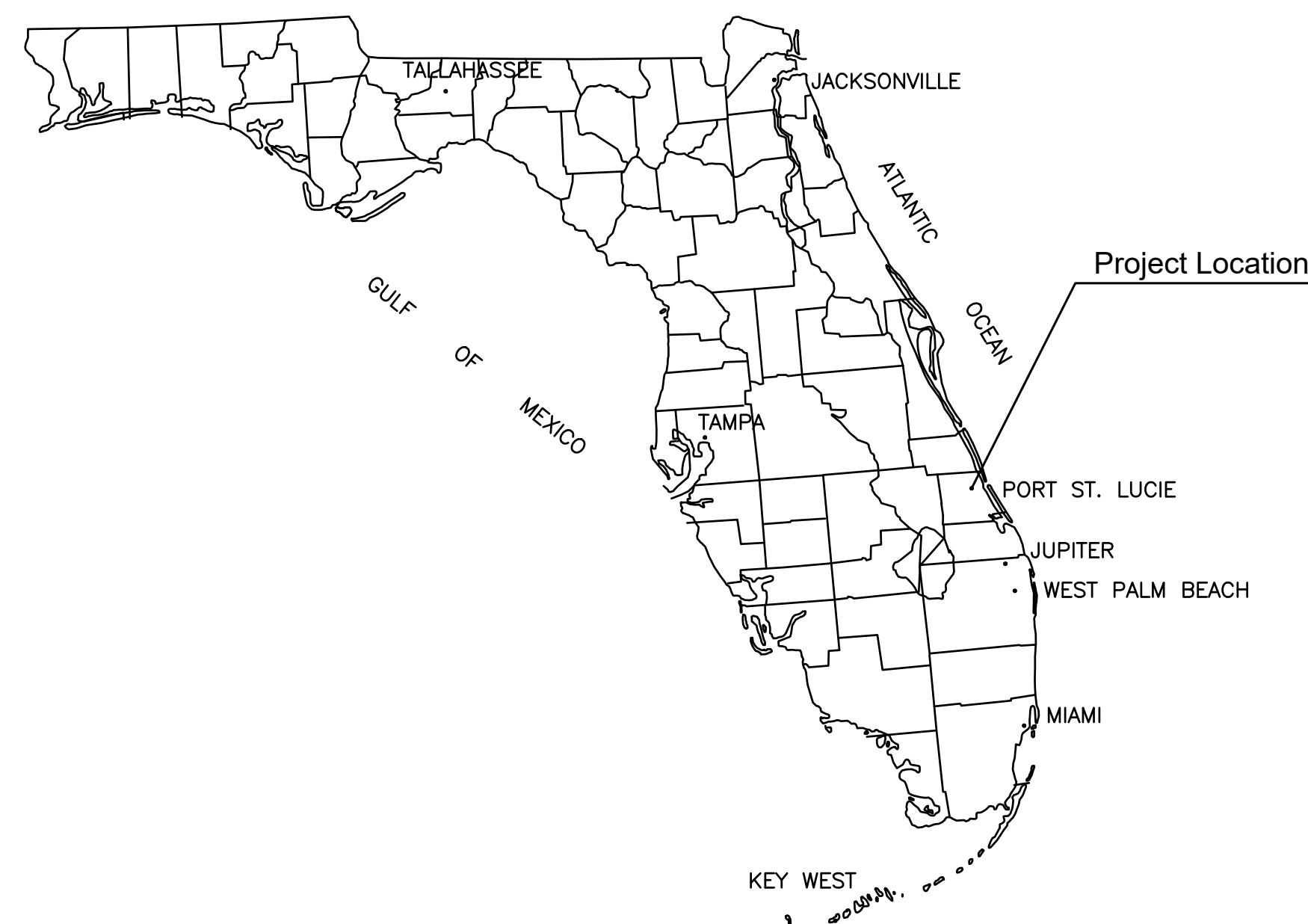
# CONSTRUCTION PLANS AND SPECIFICATIONS

FOR



SECTION 15, TOWNSHIP 35S, RANGE 40E  
FORT PIERCE, FLORIDA

## LOCATION MAP



Project Location

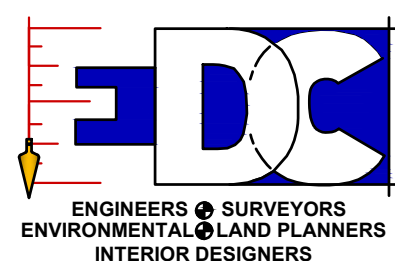
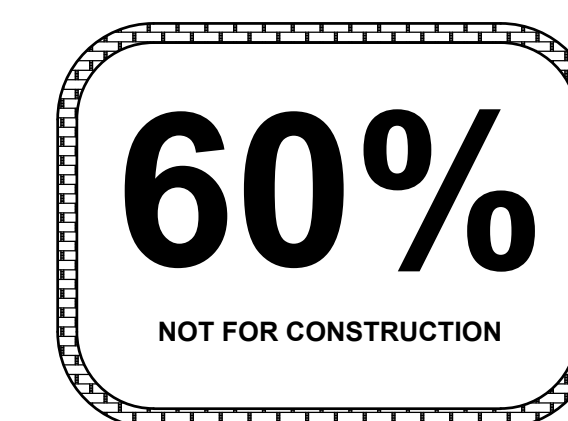


## VICINITY MAP

SCALE 1:150

## INDEX OF SHEETS

1. COVER
2. EXISTING CONDITIONS, DEMO AND STORMWATER POLLUTION PREVENTION PLAN
3. STORMWATER POLLUTION PREVENTION DETAILS
4. HORIZONTAL CONTROL PLAN
5. PAVING, GRADING, DRAINAGE & UTILITY PLAN
6. STRIPING PLAN
7. PAVING GRADING & DRAINAGE DETAILS
8. UTILITY DETAILS
9. SPECIFICATIONS



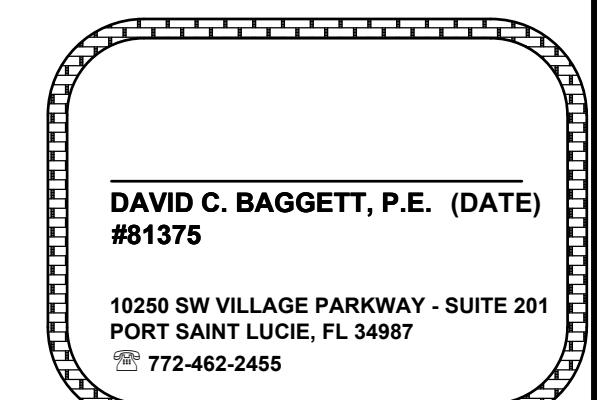
PORT SAINT LUCIE OFFICE  
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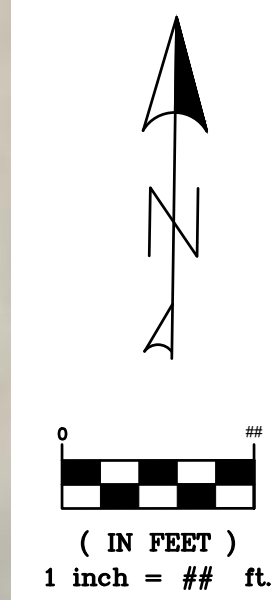
F.B.P.E. CERTIFICATE OF AUTHORIZATION 8855  
L.B. CERTIFICATE OF AUTHORIZATION 8099



SURVEY NOTES:

ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D.88) AND ARE GIVEN IN U.S. SURVEY FEET. NGVD29 = NAVD88 + 1.475'





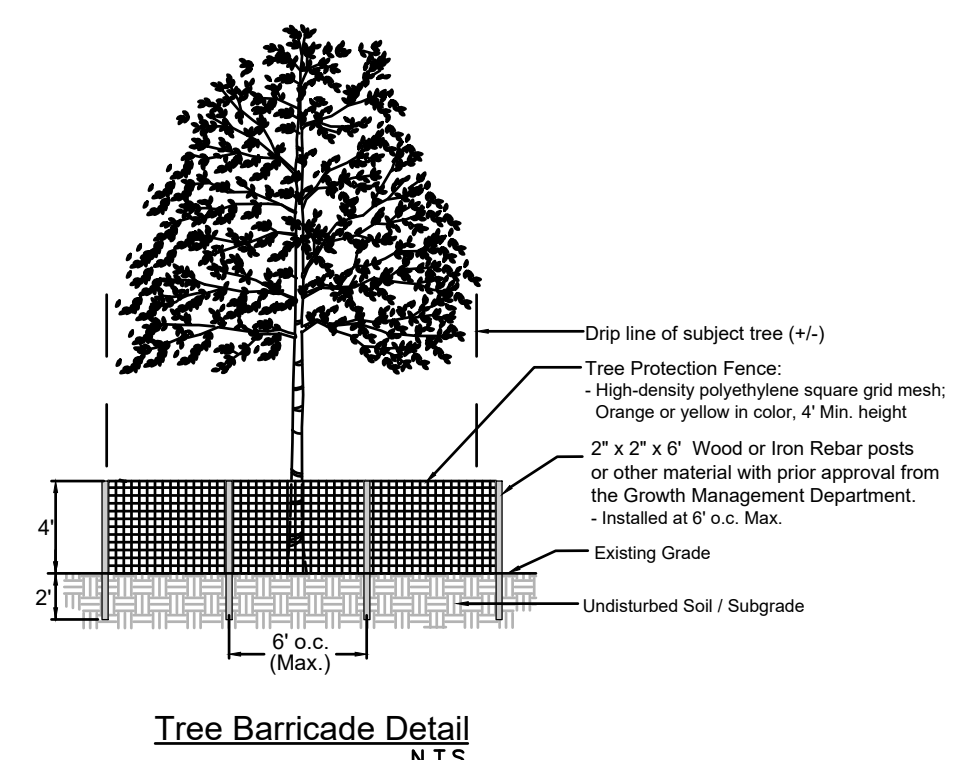
**LAND CLEARING DEBRIS DISPOSAL METHOD:**  
DEBRIS WILL BE SORTED ON-SITE IN THE STOCKPILE AREA AND HAULED OFF-SITE FOR REMOVAL. NO BURNING WILL OCCUR ON-SITE.

**SOIL STABILIZATION METHOD:**  
GEO-TECHNICAL RECOMMENDATIONS BY UNIVERSAL ENGINEERING SCIENCES (OCTOBER 2021) HAVE INDICATED THE ON-SITE SOILS ARE SUFFICIENT FOR USE IN ROAD/LOT CONSTRUCTION. ON-SITE SOILS WILL BE PLACED AND COMPACTED USING VIBRATORY ROLLING MACHINES.

**EROSION CONTROL DEVICES:**  
EROSION CONTROL DEVICES SHALL BE POSITIONED AT LEAST 5 FEET FROM WETLAND BUFFER AREAS.

**CLEARING NOTE:**

- LIMITS OF CLEARING TO INCLUDE ALL AREA WITHIN BOUNDARY LINE AND UP TO THE SILT FENCE ABUTTING THE 50' WETLAND BUFFER.
- PROPERTY CORNERS SHALL BE LOCATED BY A LICENSED LAND SURVEYOR AND CLEARLY MARKED IN THE FIELD PRIOR TO THE ENGINEERING DEPARTMENT'S PRE-CONSTRUCTION MEETING FOR SITE DEVELOPMENT.
- AUTHORIZATION TO INSTALL EROSION CONTROL DEVICES AND PRESERVE BARRICADES WILL BE GRANTED AT THE PRE-CONSTRUCTION MEETING. THIS AUTHORIZATION SHALL BE POSTED ON THE SITE, IN THE PERMIT BOX, ITS LOCATION SHOWN ELSEWHERE ON THIS PAGE.
- NO ADDITIONAL LAND CLEARING SHALL COMMENCE UNTIL A SATISFACTORY INSPECTION OF THE REQUIRED CONTROL STRUCTURES AND BARRICADES HAS BEEN OBTAINED.
- A LAND CLEARING PERMIT MAY BE OBTAINED SUBSEQUENT TO THE SATISFACTORY INSPECTION OF THE CONTROL STRUCTURES AND BARRICADES. THIS PERMIT SHALL BE POSTED IN THE PERMIT BOX, LOCATION SHOWN ELSEWHERE ON THIS PAGE.
- ALL CONSTRUCTION BARRICADES AND SILT FENCE WILL REMAIN IN PLACE AND BE MONITORED FOR COMPLIANCE BY THE PERMIT HOLDER DURING PERMITTED DEVELOPMENT ACTIVITIES.
- PRIOR TO SCHEDULING A FINAL ENVIRONMENTAL INSPECTION FOR THE INFRASTRUCTURE, ALL BARRICADES AND EROSION CONTROL DEVICES SHALL BE REMOVED AND DISPOSED OF BY THE CONTRACTOR.



**Tree Protection Notes**

- Existing trees that are to be preserved shall be barricaded according to Martin County regulations.
- Tree Protection Barricades shall be erected prior to the commencement of any work. All barricades must be maintained intact for the duration of construction.
- Barricades must be constructed around the critical protection zone of each tree or cluster of trees.
- During periods of development and construction, the areas within the drip-line of preserved trees shall be maintained at their original grade with previous landscape material. Within these areas, there shall be:
  - No trenching or cutting of roots
  - No fill, compaction or removal of soil; and
  - No use of concrete, paint, chemicals or other foreign substances
- Barricades shall be constructed of a yellow or orange high density polyethylene square grid mesh fence with a min. height of 4 feet. Fencing shall be secured to posts with nylon cable ties at the top middle and bottom of each post. Posts shall be a 2" x 2" x 6" wood or iron rebar or other material with prior approval from Martin County's Growth Management Department. Posts shall be spaced a max. of 6' o.c.



LEGEND			
	EXISTING/PROPOSED METER		EXISTING UTILITY POLE
	PROPOSED MITERED END SECTION		DRAINAGE INLET
	HANDICAP PARKING SYMBOL		EXIST. DRAINAGE INLET
	EXISTING CONCRETE		STREET LIGHT/FPL POWER POLE
	EXISTING PAVEMENT		DRAINAGE FLOW ARROW
	PROPOSED PAVEMENT		PARKING STALL COUNT
	PROPOSED CONCRETE		LANDSCAPE LIGHT BOLLARD
	PROPOSED PAVERS		PROPOSED SANITARY MANHOLE
			PROPOSED SIGN

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L.B. CERTIFICATE OF AUTHORIZATION 8998

DESIGNED BY	DRAWN BY	FILE NAME	LAYOUT	SCALE	DATE

REVISION COMMENTS	DATE

**IMPROVEMENTS**

**STORM WATER POLLUTION PREVENTION PLAN**

FLORIDA  
FORT PIERCE

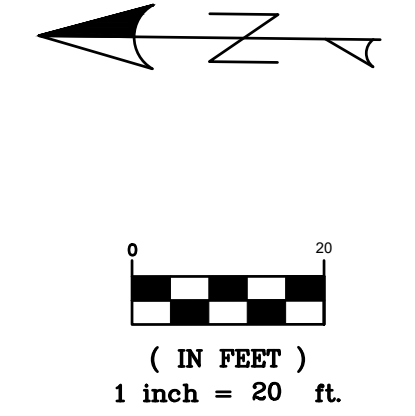
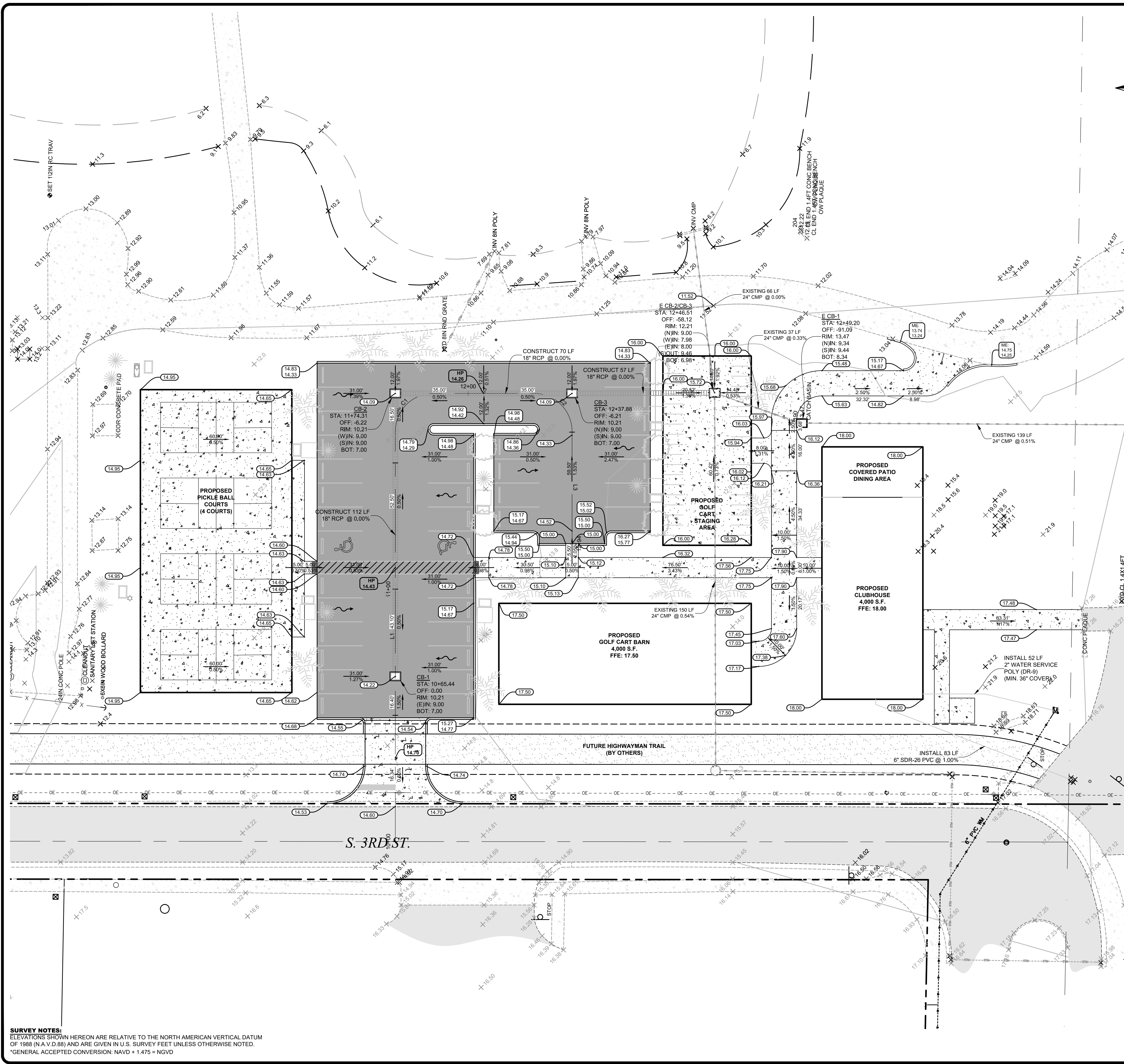
DAVID C. BAGGETT, P.E.(DATE)  
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STORM SEWER INLET TABLE								
STRUCTURE NAME	BOT TYPE	TOP TYPE	STATION	OFFSET	RIM	IN INV.	OUT INV.	BOTTOM ELEV.
CB-1	TYPE-C	USF 6210	10+65.44	0.00'	10.21	9.00 (E)		7.00
CB-2	TYPE-C	USF 6210	11+74.31	-6.22'	10.21	9.00 (W)		7.00
CB-3	TYPE-C	USF 6210	12+37.88	-6.21'	10.21	9.00 (N)		7.00
E CB-1	TYPE-C	USF 6210	12+49.20	-9.09'	13.47	9.34 (N)		8.34
E CB-1 (4) (1)	TYPE-C	USF 6210	10+28.12	126.91'	15.31		8.79 (E)	7.00
E CB-2/CB-3	TYPE-C	USF 6210	12+46.51	-58.12'	12.21	9.00 (N)	9.46 (S)	6.98

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DESIGNED BY	JAL
DRAWN BY	JAL
FILE NAME	23-270 Indian Hills FP R1.dwg
LAYOUT	AS SHOWN
SCALE	SCALE
DATE	26 OCTOBER 2023

REVISION	DATE	COMMENTS

INDIAN HILLS  
GOLF & COUNTRY CLUB

IMPROVEMENTS  
PAVING, GRADING, DRAINAGE  
& UTILITY PLAN  
FORT PIERCE  
FLORIDA

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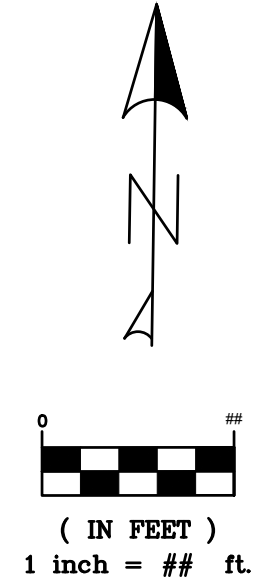
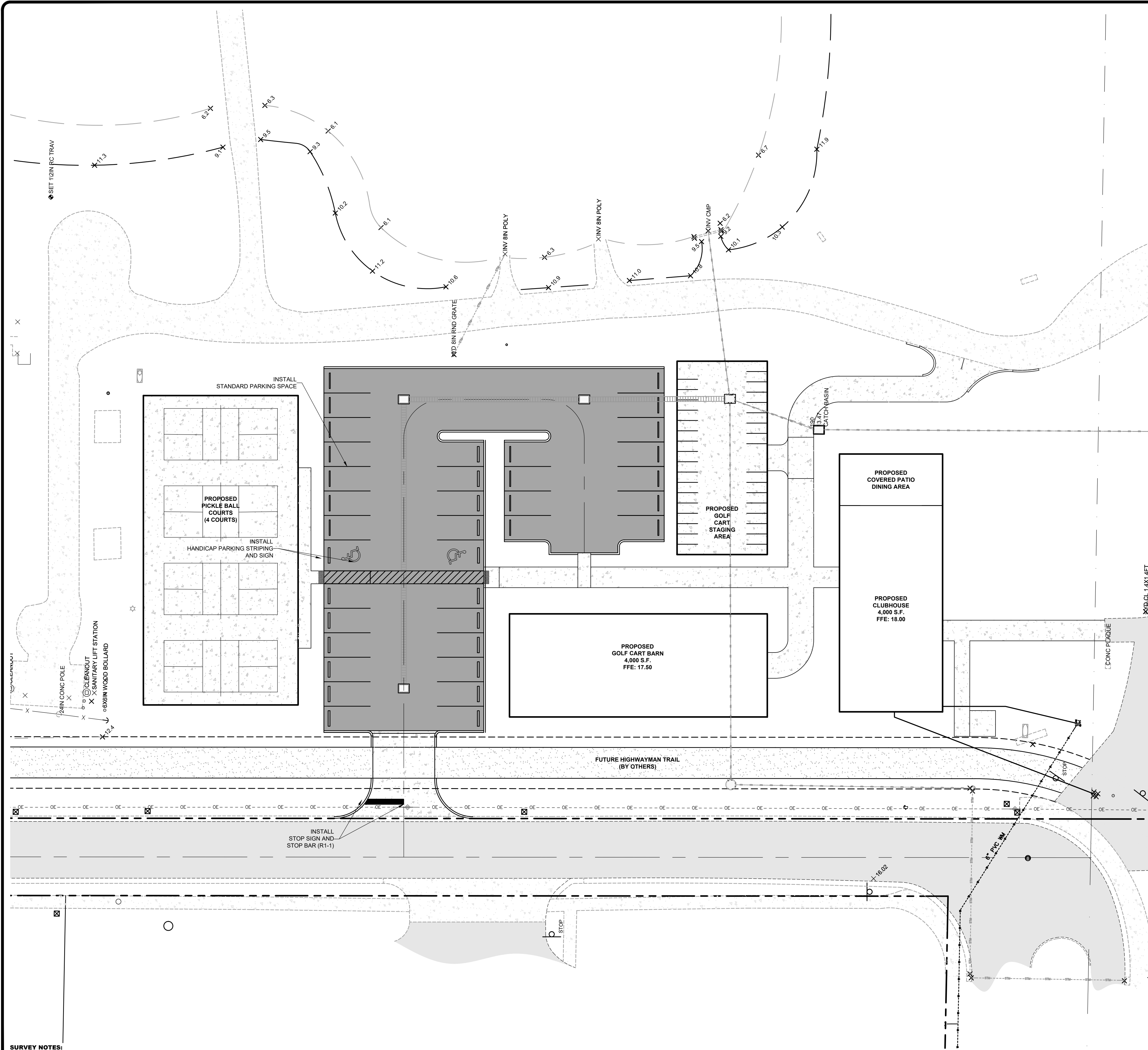
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[Symbol]	HANDICAP PARKING SYMBOL	[Symbol]	EXIST. DRAINAGE INLET
[Symbol]	EXISTING CONCRETE	[Symbol]	STREET LIGHT
[Symbol]	EXISTING PAVEMENT	[Symbol]	DRAINAGE FLOW ARROW
[Symbol]	PROPOSED PAVEMENT	[Symbol]	PARKING STALL COUNT
[Symbol]	PROPOSED CONCRETE	[Symbol]	LANDSCAPE LIGHT BOLLARD
[Symbol]	PROPOSED PAVERS	[Symbol]	PROPOSED SANITARY MANHOLE
[Symbol]		[Symbol]	PROPOSED SIGN

23-270

5 OF 12

**SURVEY NOTES:**  
ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D.88) AND ARE GIVEN IN U.S. SURVEY FEET UNLESS OTHERWISE NOTED.  
\*GENERAL ACCEPTED CONVERSION: NAVD + 1.475 = NGVD

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DESIGNED BY	JUL
DRAWN BY	JUL
FILE NAME	23-270 Indian Hills FP R1.dwg
LAYOUT	AS SHOWN
SCALE	SCALE
DATE	26 OCTOBER 2023

REVISION COMMENTS	DATE

**IMPROVEMENTS STRIPING PLAN**

FORT PIERCE FLORIDA

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 #81375

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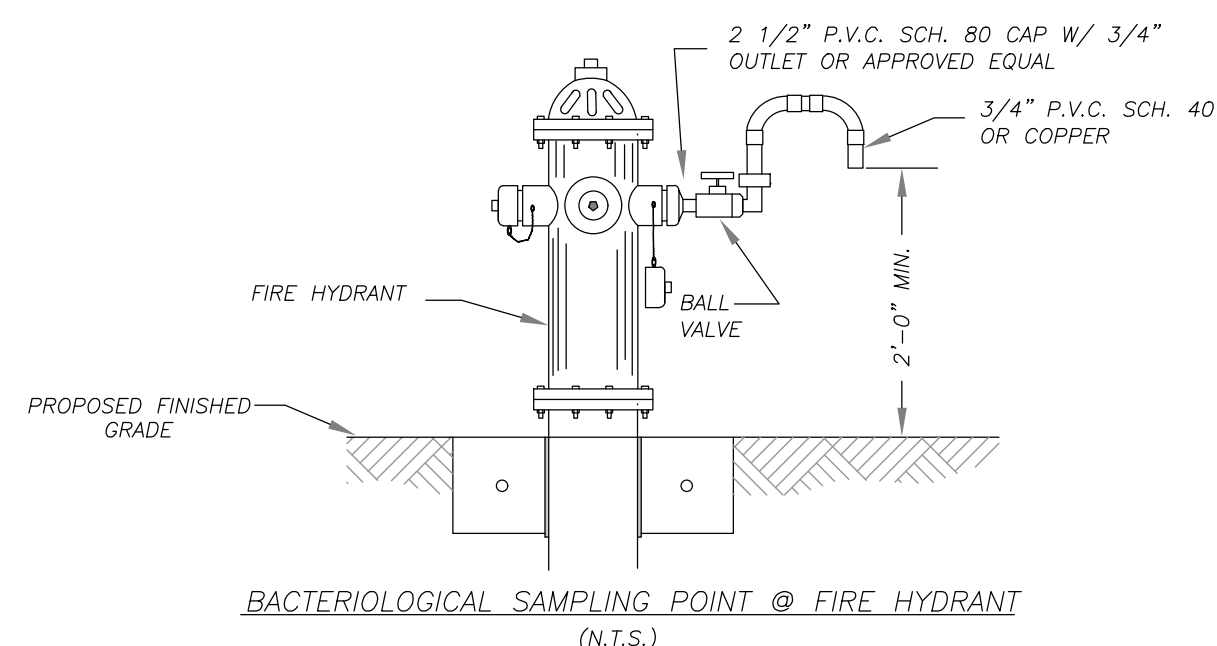
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6 OF 12

