

# PROPERTY MAINTENANCE AND HOUSING STANDARDS

## ARTICLE I. DEFINITIONS

### 1.1. Definitions.

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

*Cover* means any device, equipment, container, close-fitting tarpaulin, chain, rope, wire, or line used on vehicles to prevent any part of a vehicle load to shift, blow, leak, fall or escape in any manner from the vehicle.

*Developed* means any lot, tract, or parcel which currently has a structure or structures upon said property or an approved parking lot which meets the requirements of city code.

*Enforcement agency* means the City of Bonifay Police Department, and designee, to include code inspectors.

*Front yard* means Any lot line that abuts a public right-of-way.

*Graffiti* means unauthorized writings, drawings, inscriptions, figures or marks of paint, ink, chalk, dye, or other similar substances on public or private buildings, structures, or places, regardless of the content or the nature of materials, not approved by the city.

*Hazardous trees* means a tree is considered hazardous if it has defects, is diseased or is dying, that may cause the tree to fall on the right-of-way, adjacent property resulting in property damage, personal injury, or death.

*Litter* means refuse and rubbish, including, but not limited to, paper, bottles, cans, glass, crockery, scrap metals, plastic, rubber, yard trash, tar paper, lumber, masonry, concrete, drywall, packaging and crating materials, tree, and shrub trimmings, leaves and disposable packages and containers.

*Nuisance* means an unlawful act, or omission of the performance of a duty, or the suffering or permitting any condition or thing to be or to exist, which act, omission, condition, or thing either:

- (1) Injures or endangers the comfort, repose, health, or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
- (5) In any way renders other persons insecure in life or the use of property;
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others;
- (7) Is declared by ordinance to be a nuisance; or
- (8) Is declared by state law to be a nuisance or public nuisance.

*Preserve areas* means vegetative areas required to be preserved by law.

*Property owner* means the owner of any lot, tract, or parcel as listed in the current Holmes County tax and/or property appraiser records.

*Public right-of-way* means the paved and unpaved area of a highway, roadway, street or alley, or other such strip of land, reserved for public use, whether established by prescription, easement, dedication, gift, purchase, eminent domain, or any other legal means.

*Rear yard* means any lot line that is not a front or side lot line.

*Recreational vehicle* means any vehicle used for recreational purposes such as, over-sized vehicles, travel trailers, camping trailers, motorhomes, private motor coaches, any vehicle designed as temporary living quarters for recreational, camping, or travel use which either has its own mode of power or is mounted on or drawn by another vehicle, van conversions, park trailers, fifth-wheel trailers, and other similar type vehicles.

*Salvaging* means the controlled removal of valuable or useful material from solid waste for utilization.

*Side yard* means any lot line that intersects a front lot line.

*Special magistrate* means the person who is a licensed attorney and a member of the Florida Bar appointed by the City Council of the City of Bonifay to have the same status as a code enforcement board pursuant to Chapter 162, Florida Statutes. The special magistrate has the authority to subpoena witnesses and records, order rulings on violations, assess fines and order liens to be placed upon property.

*Storage* means the interim containment of litter in an approved manner, such as by use of roll-off containers, wire fencing, wood fencing or other controlled measures, after generation and prior to proper and final disposal.

*Unauthorized accumulation* means the accumulation of litter on residential or commercial properties in violation of any of the provisions of this division. This shall not include building materials used in constructing or repairing a building or stored for future construction or repairs.

*Weeds* means plants that by reason of abandonment, lack of care or lack of maintenance choke outgrowth, or other plant material in the area. Dead, dying, or unattended plant life, named or unnamed, which is abandoned or overgrown to a height more than 12 inches in height shall, for the purpose of this code, be defined as a weed unless it is pristine.

*Written corrective notice* means a written statement issued to the violator of any of the provisions of this division, or an, identifying and specifying the violation, the date of issuance, the corrective measures to be taken and the date by which the correction is to be completed.

## **ARTICLE II. ENFORCEMENT; PENALTIES; ABATEMENT; NUISANCE CORRECTION**

### **2.1. General.**

Unless stated otherwise, violations of this chapter are punishable as provided for in article II. Imposition of the penalty provided in this section shall not prohibit a court from imposing civil penalties for violations of any of the provisions of this chapter, including, but not limited to, picking up litter or performing other labor commensurate with the offense committed.

### **2.2. Enforcement authority.**

The City of Bonifay Police Department and the Holmes County Sheriff's Department, if designated by the City Council to provide law enforcement within the City of Bonifay, and the persons appointed by the Bonifay Police Department and Holmes County Sheriff's Department as code inspectors, shall enforce this chapter. Police officers are hereby authorized to issue citations, court summonses, to make arrests, and to issue written corrective notices, to persons violating this chapter. Code inspectors, including law enforcement officers designated by the Bonifay Police Department and Holmes County Sheriff's Department, are hereby authorized to issue written corrective notices and citations, in accordance with this ordinance and Chapter 162, Florida Statutes.

### **2.3. Right of entry by city to abate nuisance.**

Code inspectors, and other persons authorized by the Mayor, shall have the right to enter upon real property, and shall be immune from prosecution, civil or criminal, for trespassing upon such real property, in the discharge of the duties in removing, terminating, or abating a public nuisance as described in this Code.

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## **2.4. Illegal litter prosecution.**

Violation of any of the provisions of this chapter shall be initiated by the enforcement agency who witnesses such offense or has sufficient probable cause to believe that such offense has been committed, or who discovers an article of litter bearing the name or address of a person on the property of another, or on any public property. It shall be presumed that any article of litter discovered, is the property of such person whose name or address appears thereon, and that such person placed, or caused to be placed such article of litter on the property of another or public property. This presumption is based on the tenet that all generators of such litter are responsible for such litter until such time as it has been properly disposed of.

## **2.5. Corrective notice, citations, to abate nuisances.**

Whenever the code enforcement inspectors, the building official, or any other authorized designee becomes aware of, or finds that any nuisance condition exists, it shall be their duty to immediately give written notice to the owner of the property. The notice shall be mailed by certified mail in accordance with Section 162.12, Florida Statutes, by personal service, or by posting such notice on the property, directing such person to remove, terminate and abate such public nuisance within the time specified in the notice, with the time for compliance beginning on the date of the mailing, personal delivery, or posting as the case may be. The written notice shall include a sufficient description to identify the property upon which the public nuisance exists, a description of the public nuisance to be terminated, and a statement notifying the owner that if the property remains in violation after the specified time frame, a citation may be issued, a notice to appear may be issued, a public hearing before the special magistrate may be held, or the city will cause the nuisance to be abated and all costs, fees including administrative costs, and the city shall cause a lien to be placed on the property for all such costs. If the certified mailing is not signed for by the property owner, or if the property is unoccupied, or vacant, then posting of the notice upon the property shall constitute sufficient notice to the owner, and no additional notice shall be required for any action pursuant to this chapter. All citations, notices, and court summons issued, shall be maintained by the issuing authority for public inspection during normal office hours.

