

ORDINANCE NO. O-10-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS AUTHORIZING THE CITY TO COLLECT THE COSTS OF ABATING CERTAIN VIOLATIONS OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES THROUGH THE IMPOSITION OF SPECIAL ASSESSMENTS; AMENDING SECTION 22-21 OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES PERTAINING TO JURISDICTION; AMENDING SECTION 22-22 OF THE CODE PERTAINING TO DEFINITIONS; AMENDING SECTION 22-23 OF THE CODE PERTAINING TO ENFORCEMENT BOARD ORGANIZATION; AMENDING SECTION 22-24 OF THE CODE PERTAINING TO ENFORCEMENT PROCEDURE; AMENDING SECTION 22-27 OF THE CODE, PERTAINING TO ADMINISTRATIVE FINES AND LIENS; AMENDING SECTION 22-30 OF THE CODE PERTAINING TO NOTICES; CREATING SECTION 78-211 OF THE CODE OF ORDINANCES TO PROVIDE PROCEDURES GOVERNING THE IMPOSITION OF CODE ABATEMENT ASSESSMENTS; PROVIDING FOR SEVERABILITY, REPEALER, FOR CODIFICATION, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of Green Cove Springs City Council (“Council”) adopted Chapter 22 of the City of Green Cove Springs Code of Ordinances (“Code”) establishing code enforcement regulations and procedures; and

WHEREAS, Section 22-27 of the Code permits the City to perform reasonable repairs to bring a property into compliance when a violation presents a serious threat to the public, health, safety and welfare or is irreparable or irreversible in nature; and

WHEREAS, Chapters 14 and 58 of the Code permit the City to perform reasonable repairs to bring a property into compliance when a violator fails to correct certain violations of the Code within a specified period of time; and

WHEREAS, in order to protect public funds and allow the City to more effectively recover the costs associated with making necessary repairs to abate certain code violations, the

Council wishes to amend Chapters 22 and 78 of the Code to allow the City to impose special assessments upon properties that receive a special benefit from the City's abatement of code violations; and

WHEREAS, the Council further wishes to clarify that the powers and authority granted to any special magistrates appointed by the City for the purpose of hearing and deciding alleged violations of the Code shall be consistent with those powers granted to the enforcement board under Chapter 22 of the Code.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS. The above recitals are true and correct and are hereby incorporated herein by reference.

SECTION 2. AMENDMENT OF SECTION 22-21 OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES. Section 22-21 of the City of Green Cove Springs Code of Ordinances entitled "Jurisdiction," is hereby amended as follows:

Sec. 22-21. Jurisdiction.

(a) One or more special magistrates appointed by the City and/or an enforcement board appointed by the City ~~The special magistrate~~ shall enforce and have jurisdiction over the enforcement of ~~of the chapters of this Code of and~~ ordinances as permitted by F.S. ch. 162 in the event a resolution of an alleged violation cannot be made with city staff.

(b) This jurisdiction and enforcement authority shall be in addition to all other enforcement authority granted to the city under applicable ordinances and state law

(c) Notwithstanding anything herein ~~the foregoing~~ to the contrary, the city shall have the authority to appoint an enforcement board ~~a special magistrate~~ to serve in lieu of or in addition to the special magistrate whenever the city council shall, by resolution, deem it

necessary to do so. In the event the City elects to provide for the appointment of an enforcement board, all references to the special magistrate in this chapter shall also apply to the enforcement board.

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 3. AMENDMENT OF SECTION 22-22 OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES. Section 22-22 of the City of Green Cove Springs Code of Ordinances entitled “Definitions,” is hereby amended as follows:

Sec. 22-22. 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:

City attorney means the attorney for the city.

Code enforcement official means the city manager or his designee.

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

Enforcement board means a board consisting of citizens appointed by the City Council for the purpose of hearing and deciding alleged violations of the codes and ordinances of the City in accordance with Section 22-23 hereof. When used in this chapter, the term “enforcement board” shall also refer to and include special magistrate, as defined herein, unless the context clearly requires otherwise.

Repeat violation means a violation of a provision of a code or ordinance by a person who has been previously found, through a special magistrate of any other quasi-judicial or judicial

process, to have violated or who has admitted violating the same provision within five years prior to the violation, notwithstanding the violations occur at different locations.

Special magistrate means a member in good standing of the Florida Bar who is appointed by the City Council to hear and decide alleged violations of the codes and ordinances of the City.