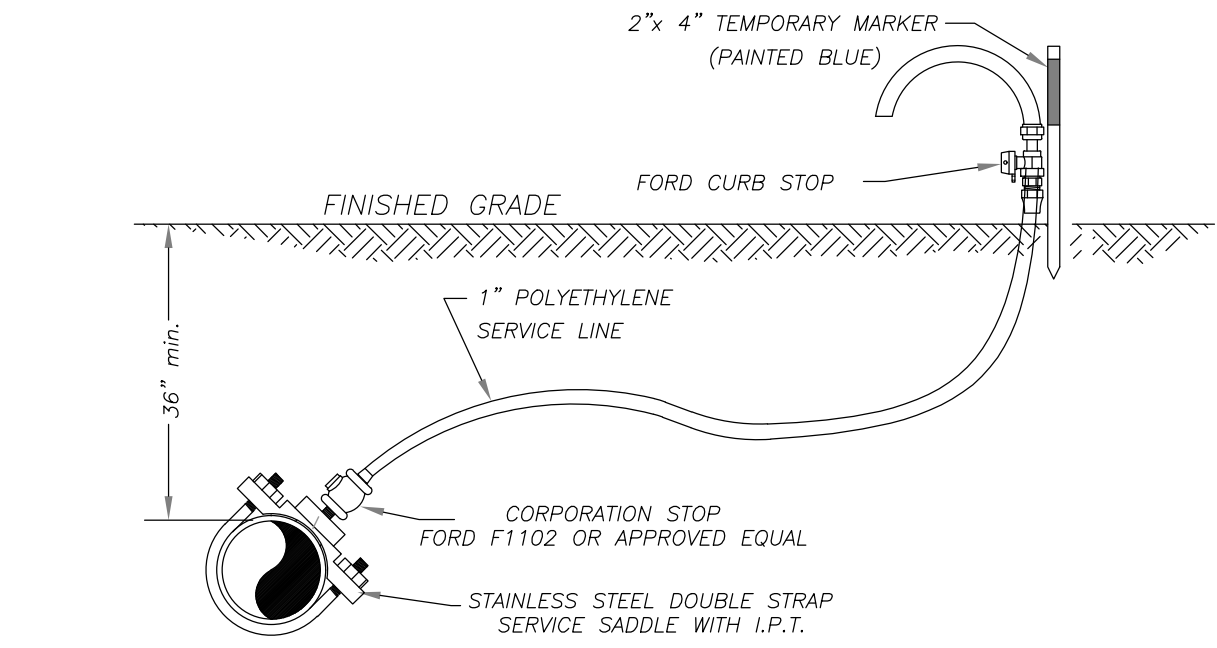




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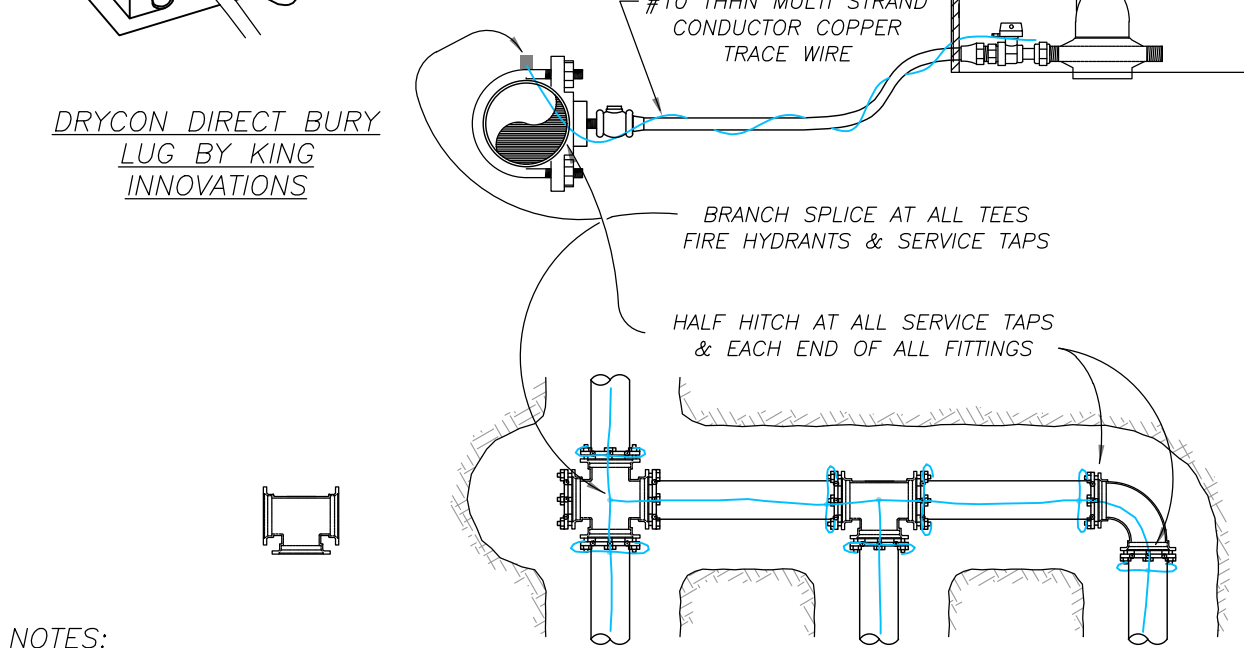
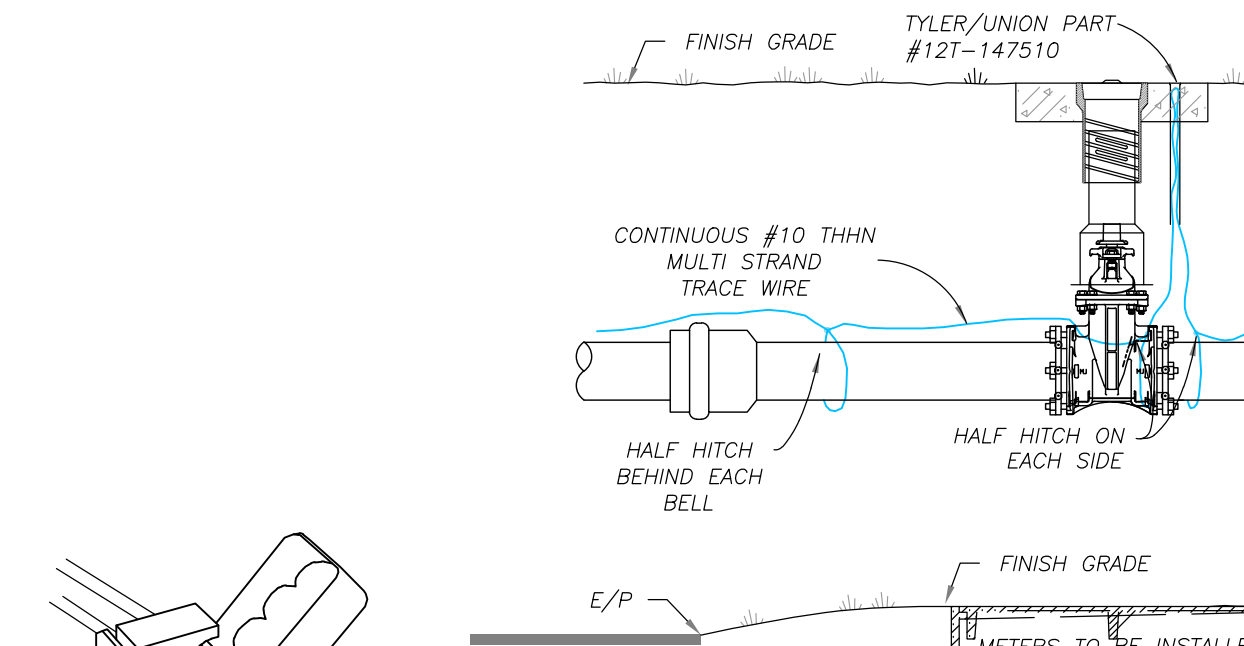
BACTERIOLOGICAL SAMPLING POINT @ FIRE HYDRANT (N.T.S.)



BACTERIOLOGICAL SAMPLING POINT @ WATER MAIN (N.T.S.)

NOTE:  
AFTER TESTING REMOVE 1" P.E. LINE AND CAP WITH BRASS PLUG AT CORPORATION STOP.

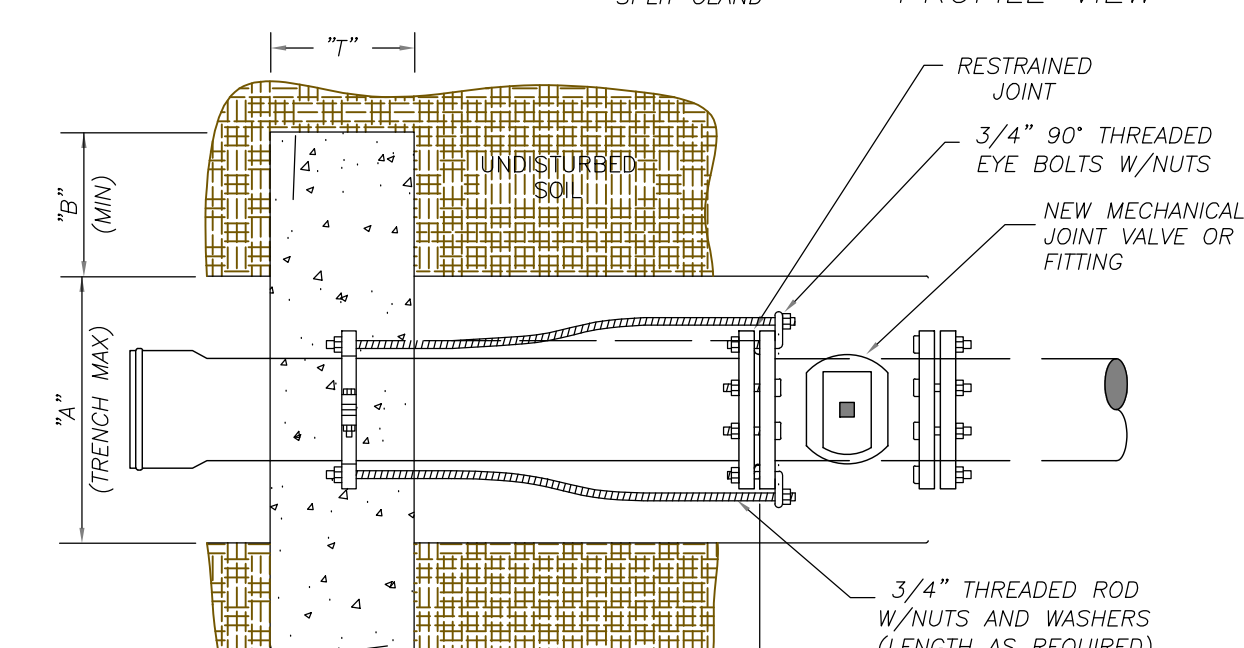
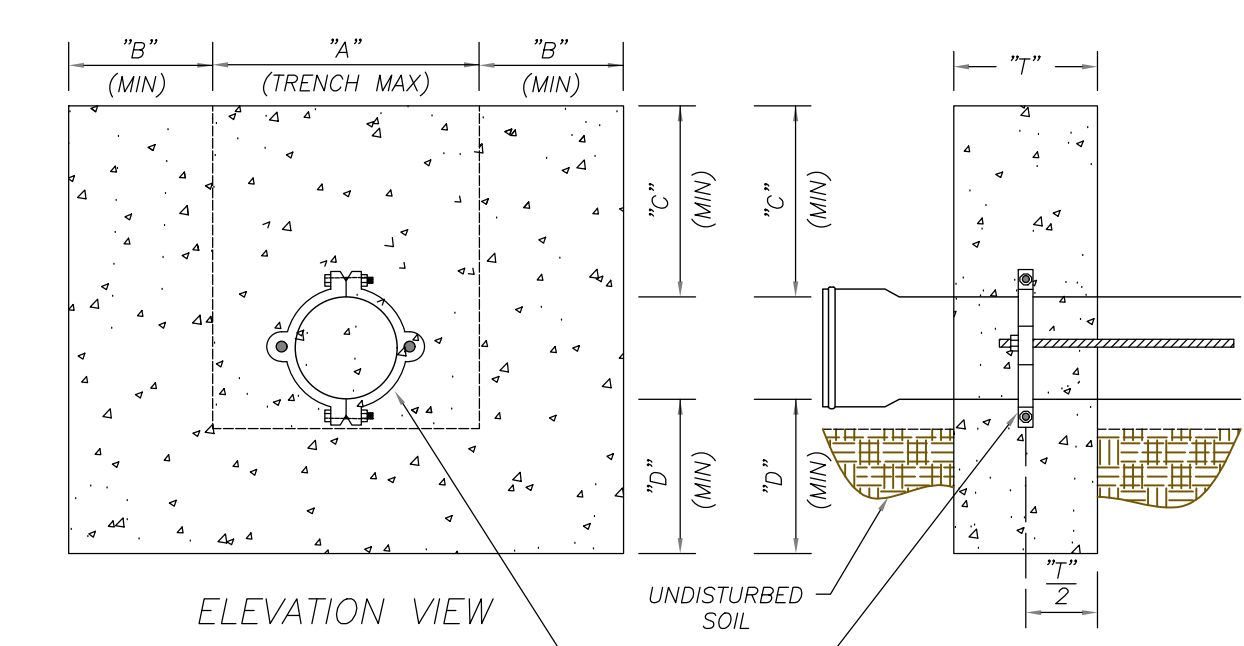
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	DATE: 02-15	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
	DATE: 2010	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1



TRACE WIRE DETAIL (N.T.S.)

NOTES:  
1) TRACE WIRE IS REQUIRED ON ALL PIPE AS NOTED BY UTILITIES ENGINEER AND SHOWN IN STANDARD DETAILS.  
2) INCLUDE ALL COST OF MATERIAL & LABOR IN PRICE OF PIPE.  
3) CONTRACTOR IS RESPONSIBLE FOR CONTINUITY OF ALL TRACE WIRE.

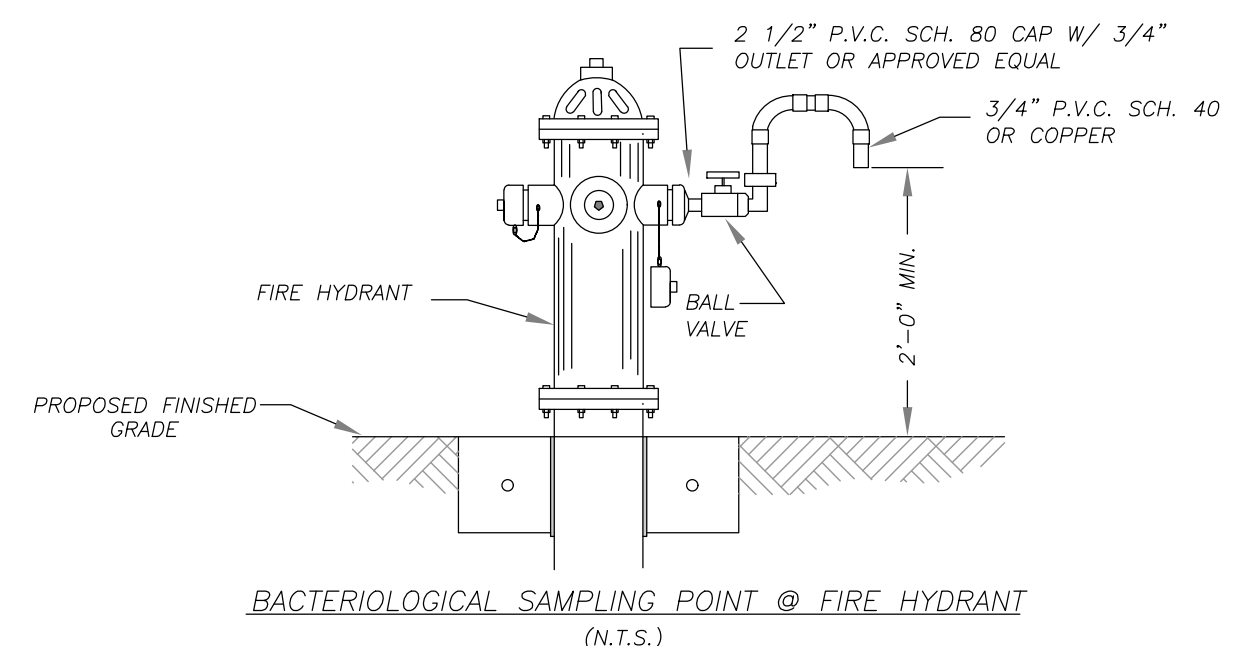
	TRACE WIRE DETAIL		M-11	
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	DATE: 02-15	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
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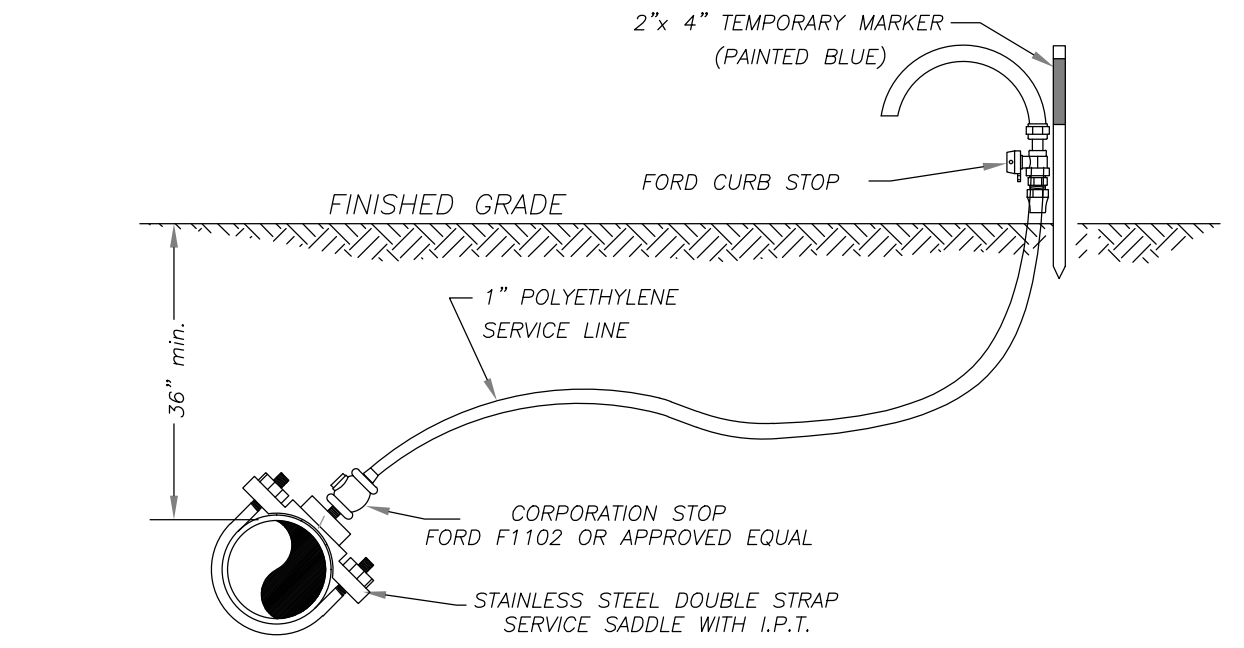
DEAD-MAN RESTRAINT BLOCK (N.T.S.)

NOTE:  
AFTER TESTING REMOVE 1" P.E. LINE AND CAP WITH BRASS PLUG AT CORPORATION STOP.

	DEAD-MAN RESTRAINT BLOCK		M-14A	
	DATE: 02-09	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
	DATE: 02-15	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
	DATE: 2010	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1



BACTERIOLOGICAL SAMPLING POINT @ FIRE HYDRANT (N.T.S.)



BACTERIOLOGICAL SAMPLING POINT @ WATER MAIN (N.T.S.)

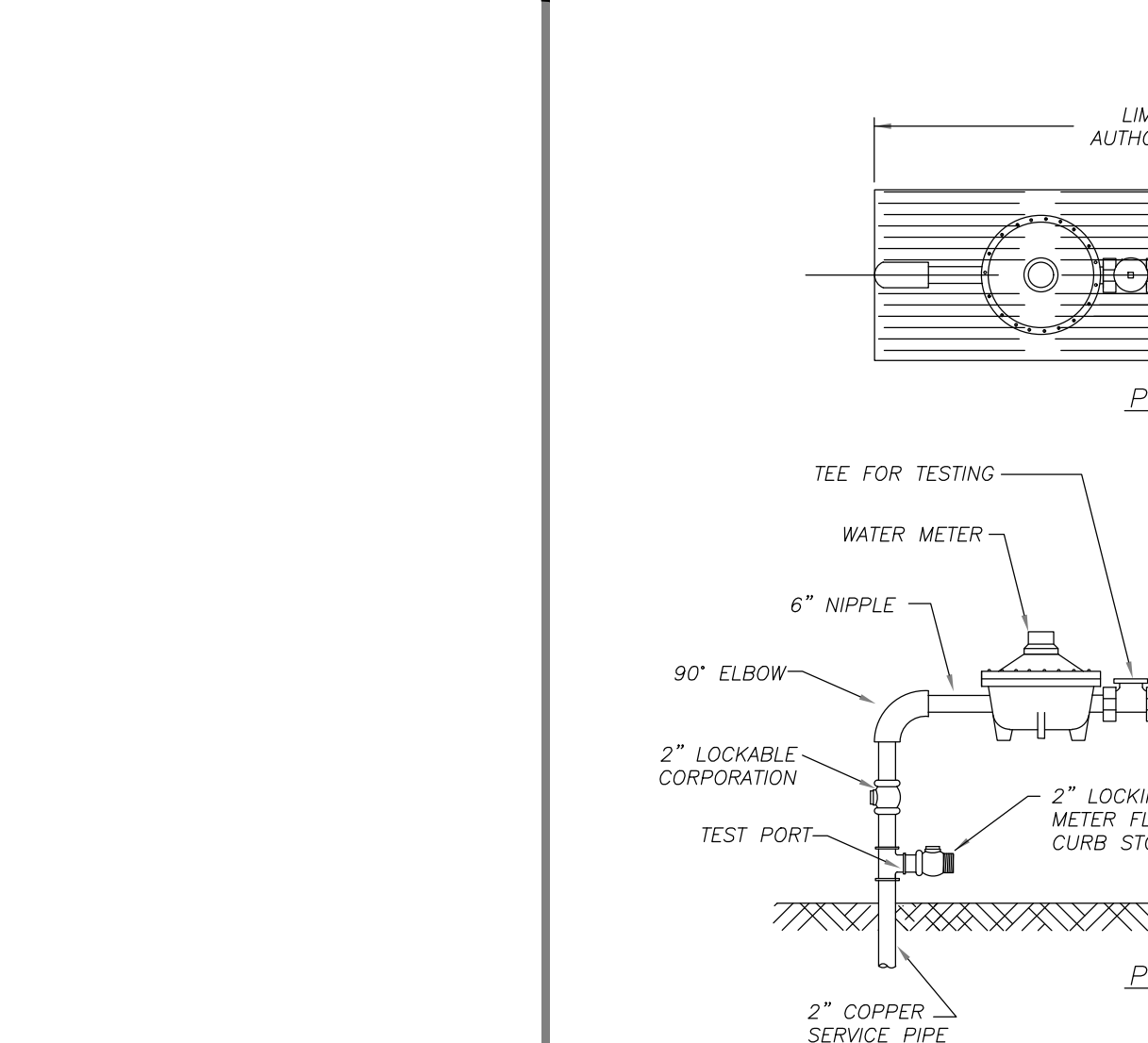
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	BACTERIOLOGICAL SAMPLING POINT DETAIL		W-6	
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	DATE: 02-15	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
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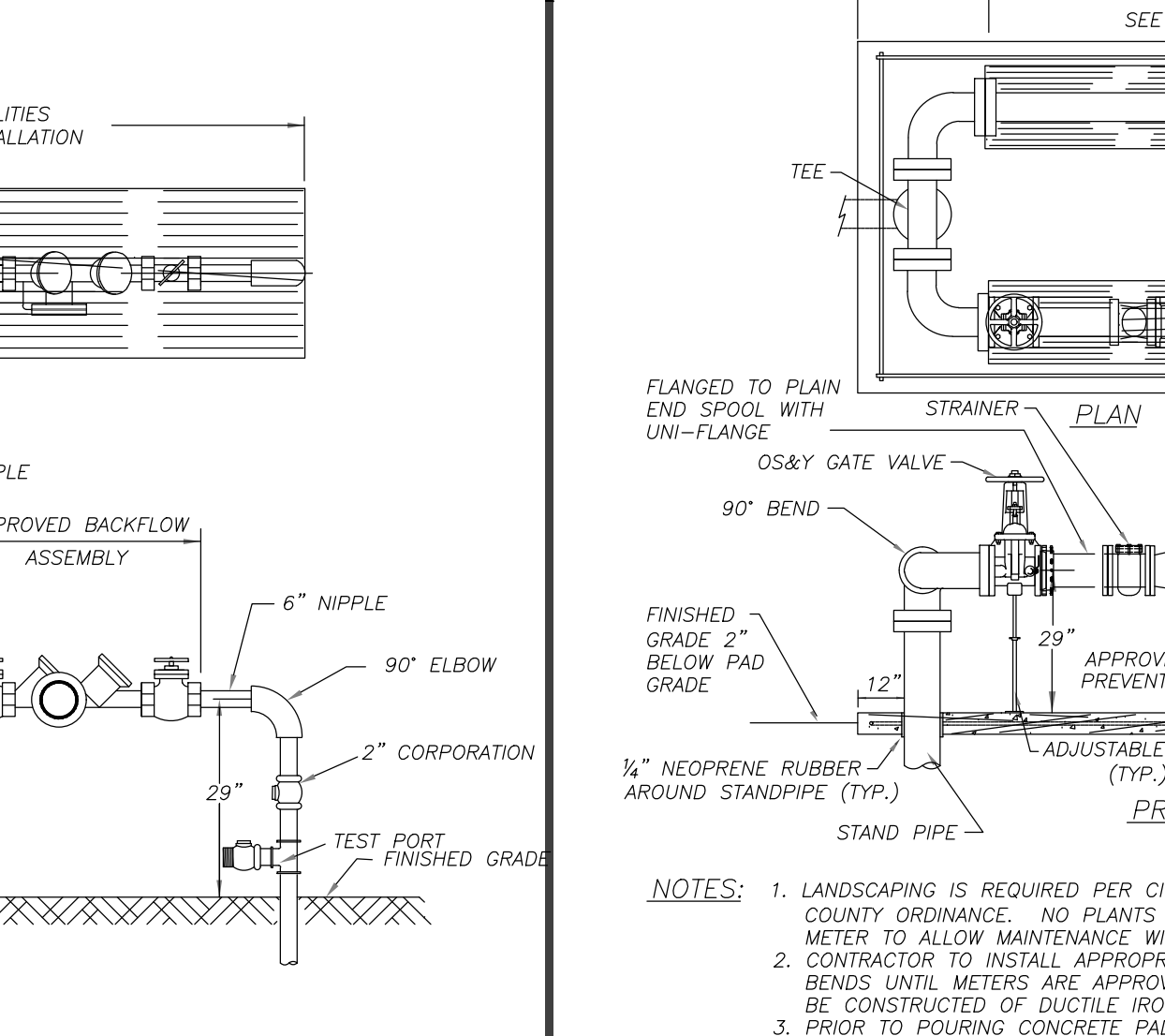
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DATE: 02-09	DATE: 02-15	DATE: 2010	DATE: 2010	DATE: 2010	DATE: 2010



WATER METER/BACKFLOW PREVENTER ASSEMBLY DOMESTIC SERVICE (COMMERCIAL) (N.T.S.)