## **2.6. Remedy for noncompliance with corrective notice.**

If a person served with a corrective notice fails to comply with the notice within the period stipulated, the council may cause the property to be cleaned up and the nuisance abated. The cost for such cleanup shall be billed and mailed via certified mail to the last known address of such owner. If such bill is not paid within 30 days from the mailing date, the city shall cause a lien to be placed on the property for the amount expended on the nuisance abatement, including administrative costs, which amount shall accrue interest at the applicable prejudgment interest rate until the lien is satisfied. The lien shall contain the authority for the lien imposition; a description of the subject real property sufficient to described the real property to others in the public records; the name of each title holder of record as of the date the lien is prepared, according to the records of the county property appraiser; and the amount of the lien itemized as to charges and costs.

## **2.7. City clerk duties.**

The city clerk shall:

- (1) Cause a copy of the lien to be entered in a book, which shall be prepared and kept for that purpose by the city clerk. The book shall show the title holder of record, the amount of such cost, the date of completion of the work and a legal description of the property upon which the lien is placed. A certified copy of the lien shall be recorded in the official records of the county; and the original of the lien shall be kept on file as a public record in the office of the city clerk.

- (2) Upon entry of the copy of the lien into the lien book, cause a copy of the lien to be sent by certified mail, return receipt requested, to each title holder of record according to the records of the county property appraiser on the date the notice was mailed.

## **2.8. Finality and priority of lien.**

The lien shall be effective and final against the real property upon which the work has been done from the time of entry of the copy of the lien into the lien book. Liens in the lien book shall take priority as of the time of the entry therein. With respect to liens recoded in the official records of Holmes County, lien priority shall be based on the time of recording unless otherwise required by applicable statutes.

## **2.9. Payment and enforcement of lien.**

Each of the liens provided for in this action may be paid within 90 days after the publication of the notice of assessment and lien without interest. Thereafter, the lien, including administrative costs and the cost of the publication of the notice of assessment and lien, together with interest at the applicable statutory rate for judgment as established in F.S. § 55.03, and the costs of collection, including attorney's and court costs, shall be a lien against the property and shall be collected and enforceable in the same manner as is provided by law for the enforcement of other taxes levied upon the property.

## **2.10. Rates and charges.**

The Mayor or designee shall cause to be prepared a current schedule of rates, charges and costs that may be assessed by the city using its own equipment and personnel for abatement of public nuisances, as provided in this chapter, and shall file such schedule with the city clerk.

## **2.11. Judicial proceedings for nuisance abatement.**

Whenever, in the judgment of the Mayor, it is necessary for the city to obtain the assistance of the courts to remove, terminate or abate a public nuisance, and in all cases in which the person in possession of the property involved has refused code inspectors entry upon such property, the Mayor shall request that the council commence and maintain all necessary actions in a court of competent jurisdiction to assist the city in carrying out its responsibilities under this chapter. Such actions may encompass any or all the following proceedings:

- (1) An application for an injunction or restraining order, whether temporary or permanent, to prevent a person from maintaining or continuing to maintain any of the conditions declared in this chapter to be public nuisances, or to compel a person to remove, terminate or abate a public nuisance as provided in this chapter or to compel the performance of any act specifically required of a person to remove, terminate, or abate a public nuisance; or
- (2) To empower the code inspectors or designee to enter upon any property whereon a public nuisance exists or is maintained for the purpose of removing, terminating, or abating such nuisance and to prevent the person in possession of such property from interfering with the code inspectors or designee while exercising this power in accordance with the court's order.

## **2.12. Judicial proceedings as last resort.**

The judicial remedies authorized to be sought by this section are in addition to the power of the city to terminate public nuisances granted in this chapter. The Mayor, code inspectors or designee shall, as much as possible, terminate public nuisances without recourse to the courts.

### **2.13. Contractor as city's agent.**

Whenever the city has contracted with a private contractor to terminate a public nuisance, as provided in this chapter, the remedies authorized in this chapter to be sought for the Mayor, code inspectors or designee and the city may be sought by the Mayor, code inspectors or designee on behalf of the private contractor, to the extent that they are necessary to enable the private contractor to terminate the public nuisance.

## ***ARTICLE III. DECLARATION OF GENERAL NUISANCE***

### **3.1. Purpose.**

The purpose of this article is to establish minimum standards for the maintenance, upkeep, and appearance of improved or unimproved premises; to minimize impacts of construction; and to provide a just, equitable and practicable method to preclude:

- (1) Residential and commercial buildings, structures, and premises from causing and/or endangering the life, limb, health, property, safety, or welfare of the public or theirs;
- (2) Diminished property values; or
- (3) Detracting from the appropriate appearance of the residential area, by way of example:
  - a. Failure to remove abandoned property, litter, or debris; or
  - b. Failure to cut and/or remove the accumulation of weeds, grass, or uncultivated vegetation.

### **3.2. Property nuisances prohibited.**

No person shall cause, permit, allow or suffer any of the conditions described in this section to occur or exist upon any lot, tract or parcel of land, improved or unimproved, or in any building thereon, in the city, to an extent and in a manner that such lot, tract or parcel of land or building is or may reasonably become infested with or inhabited by rodents, vermin, reptiles or wild animals, or may furnish a breeding place for mosquitoes, vermin or reptiles, or may threaten or endanger the public health, safety or welfare or where the condition of the unmaintained property will negatively impact the peaceful use or value of surrounding properties. Such conditions are hereby declared to be public nuisances and may be abated as such.