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 3. AMENDMENT OF SECTION 22-23 OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES. Section 22-23 of the City of Green Cove Springs Code of Ordinances entitled “Enforcement board organization,” is hereby amended as follows:

Sec. 22-23. Enforcement board organization; Special magistrates.

(a) The City Council may, by resolution or other appropriate action, create an enforcement board. ~~There is hereby created a special magistrate of the city~~ which shall consist of seven members, to be appointed by the city council. All members of the ~~special magistrate~~ enforcement board shall be residents of the city and shall serve without compensation.

(b) The membership of the enforcement board shall, whenever possible, consist of experts in the following fields:

- (1) An architect.
- (2) A business person.
- (3) An engineer.
- (4) A general contractor.
- (5) A realtor.
- (6) A subcontractor.

(c) Any member may be reappointed upon approval of the city council. Each term shall be for a period of three years.

(d) An appointment to fill any vacancy on the enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend one of three successive meetings without cause and without prior approval of the chair, the enforcement board shall declare the member's office vacant, and the city council shall promptly fill such vacancy.

(e) The members shall serve in accordance with the ordinances of the city council and may be suspended and removed for cause by the city council.

(f) The members of the enforcement board shall elect a chair, who shall be a voting member, from among the members of the enforcement board. The presence of four or more members of the enforcement board shall constitute a quorum.

(g) Special meetings of the enforcement board may be convened by the chair, upon the giving of notice thereof to each other member of the enforcement board. Unless waived by a majority of the enforcement board, notice of a special meeting shall be given at least 24 hours prior thereto.

(h) In addition to or in lieu of appointment of an enforcement board, the City Council may appoint one or more special magistrates for the purpose of hearing and deciding alleged violations of the codes and ordinances of the City. Any such special magistrate so appointed shall possess all powers and authority granted to the enforcement board under this chapter. The city attorney shall present cases before the ~~enforcement board~~ special magistrate.

(i) The city attorney shall either be counsel to the enforcement board or shall represent the city before the enforcement board, but in no case shall the city attorney serve in both capacities.

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 4. AMENDMENT OF SECTION 22-24 OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES. Section 22-24 of the City of Green Cove Springs Code of Ordinances entitled “Enforcement procedure,” is hereby amended as follows:

Sec. 22-24. Enforcement procedure.

(a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes. No special magistrate or enforcement board member may initiate such enforcement proceedings.

(b) Except as provided in subsections (c) and (d) of this section, if a violation of the codes is found, the code inspector shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the enforcement board and request a hearing. The enforcement board ~~special magistrate~~, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed, as provided in section 22-30, to the violator. At the option of the enforcement board ~~special magistrate~~, notice may additionally be served by publication or posting as provided in section 22-30. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the enforcement board, even if the violation has been corrected prior to the enforcement board hearing, and the notice shall so state.

(c) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the enforcement board, through its clerical staff and shall schedule a hearing and provide notice pursuant to section 22-30. The case

may be presented to the enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the enforcement board ~~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 rights to this hearing and pay such costs as determined by the enforcement board ~~special magistrate~~.

(d) If the code inspector 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 inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

(e) If the owner of property that is subject to an enforcement proceeding before the enforcement board, 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 official 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.

(f) A failure to make the disclosures described in subsections (e)(1), (2) and (3) of this section 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.

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 5. AMENDMENT OF SECTION 22-27 OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES. Section 22-27 of the City of Green Cove Springs Code of Ordinances entitled “Administrative fines; liens,” is hereby amended as follows:

Sec. 22-27.- Administrative fines; liens.

* * *

(b) In addition, if the violation is a violation described in section 22-24(d), chapter 14, or chapter 58 of the Code, the enforcement board shall notify the city council, 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. The city’s costs of performing the necessary repairs may be assessed against the property pursuant to chapter 78, article VII of this code. Making such repairs does not create a continuing obligation on the part of the city council to make further repairs or to maintain the property and does not create any liability against the city council for any damage to the property if such repairs were completed in good faith. If a finding of a violation or repeat violation has been made as provided in this article, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the enforcement board ~~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 (c) of this section.

(c) 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 (b) of this section. However, if the enforcement board ~~special magistrate~~ finds the violation to be irreparable or irreversible in nature, the special magistrate may impose a fine not to exceed \$5,000.00 per violation. In addition to such fines, the special magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs of repairs pursuant to subsection (b) of this section.