NOTES:  
1. LANDSCAPING REQUIRED PER CITY OF FORT PIERCE OR ST. LUCIE COUNTY ORDINANCE. NO PLANTS OR TREES WITHIN 36" AROUND METER OR BACKFLOW. NO SOLDER JOINTS.  
2. ASSEMBLY TO BE 29" FROM FINISH GRADE TO CENTERLINE OF THE FLANGED 90° BEND.

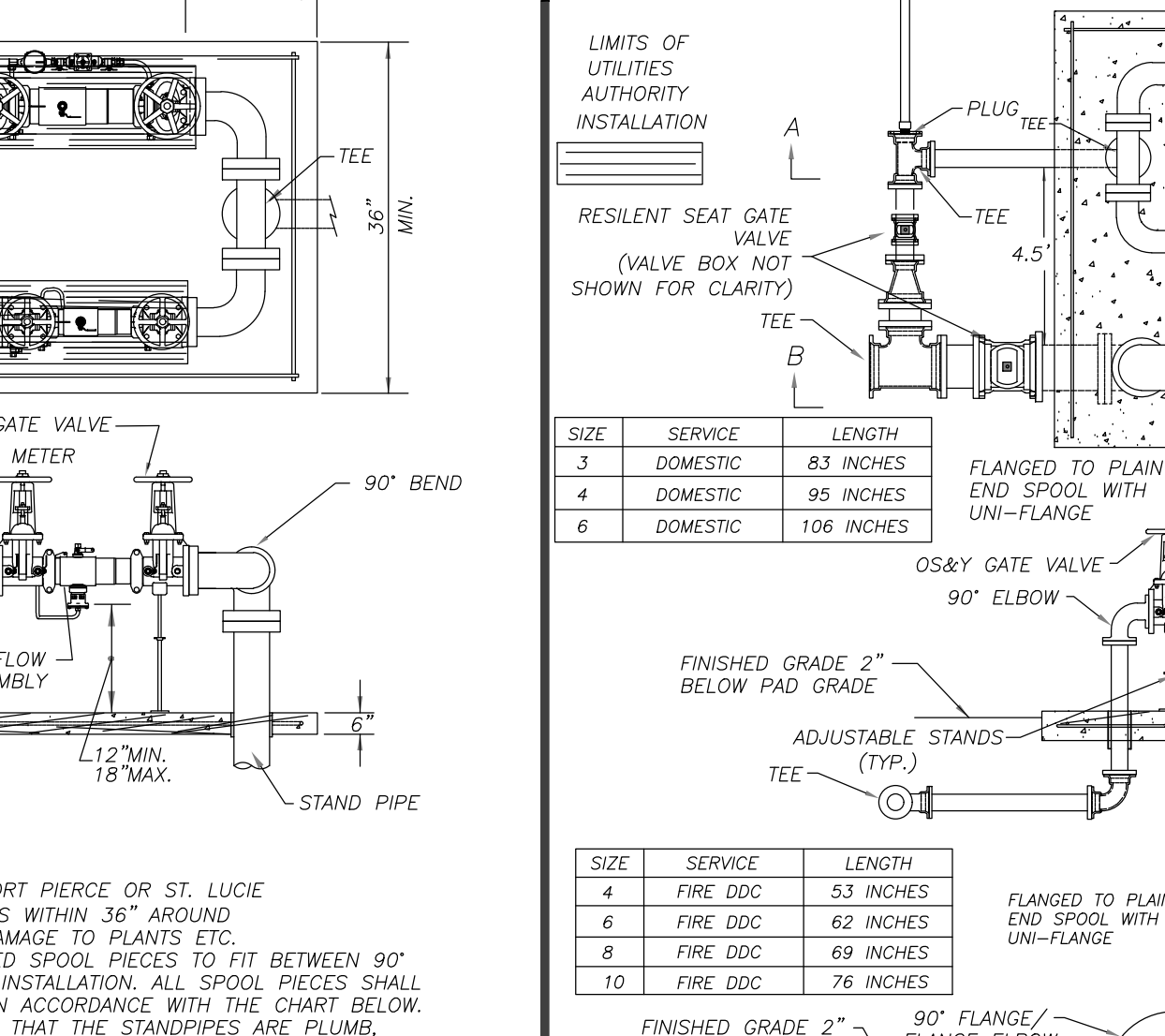
	WATER METER/BACKFLOW PREVENTER ASSEMBLY - DOMESTIC SERVICES (METER SIZE 2" OR LESS)		W-8	
	DATE: 02-09	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
	DATE: 02-15	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
	DATE: 2010	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1



WATER METER/BACKFLOW PREVENTER ASSEMBLY COMMERCIAL WATER METER SERVICES (METER SIZE > 3") (N.T.S.)

NOTES:  
1. LANDSCAPING IS REQUIRED PER CITY OF FORT PIERCE OR ST. LUCIE COUNTY ORDINANCE. NO PLANTS OR TREES WITHIN 36" AROUND METER TO ALLOW MAINTENANCE WITHOUT DAMAGE TO PLANTS ETC.  
2. CONTRACTOR TO INSTALL APPROPRIATE SIZED SPOOL PIECES TO FIT BETWEEN 90° BENDS UNTIL METERS ARE APPROVED FOR INSTALLATION. ALL SPOOL PIECES SHALL BE CONSTRUCTED OF DUCTILE IRON PIPE IN ACCORDANCE WITH THE CHART BELOW.  
3. PRIOR TO POURING CONCRETE PAD, VERIFY THAT THE STANDPIPES ARE PLUMB, TRUE AND ARE INSTALLED AT THE SAME ELEVATION IN THE PRESENCE OF THE F.P.U.A. INSPECTOR.  
4. ALL CONCRETE SHALL HAVE FIBERGLASS MESH REINFORCEMENT WITH #4 REBAR 3" FROM THE OUTER PERIMETER.

	WATER METER/BACKFLOW PREVENTER DOMESTIC SERVICE (METER SIZE > 3")		W-9	
	DATE: 02-09	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
	DATE: 02-15	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
	DATE: 2010	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1



WATER METER/BACKFLOW PREVENTER FIRE SERVICE WITH DOMESTIC SUPPLY (N.T.S.)

NOTES:  
1. LANDSCAPING IS REQUIRED PER CITY OF FORT PIERCE OR ST. LUCIE COUNTY ORDINANCE. NO PLANTS OR TREES WITHIN 36" AROUND METER TO ALLOW MAINTENANCE WITHOUT DAMAGE TO PLANTS ETC.  
2. NO SOLDER JOINTS.  
3. ASSEMBLY TO BE 29" FROM FINISH GRADE TO CENTERLINE OF THE FLANGED 90° BEND.  
4. DOMESTIC SERVICE 2" OR LESS, USE 2" POLY STUBBED 12" ABOVE GRADE.  
5. ALL CONCRETE SHALL HAVE FIBERGLASS MESH REINFORCEMENT WITH #4 REBAR 3" FROM THE OUTER PERIMETER.

	WATER METER/BACKFLOW PREVENTER FIRE SERVICE WITH DOMESTIC SUPPLY PLUS IRRIGATION		W-11A	
	DATE: 02-09	DESIGNED BY: JLC	SCALE: N.T.S.	SHEET: 1 OF 1
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INDIAN HILLS  
IMPROVEMENTS  
FPUA DETAILS  
FORT PIERCE  
FLORIDA

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#81375  
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23-270  
9 OF 12

Z:\EDC-2023\23-270 - City of Fort Pierce - Indian Hills Golf Course Improvements\ENGINEERING\AutoCAD\DWG\23-270 Indian Hills FP R1.dwg, 9 FPUA DETAILS (2), 10/27/2023 11:36:26 AM, James, EDC, Inc., EDC, Inc.





GENERAL NOTES

- 1. ANY DISCREPANCIES ON THE DRAWINGS SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER BEFORE COMMENCING WORK...
2. THE CONTRACTOR SHALL CONTACT ENGINEER OF RECORD...
3. THE LOCATION AND SIZE OF ALL EXISTING UTILITIES SHOWN ON THE PLANS ARE APPROXIMATE AND ARE BASED ON THE BEST AVAILABLE INFORMATION...
4. PROJECT SUPERINTENDENT...
5. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE HIS COMPLETE FAMILIARITY WITH THE PROJECT SITE AND COMPONENTS...
6. THE 'TRENCH SAFETY ACT' SHALL BE INCORPORATED INTO THIS CONTRACT AS ENHANCED BY THE LEGISLATURE OF THE STATE OF FLORIDA...
7. AS-BUILT PLANS...
8. THE CONTRACTOR SHALL PREPARE A PLAN SHOWING THE SCHEDULE OF WORK...
9. ALL CONSTRUCTION IS TO BE IN ACCORDANCE WITH FLORIDA DEPARTMENT OF TRANSPORTATION STANDARDS AND SPECIFICATIONS...
10. ALL UNDERGROUND MUNICIPAL UTILITIES...
11. ANY NAVD 29 AND NAVD 88 MONUMENT WITHIN THE LIMITS OF CONSTRUCTION IS TO BE PROTECTED...
12. CONTRACTOR TO UTILIZE 'APPROVED FOR CONSTRUCTION' PLANS ONLY...
13. SHOP DRAWINGS FOR ALL STRUCTURES SHALL BE SUBMITTED TO ENGINEER FOR REVIEW AND APPROVAL...
14. SHOP DRAWINGS ARE REQUIRED ON ALL STRUCTURES...
15. CONCRETE SHALL BE CLASS 1 - 3,000 PSI MINIMUM COMPRESSIVE STRENGTH...
16. CONTRACTOR SHALL PROTECT ALL EXISTING ABOVE OR UNDERGROUND STRUCTURES...
17. ALL PROPOSED UTILITY MATERIALS, CONSTRUCTION METHODS, TESTING AND DISINFECTION SHALL CONFORM TO THE REQUIREMENTS OF THE CURRENT LOCAL UTILITY COMPANY STANDARDS...
18. ALL HORIZONTAL AND VERTICAL SURVEY CONTROL POINTS SHALL BE PROTECTED AND UNDISTURBED...
19. THE CONTRACTOR SHALL PREPARE A COMPLETE VIDEO RECORD OF THE PROJECT SITE BEFORE BEGINNING ANY WORK...
20. THE CONTRACTOR SHALL VIDEO TAPE THE EXTERIOR AND REAR YARDS OF ALL HOUSES / BUSINESSES IN THE PROJECT AREA.

PAVING, GRADING AND DRAINAGE NOTES

- 1. ALL UNSUITABLE MATERIALS, SUCH AS MUCK, ORGANIC MATERIAL AND OTHER DELETERIOUS MATERIAL AS CLASSIFIED BY AASHTO M-145...
2. ALL AREAS SHALL BE CLEARED AND GRUBBED PRIOR TO CONSTRUCTION...
3. FILL MATERIAL SHALL BE CLASSIFIED AS A-1, A-3, OR A-2-4 IN ACCORDANCE WITH AASHTO M-145 AND SHALL BE FREE FROM VEGETATION AND ORGANIC MATERIAL NOT MORE THAN 12% BY WEIGHT...

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING CERTIFIED MATERIAL TEST RESULTS TO THE ENGINEER OF THE RECORD PRIOR TO THE RELEASE OF FINAL CERTIFICATION BY THE ENGINEER...
2. ALL INLETS AND PIPE SHALL BE PROTECTED DURING CONSTRUCTION TO PREVENT SILTATION IN THE DRAINAGE SYSTEMS...
3. ALL PROPOSED ELEVATIONS REFER TO FINISHED GRADES...
4. THE CONTRACTOR MUST OBTAIN A WATER USE PERMIT PRIOR TO CONSTRUCTION DEWATERING UNLESS THE WORK QUALIFIES FOR A GENERAL PERMIT PURSUANT TO SUBSECTION 40E-20(3)(4), F. A. C.

5. STAPLES FOR SOD PLACED ON SIDE SLOPES 3:1 & STEEPER SHALL BE BLACK IRON WIRE NOT SMALLER THAN 14 GAUGE...
6. WATER USED FOR IRRIGATION MAY BE OBTAINED FROM ANY APPROVED SOURCE...
7. WHERE SODDING WILL BE DONE, ALL LOOSE ROCK, WOODY MATERIAL, AND OTHER OBSTRUCTIONS THAT WILL INTERFERE WITH SODDING SHALL BE REMOVED...
8. THE SOD STRIPS SHALL BE LAID IN A STAGGERED PATTERN WITH SNOG EVEN JOINTS...

SOIL EROSION PLAN

1. NO POLLUTION OR EROSION CAUSED BY THIS PROJECT WILL BE ALLOWED IN THE STORMWATER DRAINAGE SYSTEM...
2. PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL SUBMIT A SITE SPECIFIC SOIL EROSION CONTROL PLAN...
3. PRIOR TO FINAL PAYMENT FOR RETENTION, DETENTION AND DRAINAGE DITCH QUANTITIES, ALL SLOPES AND SWALES SHALL BE SODDED TO AVOID EROSION...

STORM SEWER NOTES

1. STANDARD SEPARATION FOR ALL WATER AND/OR WASTEWATER MAINS, HORIZONTAL AND VERTICAL, SHALL BE PER FDEP REQUIREMENTS...
2. ALL DISTURBED OUTFALL DRAINAGE AREAS SHALL BE SODDED UPON COMPLETION OF GRADING...
3. PRIOR TO FINAL PAYMENT FOR RETENTION, DETENTION AND DRAINAGE DITCH QUANTITIES, ALL SLOPES AND SWALES SHALL BE SODDED TO AVOID EROSION...
4. THERE IS TO BE NO OFF-SITE HAULING WITHOUT PRIOR APPROVAL AND ALL EXCAVATED MATERIAL SHALL BE USED ON-SITE...

5. THE CONTRACTOR SHALL CONSTRUCT THE STORMWATER MANAGEMENT SYSTEM IN A MANNER SO AS TO MINIMIZE ANY ADVERSE IMPACTS OF THE WORKS ON FISH, WILDLIFE, NATURAL ENVIRONMENTAL VALUES AND WATER QUALITY ON OR OFF-SITE...
6. WITHIN THIRTY (30) DAYS AFTER COMPLETION OF CONSTRUCTION OF THE SURFACE WATER MANAGEMENT SYSTEM...
7. A STABLE PERMANENT AND ACCESSIBLE ELEVATION REFERENCE SHALL BE ESTABLISHED ON OR WITHIN ONE HUNDRED (100) FEET OF ALL PERMITTED DISCHARGE STRUCTURES...

8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECTION OF ANY EROSION OR SHOALING OF THE WATER QUALITY MANAGEMENT SYSTEM...
9. INLETS (425 / 430) INCLUDES THE LIST OF MATERIALS / INSTALLATION / DEWATERING STABILIZATION / AS-BUILT SURVEYING / TESTING...
10. PIPE CULVERTS AND STORM SEWERS SHALL BE CONSTRUCTED AND INSTALLED IN ACCORDANCE WITH SECTION 430 FOOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION...

11. HOPE (HIGH DENSITY POLYETHYLENE) CULVERT SHALL BE N-12 INSTALLED PER MANUFACTURER RECOMMENDATIONS...
12. ALL ADS STORM PIPE SHALL BE CLASS II HOPE, SMOOTH WALLED INTERIOR, AND MEET THE MINIMUM REQUIREMENTS AS SPECIFIED IN SECTION 119 OF THE CITY OF FORT PIERCE CODE OF ORDINANCES.

FILTER FABRIC (STORM PIPE JOINTS)

THE CONTRACTOR SHALL WRAP ALL STORM PIPE JOINTS... CONSTRUCTION SHALL BE PER F. D. O. T. INDEX NO. 280 WITH WOVEN GEOTEXTILE TYPE D-3 (F. D. O. T. INDEX NO. 199), SECURED W/ STRAPPING...
DEWATERING
STORM SEWER PIPES AND STRUCTURES AND UTILITIES SHALL BE LAID 'IN THE DRY'...

CONFLICTS

IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO BECOME ACQUAINTED WITH EXISTING CONDITIONS AND TO LOCATE STRUCTURES AND STORM PIPES ALONG THE PROPOSED STORM PIPE ALIGNMENT IN ORDER TO AVOID CONFLICTS...
CONFLICTS
WHERE ACTUAL CONFLICTS ARE UNAVOIDABLE, WORK SHALL BE COORDINATED WITH THE FACILITY OWNER AND PERFORMED SO AS TO CAUSE AS LITTLE INTERFERENCE AS POSSIBLE...

SOD

1. THE SOD SHALL BE CERTIFIED TO MEET FLORIDA STATE PLANT BOARD SPECIFICATIONS...
2. SODDING SHALL CONSIST OF SITE PREPARATION, FURNISHING AND PLACING SOD, STAPLES AND FERTILIZER AND IRRIGATING AT THE RATES AND MANNER DESCRIBED IN THIS SPECIFICATION...
3. UNLESS NOTED OTHERWISE ON LANDSCAPE PLANS...
4. FERTILIZER SHALL BE EITHER IN THE LIQUID OR DRY FORM...
5. IF THE EXISTING FILL IS CLASSIFIED AS A-2-4 BASED ON AASHTO M-145 CRITERIA...

5. STAPLES FOR SOD PLACED ON SIDE SLOPES 3:1 & STEEPER SHALL BE BLACK IRON WIRE NOT SMALLER THAN 14 GAUGE...
6. WATER USED FOR IRRIGATION MAY BE OBTAINED FROM ANY APPROVED SOURCE...
7. WHERE SODDING WILL BE DONE, ALL LOOSE ROCK, WOODY MATERIAL, AND OTHER OBSTRUCTIONS THAT WILL INTERFERE WITH SODDING SHALL BE REMOVED...
8. THE SOD STRIPS SHALL BE LAID IN A STAGGERED PATTERN WITH SNOG EVEN JOINTS...

SOIL EROSION PLAN

1. NO POLLUTION OR EROSION CAUSED BY THIS PROJECT WILL BE ALLOWED IN THE STORMWATER DRAINAGE SYSTEM...
2. PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL SUBMIT A SITE SPECIFIC SOIL EROSION CONTROL PLAN...
3. PRIOR TO FINAL PAYMENT FOR RETENTION, DETENTION AND DRAINAGE DITCH QUANTITIES, ALL SLOPES AND SWALES SHALL BE SODDED TO AVOID EROSION...

WATER QUALITY NOTES

1. THE CONTRACTOR MUST MAINTAIN A COPY OF THE LATEST LOCAL WATER MANAGEMENT DISTRICT SURFACE WATER PERMIT...
2. ALL ACTIVITIES SHALL BE IMPLEMENTED AS SET FORTH IN THE PLANS...
3. THE LOCAL WATER MANAGEMENT DISTRICT AUTHORIZED STAFF...
4. PRIOR TO AND DURING CONSTRUCTION, THE CONTRACTOR SHALL IMPLEMENT AND MAINTAIN ALL EROSION AND SEDIMENT CONTROL MEASURES...

5. WITHIN 30 DAYS AFTER COMPLETION OF THE STORMWATER SYSTEM, THE CONTRACTOR MUST ASSIST IN SUBMITTING TO THE SOUTH FLORIDA WATER DISTRICT...
6. STABILIZATION MEASURES SHALL BE INITIATED FOR EROSION AND SEDIMENT CONTROL ON DISTURBED AREAS AS SOON AS PRACTICABLE...
7. THE STORMWATER MANAGEMENT SYSTEM MUST BE COMPLETE IN ACCORDANCE WITH THE PERMITTED PLANS...
8. IF DEWATERING IS TO OCCUR DURING ANY PHASE OF CONSTRUCTION...
9. WATER QUALITY MONITORING SHALL BE PERFORMED DAILY...

10. THE CONTRACTOR SHALL PLACE TURBIDITY BARRIERS AT ALL OUTFALLS PRIOR TO CONSTRUCTION...
EARTHWORK AND RELATED OPERATIONS
1. THE CONTRACTOR SHALL PROVIDE A QUALITY CONTROL PLAN FOR MONITORING OF ALL EARTHWORK AND RELATED OPERATIONS...

COMPACTION

1. WHERE THERE ARE EXISTING STRUCTURES ADJACENT TO THE SITE THAT MAY BE AFFECTED BY THE SELF-PROPELLED STEEL DRUM VIBRATORY EQUIPMENT...
2. LOADERS AND HEAVY PLATE COMPACTORS ARE TWO TYPES OF EQUIPMENT THAT HAVE BEEN USED SUCCESSFULLY...
3. DENSIFICATION PROCEDURES MUST COMPLY WITH THE CAPABILITY OF THE EQUIPMENT EMPLOYED...
4. WHEN SELF-PROPELLED STEEL DRUM VIBRATORY EQUIPMENT CANNOT BE USED AS SPECIFIED...

SOIL RECOMMENDATION AND REQUIREMENTS

1. STRIPPING AND GRUBBING...
2. FILL REPLACEMENTS...
3. EXCAVATION AND BACKFILLING...
4. FOOTING EXCAVATION...
5. GROUNDWATER...
6. PAVING AREAS SUITABLE FILL MATERIAL AND THE COMPACTION OF FILL SOILS...
7. ALL IMPORTED FILL SHALL HAVE RADIUM 226 CONTENT LESS THAN 1.0 PCI PER GRAM.

EXCAVATION FOR STRUCTURES AND PIPES

1. EARTHWORK AND RELATED OPERATIONS PERFORMED ON STRUCTURES AND PIPES SHALL BE CONDUCTED IN ACCORDANCE WITH SECTIONS 125 AND OTHER APPLICABLE SECTIONS OF THE F. D. O. T. STANDARD SPECIFICATIONS FOR ROADWAY AND BRIDGE CONSTRUCTION...
2. REMOVAL OF UNSUITABLE ORGANIC OR PLASTIC MATERIAL SHALL BE PERFORMED AT THE CONTRACTOR'S EXPENSE...
3. UTILIZATION OF MATERIALS WITHIN THE WORK LIMITS SHALL BE AS DIRECTED BY THE GEOTECHNICAL ENGINEER...

PIPE AND STRUCTURE BACKFILL

1. IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE IF EXCAVATED SOILS MEET THE REQUIREMENTS OF THE PROJECT PLANS AND SPECIFICATIONS...
2. IF THE BACKFILL MATERIAL IS CLASSIFIED AS A-2-4 BASED ON AASHTO M-145 CRITERIA...
CLEAN-UP
1. THE CONTRACTOR SHALL MAINTAIN THE JOB SITE IN A NEAT CONDITION AT ALL TIMES AND SHALL RESTORE / REPAIR ALL DRIVEWAYS, SIDEWALKS, UTILITIES, LANDSCAPING, IRRIGATION SYSTEMS, ETC...

FOUNDATION PREPARATION

1. CONSTRUCTION METHODS, AREAS ON WHICH FILTER FABRIC AND ARTICULATED CONCRETE BLOCK MATTRESSES ARE TO BE PLACED SHALL BE CONSTRUCTED TO THE LINES AND GRADES SHOWN ON THE DRAWINGS...
2. EXCAVATION AND PREPARATION FOR ANCHOR TRENCHES, SIDE TRENCHES, AND TOE TRENCHES OR APRONS SHALL BE DONE IN ACCORDANCE TO THE LINES, GRADES AND DIMENSIONS SHOWN ON THE DRAWINGS...
3. INSPECTION AND APPROVAL...
4. HOURS BEFORE DIGGING CALL SUNSHINE STATE ONE CALL CENTER...
PAVEMENT MARKING AND SIGNAGE
1. PAVEMENT MARKINGS...
2. SIGNAGE...

TURN LINES SHALL BE STRIPED PER FOOT STANDARD PLAN 711-001 IN THEIR ENTIRETY TO INCLUDE EDGE STRIPING, CROSS WALKS, AND TURN ARROW PLACEMENT...
1. WHERE THERE ARE EXISTING STRUCTURES ADJACENT TO THE SITE THAT MAY BE AFFECTED BY THE SELF-PROPELLED STEEL DRUM VIBRATORY EQUIPMENT...

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1. WHERE THERE ARE EXISTING STRUCTURES ADJACENT TO THE SITE THAT MAY BE AFFECTED BY THE SELF-PROPELLED STEEL DRUM VIBRATORY EQUIPMENT...