### **3.3. Nuisance conditions.**

A public nuisance includes, but is not limited to, the following actions or omissions:

- (1) Failure to maintain property in accordance with the standards set forth in this section or Code in general.
- (2) Accumulation or open storage of trash, debris, garbage, bottles, paper, cans, rags, dead plants, or trees, dead or decayed animal matter, fruit, vegetables, offal, tools, equipment, lawn and garden products, buckets, containers, appliances, household furniture, bricks, concrete, scrap lumber or any other refuse of any nature.
- (3) Any condition that provides harborage for rats, mice, snakes, other vermin, or pests except on pristine lots and in preserve areas.
- (4) Any building or structure which does not meet the requirements of the Code and is in such a dilapidated condition that it is unfit for human habitation or kept in such a structurally unsafe or

unsanitary condition that is a menace to the health of people residing in the vicinity thereof or presents a fire hazard to the vicinity in which it is located.

- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises, generators, and activities not germane to the zoning district.
- (6) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.
- (7) Hazardous trees that potentially may fall on adjacent properties or rights-of-way shall be removed.
- (8) Any condition constituting a fire hazard.
- (9) Any worn-out, scrapped, partially dismantled, non-operative, unusable, or discarded materials or objects, such as motor vehicles or parts thereof, building materials, machinery, boats, or part thereof, trailers, or other such items.
- (10) The storage of any vehicle or boat, or parts thereof, without a valid current license plate or other registration certificate, showing said vehicle or part thereof to be titled in the name of the owner or occupier of the property upon which said vehicle or part thereof is located. Failure to have such license or other registration certificate specifically attached to the vehicle or part thereof shall be prima facie evidence that said property is worn-out, scrapped, non-operative, unusable, or discarded, as provided in this chapter.
- (11) Grass, weeds, and uncultivated vegetation: All grasses or weeds, and uncultivated vegetation, shall not exceed 12 inches in height on improved property, including the area between the edge of the pavement in the street and the lot line.

### **3.4. Duty of property owner.**

It shall be the duty of the owners, or other persons in control of property within the city to maintain their lot, tract or parcel and the abutting right-of-way but not including that area which is paved as roadway consistent with the standards set out in this title.

### **3.5. Duties for developed, undeveloped property.**

The owner, or person in charge or control of the property, developed or undeveloped, within the city shall cut down and remove all weeds, grass, and undergrowth on said property when said weeds, grass, or undergrowth exceeds 12 inches in height. Said vegetative material growing in the abutting right-of-way shall not exceed 12 inches in height for both developed and undeveloped properties.

### **3.6. General standards.**

- (a) All vacant lots shall be free from potential fire hazards, to include but not be limited to dead trees, loose branches, and palm fronds.
- (b) All vacant lots, including the area between the edge of pavement in the street and the lot line, shall be kept free from dry vegetation, accumulation of weeds, grass, and uncultivated vegetation:
  - (1) Which present a visual blight upon neighborhoods;
  - (2) Which may harbor insect or rodent infestations;
  - (3) Which may likely become a fire hazard;
  - (4) Which result in a condition which may threaten the health and safety or the economic welfare of abutting or adjacent property owners; or

- (5) All grasses or weeds, and uncultivated vegetation, shall not exceed 12 inches in height on vacant lots including the area between the edge of the pavement in the street and the lot line.
- (c) Motor vehicles are prohibited from parking on or driving across any portion of a vacant lot, except for:
  - (1) Areas designated and approved by the Mayor or designee; and
  - (2) Where the owner of the vacant lot has given written permission to the vehicle owner or operator. This provision does not authorize inoperable vehicles, or vehicles or trailers without current registrations and current license plates, to be parked on a vacant lot.

### **3.7. Preserve areas.**

In preserve areas all maintenance requirements shall be determined by the department of environmental protection, except that the entire property shall be kept free of trash, debris, and litter.

### **3.8. Landscape materials.**

Landscape materials shall be maintained reasonably free of weeds and foreign matter and shall always be kept in reasonably healthy conditions. All dead material shall be removed. Hazardous trees that potentially may fall on adjacent properties or rights-of-way shall be removed.

## ***ARTICLE IV. GRAFFITI NUISANCE.***

### **4.1. Graffiti nuisance.**

It shall be prohibited for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, structure or any other real or personal property.

- (1) It shall be prohibited for any person owning property, acting as manager or for the owner of the property, or in possession or control of the property to fail to remove or effectively obscure any graffiti upon any public or private building, structure or any other real or personal property.
- (2) This section shall not be construed to prohibit temporary, easily removable chalk or other water-soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with:
  - a. Traditional children's activities such as drawing, creating bases or a playing field for games such as stickball, kickball or handball, hopscotch, and similar activities, and any lawful business or public purpose or activity.
  - b. Any lawful business or public purpose or activity.

## ***ARTICLE V. CONSTRUCTION SITE MAINTENANCE***

### **5.1. Development activity, grading or excavating of land.**

Development activity, grading or excavating of land, must receive prior approval before construction activity can proceed.

## **5.2. Waste.**

All construction and demolition contractors, and owners shall provide onsite control measures for the storage of loose debris, paper, tar paper, packaging and crating materials and other litter to prevent wind-driven scattering of such materials if the materials are otherwise not properly disposed of daily. All litter, tarpaper, packaging and crating materials and similar materials shall be removed within 30 days after the completion of the construction or demolition. In the event of a failure to control construction debris resulting in litter, the enforcement authority may provide a written citation to the permit holder, property owner or both.

## **5.3. Erosion and sediment control, landscape maintenance, shrubbery, plants, and ground cover.**

All premises shall be maintained in a condition to prevent erosion of soil by:

- (1) Landscaping with grass, trees, shrubs, other planted ground cover, silt fencing.
- (2) Such other suitable means as shall be approved by the building official.
- (3) Where landscape plans have been specifically incorporated and approved in a development plan, the landscape areas shall be maintained in a manner equal to the original landscaping approval.
- (4) Failure to maintain erosion and sediment control may result in a written citation to the permit holder, the property owner, or both.

## **5.4. Draining; re-grading; fill required.**

Any lot, tract, or parcel, including swimming pools thereon, which shall be unwholesome or unsanitary, have stagnant water standing thereon, or be in such other condition as to be susceptible to producing disease shall be drained, re-graded or filled by the owner in a manner approved by the city.

## **5.5. Clay pits; storm water ponds; caves; depressions.**

The owner, lessor, or occupant of any real property in the city wherein there exists any clay pit, storm water ponds, cave, or other depression, so located and of such depth that a child might conceivably be drowned therein when such depression is filled with rainwater or other liquid, shall enclose the depression with a fence of a height of six feet or more, with a vertical mesh spacing not to exceed two inches. The enclosure shall be of such construction as not to be penetrable without the aid of tools or another mechanical device. The existence of any such depression not so protected is hereby declared to be a dangerous and attractive nuisance.