* * *

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 6. AMENDMENT OF SECTION 22-30 OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES. Section 22-30 of the City of Green Cove Springs Code of Ordinances entitled “Notices,” is hereby amended as follows:

Sec. 22-30. Notices.

* * *

(b) In addition to providing notice as set forth in subsection (a) of this section, at the option of the enforcement board ~~special magistrate~~, notice may also be served by publication or posting, as follows:

(1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the enforcement board ~~special magistrate~~ is located. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.

(2) In lieu of publication as described in subsection (b)(1) of this section, such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the city hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(3) Notice by publication or posting may run concurrently with, or may follow, an attempt to provide notice by hand delivery or by mail as required under subsection (a) of this section.

(c) Evidence that an attempt has been made to hand deliver or mail the notice as provided in subsection (a) of this section, together with proof of publication or posting as provided in subsection (b) of this section, shall be sufficient to show that the notice requirements of this article have been met, without regard to whether or not the alleged violator actually received such notice.

* * *

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 7. CREATION OF SECTION 78-211 OF THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES. Section 78-211 of the City of Green Cove Springs Code of Ordinances, to be entitled “Property Abatement Assessments,” is hereby created to read as follows:

Sec. 78-211 - Property Abatement Assessments.

(a) The Council is hereby authorized to impose property abatement assessments against properties in violation of the City of Green Cove Springs Code of Ordinances that require the City to perform any work necessary to bring the property into compliance.

(b) Any costs incurred by the City, including all actual, administrative, and collection costs, may be assessed against the property as a special assessment pursuant to Florida law and, if not paid, may be collected as provided in subsection (e) below. Under no circumstances shall any fines or penalties be included in such special assessment. Any fines or penalties imposed shall continue to be a lien against the subject property as provided for by this Code and Florida law.

(c) A notice of the special assessment shall be provided to the property owner by first class mail at the address on record with the Clay County Property Appraiser's office specifying: (1) the violation that was repaired or abated, (2) the address and parcel identification number of the property, (3) the actual cost of the repair or abatement, (4) the amount of administrative costs (if any), (5) a statement that if not paid in full or an appeal is not filed in writing with the City administration office within 30 days, a special assessment will be imposed against the property, and (6) the date by which the cost of the repair or abatement must be paid. The only issue to be determined on appeal is whether or not the costs in the notice are the actual costs incurred by the City and/or if the notice describes the proper property and owners.

(d) If not paid after 30 days of the notice described in subsection (c), a claim of lien for special assessment shall be recorded in the official records of Clay County. The lien created shall be equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. The lien created hereby shall accrue from date of repair or abatement at an interest rate equal to the amount of interest payable on a judgment lien pursuant to section

55.03, Florida Statutes, as it may be amended from time to time, until such time as the costs of repair or abatement are placed on the assessment roll as defined by section 78-167 of the City of Green Cove Springs Code of Ordinances. The lien created hereby shall bear, on its face, the rate of interest that is payable on the lien. The failure to bear the rate of interest on the lien shall not invalidate the lien. The rate of interest shall be established on the date the violation is repaired or abated by the City.

(e) If not paid after 30 days of the notice described in subsection (c), the City shall follow the procedures outlined in this chapter to collect the actual costs of repairs or abatements, plus reasonable administrative and collection costs as a non-ad valorem assessment.

SECTION 8. CODIFICATION INTO THE CITY OF GREEN COVE SPRINGS CODE OF ORDINANCES. It is the intent of the Council and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the City of Green Cove Springs Code of Ordinances and that the sections of this Ordinance may be renumbered or relettered.

SECTION 9. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

SECTION 10. REPEALER. Any Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 11. EFFECTIVE DATE. This Ordinance shall become effective ten (10) days following its enactment.

INTRODUCTION AND APPROVED AS TO FORM ONLY ON THE FIRST READING BY THE CITY COUNCIL OF GREEN COVE SPRINGS, FLORIDA, ON THIS 15th DAY OF MARCH, 2022.

CITY OF GREEN COVE SPRINGS, FLORIDA

By: _____
Edward Gaw, Mayor

ATTEST: _____
Erin West, City Clerk

PASSED ON SECOND AND FINAL READINGS BY THE CITY OF GREEN COVE SPRINGS, FLORIDA, THIS 5th DAY OF APRIL, 2022.

CITY OF GREEN COVE SPRINGS, FLORIDA

By: _____
Edward Gaw, Mayor

ATTEST: _____
Erin West, City Clerk

APPROVED AS TO FORM:

L. J. Arnold III, City Attorney