EDC ENGINEERS & SURVEYORS ENVIRONMENTAL & LAND PLANNERS INTERIOR DESIGNERS
10250 VILLAGE PARKWAY SUITE 201 PORT ST. LUCIE, FL 34987
www.edc-inc.com
F.B.P.E. CERTIFICATE OF AUTHORIZATION 9335 L.B. CERTIFICATE OF AUTHORIZATION 8098

EDC DESIGNED BY JAL DRAWN BY JAL FILED NAME 12 SHEETS LAYOUT AS SHOWN SCALE 26/OCT/2023 DATE 23/270 Indian Hills Pt. St. Lucie

REVISION COMMENTS DATE

INDIAN HILLS GOLF & COUNTRY CLUB

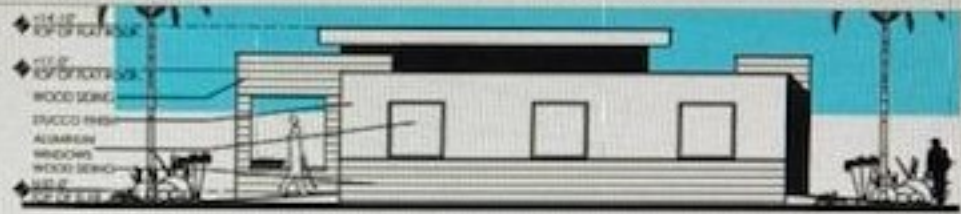
IMPROVEMENTS SPECIFICATIONS FORT PIERCE

DAVID C. BAGGETT, P.E.(DATE) #81375

10250 SW VILLAGE PARKWAY - SUITE 201 PORT SAINT LUCIE, FL 34987 772-462-2455

23-270

12 OF 12



IHGC - CLUB HOUSE WEST ELEVATION

SCALE 1/4" = 1'-0"



IHGC - CLUB HOUSE SOUTH ELEVATION

SCALE 1/4" = 1'-0"



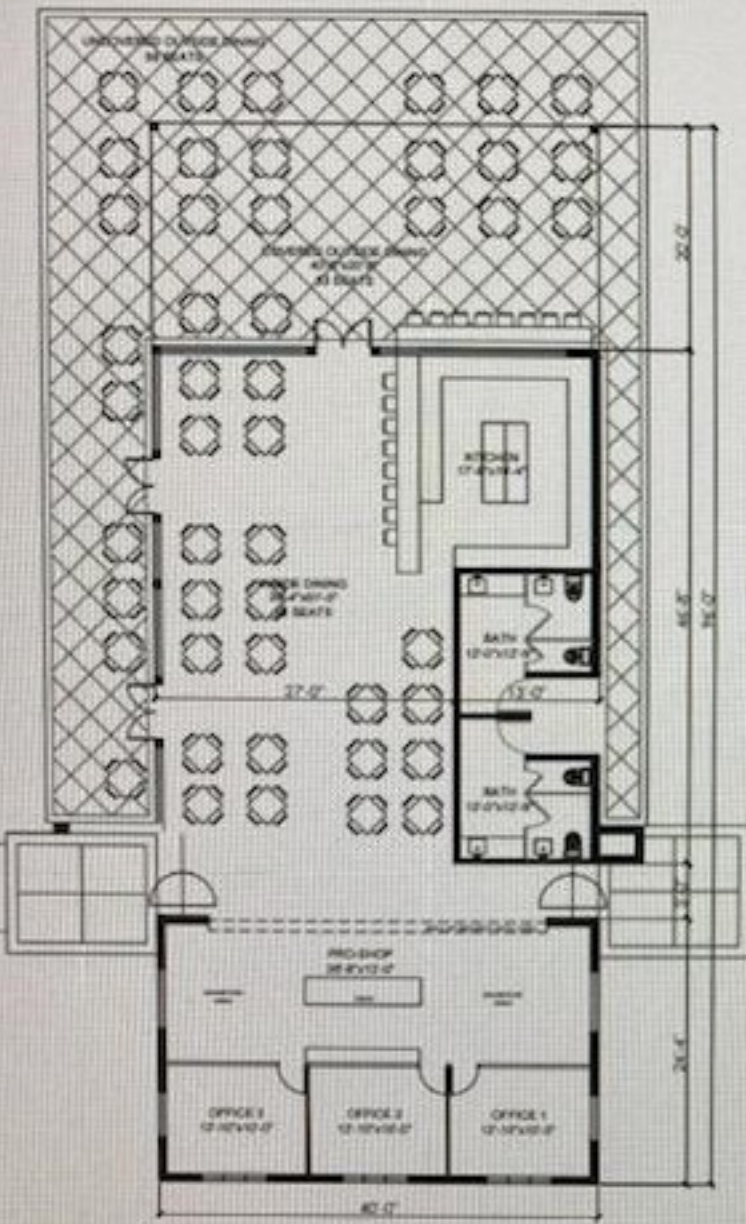
IHGC - CLUB HOUSE EAST ELEVATION

SCALE 1/4" = 1'-0"



IHGC - CLUB HOUSE NORTH ELEVATION

SCALE 1/4" = 1'-0"



CLUB HOUSE FLOOR PLAN

SCALE 1/4" = 1'-0"

**City Commission Conference Agenda - 9:00 a.m.**

**4. b.**

**Meeting Date:** 03/11/2024

**Re:** Nuisance Abatement Ordinance Amendment Review

**Submitted For:** Peggy Arraiz, Code Compliance Manager, Code Enforcement

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**SUBJECT:**

Review of proposed amendments to Chapter 24 - Nuisances.

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**Attachments**

Presentation

Ordinance 24-xxx - Chapter 1 - Article II - clean copy

Ordinance 24-xxx - Chapter 1 - Article II - redlined

Ordinance 24-XXX - Chapter 24 - Nuisances - clean copy without redlines

Ordinance 24-XXX - Chapter 24 - Nuisances

SM Rules of Procedure - 2024 amendments

XX-R24 - Addressing expired liens

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**Form Review**

**Inbox**

City Manager

Form Started By: Peggy Arraiz

Final Approval Date: 01/08/2024

**Reviewed By**

Nick Mimms

**Date**

01/08/2024 03:04 PM

Started On: 01/08/2024 12:47 PM



# CHAPTER 24 - NUISANCE ABATEMENT

PROPOSED ORDINANCE AMENDMENTS

March 11, 2024



The City's current nuisance abatement program was adopted in 1999.

After 25 years, it is time for a makeover...

# SUMMARY OF CHANGES

- Definitions are only for clarification of specific terms.
- Old definitions are incorporated into the code.
- CPTED (Crime Prevention Through Environmental Design), which was previously adopted by resolution, is added to the ordinance.
- It officially creates a “Nuisance Abatement Program”.
- Changes penalties and liens from being a separate type of lien to be consistent with code enforcement liens.



# ARTICLE I – IN GENERAL



- **24-1 – Definitions** – limited to clarifying a few specific terms.
  - Motor Vehicle: means any vehicle or conveyance which is either self-propelled or towed behind a self-propelled vehicle and is designed to travel along the ground. The term "motor vehicle" includes, but is not limited to, automobiles, buses, mopeds, motorcycles, trucks, tractors, trailers, go-carts, golf carts, motor homes, and recreational vehicles.
- **24-2 – Powers & Duties**
  - Code enforcement staff investigate.
  - Management reviews before proceeding.

# ARTICLE II – PROPERTY NUISANCES GENERAL

- It shall be unlawful for any person in charge of or in control of any object or condition within the city, whether as owner, tenant, occupant, lessee or otherwise, to allow any such object or condition outlined below to remain on any private or public property within the city.
  - What was previously a list of definitions are now incorporated into the code prohibiting these conditions/objects.
  - Similar nuisance conditions are combined to lower the number from 31 to 21 items.
  - Unlawful or unenforceable items were deleted.
    - Ex) Offends decency.



# ARTICLE II – VIOLATION LIST CHANGES



Subsections 1 – 10 reorganized and merge existing codes. No changes to content.

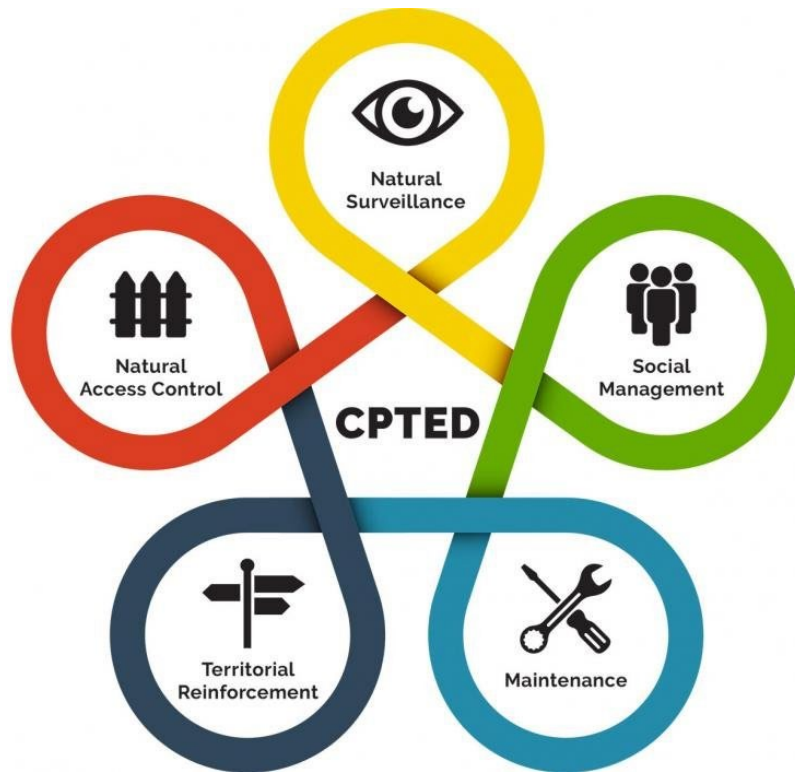


Subsection 14 provides the option of a “designated parking area” for properties that do not have adequate parking in a driveway.



Subsection 15 – Deletes the exemption allowing non-operative or unlicensed vehicles to park in the right of way or on public property and limits the parking of non-operative or unlicensed vehicle to businesses with a business tax receipt for an automobile, truck or motor vehicle business.

# ARTICLE II – PROPERTY NUISANCES GENERAL



- **CPTED – CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**
  - Was adopted by Resolution in 2016.
  - Is now included in the Ordinance.
  - Summary –
    - Clear all landscaping between your knees and top of your head to allow clear vision for the police.
    - Do not allow landscaping to grow in a way where criminals can hide OR where criminals can hide things.

# ARTICLE II – VIOLATION LIST CHANGES


- Subsection 11 –
  - Adds CPTED guidelines.
  - Provide exemptions.
  - For parcels larger than 3 acres, requires a strip of land 100' wide from every road, alley, public or private right of way and every developed parcel to comply with CPTED guidelines.
  - BUT... if a nuisance complaint is received (ex. homeless camp), the condition must be addressed as directed by the department.
  - For wetland or coastal properties, a 15' wide strip is required where the parcel abuts developed real property or rights of way.

# ARTICLE III – NUISANCE ABATEMENT PROGRAM

## Section 24-23. Nuisance Abatement Program

In order to protect the public health, safety, and welfare of the city, the city commission finds it necessary that lands and property within the city be cleared of substances and materials which present a fire hazard or other health hazard, or which are considered to be unsafe and a nuisance to the general public.

There is hereby established a public nuisance abatement program for the purpose of abating the public nuisances defined in section 24-19 in this chapter. The owner of any property located within the City of Fort Pierce who creates, suffers, or permits a nuisance to exist upon his or her property, shall be responsible for abating the nuisance and, if the owner fails to abate the nuisance in accordance with the notice given pursuant to this chapter, the city may abate the nuisance and the city shall be reimbursed for the costs associated with the abatement pursuant to the provisions of this chapter for the recovery of those costs.

A black and white portrait of Barack Obama, looking slightly to the right. The image is used as a background for a quote.

**If the people cannot trust  
their government to do  
the job for which it exists  
– to protect them and to  
promote their common  
welfare – all else is lost.**

Barack Obama

EVERYDAY POWER

# ARTICLE III – NUISANCE ABATEMENT PROGRAM

## Sec. 24-24. Supplemental means of enforcement.

- 1) A public nuisance also constitutes a code violation, and the city is not limited to a choice of remedy to ensure compliance with its codes.
- 2) Once the subject violation/nuisance is abated, that occurrence of the code violation shall cease.
- 3) Following the first notice under this chapter to abate a nuisance as described herein, any subsequent violation of the same nuisance classification(s) on the same property within a 12-month period may be abated by the city without further notice so long as the initial notice and order of abatement specifically provides for such subsequent abatement therein.



# ARTICLE III – NUISANCE ABATEMENT PROGRAM

## Sec. 24-25. Notice

...notice shall be provided to the owner or other interested party in the following manner. These notices may be done concurrently or separately as determined by the department.

- 1) Notice of violation sent regular mail.
- 2) Notice of Special Magistrate hearing sent certified mail (includes copy of the NOV).
- 3) Copies of the NOV and NOH shall be posted at the property.



# ARTICLE III – NUISANCE ABATEMENT PROGRAM

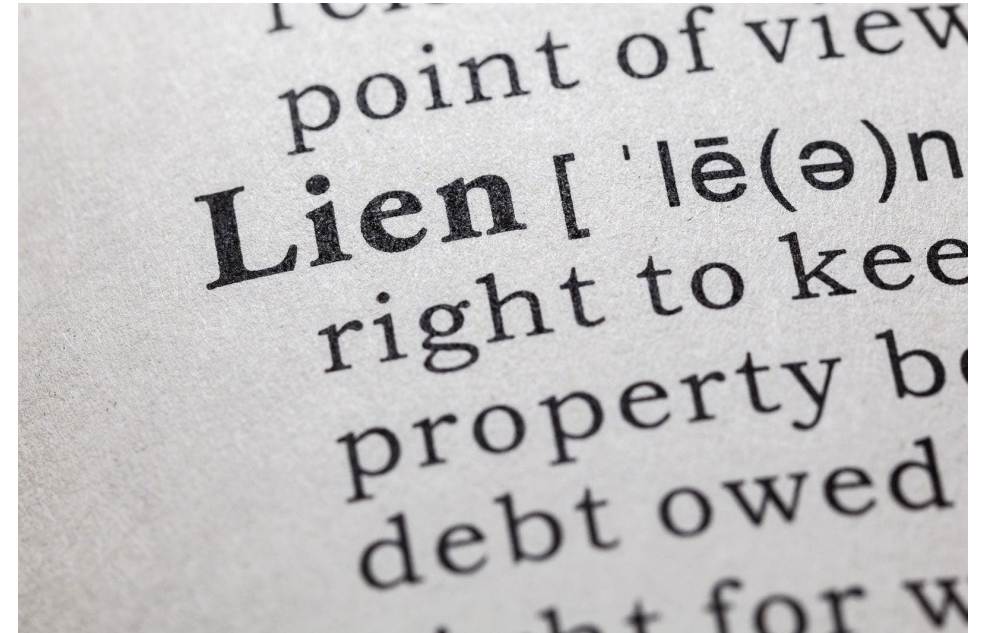
## **Sec. 24-26. Nuisance Abatement Hearings.**

- A hearing shall be held before the Special Magistrate to determine the following: (a) if a nuisance condition exists in violation of the city's code of ordinances, (b) if the condition poses a threat to the public health, safety, and welfare of the city, and (c) if the violation should be addressed through the Nuisance Abatement Program.
- The Special Magistrate may order the violator to pay a fine in an amount specified for each day the violation continues past the date set for compliance.
- In addition, if the violation qualifies for the Nuisance Abatement Program, the Special Magistrate shall order
  - the city to make all reasonable repairs or take the necessary abatement measures that are required to bring the property into compliance
  - AND
  - charge the violator with the cost of the repairs along with the fine imposed.

# ARTICLE III – NUISANCE ABATEMENT PROGRAM

## Sec. 24-27. Enforcement of lien.

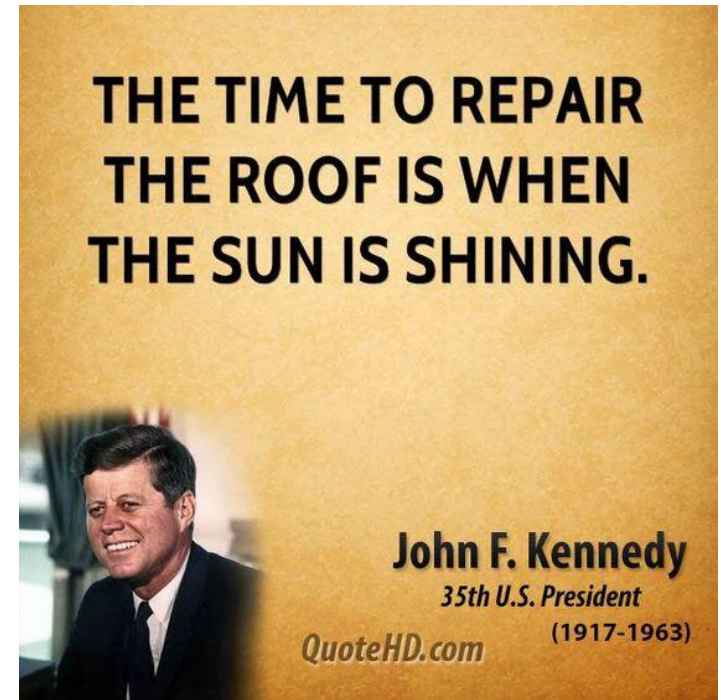
- (1) If the city causes the nuisance condition to be abated in accordance with the order of the Special Magistrate, such expense shall become payable within 30 days, after which a lien and charge will be made upon the property, which shall be payable with interest at the rate of six percent per annum from the date the expense is recorded in the financial records of the city until paid. There shall be included in such assessment an additional charge in the amount established by resolution for administrative costs incurred by the city.
- (2) Such lien shall be enforceable in accordance with Chapter 1, Article II, Division 2 of these Code of Ordinances.



# ARTICLE IV – BUILDINGS AND STRUCTURES

## Sec. 24-59. Generally.

- 1) Deletes the classifying a building as a nuisance if it is unsightly or does not conform to the architecture of adjacent or surrounding buildings.
- 2) Changes the fines and lien structure to be consistent with code enforcement and nuisance abatement fines and liens.



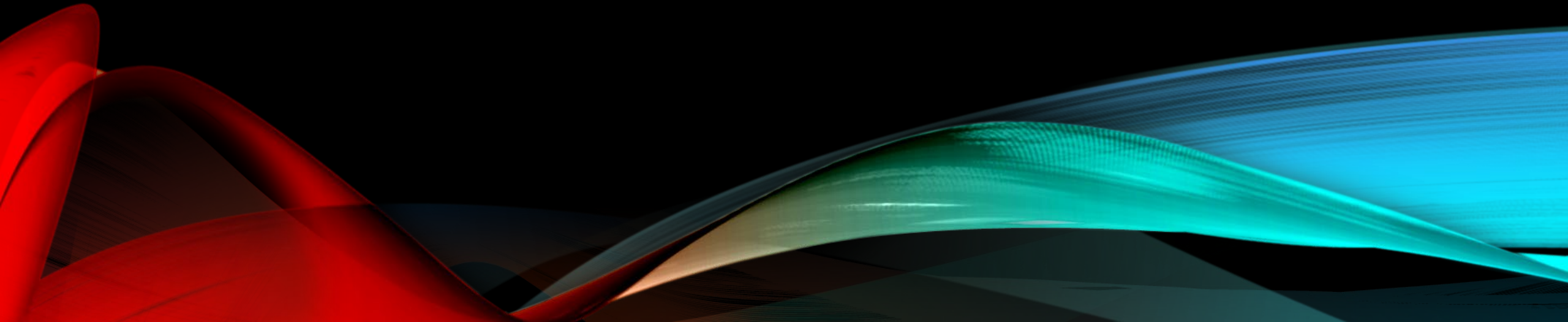
# ARTICLE V – DRUG RELATED, PROSTITUTION RELATED, OR STOLEN PROPERTY RELATED PUBLIC NUISANCES AND CRIMINAL GANG ACTIVITY NUISANCES



No changes – copied from Article III in  
its entirety.

# QUESTIONS?

We are not done yet.... Just pausing for questions.





# CHAPTER 1 – ARTICLE II CODE ENFORCEMENT

PROPOSED ORDINANCE AMENDMENTS

March 11, 2024



Chapter 24 amendments change the way we impose fines and liens for nuisance abatement and demolition. They specifically refer to Chapter 1.

Chapter 1 updates are therefore recommended in conjunction with the Chapter 24 amendments.

# SUMMARY OF CHANGES

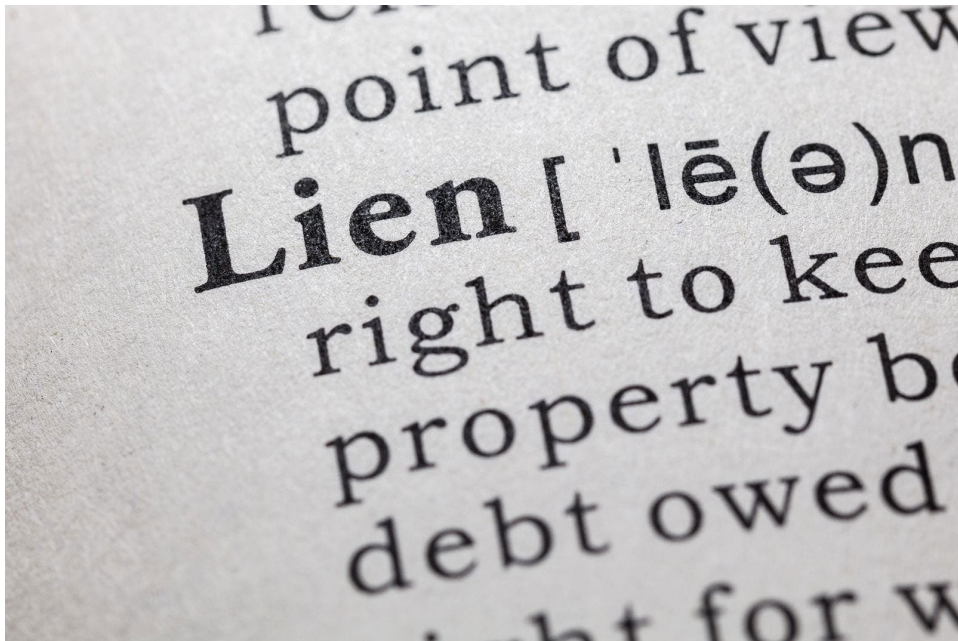
- Definitions are combined from throughout the Article to be together in Division 1 and are updated with definitions from State Statute 162.
- Minor amendments to be consistent with other sections of our code and current processes are incorporated.
- The code is amended to include how the City initiates fines and handles liens.
- Additional amendments address how the City handles citations.
- Classes of violations for which citations are issued has been updated.



# DIVISION II – FINES AND LIENS

## Section 1-77. Fines Imposed

- Adds state statute requirements for assessing fines, imposing a lien and authorizing the city to foreclose.
- State statute guidelines are already incorporated by reference in Section 1-73(b), but due to our newly implemented foreclosure actions, are being specifically included in our codes for clarity to the public.
- Adds the right of the city to reduce the liens – but specifically states a reduction is not guaranteed.
- Provides the ability of the City Attorney to address unenforceable liens (i.e. liens on city owned property, bankruptcies, etc.).



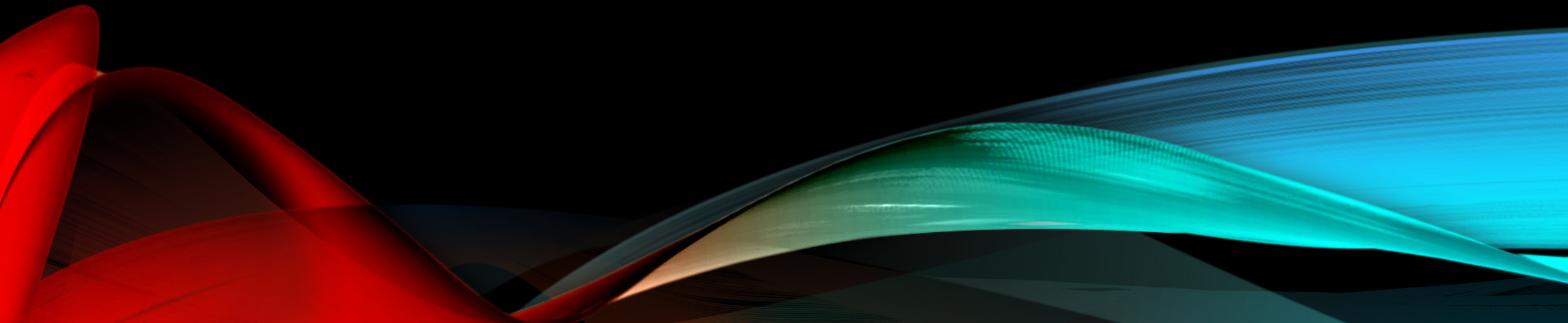
# DIVISION III – CITATION PROCEDURE



- Deletes sections or references that are a process/procedure, are contradictory to other sections or simply outdated.
- Gives the City the ability to determine how the citations are processed – either through the Special Magistrate or through the County Court system.
- Updates the Classes of Violations
  - Most changes are simply updating their titles to be current with our code or to address the re-numbering from the ordinance re-write of 2020.
  - Added Fireworks.
  - Added Refrigerators and icebox safety requirements.

QUESTIONS?

Just seven more slides...





# COMPANION RESOLUTIONS

PROPOSED ORDINANCE AMENDMENTS

March 11, 2024



Several process and/or procedure changes are required to implement the changes in both Chapter 24 and Chapter 1.

These changes have been addressed in two resolutions that will be presented to the City Commission upon 2<sup>nd</sup> reading of the ordinance amendments.

- Rules of Procedure for the Special Magistrate
- Lien review process

# SUMMARY OF CHANGES

Similar to the nuisance abatement ordinance, the Special Magistrate Rules of Procedure were given a major overhaul – from the basic format to including procedures not previously memorialized in writing.

The rules were divided into 8 parts, categorizing the different sections:

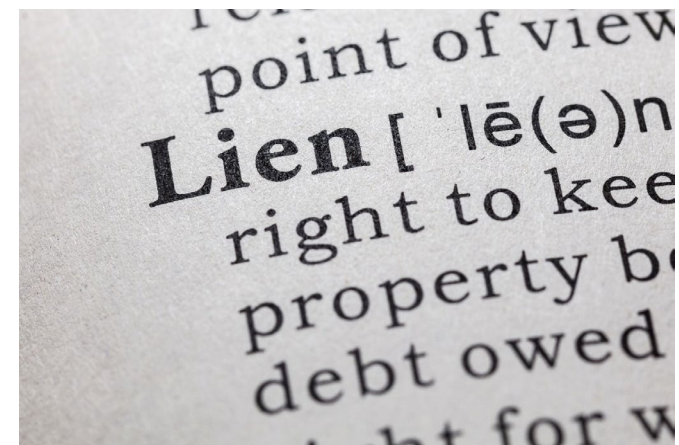
- I. General
- II. Pre-hearing
- III. Conduct of Hearings
- IV. Post Hearing
- V. Fines and Liens
- VI. Foreclosure
- VII. Flood Plain Management
- VIII. Amendments



# SM RULES OF PROCEDURE

## Part V – Fines and Liens

- The process assessing fines and providing for the right to a hearing was removed from the imposing lien section and given its own section.
  - Filing the Affidavit of Non-compliance for both code cases and with the new nuisance abatement case process.
  - Provides the process for sending a “Massey” notice, which is the notice of fines to a property owner.
- Provides a detailed process for contesting the fines (Massey Hearing).
- Under the Imposing Lien section, it now include the provision for the Special Magistrate to authorize the city attorney to initiate foreclosure proceedings if the lien remains unpaid and all legal requirements for foreclosure have been met.



# SM RULES OF PROCEDURE

## Part V – Fines and Liens

- Lien reduction amendments:
  - 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.
- Partial lien reduction amendments:
  - 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.
- Requires the application fee be submitted with the application for reduction.