# ***ARTICLE VI. LITTER CONTROL***

## **6.1. Areas to be free of trash and debris.**

The property, and right-of-way adjoining such property shall be kept free of trash, debris, and litter by the property owner whose property adjoins the sidewalk and right-of-way. Sidewalks shall be kept free of trash, debris, or litter. Bushes, trees, and other vegetative matter shall not obstruct the public sidewalk or obstruct motorist's vision. Irrigation systems shall not overspray the public sidewalk.



## **6.2. Storage of litter.**

- (a) All commercial businesses shall store litter in containers to eliminate wind-driven debris. The number and size of receptacles for each commercial business shall be that number required to maintain a clean, neat, and sanitary premises. Spillage and overflow of litter around containers is a violation.
- (b) Commercial businesses shall provide and maintain litter containers adequate to contain litter generated from such business at its loading and unloading zones.
- (c) Commercial businesses open to the public shall provide and maintain containers adequate to contain litter generated from such business.
- (d) Every person in possession or in control of any place, public or private, where litter is accumulated or generated shall provide and maintain adequate and suitable containers capable of holding such litter until proper final disposal is accomplished.
- (e) Any accumulation of litter in or upon any property, vacant or improved, is deemed a nuisance, and is prohibited. Failure to remove the accumulation by the property owner, tenant, manager, or other person who owns, maintains, or controls any premises or portion thereof, whether improved or unimproved, is a violation.

## **6.3. Unauthorized disposal.**

No private property owner, tenant, or occupant shall grant permission to any person to dispose of litter on the property in any manner other than in permitted disposal sites.

## **6.4. Disposal of litter required.**

Whoever generates litter in the city shall manage, store, handle, transport and dispose of it in accordance with the provisions of this Code.

No person shall throw, discard, place, drop, or deposit litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way, or body of water within the limits of the city, except in such containers specifically provided and designated for the disposal of litter, is a violation. Litter strewn by a pedestrian except at approved and permitted disposal sites is a violation. Litter ejected or discarded from a motor vehicle except at approved and permitted disposal sites is a violation.

## **6.5. Materials, objects blown from vehicles.**

An owner, or driver of a vehicle, from which any materials or objects have fallen, blown, leaked, sifted, or otherwise escaped, shall immediately cause the materials or objects on public property or private property to be cleaned up and shall pay any costs.

## **6.6. Litter at commercial, public establishments.**

The owners and operators of commercial establishments shall store their litter in a controlled manner to eliminate wind-driven debris and litter in and about their establishments, to include but not be limited to the following requirements:

- (1) The number and size of containers necessary for each commercial establishment shall be required to control all waste generated on the premises.
- (2) Spillage and overflow around containers shall immediately be cleaned up by the generator thereof as it occurs.

- (3) All commercial establishments shall provide adequate receptacles in the loading and unloading areas to store loose debris, paper, cardboard, packaging materials and similar materials.
- (4) Every person owning or operating a public establishment, or public place, shall have adequate receptacles available to contain litter generated.
- (5) Every person in possession, in charge of, or in control of any place, public or private, where litter is accumulated or generated, shall always maintain litter in adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished.
- (6) No person shall keep an accumulation of litter on any property, vacant or occupied, on any premises, public street, alley, public or private.

#### **6.7. Responsibility for surrounding areas.**

Each owner, or operator of any business, industry, or institution, private or public, profit or nonprofit, shall keep the adjacent and surrounding areas clean of wind-driven litter generated from such business, industry, or institution. These areas include public property, roads, rights-of-way, grounds, parking lots, loading, and unloading areas and vacant lots owned or leased by such business, industry, or institution.

#### **6.8. Property exteriors.**

- (a) Property exteriors shall be free of trash, litter, debris, packing boxes, lumber, construction material, solid waste, horticulture debris, salvage materials, appliances, machinery, equipment, and any furniture, excluding furniture specifically designed for outdoor use. Failure to maintain the premises in a clean, safe, and sanitary condition is a violation. The owner and operator shall keep that part of the exterior property subject to its control or occupancy in a clean and sanitary condition.
- (b) No owner, operator, or tenant shall maintain premises, private or open to the public, upon which litter is permitted, caused, allowed or existing in any manner as to be a sanitary nuisance.

### ***ARTICLE VII. VEHICLE STORAGE***

#### **7.1. Outside storage of recreational vehicles.**

- (a) Recreational vehicles shall not be lived in, slept in, or otherwise used as a residence or for residential or commercial purposes to include storage, except as provided in section 7.2, Temporary use of recreational vehicles.
- (b) Recreational vehicles shall not be connected to any water or sanitary sewer line, or utility apparatus, except as provided in section 7.2, Temporary use of recreational vehicles.
- (c) One recreational vehicle may be stored on a parcel in a single-family dwelling district, provided that any electrical service connection to a recreational vehicle shall be done in a lawful, safe, and secure manner in accordance with the manufacturer's specifications and applicable Florida Building Code, and a permit is obtained for such connection.

#### **7.2. Temporary use of recreational vehicles.**

- (a) The parcel must be located within a single-family dwelling district.
- (b) Prior to the occupancy of a recreational vehicle, a temporary use permit, which allows the recreational vehicle to be temporarily used in a residential capacity, must be obtained from the city.

- (c) The temporary use permit is valid for 180 consecutive days, however, if the continuation of the construction elements is necessary for the structure to return to acceptable condition and there is a valid, open building permit for the construction activities, the temporary use of the vehicle may be continued via new permit or an extension of permit for an extension period of 90 days.
- (d) The recreational vehicle shall be fully licensed and ready for highway use.
- (e) Any electrical service connection to a recreational vehicle shall be done in a lawful, safe, and secure manner in accordance with the manufacturer's specifications and applicable Florida Building Code.
- (f) Any potable water connection to a recreational vehicle must be completed under the regulations and inspection of the city and must have the required backflow protection device installed prior to use.
- (g) Recreational vehicles must be pumped out by a Florida licensed and bonded wastewater hauler or taken to a fully licensed wastewater receiving station. Under no circumstance, shall connection be made to any sanitary sewer service or any disposal of wastewater be disposed of in a manner inconsistent with city code and Florida law.
- (h) The provisions of this section are not intended to, nor shall they be interpreted as in any way preempting the requirements of any private agreement and/or covenant.

### **7.3. Recreational vehicle placement.**

Recreational vehicles may be placed in the side and rear yards. Recreational vehicles are prohibited from being placed in the front yard.

## **ARTICLE VIII. PROPERTY MAINTENANCE**

### **8.1. General provisions.**

All premises shall be maintained in compliance with the standards in this section.

- (a) *Maintenance.* Equipment, systems, devices, and safeguards required by this chapter or a prior code under which the structure or premises was constructed, altered, or repaired shall be maintained in good working order. The requirements of this chapter are not intended to provide the basis for removal or abrogation of fire protection or safety systems and devices in existing structures. Except as otherwise specified herein, the owner shall be responsible for the maintenance of buildings, structures, and premises.
- (b) *Existing remedies.* The provisions in this chapter shall not be construed to abolish or impair other remedies of any local, state or federal jurisdiction or its officers or agencies relating to the removal or demolition of any structure.
- (c) *Requirements not covered by this chapter.* The building official shall determine requirements necessary for the strength, stability or proper operation and general conditions acceptable for an existing fixture, structure or equipment not specifically covered by this chapter.
- (d) *Deviation from chapter.* Where practical difficulties are prohibitive in carrying out the provisions of this chapter, the building official has the authority to grant modifications for individual cases. The modification must comply with the intent and purpose of this chapter and shall not lessen health, life, and fire safety requirements. The basis for granting modifications shall be recorded and entered in the department files.
- (e) *Compliance.* It shall be the duty of every owner and operator of improved or unimproved property within the city to comply with the requirements set forth in this chapter. No permit or certificate of occupancy shall be issued unless there is compliance with all applicable sections of this chapter. No premises or building, or combination, shall be used in a manner inconsistent with or in conflict with the requirements of this chapter.

- (f) *Conflict with other codes.* The provisions of this chapter shall apply to all buildings, structures or premises in existence or built within the city limits or annexed therein. Where the provisions of this chapter impose a standard different than that set forth in any other ordinance of the city or under the laws of the state, the most restrictive standard shall prevail.
- (g) *Building permits.* Prior to commencing work to correct a violation as described in section 8.2 below, a building permit, or approval from the building official is required. Failure to obtain a building permit is punishable by F.S. ch. 553 in addition to city code.

## **8.2. Standards for improved property.**

- (a) *Foundation.* The building foundation system shall be adequately maintained and capable of supporting the load for which it was designed.
- (b) Wood supports shall be sound and free from insect infestation and rot.
- (c) Metal supports and connections shall be free from rust and the equivalent of new supports.
- (d) Skirting shall be maintained free from broken or missing sections, pieces, or cross members. Skirting shall be securely attached and sized from the ground to the lower outside perimeter of the structure.
- (e) *Exterior walls.* Exterior walls of buildings shall be:
  - (1) Maintained free from holes, breaks, and loose or rotting materials; and
  - (2) Maintained, weatherproofed and surfaces properly coated as needed to prevent deterioration. Decorative features such as cornices, belt courses, corbels, trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage. Any graffiti shall be removed or repainted to match existing surfaces.
- (f) *Windows.*
  - (1) Every window shall be maintained in sound working condition and good repair to be substantially weather-tight and rodent-proof.
  - (2) Openings originally designed as windows shall be maintained as windows unless approved by the building official for enclosure. The enclosure of a window shall be by either bricking the opening, blocking the opening with concrete blocks, and stuccoing the exterior or boarding the opening. When boarding is used, it shall be of trim fit, sealed to prevent water intrusion, and painted or stained to conform to the other exterior portions of the building. The boarding shall not remain for a period of more than 90 days from the date of the initial violation. When an act of God, such as a hurricane or tornado, the city manager may extend the time as needed.
- (g) *Shutters.* All shutters shall be maintained in good repair and securely attached to a structure. Peeling paint or preservatives is prohibited.
- (h) *Exterior doors.* Every exterior door and hatchway or garage door shall be kept in sound working condition and good repair.
- (i) *Exterior doorframes and storefronts.* Exterior doorframes and storefronts shall be maintained in good condition. All moldings shall be securely attached to the structure and maintained in good condition without splitting or deterioration.
- (j) *Exterior surface treatment.* All exterior surfaces, including by way of example and not limitation, doors and window frames, cornices, porches, decks, trim, balconies, fences, and docks, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective treatment. Peeling paint is prohibited and surfaces shall be repainted. All metal surfaces shall be coated to inhibit rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated.

- (k) *Structural supports.* Every structural element of a dwelling shall be maintained in a structurally sound condition and shall not show evidence of deterioration that would make it incapable of carrying normal loads.
- (l) *Porches and balconies.* All exterior porches, balconies, stairs, and fire escapes shall include banisters or railings properly designed and maintained to minimize the hazard of falling and installed to withstand the loads prescribed by the Florida Building Code. All exterior porches, landings, balconies, stairs, and fire escapes shall be kept structurally sound, in good repair and free from defects. Paint and other finishes shall be in good condition.
- (m) *Stairs.* All stairs shall be maintained safe and free from tripping hazards. Treads shall be sound, without broken or chipped edges. Wooden stairs shall be free from decay or substantial wear that could cause a tripping hazard or have an unsightly appearance. Handrails and guardrails shall be maintained to withstand loads prescribed by the Florida Building Code.
- (n) *Roofs.* Roofs shall be maintained in a structurally sound and safe manner. Roofs shall be repaired using like materials to existing materials.
- (o) *Gutters and downspouts.* Gutters and downspouts shall be maintained in good repair, and securely installed. Water run-off shall be contained on the property and shall not run-off onto adjacent properties.
- (p) *Chimneys, flues, and vent attachments.* Chimneys, flues, and vent attachments shall be maintained in a structurally sound manner, free from defects to capably perform the functions for which they were designed.
- (q) *Overhang extensions.* All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored to remain in sound condition. All exposed surfaces of metal or wood shall be protected from the elements, decay, or rust. For properties located in the downtown overlay district, any commercial awning in disrepair must be repaired to original condition. Awnings in this district may not be removed but must be repaired. In the event the original material cannot be located, the property owner must obtain a permit and replace with a similar product.
- (r) *Insect screens.* All windows and other outside openings required for ventilation of food preparation areas, food service areas, or any areas where products utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per 25 mm. Every swinging door shall have a self-closing device in good working condition.
- (s) *Accessory structures.* Garages, storage buildings and all other accessory structures shall be maintained and kept in good repair and sound structural condition.
- (t) *Swimming pools.* No person owning, operating, or having possession of any property within the city shall allow the accumulation of stagnant water. All swimming pools, spas, architectural pools, ponds, or bodies of water shall be properly maintained so as not to create a safety hazard or harbor insect infestation. Water shall not be allowed to stagnate or to become polluted. Pools and spas shall be kept in working order, and the water quality shall be such that it does not create a breeding ground for mosquitoes or other insects. Roofs or other structures, or improvements designed for the retention of water are exempt from this section but shall be subject to the design capabilities of a said roof, structure, or improvement or other governing codes.
- (u) *Rodent harborage.* All structures and exterior premises shall be kept free from rodent harborage and infestation. Where rodents are found, the owner shall promptly exterminate rodents through a process which will not be injurious to human health.
- (v) *Exterior lighting.* All outdoor lighting shall comply with the following:
  - (1) Non-vehicular light sources that shine into the eyes of drivers of vehicles or pedestrians which could impair safe traverse are prohibited.