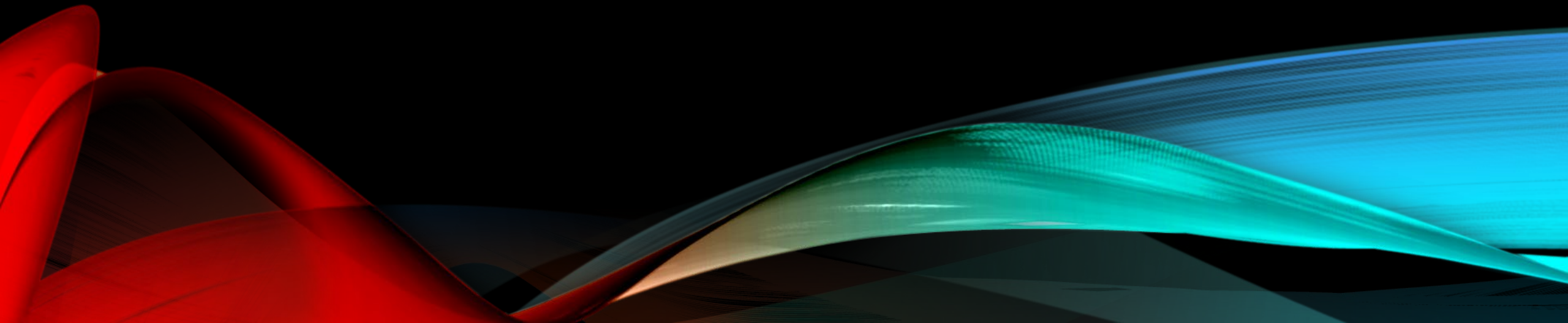
# SM RULES OF PROCEDURE

## Part VI – Foreclosure

- Overall, provides a more detailed process based upon the experiences of the past year.
- Still requires an Intent to Foreclose notice by the City to be delivered by a process server.
- Still requires a list of criteria to be met, but now requires the Department to file an Affidavit attesting to it.
- Limits communication once the file is transferred to the attorney handling the foreclosure.
- Allows for settlement agreements in lieu of foreclosure.



THE END!  
QUESTIONS?



ORDINANCE NO. 24-XXX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 1, ARTICLE II, DIVISION 1, BY CREATING SECTIONS 1-69 THROUGH 1-76 TO PROVIDE DEFINITIONS; TO ESTABLISH PROCEDURES FOR CODE ENFORCEMENT HEARINGS; AND PROVIDE POWERS AND DUTIES OF THE SPECIAL MAGISTRATE; AMENDING CHAPTER I, ARTICLE II, DIVISION 2 BY DELETING SECTIONS 1-69 THROUGH 1-76 THAT WERE ADDED TO DIVISION 1; AMENDING CHAPTER 1, ARTICLE II, DIVISION 2 BY TITLE; AMENDING CHAPTER 1, ARTICLE II, DIVISION 2 BY ADDING SECTION 1-78 THROUGH 1-81; TO ADD REGULATIONS FOR IMPOSING FINES AND ASSESSING LIENS; TO PROVIDE FOR LIEN REDUCTIONS; AND TO PROVIDE FOR UNENFORCEABLE LIENS; AMENDING CHAPTER 1, ARTICLE II, DIVISION 3 BY TITLE; AMENDING CHAPTER 1, ARTICLE II, DIVISION 3 BY DELETING SECTION 1-99 DEFINITIONS; AMENDING HOW CITATIONS ARE PROCESSED; AND AMENDING THE CLASSES OF VIOLATION; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, the City of Fort Pierce has established rules that regulate how code enforcement actions are taken; and

**WHEREAS**, these rules include the appointment of and assignment of duties for the role of the Special Magistrate; and

**WHEREAS**, the City Commission finds it necessary to periodically review and update these rules to be consistent with current statutes and enforcement methods; and

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

**SECTION 1.** Chapter 1, Article II, Division 1. Generally is hereby amended so that the same shall read thereafter as follows:

**Secs. 1-41 – 1-68. Reserved.**

**Sec. 1-69. Short title.**

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

**Sec. 1-70. Intent.**

The position of the city special magistrate exists to promote, protect, and improve the health, safety, and welfare of the citizens of the city by providing an equitable, expeditious, and effective method of enforcing the codes in force in the city.

**Sec. 1-71. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*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/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 inspector* means any authorized agent or employee of the city whose duty is to ensure code compliance.

*Local governing body* means the legislative body of the city.

*Local governing body attorney* means the legal counselor for the city.

*Person* means any natural person, firm, co-partnership, association, or corporation, or individual acting on behalf of or employed by a business.

*Repeat violation* means a violation of a provision of a code or ordinance by a person who has been previously found through a code enforcement board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provision within 5 years prior to the violation, notwithstanding the violations occur at different locations.

*Special magistrate* means an attorney and member of the state bar who shall be appointed by the city commission to preside over code enforcement matters and who may be discharged by the city commission at its discretion, with or without cause.

**Sec. 1-72. 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.

**Sec. 1-73. Enforcement procedure.**

- (a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; provided, however, no special magistrate shall have the power to initiate such enforcement proceedings.
- (b) All enforcement procedures and proceedings of this Division shall comply with F.S. Ch. 162, as may be amended from time to time.

**Sec. 1-74. Conduct of hearing.**

- (a) The special magistrate may call code enforcement hearings. The special magistrate at any hearing may set a future hearing date. The special magistrate shall attempt to hold a hearing no less frequently than once every two months, but the special magistrate may hold a hearing more or less often as the demand necessitates. 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 special magistrate for the proper performance of the special magistrate's duties.
- (b) Each case before the 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 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 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 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 division.

**Sec. 1-75. Powers.**

The special magistrate shall have the power to:

- (1) Adopt rules for the conduct of special magistrate hearings;
- (2) Subpoena alleged violators and witnesses to 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. 1-76. Reserved**

**SECTION 2.** Chapter 1, Article II, Division 2. is hereby amended so that the same shall read hereinafter as follows:

***DIVISION 2. FINES AND LIENS***

**Sec. 1-77. Fines imposed.**

- (1) Pursuant to F.S. 162.09(2)(a), a fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, and, in addition, may include all costs of repairs incurred in accordance with this article. However, if a special magistrate finds the violation to be irreparable or irreversible in nature, the special magistrate may impose a fine not to exceed five thousand dollars (\$5,000.00) per violation.
- (2) In determining the amount of the fine, if any, the special magistrate shall consider the following factors:
  - a. The gravity of the violation;

- b. Any actions taken by the violator to correct the violation; and
  - c. Any previous violations committed by the violator.
- (3) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the county court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first.
- (4) After 3 months from the filing of any such lien which remains unpaid, the Special Magistrate may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest.

**Sec. 1-78. Duration of lien.**

No lien provided by this article shall continue for a period longer than 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. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. 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. 1-79. Appeals.**

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

**Sec. 1-80. Lien Reductions.**

Liens imposed pursuant to this chapter may qualify for reduction if specific criteria are met. Such criteria shall be adopted by resolution. Upon payment of an approved reduced amount, the city shall execute a satisfaction or release of lien entered pursuant

to this section. It is not the intention of the section to guarantee the reduction of any lien that was legally placed upon a person or property.

**Sec. 1-81. Unenforceable liens.**

The city shall be authorized to execute a release of a lien imposed by this section that has been deemed in writing by the city attorney to be legally unenforceable or uncollectible as described below:

- (1) The statute of limitations relating to the lien has otherwise expired;
- (2) The lien was properly foreclosed by order of an appropriate court with jurisdiction;
- (3) The lien was properly discharged in a bankruptcy proceeding by order of a bankruptcy court;
- (4) The property encumbered by the lien is currently owned by the city; and/or,
- (5) Any other reason as determined by the city attorney that establishes the lien is legally unenforceable, uncollectible or that a release is in the best interest of the city.

**Secs. 82 —1-97. Reserved.**

**SECTION 3.** Chapter 1, Article II, Division 3 is hereby amended so that the same shall read thereafter as follows:

***DIVISION 3 CITATION PROCEDURE***

**Sec. 1-98. Authority; intent; applicability.**

This division is adopted pursuant to the authority granted by F.S. §§ 162.21—162.23. The procedures contained herein are declared to be an additional and supplemental means of enforcing the codes and ordinances. This division shall not apply to building codes, adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the city.

**Sec. 1-99. Citation authorization; violation as civil infraction; maximum civil penalty.**

- (a) Any code enforcement officer is hereby authorized to issue a citation to a person when, based upon personal investigation, the code enforcement officer has reasonable cause to believe that the person has committed a violation of any kind of an ordinance as set forth in section 1-105.

- (b) A code or ordinance violation for which a citation may be issued pursuant to this division, shall be deemed to be a civil infraction.
- (c) The maximum civil penalty for such civil infraction shall not exceed \$500.00 per violation. In addition to the civil penalty, the code enforcement officer may request that the special magistrate or court issue an order to include all applicable costs of prosecution and legislative assessments, plus court costs.
- (d) A civil penalty of less than the maximum civil penalty shall be assessed if the violator does not contest the violation. The amount of the penalty for an uncontested citation shall be determined by the class of the violation as set out in section 1-10~~6~~5.

**Sec. 1-100. Notice prior to citation issuance; exception.**

- (a) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, the code enforcement officer may issue a citation to the person who has committed the violation.
- (b) A code enforcement officer shall not be required to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation, provided that a repeat violation is found or that the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

**Sec. 1-101. Service of warning notice or citation.**

- (a) Written warning notices and/or citations shall be provided to the alleged violator by hand delivery by the code enforcement officer. In the absence of the alleged violator, issuance of a written warning notice or citation may be accomplished by leaving a copy at the alleged violator's residence with any person residing therein who is 15 years of age or older, and informing the person of the contents;; or by certified mail, return receipt requested.
- (b) Issuance of a written warning notice or citation to a business may be accomplished by leaving a copy at the business, during regular business hours, with any employee and informing the employee of the contents or by registered or certified mail, return receipt requested. Each employee of the business shall be deemed an agent of the business for service of warning notices and citations.

**Sec. 1-102. Form of contents of citation.**

- (a) A citation issued by a code enforcement officer shall be in a form prescribed by the city commission or by administrative order of the chief judge of the nineteenth judicial circuit and shall contain the information as set out under the definition of the term "citation" in section 1-71.

**Sec. 1-104-3. Refusal to sign citation.**

- (a) If the person cited refuses to sign the citation, the code enforcement officer shall write the words "refused" or "refused to sign" in the space provided for the person's signature and shall then leave a copy of the citation with the person cited, if possible.
- (b) Following such refusal to sign, the code enforcement officer may contact the city police department to report such refusal as a violation of F.S. § 162.21(6).

**Sec. 1-104. 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 division, to the city within 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 30th calendar day after issuance of the citation or fails to request a hearing within the time prescribed, the code enforcement officer shall either request a hearing be scheduled before the special magistrate or file the citation with the St. Lucie County Clerk of Court.
- (c) If the person elects to contest the citation, the person shall request a hearing before the special magistrate within 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 in the amount established by resolution. 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 but such time shall not exceed 30 days. If the person found to be in violation fails to pay the civil penalty or to correct the violation within the time provided, the citation shall be referred to the clerk of courts for enforcement as provided by F.S. § 318.325 and may be punishable as provided in F.S. § 316.1967.

- (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 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.

**Sec. 1-105. Classes of violations.**

- (a) Penalty (reduced civil penalty).

<i>Reduced Civil Penalty for Violations</i>			
<i>Violation Classification</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third and Subsequent</i>
Class I	\$50.00	\$100.00	Court hearing mandatory
Class II	\$100.00	\$200.00	Court hearing mandatory
Class III	\$250.00	Court hearing mandatory	Court hearing mandatory

- b) Violations of the city codes and ordinances which constitute civil infractions for which citations may be issued are considered a Class I violation except where specifically provided herein:

<i>Code and Ordinance Violation Classes</i>		
<i>Chapter or Section</i>	<i>Description</i>	<i>Class</i>
Section 16-82	Sea turtle lighting	II
Section 18-24	Manufacture, sale and use of fireworks	II
Chapter 22	Licenses, taxation and business regulations, not otherwise specified	II
Chapter 22, article III	Adult entertainment	III

Chapter 24	Nuisances	III
Section 26-2	Storage of scraps and waste	II
Section 26-3	Storage of commodity in vehicle	II
Section 26-6	Refrigerators and iceboxes; safety requirements	III
Section 30-25	Littering/dumping prohibited	II
Section 30-30	Bulk trash removal; residential	II
Section 34-31(j)	Commercial/Industrial vehicle restrictions	III
Section 36-411	Stormwater discharges prohibited	III
Chapter 117	Signs	II
Section 120-8	Maintenance of stormwater facilities	III
Chapter 125	Zoning violations - not otherwise specified	II
Section 125-240	Compliance with conditions of approval	III

**SECTION 4.** All ordinances of 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.

**SECTION 6.** If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions to the fullest extent possible.

APPROVED AS TO

FORM AND CORRECTNESS:

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Sara Hedges, 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. \_\_\_\_\_ was duly advertised by title only in the St. Lucie News Tribune on \_\_\_\_\_ and \_\_\_\_\_; 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 \_\_\_\_\_; and was duly introduced, read by title only, and passed on second and final reading on \_\_\_\_\_, by the City Commission of 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 \_\_\_\_\_ 2024.

---

Linda Hudson, Mayor

ATTEST:

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Linda W. Cox  
City Clerk

(SEAL)

ORDINANCE NO. 24-XXX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 1, ARTICLE II, DIVISION 1, BY CREATING SECTIONS 1-69 THROUGH 1-76 TO PROVIDE DEFINITIONS; TO ESTABLISH PROCEDURES FOR CODE ENFORCEMENT HEARINGS; AND PROVIDE POWERS AND DUTIES; AMENDING CHAPTER I, ARTICLE II, DIVISION 2 BY DELETING SECTIONS 1-69 THROUGH 1-76 THAT WERE ADDED TO DIVISION 1; AMENDING CHAPTER 1, ARTICLE II, DIVISION 2 BY TITLE; AMENDING CHAPTER 1, ARTICLE II, DIVISION 2 BY ADDING SECTION 1-78 THROUGH 1-81; TO ADD REGULATIONS FOR IMPOSING FINES AND ASSESSING LIENS; TO PROVIDE FOR LIEN REDUCTIONS; AND TO PROVIDE FOR UNENFORCEABLE LIENS; AMENDING CHAPTER 1, ARTICLE II, DIVISION 3 BY TITLE; AMENDING CHAPTER 1, ARTICLE II, DIVISION 3 BY DELETING SECTION 1-99 DEFINITIONS; AMENDING HOW CITATIONS ARE PROCESSED; AND AMENDING THE CLASSES OF VIOLATION; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, the City of Fort Pierce has established rules that regulate how code enforcement actions are taken; and

**WHEREAS**, these rules include the appointment of and assignment of duties for the role of the Special Magistrate; and

**WHEREAS**, the City Commission finds it necessary to periodically review and update these rules to be consistent with current statutes and enforcement methods; and

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**Secs. 1-41 – 1-68. Reserved.**

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- (b) Each case before the 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 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 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.

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- (2) Subpoena alleged violators and witnesses to 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. 1-76. Reserved**

**SECTION 2.** Chapter 1, Article II, Division 2. is hereby amended so that the same shall read thereafter as follows:

**~~DIVISION 2. SPECIAL MAGISTRATE~~**

**Sec. 1-69. Short title.**

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

**Sec. 1-70. Intent.**

The position of the city code enforcement special magistrate exists 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.

**~~Sec. 1-71. Definitions.~~**

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

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

~~*Local governing body* means the legislative body of the city.~~

~~*Local governing body attorney* means the legal counselor for the city.~~

~~*Special magistrate* means an attorney and member of the state bar who shall be appointed by the city commission for a term of two years to preside over code enforcement matters and who may be discharged by the city commission at its discretion, with or without cause.~~

**~~Sec. 1-72. 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.~~

**~~Sec. 1-73. Enforcement procedure.~~**

~~(a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; provided, however, no special magistrate shall have the power to initiate such enforcement proceedings.~~

~~(b) All enforcement procedures and proceedings shall comply with F.S. Ch. 162.~~

**~~Sec. 1-74. Conduct of hearing.~~**

~~(a) The special magistrate may call code enforcement hearings. The special magistrate at any hearing may set a future hearing date. The special magistrate shall attempt to hold a hearing no less frequently than once every two months, but the special magistrate may hold a hearing more or less often as the demand necessitates. Minutes shall be kept of all hearings by the 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 special magistrate for the proper performance of the special magistrate's duties.~~

- ~~(b) Each case before the 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 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 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 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 division.~~

**~~Sec. 1-75. Powers.~~**

~~The special magistrate shall have the power to:~~

- ~~(1) Adopt rules for the conduct of special magistrate hearings;~~
- ~~(2) Subpoena alleged violators and witnesses to 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. 1-76. Provisions of article supplemental.~~**

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

**~~DIVISION 2. FINES AND LIENS~~**

**~~Sec. 1-77. Fines imposed.~~**

- ~~(1) Pursuant to F.S. 162.09(2)(a), a fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, and, in addition, may include all costs of repairs incurred in accordance with this article. However, if a special magistrate finds the violation to be irreparable or irreversible~~

in nature, the special magistrate may impose a fine not to exceed five thousand dollars (\$5,000.00) per violation.

- (2) In determining the amount of the fine, if any, the special magistrate shall consider the following factors:
  - a. The gravity of the violation;
  - b. Any actions taken by the violator to correct the violation; and
  - c. Any previous violations committed by the violator.
- (3) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the county court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first.
- (4) After 3 months from the filing of any such lien which remains unpaid, the Special Magistrate may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest.

**Sec. 1-78. Duration of lien.**

No lien provided by this article shall continue for a period longer than 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. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. 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. 1-78 ~~79~~. Appeals.**

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

**Sec. 1-80. Lien Reductions.**

Liens imposed pursuant to this chapter may qualify for reduction if specific criteria are met. Such criteria shall be adopted by resolution. Upon payment of an approved reduced amount, the city shall execute a satisfaction or release of lien entered pursuant to this section. It is not the intention of the section to guarantee the reduction of any lien that was legally placed upon a person or property.

**Sec. 1-81. Unenforceable liens.**

The city shall be authorized to execute a release of a lien imposed by this section that has been determined by the city manager or his/her designee to be unenforceable or uncollectible as described below:

- (1) The statute of limitations relating to the lien has otherwise expired;
- (2) The lien was properly foreclosed by order of an appropriate court with jurisdiction;
- (3) The lien was properly discharged in a bankruptcy proceeding by order of a bankruptcy court;
- (4) The property encumbered by the lien is currently owned by the city; and/or,
- (5) Upon recommendation from the city attorney that establishes the lien is legally unenforceable, uncollectible or that a release is in the best interest of the city.

**Secs. 1-79 ~~82~~ —1-97. Reserved.**

**SECTION 3.** Chapter 1, Article II, Division 3 is hereby amended so that the same shall read thereafter as follows:

**DIVISION 3. ~~SUPPLEMENTAL PROCEDURES~~ CITATION PROCEDURE**

**Sec. 1-98. Authority; intent; applicability.**

This division is adopted pursuant to the authority granted by F.S. §§ 162.21—162.23. The procedures contained herein are declared to be an additional and supplemental means of enforcing the codes and ordinances. ~~Nothing contained herein shall be construed as limiting any other means of enforcement consistent with general or special law, or this Code. The provisions of this division shall apply to all violations of city codes~~

~~or ordinances which are expressly declared by the city commission to be governed by the provisions of this division.~~ This division shall not apply to building codes, adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the city.

**Sec. 1-99. Definitions.**

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~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 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 shall have the meaning set forth in section 1-71.~~

**Sec. 1-~~100-99~~. Citation authorization; violation as civil infraction; maximum civil penalty.**

- (a) Any code enforcement officer is hereby authorized to issue a citation to a person when, based upon personal investigation, the code enforcement officer has reasonable cause to believe that the person has committed a violation of any kind of an ordinance as set forth in section 1-106-5. ~~Pursuant to F.S. § 403.413(7), or as the same may hereafter be renumbered, code enforcement officers are designated to enforce the Florida Litter Law (presently codified as F.S. § 403.413).~~
- (b) A code or ordinance violation for which a citation may be issued pursuant to this division, shall be deemed to be a civil infraction.
- (c) The maximum civil penalty for such civil infraction shall not exceed \$500.00 per violation. In addition to the civil penalty, the code enforcement officer may request that the special magistrate or court issue an order to include all applicable costs of prosecution and legislative assessments, plus court costs.
- (d) A civil penalty of less than the maximum civil penalty shall be assessed if the violator does not contest the violation. The amount of the penalty for an uncontested citation shall be determined by the class of the violation as set out in section 1-106-5.

**Sec. 1-104-0. Notice prior to citation issuance; exception.**

- (a) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, the code enforcement officer may issue a citation to the person who has committed the violation.
- (b) A code enforcement officer shall not be required to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation, provided that a repeat violation is found or that the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

**Sec. 1-102-1. Service of warning notice or citation.**

- (a) Written warning notices and/or citations shall be provided to the alleged violator by hand delivery by the code enforcement officer. In the absence of the alleged violator, issuance of a written warning notice or citation may be accomplished by leaving a copy at the alleged violator's residence with any person residing therein who is 15 years of age or older, and informing the person of the contents; ~~or by leaving a copy at the alleged violator's place of business with any employee or agent acting on his behalf, and informing the person of the contents~~; or by certified mail, return receipt requested.
- (b) Issuance of a written warning notice or citation to a business may be accomplished by leaving a copy at the business, during regular business hours, with any employee and informing the employee of the contents or by registered or certified mail, return receipt requested. Each employee of the business shall be deemed an agent of the business for service of warning notices and citations.

**Sec. 1-103-2. Form of contents of citation; ~~filing with court.~~**

- (a) A citation issued by a code enforcement officer shall be in a form prescribed by the city commission or by administrative order of the chief judge of the nineteenth judicial circuit and shall contain the information as set out under the definition of the term "citation" in section 1-~~99-71~~.
- ~~(b) After issuing a citation to an alleged violator that does not require a mandatory court appearance, a code enforcement officer shall deposit the original citation with the code enforcement clerk within two working days. The code enforcement officer shall retain one copy for his records.~~
- ~~(c) After issuing a citation to an alleged violator that requires a mandatory court appearance, a code enforcement officer shall deposit the original citation with the county court by filing same with the clerk of court within two working days. The code enforcement officer shall retain one copy for his records.~~

**Sec. 1-104-3. Refusal to sign citation.**

- (a) If the person cited refuses to sign the citation, the code enforcement officer shall write the words "refused" or "refused to sign" in the space provided for the person's signature and shall then leave a copy of the citation with the person cited, if possible.
- (b) Following such refusal to sign, the code enforcement officer ~~shall~~ may contact the city police department to report such refusal as a violation of F.S. § 162.21(6).

**Sec. 1-105-4. 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 division, to the city within 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 30th calendar day after issuance of the citation or fails to request a hearing within the time prescribed, the code enforcement officer shall either request a hearing be scheduled before the special magistrate or file the citation with the St. Lucie County Clerk of Court.
- (c) If the person elects to contest the citation, the person shall request a hearing before the special magistrate within 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 in the amount established by resolution. 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 but such time shall not exceed 30 days. If the person found to be in violation fails to pay the civil penalty or to correct the violation within the time provided, the citation shall be referred to the clerk of courts for enforcement as provided by F.S. § 318.325 and may be punishable as provided in F.S. § 316.1967.
- (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 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 an order is entered finding that a violation of an ordinance cited has been committed, the city may record said order in the official records of the 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.~~

**Commented [PA1]:** We do not record these orders because they are really not used to cite a property. They are used to cite a person (like a parking citation). And if not paid we sent to County Court.

~~(f) If the person cited has been previously cited for the same violation at least two times within a 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.~~

**Commented [PA2]:** This actually contradicts the 1<sup>st</sup> violation/2<sup>nd</sup> violation part of 1-106(105).

~~(g) Payment of any civil penalty imposed by this division shall be made to 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.~~

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

**Sec. 1-106-5. Classes of violations.**

(a) Penalty (reduced civil penalty).

<i>Reduced Civil Penalty for Violations</i>			
<i>Violation Classification</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third and Subsequent</i>
Class I	\$50.00	\$100.00	Court hearing mandatory
Class II	\$100.00	\$200.00	Court hearing mandatory
Class III	\$250.00	Court hearing mandatory	Court hearing mandatory

b) Violations of the city codes and ordinances which constitute civil infractions for which citations may be issued are considered a Class I violation except where specifically provided herein:

<i>Code and Ordinance Violation Classes</i>		
<i>Chapter or Section</i>	<i>Description</i>	<i>Class</i>
Section 16-82	Sea turtle lighting	II

<u>Section 18-24</u>	<u>Manufacture, sale and use of fireworks</u>	<u>II</u>
Chapter 22	<del>Occupational license, not otherwise specified</del> <u>Licenses, taxation and business regulations, not otherwise specified</u>	II
Chapter 22, article III	Adult entertainment	III
<u>Chapter 24</u>	<u>Nuisances</u>	<u>III</u>
Section 26-2	Storage of scraps and waste	II
Section 26-3	Storage of commodity in vehicle	II
<u>Section 26-6</u>	<u>Refrigerators and iceboxes; safety requirements</u>	<u>III</u>
<u>Chapter 117</u>	<u>Signs</u>	<u>II</u>
Section 30-25	Littering/dumping prohibited	II
Section 30-30	Bulk trash removal; residential	II
<del>Section 24-19</del>	<del>Nuisances on property, not otherwise specified</del>	<del>III</del>
<del>Section 120-8</del>	<del>Maintenance of stormwater facilities</del>	<del>III</del>
<u>Section 34-31(j)</u>	<u>Commercial/Industrial vehicle restrictions</u>	<u>III</u>
Section 36-411	Stormwater discharges prohibited	III
<del>Section 38-76</del>	<del>Using vessel as place of business</del>	<del>II</del>
<u>Chapter 117</u>	<u>Signs</u>	<u>II</u>
<u>Section 120-8</u>	<u>Maintenance of stormwater facilities</u>	<u>III</u>
Chapter 125	Zoning violations - not otherwise specified	II
<del>Section 125-315</del>	<del>Parking commercial vehicles in residential areas</del>	<del>III</del>
Section 125-240	Compliance with conditions of approval	III

**Commented [PA3]:** Fireworks and Refrigerators are the only 2 new ones. The rest I just cleaned up by correcting the titles and put in # order.

**SECTION 4.** All ordinances of 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.

**SECTION 6.** If any provision of this ordinance is held to be invalid, unconstitutional,

or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions to the fullest extent possible.

APPROVED AS TO  
FORM AND CORRECTNESS:

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Sara Hedges, 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. \_\_\_\_\_ was duly advertised by title only in the St. Lucie News Tribune on \_\_\_\_\_ and \_\_\_\_\_; 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 \_\_\_\_\_; and was duly introduced, read by title only, and passed on second and final reading on \_\_\_\_\_, by the City Commission of 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 \_\_\_\_\_ 2024.