- (2) All lighting shall be shielded and aimed at the owner's premises, or sidewalk and street abutting the premises.
- (w) *Fences and walls.* Fences and walls shall be maintained in a safe and structurally sound condition, in good repair with the surface coated or painted. Fences shall be free from loose or rotting materials. Metal fencing shall be free from rust or deterioration.
- (x) *Floors, interior walls, and ceilings.* All floors, interior walls and ceilings of every structure shall be maintained in a structurally sound manner and in a condition consistent with its use.

### **8.3. Accessory structures.**

Garages, storage buildings and all other accessory structures shall be maintained in good repair and sound structural condition. Structures attached or unattached, to the principal structure, which are found by the building official to be structurally deficient, shall be repaired or demolished within the timeframe set by the building official. Maintenance of accessory structures shall comply with the following:

- (1) The exterior of the building and premises to include but not limited to parking areas and landscaped areas shall be maintained in a sound, clean and neat condition.
- (2) Signs shall be maintained in good condition. Where the sign structure remains, the sign faces are to be replaced with blank panels (permit required). The design and color are subject to approval by the building official.
- (3) All advertising structures, awnings and accompanying supporting members shall be maintained in good repair and shall not constitute a nuisance or safety hazard. Advertising structures or awnings not properly maintained in accordance with this subsection shall be removed. Awnings or marquees made of cloth, plastic or a similar material shall not show evidence of tearing, ripping or holes. Upon removal of an advertising structure, such as a sign, all supporting members shall be removed. Awnings must be repaired or replaced to original condition. Where supporting members have been left from sign removal prior to adoption of the ordinance from which this chapter is derived, such supporting members shall be removed within three months of the effective date of such ordinance. Nothing in this subsection shall be construed to authorize any encroachments on streets, sidewalks, or other parts of the public right-of-way.
- (4) Where parking areas are to be barricaded to prohibit vehicular travel, it shall be accomplished by installation of parking bumpers pinned to the pavement.

### **8.4. Responsibilities of owner and operator.**

It shall be the duty and responsibility of the operator and the owner to ensure compliance with the following:

- (1) All parts of the premises under the control of the owner or operator shall be maintained in a safe and sanitary condition consistent with the business use.
- (2) The owner or operator shall not perform any acts:
  - a. Which render other parts of the premises unsafe or unsanitary;
  - b. Which obstruct any adjacent owner or operator from performing any duty required or maintaining the premises in a safe and sanitary condition.
- (3) Every owner or operator shall eliminate infestation of rodents or insects in and on the premises subject to the owner's or operator's control.
- (4) Every owner or operator shall maintain all plumbing fixtures in a safe and sanitary condition.

- (5) Upon learning of a defect or inoperable status of any facility, utility or equipment required under this chapter, which is the owner's responsibility, the operator shall provide written notice to the owner.

( Ord. No. 1813 , § 2, 4-26-21)

### **8.5 General maintenance.**

- (a) *Nuisances and hazards.* Premises shall be maintained free of nuisances and any hazards to the safety of the customers or persons utilizing the premises or to pedestrians passing by.
- (b) *Walls exposed because of demolition.* Where a wall of a building is exposed because of demolition, the owner of the building shall have the wall with its doors, windows, vents, or other similar openings closed with material of the type composing the wall. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stucco or bricked, and weatherproofed, if necessary, based on construction material, to prevent deterioration of the wall.
- (c) *Storage of flammable or combustible materials.* There shall be no storage or accumulation of flammable or combustible liquids or other materials on the premises and only in such quantities prescribed by the regulations.
- (d) *Abandoned curb cuts.* Where curb cuts are abandoned due to new construction or change of access by the owner, the curb cut shall be closed and replaced with curb and gutter design to match original.
- (e) *Sidewalks or curbs damaged by delivery vehicles.* Damage to public sidewalks or curb and gutter located in the public right-of-way shall be repaired or replaced by the owner at no expense to the city when such damage is caused by vehicles making deliveries to the commercial premises.

### **8.6. Applicability of standards to vacant buildings; securing vacant buildings.**

The provisions of this chapter that apply to the exterior premises include vacant structures. Vacant structures are not required to comply with the interior requirements of this chapter. All vacant structures shall be secured to prevent the entry of unauthorized persons or the formation of nuisance conditions. Securing a vacant structure may include boarding of the building, for a limited time not to exceed 90 days. If required by the building official, windows and doors shall be boarded by the owner and the boarding shall be maintained to keep the building secured. The design and color of boarding is subject to approval by the building official and shall be designed so that the building does not appear to be abandoned.

### **8.7. Unsightly conditions.**

The following conditions are hereby deemed to be unsightly conditions and are prohibited. The following conditions are prohibited on any premises in the city:

- (1) Structures that are:
  - a. Partially destroyed;
  - b. Left in a state of disrepair; or
  - c. Left in a state of partial construction beyond the valid timeframe of the permit.
- (2) Abandoned or broken equipment; broken or discarded furniture and household appliances in visible yard areas.
- (3) Building exteriors in a condition of deterioration or disrepair such that the condition causes measurable diminution of surrounding property values.
- (4) Garbage and trash containers stored in a manner visible from the street.

- (5) Prior to issuance of a demolition permit for a building where commercial activity is a permitted use, performance bond or equivalent security shall be filed with the city, or a letter of credit may be submitted to the city manager for approval, in the amount defined below.
  - a. *Total demolition.* The amount to demolish the building, and remove all debris from the site, and disposal cost for the debris and grading the lot in compliance with the land development code; or
  - b. *Partial demolition.* The amount to demolish the building, and remove all debris from the site, and disposal cost for the debris, grading the lot and the cost of additional construction or reconstruction so the exterior of any partially demolished building or building abutting an adjacent building that results in repair or reconstruction complies with this chapter and the Florida Building Code, as amended.
- (g) Where buildings in any zoning district are destroyed by fire, disaster or other acts of God, the requirements of this section and the land development code shall apply.

## **ARTICLE IX. SPECIAL MAGISTRATE**

### **9.1. Purpose.**

The purpose of this article is to create the position of special magistrate with authority to impose administrative fines and other noncriminal penalties to promote, protect, and improve the health, safety, morals, and welfare of the city and to provide an equitable, expeditious, effective and an inexpensive method of enforcing city codes and ordinances where a pending or repeated violation exists or continues to exist. The special magistrate is authorized pursuant to Chapter 162, Florida Statutes, and other applicable law.

### **9.2. Definitions.**

The following terms shall have the meanings set forth in this division unless the context clearly indicates otherwise:

*City attorney* means the legal counselor or advisor to the city as appointed from time to time by the city council, who shall be legal counsel to the code enforcement officer ("CEO") and shall advise the CEO accordingly concerning the officer's duties, powers, jurisdiction, and authority. The city attorney shall not advise the CEO and the special magistrate simultaneously.

*City council* means the elected governing and legislative body of the city.

*Code enforcement officer* means any authorized agent or employee of the city whose duty it is to enforce codes and ordinances enacted by the city, and who has received appropriate training as determined by the city. This shall include, but not be limited to, code inspectors, including law enforcement officers, and municipal fire safety inspectors as defined in F.S. ch. 633. Designation of a code enforcement officer and appropriate training for such officer shall be determined by the Mayor.

*Special magistrate* means a special magistrate appointed under this chapter.

### **9.3. Creation and appointment of special magistrates; jurisdiction; powers.**

- (a) Pursuant to F.S. ch. 162, there is hereby created the position of special magistrate. The Mayor shall appoint at least one special magistrate to exercise the authority and powers set forth in this division. The Mayor may appoint up to three special magistrates. Appointments shall be made based on experience or interest in code enforcement, and subject to the following requirements:



- (1) A special magistrate must be an attorney and a member in good standing with the Florida Bar;
- (2) A special magistrate shall possess knowledge and experience in local government law, judicial and administrative procedure, and rules of evidence;
- (3) A special magistrate shall not be a city employee;
- (4) A special magistrate shall serve a term of two years, and may be reappointed for succeeding terms; and

The Mayor may suspend or remove a special magistrate at any time, with or without cause, based on the needs of the city.

- (b) A special magistrate shall have jurisdiction to hear and decide cases in which violations are alleged of any provisions of city code, ordinances and state statutes authorizing hearings by special magistrates, except as specifically excluded herein.
- (c) Special magistrates are vested with all powers provided in F.S. ch. 162 and with the following specific powers, which shall not be construed as a limitation on available powers:
  - (1) Control proceedings before the special magistrate;
  - (2) Impose sanctions necessary to maintain dignity of the proceedings and to stop any activity which impedes or obstructs the administration of justice;
  - (3) Subpoena alleged violators and witnesses;
  - (4) Subpoena evidence;
  - (5) Administer and take testimony under oath;
  - (6) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance; and
  - (7) Make findings of fact based on the evidence in the record and state conclusions of law.

A special magistrate may request to have independent legal counsel to advise him or her, concerning the duties, powers, jurisdiction, and authority of the office. The Mayor, with consent of the city council, may appoint independent legal counsel to advise the special magistrate.

#### **9.4. Enforcement procedure.**

- (a) It shall be the duty of the code enforcement officer to initiate enforcement proceedings of the various codes.
- (b) Except as provided in subsections (c) and (d), if a violation of the codes is found, the code enforcement officer shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code enforcement officer shall notify a special magistrate and request a hearing. The special magistrate, through clerical staff provided by the city, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed to the violator as provided in F.S. § 162.12. At the option of the special magistrate, notice may additionally be served by publication or posting as provided in F.S. § 162.12. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code enforcement officer, the case may be presented to the special magistrate even if the violation has been corrected prior to the hearing, and the notice shall so state.
- (c) If a repeat violation is found, the code enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code enforcement officer, upon notifying the violator of a repeat violation, shall notify a special magistrate and request a hearing. The special magistrate, through clerical staff provided by the city, shall schedule a hearing and shall provide notice pursuant to F.S. § 162.12. The case may be presented to the special magistrate even if the repeat violation has been corrected prior to the hearing, and the notice shall so state. If the repeat violation has been corrected, the special magistrate retains the right to schedule a hearing to determine costs and impose the payment of reasonable

enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the special magistrate.

- (d) If the code enforcement officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code enforcement officer shall make a reasonable effort to notify the violator and may immediately notify the special magistrate and request a hearing.
- (e) If the owner of property that is subject to an enforcement proceeding before a special magistrate or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:
  - (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
  - (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
  - (3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
  - (4) File a notice with the code enforcement officer of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.

A failure to make the disclosures described in subsections (1), (2), and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

- (f) In addition to the enforcement procedures set forth herein, the "Supplemental County or Municipal Code or Ordinance Enforcement Procedures" set forth in F.S. ch. 162, pt. II, and F.S. § 125.69, are hereby incorporated herein by reference.

## **9.5. Conduct of hearing.**

- (a) Upon request of a code enforcement officer, or at such other times as may be necessary, the special magistrate may call a hearing. Minutes shall be kept by city clerical staff of all hearings conducted by a special magistrate, and all hearings and proceedings shall be open to the public. The city shall provide clerical and administrative personnel as may be reasonably required by a special magistrate for the proper performance of his or her duties.
- (b) Each case before a special magistrate shall be presented by the code enforcement officer or by a member of the administrative staff of the city. If the city prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate and such costs may be included in the lien authorized under F.S. § 162.09(3).
- (c) A 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 enforcement officer and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the 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 to the special magistrate in this chapter. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in F.S. § 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to 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, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records and the order is complied with by the date specified in the order, the special magistrate shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

#### **9.6. Administrative fines and penalties; costs of repair; liens.**

- (a) A special magistrate, upon notification by a code enforcement officer that an order of the special magistrate has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the special magistrate for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code enforcement officer. In addition, if the violation is a violation described in F.S. § 162.06(4), the special magistrate shall notify the city manager, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the city to make further repairs or to maintain the property and does not create any liability against the city for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, a special magistrate finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b)(1).
- (b)
  - (1) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a). However, if a special magistrate finds the violation to be irreparable or irreversible in nature, he or she may impose a fine not to exceed \$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 special magistrate may reduce a fine imposed pursuant to this section.
- (c) 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 circuit 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. A lien arising from a fine imposed pursuant to this section runs in favor of the city, which may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, a special magistrate may authorize the city attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under § 4, article X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under § 4(a), article X of the State Constitution.
- (d) Actions for money judgments under this division may be pursued only on fines or penalties levied after October 1, 2000.