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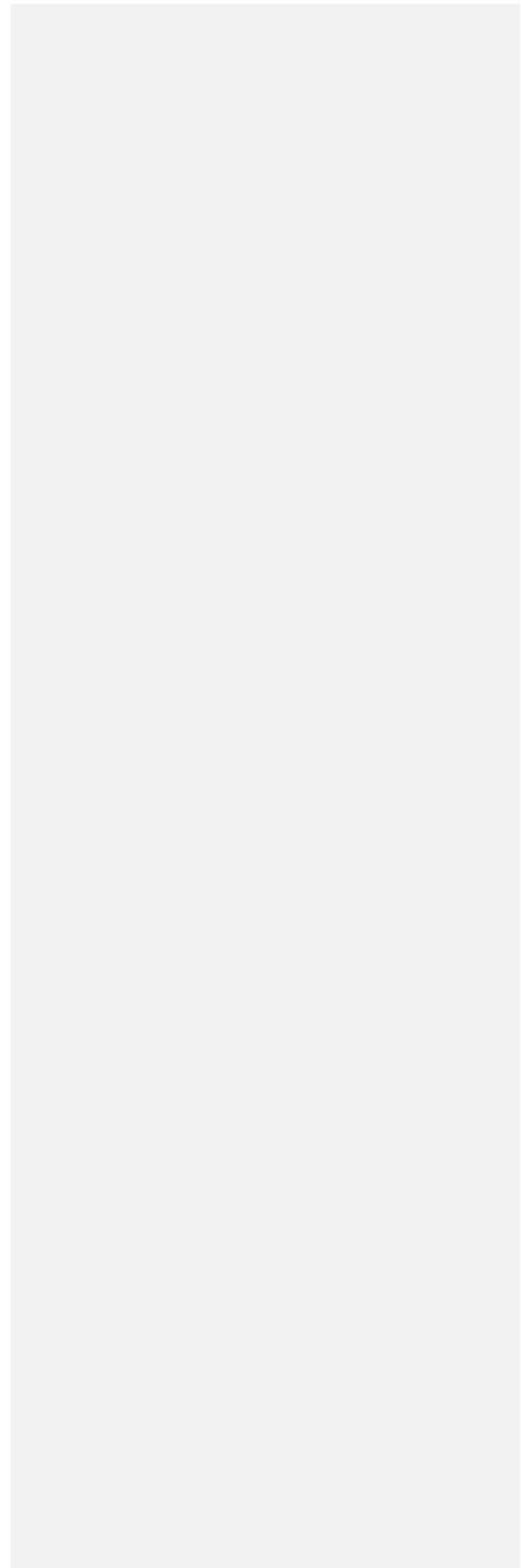
Linda Hudson, Mayor

ATTEST:

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Linda W. Cox  
City Clerk

(SEAL)



## ORDINANCE NO. 24-XXX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 24, ARTICLE I, BY CREATING SECTION 24-1 TO PROVIDE DEFINITIONS; AND CREATING SECTION 24-2 TO PROVIDE POWERS AND DUTIES; AMENDING CHAPTER 24, ARTICLE II, BY REPLACING NUISANCE DEFINITIONS WITH A DETAILED LIST OF PROHIBITED ACTIVITIES; TO INCLUDE LANDSCAPE MAINTENANCE REQUIREMENTS; AND DELETING SECTIONS 24-22 THROUGH 24-28; DELETING CHAPTER 24, ARTICLE III IN ITS ENTIRETY AND THE CONTENTS MOVED TO ARTICLE V; CREATING CHAPTER 24, ARTICLE III, BY CREATING A NUISANCE ABATEMENT PROGRAM; PROVIDING HEARING REQUIREMENTS; AND ESTABLISHING LIEN ENFORCEMENT CRITERIA; AMENDING CHAPTER 24, ARTICLE IV BY CLARIFYING CRITERIA TO DECLARE A STRUCTURE A NUISANCE; BY ESTABLISHING PROCEDURES FOR ASSESSING COSTS OF ABATEMENT; AND LIEN ENFORCEMENT; ADDING CHAPTER 24, SECTION V – CONTENTS PREVIOUSLY INCORPORATED IN SECTION III; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, the City of Fort Pierce has declared that certain conditions and objects create a nuisance condition; and

**WHEREAS**, such nuisance conditions have a direct impact on the life, health and safety of the community; and

**WHEREAS** the City of Fort Pierce established a nuisance abatement program in 1999 to address nuisance conditions that exist throughout the community; and

**WHEREAS**, the City Commission finds it necessary to review and update the program to be consistent with current statutes and enforcement methods; and

**WHEREAS**, through consistent and successful enforcement of the nuisance abatement program, residents, visitors, and business owners can enjoy a safer and more friendly environment; and

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

**SECTION 1.** Chapter 24, Article I – In General is hereby amended so that the same shall read hereinafter as follows:

### **Sec. 24-1. Definitions**

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Enforcement officer* means any designated employee of the city whose duty it is to enforce codes and ordinances including, but not limited to, code inspectors, building inspectors, animal control officers, law enforcement officers, or fire safety inspectors.

*Department* means the Department of Community Response.

*Motor vehicle* means any vehicle or conveyance which is either self-propelled or towed behind a self-propelled vehicle and is designed to travel along the ground. The term "motor vehicle" includes, but is not limited to, automobiles, buses, mopeds,

motorcycles, trucks, tractors, trailers, go-carts, golf carts, motor homes, and recreational vehicles.

*Private property* means any real property within the city which is privately-owned and is not defined as public property.

*Public property* means lands and improvements owned by the federal government, the state, a county, or municipality and includes sovereignties' submerged lands located adjacent to the county or municipality, beaches, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and similar public property.

**Sec. 24-2. Powers and duties**

- (1) Enforcement officers of the city shall be charged with the duty of administering the applicable standards and reporting non-compliance therewith. In furtherance of this responsibility, enforcement officers shall make such inspections, compile such facts and evidence, and prepare such reports as may be necessary to effectuate the purposes and intent of this chapter. Their findings, evidence, and reports shall be promptly forwarded to department management for review.
- (2) The city's enforcement officers are hereby authorized to enter upon private property in order to enforce the provisions of this chapter and shall be immune from all civil and criminal liability while under the discharge of duties imposed herein. When necessary to obtain such entry, the city may institute appropriate proceedings to obtain a warrant.

**Secs. 24-3—24-18. Reserved.**

**SECTION 2.** Chapter 24, Article II – Property Nuisances Generally is hereby amended so that the same shall read thereafter as follows:

**Sec. 24-19. Maintenance of nuisance on property prohibited.**

It shall be unlawful for any person in charge of or in control of any object or condition within the city, whether as owner, tenant, occupant, lessee or otherwise, to allow any such object or condition outlined below to remain on any private or public property within the city. This article shall not apply to any object which is kept out of sight in a fully enclosed building or where the object or condition is on the property of a business which has a specific and licensed purpose consistent with the storage, maintenance or display of such object or condition and which is being operated lawfully as provided by this Code.

- (1) Any foul, offensive or unlawful emissions, odors or stenches and the causes thereof including dense smoke, noxious or lethal fumes, lethal gas, soot or cinders that injures or endangers the comfort, repose, health or safety of any person; or is offensive to the senses;
- (2) Interferes with, obstructs or renders dangerous for passage on any public or private street, alley, highway, right-of-way, easement, sidewalk, stream, ditch, channel or drainage of any property;
- (3) Any noises or vibrations, including animal noises, which disturb the peace of the surrounding area or are otherwise unlawful that interferes with the comfortable and quiet enjoyment of life or property;
- (4) Tends to or could depreciate the value of property of any persons;
- (5) Is declared otherwise by ordinance or statute to be a nuisance, unlawful or prohibited;
- (6) Any accumulation of the following:
  - a) Trash, litter, debris, garbage, bottles, paper, plastic, metals, cans, rags, discarded tobacco products, offal, or animal excrement;
  - b) Tires; abandoned or inoperative appliances; mechanical equipment or parts;

- c) Bricks, concrete, wood, lumber, building or construction materials, tools or machinery, not related to a lawfully issued and active building permit;
  - d) Junk, consisting of unsightly, worn-out, or discarded material of little or no residual value, including scrap metal, scrap lumber, wastepaper products, discarded building materials, or other debris;
  - e) Dead or decaying plants, (except for compost piles) or animals of any kind;
- (7) Any condition which provides, or could provide, harborage for rats, mice, snakes, insects or other vermin;
- (8) The pollution of any well, body of water or drainage system by sewage, dead animals, industrial wastes, debris or other substances;
- (9) Stagnant or insufficiently treated water, in a pool, pond or container of any kind, including water in which algae is allowed to grow or in which mosquitos or other insects are able to breed;
- (10) Blocking of drainage inlets, pipes, ditches, swales, channels, culverts or streams;
- (11) Any landscaping element that is not well-maintained, including, but not limited to, lawns, hedges, bushes and trees. To comply with this section, landscaping elements shall be maintained as follows:
- a) Landscaping elements shall be kept trimmed and free from becoming overgrown and unsightly where the same may constitute a blighting factor to the community;
  - b) All trees shall be trimmed to maintain a 7' clear height, and hedges and bushes should be trimmed to maintain a maximum of 2.5' in height except when the following conditions apply:
    - i. Landscaping, including but not limited to, hedges, shrubs, and bushes, used to deter graffiti, in which the hedge height is to be equal to the height of the protected fence or wall.
    - ii. Occupied single-family dwellings with an established landscaping plan that is routinely maintained in a neat and orderly fashion so as not to create an attractive nuisance.
    - iii. For parcels of 3 acres or more:
      - 1. The landscape requirements of Sec. 24-19 (11)(b) shall be required for a 100' wide strip from every road, alley, public or private right of way and every developed parcel.
      - 2. If a properly registered complaint pursuant to F.S. §162.06(1)(b) of any condition that constitutes a nuisance or unsafe condition under this chapter is documented with the Department, the nuisance condition must be abated as directed by the Department.
    - iv. Parcels of undeveloped property that have been classified by the state as a wetland or coastal property east of the coastal construction control line, except that the owner shall maintain a minimum 15-foot-wide strip that conforms to the standards of Sec. 24-19 (11)(b) where the parcel abuts developed real property or a public or private right-of-way.
- (12) Abandoned property, meaning any personal property, including motor vehicles, left in plain view under circumstances reasonably indicating that the possessor or owner thereof has relinquished any rights of ownership therein.
- (13) Wrecked motor vehicle or watercraft, meaning any motor vehicle or watercraft the condition of which is wrecked, dismantled, partially dismantled, incapable of

operation by its own power or from which the wheels, engine, transmission, or other substantial part thereof is or are removed.

- (14) A motor vehicle, as defined in this chapter, kept in the front yard of a residence on other than pavement unless parked in a driveway, or dedicated parking area identified through use of physical features such as landscaping bricks, railroad ties, or other distinguishing barriers and stabilized through the use of gravel or other non-permanent landscaping material other than grass.
- (15) Non-operative or unlicensed motor vehicles, located and specifically restricted as follows:
- a. All non-operative or unlicensed vehicles wholly or partially within any public right-of-way or on any public property are hereby prohibited.
  - b. On property having a land use and zoning designation for commercial use, and having a current and valid business tax receipt for an automobile, truck, or motor vehicle business, all unlicensed vehicles shall be kept, stored or maintained at least 15 feet from the paved edge of the nearest roadway at all times, and no unlicensed vehicle shall be allowed to remain on any property for a period in excess of 30 days in any 90-day period, unless such vehicle is kept, stored or maintained with a fully enclosed building or legally permitted fenced storage area. Any vehicle found on the same property, outside of an enclosed building or fenced storage area, during two separate inspections by the city more than 30 but less than 90 days apart, shall be presumed to have remained on the subject property outside of an enclosed building or fenced storage area for in excess of 30 days in any 90-day period, irrespective of whether said vehicle had been removed during said period.
  - c. On properties within the city not described by the immediately foregoing subsections, all non-operative or unlicensed vehicles shall be kept, stored, or maintained within a fully enclosed building at all times.
- (16) Any building or structure, or part thereof, which is in a dilapidated, unsanitary, or unsafe condition, or which constitutes a fire hazard.
- (17) Any building, structure, lot, place, or location where any activity in violation of law is conducted, performed maintained or allowed.
- (18) Any object or condition constituting a fire hazard.
- (19) Furniture kept or stored outdoors where such furniture is of the kind and sort normally and customarily kept inside such as, for example, upholstered sofas, and where such furniture is not in actual use.
- (20) Any appliance kept or maintained outside in the open air and not under roof such as a garage or carport that is not properly connected to permitted utilities, is not secured so as to prevent a child or animal from being trapped inside, or both.
- (21) Graffiti, which includes, but is not limited to, any unauthorized inscription, word, figure, painting or other defacement that is written, etched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of any public or private property by any graffiti implement, including, but not limited to, aerosol paint container, marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

**Secs. 24-20—24-21. Reserved.**

**SECTION 3.** Chapter 24, Article III is hereby deleted in its entirety. The content of this Article shall be moved to Article V.

**SECTION 4.** Chapter 24, Article III – Property Nuisances – Nuisance Abatement Program is hereby created so that the same shall read thereafter as follows:

## **ARTICLE III. PROPERTY NUISANCES – NUISANCE ABATEMENT PROGRAM**

### **Sec. 24-22. Authority**

The city, acting at the direction of the city commission, shall have the authority to and shall take steps to ensure the abatement of public nuisances in the most aggressive manner provided by the City of Fort Pierce Code of Ordinances or state law.

### **Sec. 24-23. Nuisance Abatement Program**

In order to protect the public health, safety, and welfare of the city, the city commission finds it necessary that lands and property within the city be cleared of substances and materials which present a fire hazard or other health hazard, or which are considered to be unsafe and a nuisance to the general public.

There is hereby established a public nuisance abatement program for the purpose of abating the public nuisances defined in section 24-19 in this chapter. The owner of any property located within the City of Fort Pierce who creates, suffers, or permits a nuisance to exist upon his or her property, shall be responsible for abating the nuisance and, if the owner fails to abate the nuisance in accordance with the notice given pursuant to this chapter, the city may abate the nuisance and the city shall be reimbursed for the costs associated with the abatement pursuant to the provisions of this chapter for the recovery of those costs.

### **Sec. 24-24. Supplemental means of enforcement**

- (1) The nuisance abatement program is a supplemental means of enforcing city codes and ordinances. A public nuisance also constitutes a code violation, and the city is not limited to a choice of remedy to ensure compliance with its codes. Code compliance proceedings are punitive and involve daily fines levied against the subject property. Nuisance abatement pursuant to this chapter is remedial in nature and specifically designed to immediately, or as soon as practicable, bring the property into compliance, thereby protecting the public welfare and directly improving and benefiting the property upon which the nuisance is abated, the cost of which, if completed by the city may be assessed against the property.
- (2) In addition to nuisance abatement proceedings, if the city institutes code compliance proceedings against a property for an occurrence of a violation, once the subject violation/nuisance is abated, that occurrence of the code violation shall cease, and no further code compliance penalties may accrue for that specific occurrence.
- (3) Repeat nuisance violations. Following the first notice under this chapter to abate a nuisance as described herein, any subsequent violation of the same nuisance classification(s) on the same property within a 12-month period may be abated by the city without further notice so long as the initial notice and order of abatement specifically provides for such subsequent abatement therein.

### **Sec. 24-25. Notice**

Upon determination by the department that a nuisance condition exists that qualifies for abatement under the nuisance abatement program, notice shall be provided to the owner or other interested party in the following manner. These notices may be done concurrently or separately as determined by the department.

- (1) A Notice of Violation detailing the nature of the nuisance condition(s) shall be mailed to the owner of the property regular mail.
- (2) The matter shall be scheduled for a hearing before the Special Magistrate in which the enforcement officer will request that the property be declared a nuisance. Notice of such hearing shall be completed in accordance with S.S. § 162.12.
- (3) A copy of the hearing notice and a copy of the notice of violation shall be posted at a location on the property where, in the judgement of the department, such posting will be conspicuously visible. The posting shall be in substantially the following form:

Notice to the owner and all persons interested in the described nuisance.

This nuisance, to wit: (setting forth brief description) is unlawfully upon the following property:

(Setting forth brief location).

A hearing on this matter has been scheduled before a Special Magistrate for the City of Fort Pierce. Should the Special Magistrate confirm the existence of the nuisance condition, the city will then cause the removal or abatement of the nuisance and if removed, will dispose of it in the manner provided for by law. The owner or affected individual will be liable for the costs of removal, abatement, storage, disposition, and publication of notice. Such costs will be imposed as a lien on the property if not otherwise paid within 30 days after receipt of the billing.

Dated this: (setting forth the date of posting of notice)

Signed: (setting forth name, title, address, and telephone number of code enforcement official)

### **Sec. 24-26. Nuisance Abatement Hearings.**

A hearing shall be held before the Special Magistrate to determine the following: (a) if a nuisance condition exists in violation of the city's code of ordinances, (b) if the condition poses a threat to the public health, safety, and welfare of the city, and (c) if the violation should be addressed through the Nuisance Abatement Program. The Special Magistrate may order the violator to pay a fine in an amount specified for each day the violation continues past the date set for compliance. In addition, if the violation qualifies for the Nuisance Abatement Program, the Special Magistrate shall order the city to make all reasonable repairs or take the necessary abatement measures that are required to bring the property into compliance and charge the violator with the cost of the repairs along with the fine imposed.

### **Sec. 24-27. Enforcement of lien.**

- (1) If the city causes the nuisance condition to be abated in accordance with the order of the Special Magistrate, such expense shall become payable within 30 days, after which a lien and charge will be made upon the property, which shall be payable with interest at the rate of six percent per annum from the date the expense is recorded in the financial records of the city until paid. There shall be included in such assessment an additional charge in the amount established by resolution for administrative costs incurred by the city.
- (2) Such lien shall be enforceable in accordance with Chapter 1, Article II, Division 2 of these Code of Ordinances.

### **Secs. 24-28—24-58. Reserved.**

**SECTION 5.** Chapter 24, Article IV – Buildings and Structures is hereby amended so that the same shall read thereafter as follows:

### **Sec. 24-59. Generally.**

- (a) The city commission shall have power to provide by resolution for the removal and/or abatement of any building or structure that constitutes a menace to business, health, or safety, or any building or structure that constitutes a fire hazard which are hereby designated and declared to be a nuisance.
- (b) That the city commission shall have the power to designate other things that may constitute a nuisance.
- (c) When any such building or structure shall have been declared a nuisance by resolution of the city commission and its removal or destruction required in such resolution as a nuisance and/or menace to business, health, safety, or as constituting a fire hazard, such resolution shall require the owner, agent or any person, firm or corporation having a lien on or interest in said building or structure,

which lien or interest is a matter of record in the public records of the county of such building or structure to show cause, at a time and place to be fixed and named by the resolution, why said building or structure should not be by the city commission condemned and its removal or destruction required.

- (d) Notice of such hearing shall be made by mailing by certified mail a certified copy of said resolution to the hereinbefore named persons, firms, or corporations at least ten days prior to the date of said hearing by the city clerk.
- (e) After such hearing, if no good and sufficient cause be shown to the contrary, the city commission shall pass a resolution requiring the removal or destruction of such building or structure within a reasonable time to be named by the city commission in said resolution.
- (f) If such building or structure is not removed or destroyed within the time fixed by said resolution the city commission may:
  - (1) By order, authorize the removal or destruction of the said building or structure in the name of the city.
  - (2) The cost of the removal and/or destruction of the building or structure hereinbefore referred to shall become payable within 30 days, after which a lien and charge will be made upon the property, which shall be payable with interest at the rate of six percent per annum from the date the expense is recorded in the financial records of the city until paid. There shall be included in such assessment an additional charge in the amount established by resolution for administrative costs incurred by the city.
  - (3) Such lien shall be enforceable in accordance with State Statute §162.09(3). A certified copy of the lien shall be filed with the Clerk of Court and thereafter shall constitute a lien against the land on which the nuisance condition existed and upon any other real property owned by the violator.

**SECTION 6.** Chapter 24, Article V – Drug-Related, Prostitution-Related, or Stolen Property Related Public Nuisances and Criminal Gang Activity Nuisances is hereby created so that the same shall read thereafter as follows:

**ARTICLE V. DRUG RELATED, PROSTITUTION RELATED, OR STOLEN PROPERTY RELATED PUBLIC NUISANCES AND CRIMINAL GANG ACTIVITY NUISANCES**

Sec. 24-60. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Board* means the nuisance abatement board of the city, which is hereby designated as the special magistrate.

*City attorney* means the legal counselor for the city or any assistant city attorney.

*Clerk* means the person appointed by the local governing body of the city to perform the clerical duties necessary to carry out the activities of the nuisance abatement board.

*Operator* means the tenant, lessee or person having control or possession of the premises.

*Public nuisance* means:

- (1) Any place or premises within the city which has been used:
  - a. On more than two occasions within a six-month period, as the site of a violation of F.S. § 796.07;
  - b. On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

- c. On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
  - d. By a criminal gang for the purpose of conducting criminal gang activity, as defined by F.S. § 874.03;
  - e. On more than two occasions within a six-month period, as the site of a violation of F.S. § 812.019 relating to dealing in stolen property; or
  - f. On two or more occasions within a six-month period, as the site of a violation of F.S. ch. 499.
- (2) Any pain management clinic, as described in F.S. § 458.3265 or 459.0137, which has been used on more than two occasions within a six-month period as the site of a violation of:
- a. F.S. § 784.011, 784.021, 784.03, or 784.045, relating to assault and battery;
  - b. F.S. § 810.02, relating to burglary;
  - c. F.S. § 812.014, relating to theft;
  - d. F.S. § 812.131, relating to robbery by sudden snatching; or
  - e. F.S. § 893.13, relating to the unlawful distribution of controlled substances.

Sec. 24-61. Nuisance abatement board.

There is hereby created and established a nuisance abatement board. The special magistrate shall serve as the nuisance abatement board under F.S. § 893.138.

Sec. 24-62. Complaint; request for prosecution; hearing; notice.

Any employee, officer or resident of the county or of the city may file a complaint and request for prosecution with the special magistrate regarding the existence on premises located in the city of a public nuisance, as defined in this article, after first giving not less than three days written notice of said complaint to the owner of the place or premises complained of at his last-known address. After such complaint and request for prosecution has been received, the special magistrate, based on a reasonable belief that a public nuisance exists on the premises complained of, shall schedule a hearing. Written notice of said hearing shall be sent by certified mail or hand delivered to the owner and operator of the premises complained of at their last-known address at least 14 days prior to the scheduled hearing. If an attempt to reach the owner and operator by hand delivery or certified mail is unsuccessful, notice of the hearing may be by publication as provided in F.S. Ch. 49. The notice of hearing shall include:

- (1) A statement of the time, place and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes or ordinances involved; and
- (4) A short and plain statement summarizing the incidents complained of.

Sec. 24-63. Rules governing hearings; orders; retention of jurisdiction; permanent injunctions.

- (a) The special magistrate shall adopt rules for the conduct of its hearing. Minutes shall be kept of all hearings, and all hearings shall be open to the public. The city attorney shall present all cases. All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross examination and submit rebuttal evidence, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the special magistrate proposed to consider such material, then all parties shall be given an opportunity to cross examine or challenge or rebut it. The special magistrate may consider any evidence, including evidence of the general reputation of the place or premises. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply but fundamental due process shall be observed and shall

govern the proceedings. Orders of the special magistrate shall be based on competent and substantial evidence. After considering all evidence, the special magistrate may declare the place or premises to be a public nuisance, as defined in this article, and may enter an order immediately prohibiting:

- (1) The maintaining of the nuisance;
- (2) The operating or maintaining of the place or premises; or
- (3) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.

(b) An order entered under this section shall expire after one year or at such earlier time as stated in the order. The special magistrate may retain jurisdiction to modify its orders prior to the expiration of said orders. The city may bring a complaint under F.S. § 60.05 seeking a permanent injunction against any public nuisance.

Sec. 24-64. Appeals.

Any aggrieved party may appeal a final order of the special magistrate to the circuit court of the county. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 days of the date of the written order appealed from.

Sec. 24-65. Remedies.

(a) When any nuisance as defined in F.S. § 823.05 exists, the city attorney or any citizen of the county or city may sue in the name of the state on his relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(b) This article does not restrict the right of any person to proceed under F.S. § 60.05 or similar law against any public nuisance.

Secs. 24-66—24-106. Reserved.

**SECTION 7.** All ordinances of parts of ordinances in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

**SECTION 8.** This ordinance is and the same shall become effective immediately upon final passage hereof.

**SECTION 9.** If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions to the fullest extent possible.

APPROVED AS TO  
FORM AND CORRECTNESS:

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Sara Hedges, 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. \_\_\_\_\_ was duly advertised by title only in the St. Lucie News Tribune on \_\_\_\_\_ and \_\_\_\_\_; 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 \_\_\_\_\_; and was duly introduced, read by title only, and passed on second and final reading on \_\_\_\_\_, by the

City Commission of 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 \_\_\_\_\_ 2024.

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Linda Hudson, Mayor

ATTEST:

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Linda W. Cox  
City Clerk

(SEAL)

## ORDINANCE NO. 24-XXX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 24, ARTICLE I, BY CREATING SECTION 24-1 TO PROVIDE DEFINITIONS; AND CREATING SECTION 24-2 TO PROVIDE POWERS AND DUTIES; AMENDING CHAPTER 24, ARTICLE II, BY REPLACING NUISANCE DEFINITIONS WITH A DETAILED LIST OF PROHIBITED ACTIVITIES; TO INCLUDE LANDSCAPE MAINTENANCE REQUIREMENTS; AND DELETING SECTIONS 24-22 THROUGH 24-28; DELETING CHAPTER 24, ARTICLE III IN ITS ENTIRETY AND THE CONTENTS MOVED TO ARTICLE V; CREATING CHAPTER 24, ARTICLE III, BY CREATING A NUISANCE ABATEMENT PROGRAM; PROVIDING HEARING REQUIREMENTS; AND ESTABLISHING LIEN ENFORCEMENT CRITERIA; AMENDING CHAPTER 24, ARTICLE IV BY CLARIFYING CRITERIA TO DECLARE A STRUCTURE A NUISANCE; BY ESTABLISHING PROCEDURES FOR ASSESSING COSTS OF ABATEMENT; AND LIEN ENFORCEMENT; ADDING CHAPTER 24, SECTION V – CONTENTS PREVIOUSLY INCORPORATED IN SECTION III; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, the City of Fort Pierce has declared that certain conditions and objects create a nuisance condition; and

**WHEREAS**, such nuisance conditions have a direct impact on the life, health and safety of the community; and

**WHEREAS** the City of Fort Pierce established a nuisance abatement program in 1999 to address nuisance conditions that exist throughout the community; and

**WHEREAS**, the City Commission finds it necessary to review and update the program to be consistent with current statutes and enforcement methods; and

**WHEREAS**, through consistent and successful enforcement of the nuisance abatement program, residents, visitors, and business owners can enjoy a safer and more friendly environment; and

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

**SECTION 1.** Chapter 24, Article I – In General is hereby amended so that the same shall read hereinafter as follows:

**Sec. 24-1 – 24-18. Reserved.**

**Sec. 24-1. Definitions**

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Enforcement officer* means any designated employee of the city whose duty it is to enforce codes and ordinances including, but not limited to, code inspectors, building inspectors, animal control officers, law enforcement officers, or fire safety inspectors.

*Department* means the Department of Community Response.

*Motor vehicle* means any vehicle or conveyance which is either self-propelled or towed behind a self-propelled vehicle and is designed to travel along the ground. The term "motor vehicle" includes, but is not limited to, automobiles, buses, mopeds, motorcycles, trucks, tractors, trailers, go-carts, golf carts, motor homes, and recreational vehicles.

*Private property* means any real property within the city which is privately-owned and is not defined as public property.

*Public property* means lands and improvements owned by the federal government, the state, a county, or municipality and includes sovereignties' submerged lands located adjacent to the county or municipality, beaches, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and similar public property.

**Sec. 24-2. Powers and duties**

(1) Enforcement officers of the city shall be charged with the duty of administering the applicable standards and reporting non-compliance therewith. In furtherance of this responsibility, enforcement officers shall make such inspections, compile such facts and evidence, and prepare such reports as may be necessary to effectuate the purposes and intent of this chapter. Their findings, evidence, and reports shall be promptly forwarded to department management for review.

(2) The city's enforcement officers are hereby authorized to enter upon private property in order to enforce the provisions of this chapter and shall be immune from all civil and criminal liability while under the discharge of duties imposed herein. When necessary to obtain such entry, the city may institute appropriate proceedings to obtain a warrant.

**Secs. 24-3—24-18. Reserved.**

**SECTION 2.** Chapter 24, Article II – Property Nuisances Generally is hereby amended so that the same shall read hereinafter as follows:

**Sec. 24-19. Maintenance of nuisance on property prohibited.**

~~No~~ It shall be unlawful for any person in charge of or in control of any object or condition within the city, whether as owner, tenant, occupant, lessee or otherwise, ~~shall to~~ allow any such object or condition defined as a nuisance by this article outlined below to remain on any private or public property within the city. ~~nor shall the owner or person in control of real property within the city allow such condition or object on the property, except that~~ This article shall not apply to any object which is kept out of sight in a fully enclosed building or where the object or condition is on the property of a business which has a specific and licensed purpose consistent with the storage, maintenance or display of such object or condition and which is being operated lawfully as provided by this Code.

~~(Code 1983, § 16-46; Ord. No. J-517, § 1, 8-2-1999)~~

**Sec. 24-20. Removal of nuisance.**

~~Prompt removal or abatement of any nuisance which is stored, maintained or displayed on property within the city is declared essential to the public health, safety, esthetics, general welfare and good order of the city.~~

~~(Code 1983, § 16-47; Ord. No. J-517, § 1, 8-2-1999)~~

**Sec. 24-21. Definitions.**

~~The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:-~~

~~*Department* means the code compliance division.~~

~~*Motor vehicle* means any vehicle or conveyance which is self-propelled and designed to travel along the ground. The term "motor vehicle" includes, but is not limited to, automobiles, buses, mopeds, motorcycles, trucks, tractors, trailers, go-carts, golf carts, motor homes and recreational vehicles.~~

~~*Nuisance as a condition* means a certain state of being or situation located on property which:-~~

(1) Any foul, offensive or unlawful emissions, odors or stenches and the causes thereof including dense smoke, noxious or lethal fumes, lethal gas, soot or cinders that injures or endangers the comfort, repose, health or safety of any person; or is offensive to the senses;

~~(2) Offends decency;~~

~~(3) Is offensive to the senses;~~

(42) Interferes with, obstructs or renders dangerous for passage on any public or private street, alley, highway, right-of-way, easement, sidewalk, stream, ditch, channel or drainage of any property;

- ~~(5) Renders other persons insecure in life or the use of property;-~~
- ~~(6-3) Any noises or vibrations, including animal noises, which disturb the peace of the surrounding area or are otherwise unlawful that ~~interferes~~ with the comfortable and quiet enjoyment of life or property;~~
- ~~(7-4) Tends to or could depreciate the value of property of any persons;~~
- ~~(8-5) Is declared otherwise by ordinance or statute to be a nuisance, unlawful or prohibited;~~
- ~~(9-6) Any accumulation of the following:~~
  - ~~a) Trash, litter, debris, garbage, bottles, paper, plastic, metals, cans, rags, discarded tobacco products, offal, or animal excrement;~~
  - ~~b) Tires; abandoned or inoperative appliances; mechanical equipment or parts;~~
  - ~~c) Bricks, concrete, wood, lumber, building or construction materials, tools or machinery, not related to a lawfully issued and active building permit;~~
  - ~~d) Junk, consisting of unsightly, worn-out, or discarded material of little or no residual value, including scrap metal, scrap lumber, wastepaper products, discarded building materials, or other debris;~~
  - ~~e) or dDead or decaying plants, (except for compost piles) or animals of any kind;~~
- ~~(10-7) Any condition which provides, or could provide, harborage for rats, mice, snakes, insects or other vermin;~~
- ~~(11) Any noises or vibrations, including animal noises, which disturb the peace of the surrounding area or are otherwise unlawful;-~~
- ~~(12) Any foul, offensive or unlawful emissions, odors or stenches and the causes thereof;-~~
- ~~(13-8) The pollution of any well, body of water or drainage system by sewage, dead animals, industrial wastes, debris or other substances;~~
- ~~(9) Stagnant or insufficiently treated water, in a pool, pond or container of any kind, including water in which algae is allowed to grow or in which mosquitos or other insects are able to breed;~~
- ~~(14) Dense smoke, noxious or lethal fumes, lethal gas, soot or cinders;-~~
- ~~(15) Any condition constituting a fire hazard;-~~
- ~~(16-10) Blocking of drainage inlets, pipes, ditches, swales, channels, culverts or streams;~~
- ~~(17) The accumulation of garbage and trash in violation of section 30-26; or~~

~~(18-11)~~ Any landscaping element that is not well-maintained, including, but not limited to, lawns, hedges, bushes and trees. To comply with this section, landscaping elements shall be maintained as follows:

a) Such ~~!Landscaping~~ elements shall be kept trimmed and free from becoming overgrown and unsightly ~~where exposed to public view and~~ where the same may constitute a blighting factor ~~thereby depreciating adjoining property.~~ to the community;

b) All trees shall be trimmed to maintain a 7' clear height, and hedges and bushes should be trimmed to maintain a maximum of 2.5' in height except when the following conditions apply:

i. Landscaping, including but not limited to, hedges, shrubs, and bushes, used to deter graffiti, in which the hedge height is to be equal to the height of the protected fence or wall.

ii. Occupied single-family dwellings with an established landscaping plan that is routinely maintained in a neat and orderly fashion so as not to create an attractive nuisance.

iii. For parcels of 3 acres or more:

1. The landscape requirements of Sec. 24-19 (11)(b) shall be required for a 100' wide strip from every road, alley, public or private right of way and every developed parcel.

2. If a properly registered complaint pursuant to F.S. §162.06(1)(b) of any condition that constitutes a nuisance or unsafe condition under this chapter is documented with the Department, the nuisance condition must be abated as directed by the Department.

iv. Parcels of undeveloped property that have been classified by the state as a wetland or coastal property east of the coastal construction control line, except that the owner shall maintain a minimum 15-foot-wide strip that conforms to the standards of Sec. 24-19 (11)(b) where the parcel abuts developed real property or a public or private right-of-way.

~~Nuisance as an object means one of the following:-~~

~~(1) Junk, consisting of unsightly, worn-out or discarded material of little or no residual value, including scrap metal, scrap lumber, wastepaper products, discarded building materials, or other debris, the accumulation of which has an adverse effect upon neighborhood or city property values, health, safety or general welfare;-~~

(12) Abandoned property, meaning any personal property, including motor vehicles, left in plain view under circumstances reasonably indicating that the possessor or owner thereof has relinquished any rights of ownership therein.

- (13) Wrecked motor vehicle or watercraft, meaning any motor vehicle or watercraft the condition of which is wrecked, dismantled, partially dismantled, incapable of operation by its own power or from which the wheels, engine, transmission, or other substantial part thereof is or are removed.
- (14) A motor vehicle, as defined in this chapter, kept in the front yard of a residence on other than pavement unless parked in a driveway, ~~whether such driveway is paved or unpaved or dedicated parking area identified through use of physical features such as landscaping bricks, railroad ties, or other distinguishing barriers and stabilized through the use of gravel or other non-permanent landscaping material other than grass.~~
- ~~(5) Any garbage; rubbish; trash; refuse; cans; bottles; boxes; container; paper; tobacco products; tires; abandoned or inoperative appliance; mechanical equipment or parts; building or construction materials; tools; machinery; wood; vessels; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facilities; or a substance in any form resulting from domestic, industrial, commercial, mining or agricultural operations; or dead or decaying plants (except for compost piles) or exotic animals of any kind;~~
- ~~(6) Any building or structure, or part thereof, which is in a dilapidated, unsanitary or unsafe condition, or which constitutes a fire hazard;~~
- ~~(7) Any building, structure, lot, place or location where any activity in violation of law is conducted, performed maintained or allowed;~~
- ~~(8) Stagnant or insufficiently treated water, in a pool, pond or container of any kind, including water in which algae is allowed to grow or in which mosquitos or other insects are able to breed;~~
- ~~(9) Animal excrement;~~
- (105) Non-operative or unlicensed motor vehicles, located and specifically restricted as follows:
- a. All non-operative or unlicensed vehicles wholly or partially within any public right-of-way or on any public property are hereby prohibited, ~~unless specifically authorized by subsection (10)b of this definition.~~
  - b. ~~On property for which a current and valid business tax receipt has been issued for any automobile, truck, or motor vehicle business, all non-operative or unregistered vehicles shall be kept, stored, or maintained at least 15 feet from the paved edge of the nearest roadway, at all times.~~
  - e. On property having a land use and zoning designation for commercial use, and having a current and valid business tax receipt for an commercial automobile, truck, or motor vehicle business, all unlicensed vehicles shall be kept, stored or maintained at least 15 feet from the paved edge of the nearest roadway at

all times, and no unlicensed vehicle shall be allowed to remain on any property for a period in excess of 30 days in any 90-day period, unless such vehicle is kept, stored or maintained with a fully enclosed building or legally permitted fenced storage area. Any vehicle found on the same property, outside of an enclosed building or fenced storage area, during two separate inspections by the city more than 30 but less than 90 days apart, shall be presumed to have remained on the subject property outside of an enclosed building or fenced storage area for in excess of 30 days in any 90-day period, irrespective of whether said vehicle had been removed during said period.

~~dc.~~ On properties within the city not described by the immediately foregoing subsections, all non-operative or unlicensed vehicles shall be kept, stored, or maintained within a fully enclosed building at all times.

~~(16)~~ Any building or structure, or part thereof, which is in a dilapidated, unsanitary, or unsafe condition, or which constitutes a fire hazard.

~~(17)~~ Any building, structure, lot, place, or location where any activity in violation of law is conducted, performed maintained or allowed.

~~(178)~~ Any object or condition constituting a fire hazard.

~~(149)~~ Furniture kept or stored outdoors where such furniture is of the kind and sort normally and customarily kept inside such as, for example, upholstered sofas, and where such furniture is not in actual use.

~~(12-20)~~ Any ~~operable~~ appliance kept or maintained outside in the open air and not under roof such as a garage or carport that is not properly connected to permitted utilities, is not secured so as to prevent a child or animal from being trapped inside, or both.

~~(13-21)~~ Graffiti, which includes, but is not limited to, any unauthorized inscription, word, figure, painting or other defacement that is written, etched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of any public or private property by any graffiti implement, including, but not limited to, aerosol paint container, marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

~~Private property means any real property within the city which is privately owned and is not defined as public property.~~

~~Public property means lands and improvements owned by the federal government, the state, a county or municipality and includes sovereignties submerged lands located adjacent to the county or municipality, beaches, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and similar public property.~~

~~(Code 1983, § 16-48; Ord. No. J-517, § 1, 8-2-1999; Ord. No. J-534, § 2, 12-6-1999; Ord. No. K-143, § 1, 3-18-2002; Ord. No. K-157, § 1, 8-19-2002; Ord. No. K-206, § 1, 2, 3-17-2003; Ord. No. 14-013, § 1, 5-5-2014.)~~

~~**Sec. 24-22. Procedure for removal of nuisance.**~~

~~(1) *Notice.*~~

~~Upon determination by the department that a nuisance exists in violation of this article, the department shall notify in writing the record owner of the property upon which the nuisance is located, and shall demand that such owner cause the condition to be remedied. Notice shall be given by certified mail, addressed to the owner of the property described as such owner's name and address is shown upon the record of the county office, and the notice shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid.~~

~~(2) In addition, a written notice shall be posted in a location on the property where, in the judgment of the department, such sign will be conspicuously visible to passersby. The notice shall be in substantially the following form:-~~

~~Notice to the owner and all persons interested in the described nuisance. This nuisance, to wit: (setting forth brief description) is unlawfully upon the following property: (setting forth brief location). The owner or other effected individual must either remove or abate the nuisance within ten days or request a hearing pursuant to section 1-74 of the city Code of Ordinances. Failure to either remove the nuisance or to request a hearing will be deemed a waiver of the right to a hearing and the city will then cause an immediate removal or abatement of the nuisance and if removed, will dispose of it in the manner provided for by law. The owner or effected individual will be liable for the costs of removal, abatement, storage, disposition and publication of notice. Such costs will be imposed as a lien on the property if not otherwise paid within 30 days after receipt of the billing. Dated this: (setting forth the date of posting of notice), signed: (setting forth name, title, address, and telephone number of code enforcement official).~~

~~b. If the nuisance is a motor vehicle, the department shall contact the department of highway safety and motor vehicles, if sufficient information on the vehicle is available so as to permit its identification, in order to determine the name and address of the current owner and any person who has filed a lien on the vehicle as provided in F.S. § 319.27(2) or (3).~~

~~On receipt of this information, the official shall mail a copy of the notice, both by regular mail and certified mail, return receipt requested, to the owner and to the lien holder, if any, and if different from the owner of the property on which the vehicle was located.~~

~~If, at the end of ten days after mailing and posting of notice, the nuisance has not been abated or removed from the property, the city itself may abate~~

~~or remove the nuisance. Unless within such period of time there is filed with the city a request for hearing pursuant to chapter 1, article II, division 2.~~

~~Officials and employees of the city shall be immune from civil or criminal prosecution for reasonably good faith trespass upon real property in the discharge of duties imposed by this article and for any further liability incident to abatement or removal and disposition of the nuisance. The owner of the property upon which nuisance is located, and, if different, the person responsible for storing, maintaining or displaying such nuisance, shall be liable for all expenses incurred by the city for abatement or removal and disposition of the nuisance and for the costs of publishing notices required by the article.~~

~~(2) *Right to hearing.* If the person charged with a violation of this article makes written request for a hearing within the time provided by this section, such hearing will then be conducted all within the manner specified by chapter 1, article II, division 2. Failure to timely request such hearing will be deemed a waiver of the right to a hearing and acknowledgment of the violation as charged, whereupon the department may cause the nuisance to be abated or removed and disposed of as appropriate, as provided by sections 24-23 and 24-24, whether through destruction or sale, with any retained salvage value to be applied against the cost of removal and disposition, unless the cost is paid by the owner or other individual, in which case the salvage value will be remitted to the owner. Any expense borne by the city not voluntarily reimbursed by the owner may be recovered against the owner in the manner provided for by law.~~

~~(Code 1983, § 16-49; Ord. No. J-517, § 1, 8-2-1999; Ord. No. J-534, § 1, 12-6-1999)~~

**~~Sec. 24-23. Notification of owner and other interested parties following removal by city.~~**

~~(a) *Notice.*~~

~~(1) Upon taking possession of the nuisance, if an object or thing, the department of code enforcement shall furnish notice in accordance with this section by regular mail to the owner of the property upon which such nuisance was located and to the owner of the object or thing, if known to be different, at the last known address, on or after ten days of the date when possession of the object or thing was taken. If the nuisance is a motor vehicle, notification of possession or removal shall also be provided to any lien holders. Such notice shall provide the following information:-~~

- ~~a. The name and address of the property owner, lien holder, if any, and owner of the object or thing, if known to be different from the owner of the property;-~~
- ~~b. A description of the object or thing, and, if a motor vehicle, or vehicle, its year, make, model, serial number, registration number and title registration number, to the extent known;-~~
- ~~c. The date such nuisance was removed;-~~

~~d. The location from which the nuisance was removed;~~

~~e. The location where any such object or thing is being stored.~~

~~(2) The notice shall also advise the person or persons to whom it is addressed that the object or thing may be reclaimed upon payment to the city of all charges incurred by the city in its removal and storage, including the costs of notification required by this article, except that if such reclamation is not made within 30 days after date of the notice the right to reclaim the object or thing, as well as all right, title and interest of any lien holder, if a motor vehicle or vessel, shall be deemed to be waived and such person shall be deemed to have consented to its disposition or possession by the city.~~

~~(b) *Notice by publication.* If the object or thing constituting nuisance is a motor vehicle or vessel and there is inability to identify the current owner, it shall be sufficient notice under this section to publish the notice described above once in a newspaper of general circulation in the city. Such notice by publication may include multiple listings of objects and things.~~

~~(c) *Documentation filed with the state.* If the nuisance is a motor vehicle, a copy of any notice required in this section, as well as a copy of any certificate of sale issued hereunder by the city, shall be forwarded to the state division of motor vehicles.~~

~~(Code 1983, § 16-50; Ord. No. J-517, § 1, 8-2-1999)~~

#### ~~**Sec. 24-24. 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 24-22, and upon an interested party's failure to timely request a hearing before the special magistrate then, in such event, the department may elect, in lieu of exercising procedures specified in section 24-23, 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 34, article IV, the provisions of which are incorporated within, and adopted for this article.~~

~~(Code 1983, § 16-51; Ord. No. J-517, § 1, 8-2-1999; Ord. No. J-534, § 3, 12-6-1999; Ord. No. 17-017, § 12, 6-5-2017)~~

**~~Sec. 24-25. Alternative remedies~~**

~~As an alternative to the procedures set forth in this article to the extent such procedures involve abandoned vehicles on public property, F.S. § 705.103 et seq. is hereby incorporated by reference in this article as if fully set forth herein. If the department, in such department's discretion, shall pursue a remedy pursuant to the aforesaid section, the department shall comply completely and fully with its provisions.~~

~~(Code 1983, § 16-52; Ord. No. J-517, § 1, 8-2-1999)~~

**~~Sec. 24-26. Discarding of object or thing as nuisance.~~**

~~It shall be unlawful for any person to discard or abandon any object or thing defined in this article as a nuisance upon a lot or premises not owned or occupied by such person without the consent of the owner thereof or the person occupying the same.~~

~~(Code 1983, § 16-53; Ord. No. J-517, § 1, 8-2-1999)~~

**~~Sec. 24-27. 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 special magistrate.~~

~~(Code 1983, § 16-54; Ord. No. J-517, § 1, 8-2-1999; Ord. No. 17-017, § 12, 6-5-2017)~~

**~~Sec. 24-28. Enforcement of lien.~~**

~~(a) If, following initial notification of violation, no hearing has been timely requested and the nuisance has not been remedied, or a hearing was held and concluded adversely to the property owner, the department may cause the nuisance to be abated as described in this article, at the expense of the property owner.~~

~~(b) After abatement of the nuisance, the department shall certify to the finance director 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 special magistrate, whereupon such expense shall become payable within 30 days, after which a lien and charge will be made upon the property, which shall be payable with interest at the rate of six percent per annum from the date of such certification until paid. There shall be included in such assessment an additional charge in the amount established by resolution for administrative costs incurred by the city.~~

~~(c) Such lien shall be enforceable in the same manner as a tax lien in favor of the city, and shall constitute a first priority assessment lien against the effected property, superior to all liens except any lien for taxes. Said lien may be foreclosed as provided by law. Upon payment of such lien, the clerk of the circuit court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof and notify the tax collector of such satisfaction. Notice of the aforesaid lien may be filed in the office of the clerk of the circuit court and recorded upon the other public records of the city.~~

~~(d) The finance director shall keep complete records relating to the amount payable for liens above described and the amounts of such liens shall be included in tax statements for ad valorem taxes thereafter submitted to the owners of lands subject to such liens.~~

~~(Code 1983, § 16-55; Ord. No. J-517, § 1, 8-2-1999; Ord. No. 17-017, § 12, 6-5-2017)~~

**Secs. 24-20—24-21. Reserved.**

~~Secs. 24-29—24-59. Reserved.~~

**SECTION 3.** Chapter 24, Article III is hereby deleted in its entirety. The content of

this Article shall be moved to Article V.

~~ARTICLE III. — DRUG-RELATED, PROSTITUTION-RELATED, OR STOLEN-PROPERTY-RELATED PUBLIC NUISANCES AND CRIMINAL GANG ACTIVITY NUISANCES~~

~~Footnotes:~~

~~—(2)—~~

~~State Law reference—Local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity, F.S. § 893.138.~~

~~Sec. 24-60.—Definitions:~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Board means the nuisance abatement board of the city, which is hereby designated as the special magistrate.~~

~~City attorney means the legal counselor for the city or any assistant city attorney.~~

~~Clerk means the person appointed by the local governing body of the city to perform the clerical duties necessary to carry out the activities of the nuisance abatement board.~~

~~Operator means the tenant, lessee or person having control or possession of the premises.~~

~~Public nuisance means:~~

~~(1) Any place or premises within the city which has been used:~~  
~~a. On more than two occasions within a six-month period, as the site of a violation of F.S. § 796.07;~~  
~~b. On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substances. On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance. By a criminal gang for the purpose of conducting criminal gang activity, as defined by F.S. § 874.03;~~  
~~e. On more than two occasions within a six-month period, as the site of a violation of F.S. § 812.019 relating to dealing in stolen property; or~~  
~~f. On two or more occasions within a six-month period, as the site of a violation of F.S. ch. 499.~~  
~~(2) Any pain management clinic, as described in F.S. § 458.3265 or 459.0137, which has been used on more than two occasions within a six-month period as the site of a violation of F.S. § 784.011, 784.021, 784.03, or 784.045, relating to assault and battery;~~  
~~b. F.S. § 810.02, relating to burglary;~~  
~~c. F.S. § 812.014, relating to theft;~~  
~~d. F.S. § 812.131, relating to robbery by sudden snatching; or~~  
~~e. F.S. § 893.13, relating to the unlawful distribution of controlled substances.~~

~~(Code 1983, § 2-301; Ord. No. I-295, § 1, 9-20-1988)~~

~~Sec. 24-61.—Nuisance abatement board.~~

~~There is hereby created and established a nuisance abatement board. The special magistrate shall serve as the nuisance abatement board under F.S. § 893.138.~~

~~(Code 1983, § 2-302; Ord. No. I-295, § 2, 9-20-1988)~~

~~Sec. 24-62.—Complaint; request for prosecution; hearing; notice.~~

~~Any employee, officer or resident of the county or of the city may file a complaint and request for prosecution with the special magistrate regarding the existence on premises located in the city of a public nuisance, as defined in this article, after first giving~~

~~not less than three days written notice of said complaint to the owner of the place or premises complained of at his last-known address. After such complaint and request for prosecution has been received, the special magistrate, based on a reasonable belief that a public nuisance exists on the premises complained of, shall schedule a hearing. Written notice of said hearing shall be sent by certified mail or hand delivered to the owner and operator of the premises complained of at their last-known address at least 14 days prior to the scheduled hearing. If an attempt to reach the owner and operator by hand delivery or certified mail is unsuccessful, notice of the hearing may be by publication as provided in F.S. ch. 49. The notice of hearing shall include:~~

~~(1) A statement of the time, place and nature of the hearing;(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;(3) A reference to the particular sections of the statutes or ordinances involved; and(4) A short and plain statement summarizing the incidents complained of.~~

~~(Code 1983, § 2-303; Ord. No. 1-295, § 3, 9-20-1988)~~

~~Sec. 24-63. — Rules governing hearings; orders; retention of jurisdiction; permanent injunctions.~~

~~(a) The special magistrate shall adopt rules for the conduct of its hearing. Minutes shall be kept of all hearings, and all hearings shall be open to the public. The city attorney shall present all cases. All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross examination and submit rebuttal evidence, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the special magistrate proposed to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it. The special magistrate may consider any evidence, including evidence of the general reputation of the place or premises. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. Orders of the special magistrate shall be based on competent and substantial evidence. After considering all evidence, the special magistrate may declare the place or premises to be a public nuisance, as defined in this article, and may enter an order immediately prohibiting:(1) The maintaining of the nuisance;(2) The operating or maintaining of the place or premises; or(3) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.(b) An order entered under this section shall expire after one year or at such earlier time as stated in the order. The special magistrate may retain jurisdiction to modify its orders prior to the expiration of said orders. The city may bring a complaint under F.S. § 60.05 seeking a permanent injunction against any public nuisance.~~

~~(Code 1983, § 2-304; Ord. No. 1-295, § 4, 9-20-1988)~~

~~Sec. 24-64. — Appeals.~~

~~Any aggrieved party may appeal a final order of the special magistrate to the circuit court of the county. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 days of the date of the written order appealed from.~~

~~(Code 1983, § 2-305; Ord. No. 1-295, § 5, 9-20-1988)~~

~~Sec. 24-65. — Remedies.~~

~~(a) When any nuisance as defined in F.S. § 823.05 exists, the city attorney or any citizen of the county or city may sue in the name of the state on his relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.(b) This article does not restrict the right of any person to proceed under F.S. § 60.05 or similar law~~

~~against any public nuisance.~~

~~(Code 1983, § 2-306; Ord. No. 1-295, §§ 6, 7, 9-20-1988)~~

~~Secs. 24-66—24-106.—Reserved.~~

**SECTION 4.** Chapter 24, Article III – Property Nuisances – Nuisance Abatement Program is hereby created so that the same shall read thereafter as follows:

**ARTICLE III. PROPERTY NUISANCES – NUISANCE ABATEMENT PROGRAM**

**Sec. 24-22. Authority**

The city, acting at the direction of the city commission, shall have the authority to and shall take steps to ensure the abatement of public nuisances in the most aggressive manner provided by the City of Fort Pierce Code of Ordinances or state law.

**Sec. 24-23. Nuisance Abatement Program**

In order to protect the public health, safety, and welfare of the city, the city commission finds it necessary that lands and property within the city be cleared of substances and materials which present a fire hazard or other health hazard, or which are considered to be unsafe and a nuisance to the general public.

There is hereby established a public nuisance abatement program for the purpose of abating the public nuisances defined in section 24-19 in this chapter. The owner of any property located within the City of Fort Pierce who creates, suffers, or permits a nuisance to exist upon his or her property, shall be responsible for abating the nuisance and, if the owner fails to abate the nuisance in accordance with the notice given pursuant to this chapter, the city may abate the nuisance and the city shall be reimbursed for the costs associated with the abatement pursuant to the provisions of this chapter for the recovery of those costs.

**Sec. 24-24. Supplemental means of enforcement**

- (1) The nuisance abatement program is a supplemental means of enforcing city codes and ordinances. A public nuisance also constitutes a code violation, and the city is not limited to a choice of remedy to ensure compliance with its codes. Code compliance proceedings are punitive and involve daily fines levied against the subject property. Nuisance abatement pursuant to this chapter is remedial in nature and specifically designed to immediately, or as soon as practicable, bring the property into compliance, thereby protecting the public welfare and directly improving and benefiting the property upon which the nuisance is abated, the cost of which, if completed by the city may be assessed against the property.
- (2) In addition to nuisance abatement proceedings, if the city institutes code compliance proceedings against a property for an occurrence of a violation, once the subject violation/nuisance is abated, that occurrence of the code violation shall cease, and no further code compliance penalties may accrue for that specific occurrence.
- (3) Repeat nuisance violations. Following the first notice under this chapter to abate a nuisance as described herein, any subsequent violation of the same nuisance classification(s) on the same property within a 12-month period may be abated by the city without further notice so long as the initial notice and order of abatement specifically provides for such subsequent abatement therein.