- (e) The special magistrate shall have jurisdiction to assess a reasonable administrative fee to recoup the actual costs of notice, preparation, and presentation of alleged violations.

### **9.7. Appeals.**

An aggrieved party may appeal a final administrative order of a special magistrate to the circuit court as provided in F.S. § 162.11.

### **9.8. Notices.**

All notices required by this part must be provided to the alleged violator using any method authorized by F.S. § 162.12.

## ***Article X. CODE ENFORCEMENT CITATIONS***

### **10.1. Issuance of citation.**

An employee of the city who is duly authorized by the Mayor as a code enforcement officer or code inspector, and any law enforcement officer of the city, may issue a citation to a person to appear in county court of Holmes County, Florida when the officer upon personal investigation has reasonable cause to believe that the person has committed a civil infraction in violation of a city ordinance. Employees whom may be designated as code enforcement officers may include but are not limited to, code inspectors, law enforcement officers, public works inspectors, fire safety inspectors and zoning inspectors.

### **10.2. Notice of violation.**

Prior to issuing a citation, the code enforcement officer shall provide notice to the person that the person has committed a violation of a city ordinance and shall establish a reasonable period, not to exceed 30 days, within which the person must correct the violation. If, upon personal investigation, the 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. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found. If the code enforcement officer has reason to believe the violation presents a serious threat to the public health, safety, or welfare or if the violation is irreparable or irreversible, the code enforcement officer does not have to provide a reasonable time period to correct the violation prior to issuing a citation.

### **10.3. Form of citation.**

A citation and notice to appear shall be in the form prescribed by the Mayor and when issued, shall constitute notice that an officer has probable cause to believe an infraction of city code has been committed and that the cause will be heard in the county court in and for the county. Exclusive jurisdiction and authority shall be in the county court to dispose of or make adjudication based upon a citation once it has been issued. A citation shall include the following:

- (1) The date and time of issuance.
- (2) The name and address of the person to whom the citation is issued.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting reasonable cause.

- (5) The number or section of the Code or ordinance violated.
- (6) The name and authority of the code enforcement officer.
- (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

#### **10.4. Issuance of citation.**

For violation of any of the provisions of city code, the code enforcement office shall have the discretion to either issue a warning with no civil penalty, issue a citation for a fine in the amount as approved by the city council, or a notice to appear in court. Any person cited for violation of city code shall be deemed to be charged with a civil infraction and/or cited to appear in court.

#### **10.5. Payment of civil penalty.**

Any person cited with a violation of city code may pay the civil penalty within ten days of the date of receiving the citation. If the person cited follows the above procedure, he shall be deemed to have admitted the civil infraction and to have waived his right to a trial on the issue of commission of the violation.

- (1) If a person fails to pay the civil penalty within ten days of receipt of the citation, the clerk of the court shall issue a notice to appear. An additional amount shall be assessed as a late fee for each penalty paid after the initial ten-day period in accordance with the fee resolution as established by the city council.
- (2) If a person fails to pay the civil penalty or fails to appear in court to contest the citation, the court may issue an order to show cause upon the request of the municipality. This order shall require such person to appear before the court to explain why actions on the citation have not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person shall be held in contempt of court.
- (3) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

#### **10.6. Filing of citation with county court.**

After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original and one copy of the citation with the county court.

#### **10.7. Schedule of civil penalties.**

A person who receives a citation from a code enforcement officer for a violation of a city ordinance and who elects not to contest the citation shall be subject to a civil penalty in accordance with the fees set in the comprehensive fee schedule adopted by the city, but (a) in the absence of a fee schedule, or (b) if the fee schedule does not set forth a civil penalty for the specific violation cited, the fee shall be \$250.00 for a first offense and shall not exceed the maximum penalty set forth in Section 162.21, Florida Statutes, for a second offense and subsequent offense.

#### **10.8. Judgment upon failure to contest citation.**

Any person who fails to pay the appropriate civil penalty with the time period allowed, or who fails to appear in county court to contest the citation, shall be deemed to have waived his right to contest the citation, and judgment may be entered against the person in an amount not to exceed the amount set in the comprehensive fee schedule, or in the absence of a fee schedule, the amounts set forth in Sec. 10.7.

#### **10.9. Exceptions.**

The provisions of this section shall not apply to the enforcement, pursuant to F.S. §§ 553.79 and 553.80, of 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. For purposes of this section, the term "building codes" means only those codes adopted pursuant to F.S. § 553.73.

#### **10.10. Provisions supplemental.**

The provisions of this article are additional and supplemental means of enforcing city codes or ordinances. Nothing contained in this article shall prohibit the city from enforcing its codes or ordinances by any other means.

#### **10.11. Separate offenses.**

In addition to the penalties provided in this article, any condition caused or permitted to exist in violation of any of the provisions of city code or any ordinance shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

#### **10.12. Notice to appear.**

- (a) Notwithstanding F.S. § 34.07, a code enforcement officer, designated by the city, may issue a notice to appear at any hearing conducted by a county court if the officer, based upon personal investigation, has reasonable cause to believe that the person has violated a code or ordinance. A notice to appear means a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. If a person issued a notice to appear under this section refuses to sign such notice, the code enforcement officer has no authority to arrest such person.
- (b) Prior to issuing a notice to appear, a code enforcement officer shall provide written 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 fewer than five days and no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the prescribed time period, a code enforcement officer may issue a notice to appear to the person who has committed the violation. A code enforcement officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a notice to appear and may immediately issue a notice to appear if a repeat violation is found, or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare or that the violator is engaged in violations of an itinerant or transient nature, as defined by local code or ordinance within the city, or if the violation is irreparable or irreversible.