**Sec. 24-25. Notice**

Upon determination by the department that a nuisance condition exists that qualifies for abatement under the nuisance abatement program, notice shall be provided to the owner or other interested party in the following manner. These notices may be done concurrently or separately as determined by the department.

- (1) A Notice of Violation detailing the nature of the nuisance condition(s) shall be mailed to the owner of the property regular mail.

(2) The matter shall be scheduled for a hearing before the Special Magistrate in which the enforcement officer will request that the property be declared a nuisance. Notice of such hearing shall be completed in accordance with S.S. § 162.12.

(3) A copy of the hearing notice and a copy of the notice of violation shall be posted at a location on the property where, in the judgement of the department, such posting will be conspicuously visible. The posting shall be in substantially the following form:

Notice to the owner and all persons interested in the described nuisance.

This nuisance, to wit: (setting forth brief description) is unlawfully upon the following property:

(Setting forth brief location).

A hearing on this matter has been scheduled before a Special Magistrate for the City of Fort Pierce. Should the Special Magistrate confirm the existence of the nuisance condition, the city will then cause the removal or abatement of the nuisance and if removed, will dispose of it in the manner provided for by law. The owner or affected individual will be liable for the costs of removal, abatement, storage, disposition, and publication of notice. Such costs will be imposed as a lien on the property if not otherwise paid within 30 days after receipt of the billing.

Dated this: (setting forth the date of posting of notice)

Signed: (setting forth name, title, address, and telephone number of code enforcement official)

#### **Sec. 24-26. Nuisance Abatement Hearings.**

A hearing shall be held before the Special Magistrate to determine the following: (a) if a nuisance condition exists in violation of the city's code of ordinances, (b) if the condition poses a threat to the public health, safety, and welfare of the city, and (c) if the violation should be addressed through the Nuisance Abatement Program. The Special Magistrate may order the violator to pay a fine in an amount specified for each day the violation continues past the date set for compliance. In addition, if the violation qualifies for the Nuisance Abatement Program, the Special Magistrate shall order the city to make all reasonable repairs or take the necessary abatement measures that are required to bring the property into compliance and charge the violator with the cost of the repairs along with the fine imposed.

#### **Sec. 24-27. Enforcement of lien.**

(1) If the city causes the nuisance condition to be abated in accordance with the order of the Special Magistrate, such expense shall become payable within 30 days, after which a lien and charge will be made upon the property, which shall be payable with interest at the rate of six percent per annum from the date the expense is recorded in the financial records of the city until paid. There shall be included in such assessment an additional charge in the amount established by resolution for administrative costs incurred by the city.

(2) Such lien shall be enforceable in accordance with Chapter 1, Article II, Division 2 of these Code of Ordinances.

#### **Secs. 24-28—24-58. Reserved.**

**SECTION 5.** Chapter 24, Article IV – Buildings and Structures is hereby amended so that the same shall read thereafter as follows:

#### **Sec. 24-~~107~~-59. Generally.**

(a) The city commission shall have power to provide by resolution for the removal and/or abatement of any building or structure that constitutes a menace to business, health, or safety, or any building or structure that constitutes a fire hazard ~~or which is unsightly, or does not conform in architecture to adjacent or surrounding buildings~~ which are hereby designated and declared to be a nuisance;.

- (b) ~~t~~That the city commission shall have the power to designate other things that may constitute a nuisance.
- (c) When any such building or structure shall have been declared a nuisance by resolution of the city commission and its removal or destruction required in such resolution as a nuisance and/or menace to business, health, safety, or as constituting a fire hazard ~~or because said building or structure is unsightly or does not conform in architecture to adjacent or surrounding buildings~~, such resolution shall require the owner, agent or any person, firm or corporation having a lien on or interest in said building or structure, which lien or interest is a matter of record in the public records of the county of such building or structure to show cause, at a time and place to be fixed and named by the resolution, why said building or structure should not be by the city commission condemned and its removal or destruction required.
- (d) Notice of ~~which~~ such hearing shall be made by mailing by ~~registered or~~ certified mail a certified copy of said resolution to the hereinbefore named persons, firms, or corporations at least ten days prior to the date of said hearing by the city clerk.
- (~~b e~~) After such hearing, if no good and sufficient cause be shown to the contrary, the city commission shall pass a resolution requiring the removal or destruction of such building or structure within a reasonable time to be named by the city commission in said resolution.
- (~~e f~~) If such building or structure ~~be is~~ not removed or destroyed within the time fixed by said resolution the city commission may:
- (1) By order, authorize the removal or destruction of the said building or structure in the name of the city.
  - (2) The cost of the removal and/or destruction of the building or structure hereinbefore referred to ~~shall be charged against the real estate upon which such building or structure shall be located and shall constitute a lien thereon superior in rank and dignity to all other liens, encumbrances, titles and claims to or against the real property involved whether or not recorded prior to the lien herein. The lien thereon shall continue until such costs of removal or destruction, including interest on such cost, together with all costs reasonably incurred in connection therewith, for the filing, recording, enforcement, foreclosure or otherwise of said lien, including reasonable attorney fees and costs through the appellate level shall have been fully paid off and discharged. shall become payable within 30 days, after which a lien and charge will be made upon the property, which shall be payable with interest at the rate of six percent per annum from the date the expense is recorded in the financial records of the city until paid. There shall be included in such assessment an additional charge in the amount established by resolution for administrative costs incurred by the city.~~
  - (3) ~~By action in equity in the name of the said city, cause the same to be destroyed or removed in procedure in substantial compliance with the general laws of the state providing for the abatement of nuisances. The final decree of the court in such cause may provide for the removal and/or destruction of such building within a time to be fixed by such decree and may further provide that upon the failure of the parties required to remove and/or destroy such building that the city cause the same to be destroyed and/or removed and that the cost of such removal and/or destruction shall be charged against the real estate upon which such building may be located, and be and constitute a lien thereon until such cost of removal, including interest on such cost and a reasonable solicitor's fee to be fixed by the court, shall have been fully paid off and discharged. Such lien shall be enforceable in accordance with State Statute §162.09(3). A certified copy of the lien shall be filed with the Clerk of Court and~~

thereafter shall constitute a lien against the land on which the nuisance condition existed and upon any other real property owned by the violator.

**SECTION 6.** Chapter 24, Article V – Drug-Related, Prostitution-Related, or Stolen Property Related Public Nuisances and Criminal Gang Activity Nuisances is hereby created so that the same shall read hereinafter as follows:

**ARTICLE V. DRUG RELATED, PROSTITUTION RELATED, OR STOLEN PROPERTY RELATED PUBLIC NUISANCES AND CRIMINAL GANG ACTIVITY NUISANCES**

Sec. 24-60. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Board* means the nuisance abatement board of the city, which is hereby designated as the special magistrate.

*City attorney* means the legal counselor for the city or any assistant city attorney.

*Clerk* means the person appointed by the local governing body of the city to perform the clerical duties necessary to carry out the activities of the nuisance abatement board.

*Operator* means the tenant, lessee or person having control or possession of the premises.

*Public nuisance* means:

(1) Any place or premises within the city which has been used:

- a. On more than two occasions within a six-month period, as the site of a violation of F.S. § 796.07;
- b. On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- c. On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- d. By a criminal gang for the purpose of conducting criminal gang activity, as defined by F.S. § 874.03;
- e. On more than two occasions within a six-month period, as the site of a violation of F.S. § 812.019 relating to dealing in stolen property; or
- f. On two or more occasions within a six-month period, as the site of a violation of F.S. ch. 499.

(2) Any pain management clinic, as described in F.S. § 458.3265 or 459.0137, which has been used on more than two occasions within a six-month period as the site of a violation of:

- a. F.S. § 784.011, 784.021, 784.03, or 784.045, relating to assault and battery;
- b. F.S. § 810.02, relating to burglary;
- c. F.S. § 812.014, relating to theft;
- d. F.S. § 812.131, relating to robbery by sudden snatching; or
- e. F.S. § 893.13, relating to the unlawful distribution of controlled substances.

Sec. 24-61. Nuisance abatement board.

There is hereby created and established a nuisance abatement board. The special magistrate shall serve as the nuisance abatement board under F.S. § 893.138.

Sec. 24-62. Complaint; request for prosecution; hearing; notice.

Any employee, officer or resident of the county or of the city may file a complaint and request for prosecution with the special magistrate regarding the existence on premises

located in the city of a public nuisance, as defined in this article, after first giving not less than three days written notice of said complaint to the owner of the place or premises complained of at his last-known address. After such complaint and request for prosecution has been received, the special magistrate, based on a reasonable belief that a public nuisance exists on the premises complained of, shall schedule a hearing. Written notice of said hearing shall be sent by certified mail or hand delivered to the owner and operator of the premises complained of at their last-known address at least 14 days prior to the scheduled hearing. If an attempt to reach the owner and operator by hand delivery or certified mail is unsuccessful, notice of the hearing may be by publication as provided in F.S. Ch. 49. The notice of hearing shall include:

- (1) A statement of the time, place and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes or ordinances involved; and
- (4) A short and plain statement summarizing the incidents complained of.

Sec. 24-63. Rules governing hearings; orders; retention of jurisdiction; permanent injunctions.

(a) The special magistrate shall adopt rules for the conduct of its hearing. Minutes shall be kept of all hearings, and all hearings shall be open to the public. The city attorney shall present all cases. All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross examination and submit rebuttal evidence, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the special magistrate proposed to consider such material, then all parties shall be given an opportunity to cross examine or challenge or rebut it. The special magistrate may consider any evidence, including evidence of the general reputation of the place or premises. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. Orders of the special magistrate shall be based on competent and substantial evidence. After considering all evidence, the special magistrate may declare the place or premises to be a public nuisance, as defined in this article, and may enter an order immediately prohibiting:

- (1) The maintaining of the nuisance;
- (2) The operating or maintaining of the place or premises; or
- (3) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.

(b) An order entered under this section shall expire after one year or at such earlier time as stated in the order. The special magistrate may retain jurisdiction to modify its orders prior to the expiration of said orders. The city may bring a complaint under F.S. § 60.05 seeking a permanent injunction against any public nuisance.

Sec. 24-64. Appeals.

Any aggrieved party may appeal a final order of the special magistrate to the circuit court of the county. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 days of the date of the written order appealed from.

Sec. 24-65. Remedies.

(a) When any nuisance as defined in F.S. § 823.05 exists, the city attorney or any citizen of the county or city may sue in the name of the state on his relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(b) This article does not restrict the right of any person to proceed under F.S. § 60.05 or similar law against any public nuisance.

Secs. 24-66—24-106. Reserved.

**SECTION 7.** All ordinances of parts of ordinances in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

**SECTION 8.** This ordinance is and the same shall become effective immediately upon final passage hereof.

**SECTION 9.** If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions to the fullest extent possible.

APPROVED AS TO  
FORM AND CORRECTNESS:

---

Sara Hedges, 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. \_\_\_\_\_ was duly advertised by title only in the St. Lucie News Tribune on \_\_\_\_\_ and \_\_\_\_\_; 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 \_\_\_\_\_; and was duly introduced, read by title only, and passed on second and final reading on \_\_\_\_\_, by the City Commission of 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 \_\_\_\_\_ 2024.

---

Linda Hudson, Mayor

ATTEST:

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Linda W. Cox  
City Clerk

(SEAL)



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 3<sup>rd</sup> 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.

**RESOLUTION NO. 24-R\_\_\_\_\_**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; **ADOPTING PROCEDURES TO ADDRESS NON-COMPLIANT LIENS**; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Fort Pierce has adopted Ordinance No. 24-xxx amending Chapter 1, Article II titled Code Enforcement of the City's Code of Ordinances; and

**WHEREAS**, the City of Fort Pierce has adopted Ordinance No. 24-xxx amending Chapter 24 titled Nuisances of the City's Code of Ordinances; and

**WHEREAS**, these amendments implement policies in which all liens filed on behalf of the City for violation of the City's Code of Ordinances are issued in accordance with Florida State Statute 162.10; and

**WHEREAS**, a review of existing liens that are not consistent with these ordinances is in the best interest of the City; and

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

**SECTION 1.** The City, under the direction of the City Manager or his/her designee, shall review all liens filed in the public records of St. Lucie County prior to XXX, 1, 2004 and, if found to be non-compliant with the Code of Ordinances, shall issue a release of such liens.

**SECTION 2.** The provisions of this Resolution are declared to be severable and if any section, sentence, clause, or phrase of this Resolution 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 Resolution but shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

**SECTION 3.** All resolutions or parts of resolutions in conflict herewith are hereby repealed.

**SECTION 4.** This Resolution shall take effect immediately upon its adoption.

**IN WITNESS HEREWITH**, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Linda Hudson, Mayor

ATTEST:

\_\_\_\_\_  
Linda Cox, City Clerk

Approved as to Form  
And Correctness:

\_\_\_\_\_  
Sara Hedges, Esq.  
City Attorney

**City Commission Conference Agenda - 9:00 a.m.**

**4. c.**

**Meeting Date:** 03/11/2024

**Re:** ACOE Response Update

**Submitted For:** Nick Mimms, City Manager, City Manager

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**SUBJECT:**

Army Corps of Engineers response update regarding shoaling in the Intracoastal Waterway

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**Form Review**

<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
City Manager	Nick Mimms	03/04/2024 11:09 AM
City Manager	Nick Mimms	03/04/2024 11:10 AM
Form Started By: Jennifer Robinson		Started On: 03/04/2024 09:00 AM
Final Approval Date: 03/04/2024		

**City Commission Conference Agenda - 9:00  
a.m.**

**4. d.**

**Meeting Date:** 03/11/2024

**Re:**

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**SUBJECT:**

City Attorney 6-month performance evaluation

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**Attachments**

Hedges Contract

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**Form Review**

Form Started By: Linda Cox  
Final Approval Date: 03/05/2024

Started On: 03/05/2024 09:56 AM

**CITY OF FORT PIERCE, FLORIDA**

**SARA K. HEDGES**

**CITY ATTORNEY**

**EMPLOYMENT AGREEMENT**

**THIS EMPLOYMENT AGREEMENT** is made and entered into this 18th day of September, 2023 with an effective date of September 11, 2023 ("Effective Date"), by and between the **CITY OF FORT PIERCE, FLORIDA**, a municipal corporation, hereafter referred to as **"CITY"** and **SARA K. HEDGES**, hereafter referred to as **"HEDGES"**.

**WHEREAS**, **CITY** desires to secure the legal representation of **HEDGES** as City Attorney for a minimum of three (3) years from the Effective Date of this agreement and **HEDGES** desires to accept such position; and

**WHEREAS**, **CITY** and **HEDGES** intend by this Agreement to provide certain benefits and establish certain conditions of employment to which **HEDGES** has agreed.

**NOW, THEREFORE**, in consideration of the material advantages occurring to the parties and the mutual covenants contained herein, **CITY** and **HEDGES** agree with each other as follows:

**1. Employment.**

**CITY** employs **HEDGES** to perform the duties of City Attorney as

specified in the City Charter. **HEDGES** will render full time legal services to **CITY** in the capacity of City Attorney of the **CITY** for the initial term of three (3) years, commencing September 11, 2023 (the "Effective Date"), through September 10, 2026. In the event written notice of termination or notice of non-renewal of this Agreement is not given by either party to the other party ninety (90) days prior to the expiration of the term as hereinabove provided, this Agreement shall automatically renew and continue thereafter on a year-to-year basis. **HEDGES** agrees to report for work, and the duties and employment of **HEDGES** as City Attorney shall commence the Effective Date. In the event the Agreement is not renewed all compensation, benefits, and requirements of this Agreement shall remain in effect until the expiration of the term unless sooner terminated or **HEDGES** resigns.

The City Attorney is recognized as an independent and co-equal Charter Officer, as specified by the Charter of the City of Fort Pierce (See Article V, Section 45). No other Charter Officer shall have any authority or ability to direct, supervise or interfere with the administration or activity of the Office of the City Attorney, including any and all personnel actions or decisions (See Article IV, Section 42 and Article V, Section 43).

**HEDGES** shall devote all of her time, attention, knowledge and skill, solely and exclusively to the legal interests of the City of Fort Pierce. **HEDGES** warrants and agrees to maintain her Florida license to practice law in good standing without limitation throughout the term of this Agreement. **HEDGES** will at all times faithfully, industriously, and diligently perform to the best of her

ability all duties that may be required of her by virtue of her position as City Attorney, including, but not limited to, the performance of all duties set forth in the City Charter, Florida Statutes, City Ordinances, and Resolutions, and to perform other legally permissible and proper duties and functions to the reasonable satisfaction of the City Commission. Should **HEDGES** no longer be in good standing with the Florida Bar or authorized to practice law in Florida, this contract will terminate immediately for cause. In the event **HEDGES** makes formal application for full-time employment elsewhere while serving as City Attorney, she shall be required to provide written notice to the City Commission simultaneously with such application or submittal.

**2. Compensation.**

In consideration for these services as City Attorney, **CITY** agrees to pay **HEDGES** an annual base salary of ONE HUNDRED AND EIGHT-FIVE THOUSAND DOLLARS (\$185,000.00) per annum, payable in bi-weekly installments, or such higher figure as may be negotiated after a mandatory six-month evaluation of **HEDGES'** performance by the City Commission. Base annual salary adjustments, for each subsequent year during the term of this Agreement shall be negotiated between the parties on an annual basis. Beginning on October 1, 2024, annual cost of living/salary increases shall be provided to **HEDGES** in the same manner (if any) as non-bargaining employees of the City.

The **CITY** agrees that it will not, at any time during the term of this

Agreement, reduce **HEDGES'** base salary or other financial benefits in a greater percentage than an applicable across the board reduction for all employees of the **CITY**.

**3. Performance Evaluations.**

The City Commission shall, upon the expiration of six (6) months of the Effective Date of this Agreement, and on an annual basis thereafter, evaluate **HEDGES'** performance as City Attorney. Annual performance evaluations shall occur during the calendar month of June of each year following the first year of employment, with the first annual evaluation beginning in June of 2024. These performance reviews shall consider continuing City Commission objectives and responsibilities as well as achievement of key specific objectives as mutually agreed upon by City Commission and **HEDGES**.

Should it be determined that **HEDGES** was successful in her overall performance, and if the Commission, in its sole discretion, determines that the fiscal condition of the **CITY** is sufficient, the City Commission will consider **HEDGES'** compensation and benefits, and endeavor to maintain them at a level commensurate with her peers in the profession in similarly situated Florida cities and the rate of general inflation in the economy.

**4. Benefits.**

In addition to annual compensation specified above, the **CITY** agrees to provide **HEDGES** with the following benefits:

(a) **HEDGES** shall be entitled to receive the same vacation, sick leave, and holiday time as the City Manager. Said benefits shall be defined in the City

of Fort Pierce Personnel Rules and Regulations, including provisions governing accrual and payment thereof on termination of employment.

(b) In addition to the base salary, the **CITY** shall pay on **HEDGES'** behalf, in equal proportionate amounts each pay period, into a retirement plan designated by **HEDGES** an amount equal to 5% of **HEDGES'** annual base salary.

(c) A car allowance at \$450.00 per month, or such other rate agreed upon by the City Commission.

(d) **CITY** agrees to budget and pay for licensing fees or charges that are required of attorneys to practice law in the State of Florida and professional dues, required CLE seminars, and subscriptions necessary for **HEDGES'** continuation and participation in national, regional, state, and local associations, and organizations necessary and desirable for **HEDGES'** continued professional participation, growth, and advancement, and for the good of the **CITY**.

(e) Life Insurance, comprehensive health and major medical insurance equal to that which is provided to other City employees and shall be effective on the effective date of this agreement.

(f) Retirement benefits as provided to all City Employees under the **CITY's** defined benefit retirement plan.

#### **5. Termination.**

At all times during the term of this Agreement **HEDGES** shall be deemed an employee-at-will, and may be terminated at any time, with or without cause.

For purposes of this Agreement, termination shall occur upon the happening of any of the following events:

(a) A majority vote of the entire City Commission at a duly authorized public meeting, with or without cause, at the sole discretion of the City Commission.

(b) If the **CITY**, its citizens, or legislature amends any provision of the Charter or Code substantially changing the form of government directly pertaining to the role, powers, duties, authority and responsibilities of **HEDGES** as City Attorney, **HEDGES** shall have the right to declare that such amendments constitute termination; or

(c) If **HEDGES** resigns following a formal offer to accept resignation made by the majority of the entire City Commission at a duly authorized public meeting.

6. **Severance.**

Except as provided in this Agreement, severance will be paid to **HEDGES** when employment is terminated as defined in Paragraph 5 above. Upon termination, all rights, duties and obligations of both parties shall cease except that the **CITY** shall continue to pay **HEDGES** her then annual base salary for ninety (90) consecutive working days thereafter, and the **CITY** shall also maintain **HEDGES'** life insurance and major medical insurance coverage paid up and in effect during such period. **HEDGES** shall also be compensated for any accrued sick leave and vacation time payable upon termination of employment in the amounts set forth in the Personnel Rules and Regulations. During any time

severance is being paid, **HEDGES** shall not be required to perform any duties for the **CITY** or come to the **CITY**.

The severance provisions set forth herein shall not apply and the **CITY** shall not be obligated to pay **HEDGES** any severance in the event **HEDGES** is terminated For Cause. For purposes of this agreement "For Cause" shall be defined as any of the following actions by **HEDGES**:

- (a) Conviction of a felony or any misdemeanor involving moral turpitude;
- (b) Commission of any act of fraud involving or affecting the **CITY** or the public;
- (c) Willful failure to perform the duties of City Attorney, or material breach by **HEDGES** of any duties or obligations under this Agreement and failure to cure such failure or breach after receipt of reasonable written notice;
- (d) Incompetence or negligence in the performance of official duties;
- (e) Violation of the **CITY's** Drug-Free Work Place Policy, including illegal use of drugs, hallucinogens, or other substances regulated by state law;
- (f) Violation of Florida's Code of Ethics;
- (g) Loss or suspension of license to practice law; or
- (h) Misconduct as defined by Florida Statute 443.036(29), as amended from time to time.

7. **Outside Activities.**

The employment provided for by this Agreement shall be **HEDGES'** primary employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to **HEDGES** and the community,

**HEDGES** may elect to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements must neither constitute interference with nor a conflict of interest with **HEDGES'** responsibilities under this Agreement. Any outside consulting or business opportunities shall be subject to prior approval by the **CITY**.

8. **Best Efforts of Employee.**

**HEDGES** agrees that she will at all times faithfully, industriously and to the best of her ability, experience and talents, perform all the duties which may be required of and from her pursuant to the express and implicit terms hereof, to the reasonable satisfaction of **CITY**. **HEDGES** further agrees that she will continue her education and training so that she will keep up with or exceed education requirements of her position. Such duties shall be rendered at Fort Pierce, St. Lucie County, Florida, and at such other places as **CITY** shall in good faith require, or as the interest, needs or opportunity of **CITY** shall require.

9. **Disability.**

If **HEDGES** is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of either eight (8) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a sixty (60) working day period, **CITY** shall have the option to terminate this Agreement, subject to the severance pay requirements of Paragraph 6. However, **HEDGES** shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits, as set forth in the City's Personnel Rules and Regulations.

10. **Employee-At-Will.**

**HEDGES** is an employee-at-will and works at the pleasure of the **CITY** who may, at any time and without showing cause, terminate this Employment Agreement.

11. **Liability Claims.**

The **CITY** shall defend and save harmless **HEDGES**, but only to the limits of sovereign immunity, against any tort, professional liability claim or demand or other legal claim or action, whether groundless or otherwise, arising out of an alleged act or omission occurring in or arising out of the good faith performance of **HEDGES'** duties as City Attorney of the City of Fort Pierce. However, this covenant shall not apply to acts outside the scope of **HEDGES'** employment or services or for claims for punitive damages. In the event the provision of legal representation by the **CITY** may reasonably present a legal conflict of interest, **HEDGES** may request independent legal representation at **CITY'S** expense, and the **CITY** may not unreasonably withhold approval of such request. Legal representation provided by the **CITY** for **HEDGES** shall extend until a final unappealable determination of the legal action. In the event independent legal representation is provided to **HEDGES**, any settlement of any claim against **HEDGES** may not be made without prior approval of the **CITY**. The **CITY** will have the authority to compromise and settle any such claim or suit within the scope of **HEDGES'** employment and pay the amount of any settlement or judgment rendered thereon. To the maximum extent permitted by law, the **CITY** and **HEDGES** shall rely upon the doctrine of

sovereign immunity and the provisions of Section 768.28, Florida Statutes, or other applicable law.

12. **Voluntary Resignation.**

In the event **HEDGES** voluntarily resigns her position with the **CITY**, **HEDGES** shall provide a minimum of ninety (90) days written notice unless the parties agree otherwise. Unless such resignation follows a formal offer to accept resignation made by the majority of the entire City Commission as specified In Paragraph 5(c) above, **HEDGES** shall not be entitled to nor shall the **CITY** be liable to pay severance if **HEDGES** voluntarily resigns.

13. **General provisions.**

The following general provisions shall govern this Agreement:

(a) This Agreement shall be governed in accordance with the laws of the State of Florida.

(b) Jurisdiction over any dispute arising under this Agreement, and the venue thereof, shall lie in the Circuit Court of the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida.

(c) This Agreement shall become effective retroactively to the Effective Date set forth above and supersedes and replaces any prior written employment agreement.

(d) This Agreement constitutes the entire agreement and understanding between the parties and contains all of the agreements between them with respect to the subject matter hereof, and supersedes any and all other agreements or contracts, either oral or written, between the

parties with respect to the subject matter hereof.

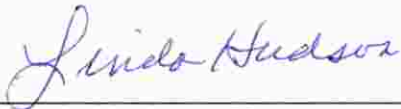
(e) The parties by mutual written agreement may amend any provision of this Agreement during the life of the agreement by document approved and signed with the same formalities as this Agreement. Such amendments will be incorporated and made a part of this Agreement.

(f) The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

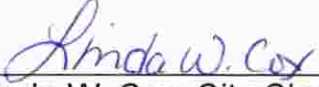
(g) This Agreement shall be binding upon and inure to the benefit of the **CITY** and the City Commission, its successors and assigns, and shall be binding upon **HEDGES**, her administrators, executors, legatees, heirs, and assigns.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals on set forth below.

**CITY OF FORT PIERCE, FLORIDA**


BY:   
Linda Hudson, Mayor

**ATTEST:**

  
Linda W. Cox, City Clerk

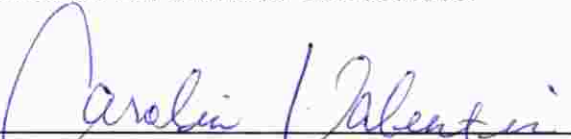
Date: 9/18/2023

**EMPLOYEE:**

  
Sara K. Hedges

Date: 9/15/2023

Approved as to Form and Correctness:

BY:   
Caroline A. Valentin, General Counsel  
Fort Pierce Utilities Authority for the benefit of  
the City of Fort Pierce, Florida

**City Commission Conference Agenda - 9:00  
a.m.**

**4. e.**

**Meeting Date:** 03/11/2024

**Re:**

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**SUBJECT:**

Discussion regarding Pinewood Park

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**Form Review**

Form Started By: Linda Cox  
Final Approval Date: 03/08/2024

Started On: 03/08/2024 10:20 AM