

ORDINANCE NO. 16-017

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; **AMENDING CHAPTER 2, ARTICLE XIII.5, ENTITLED “SUPPLEMENTAL MUNICIPAL CODE ENFORCEMENT PROCEDURES”**; AMENDING SECTION 2-254 CITATION AUTHORIZATION; VIOLATION AS CIVIL INFRACTION; MAXIMUM CIVIL PENALTY; AMENDING SEC. 2-257 – FORM OF CONTENTS OF CITATION; FILING WITH COURT; AMENDING SEC. 2-259 - PROCESSING CITATIONS; PAYMENT OF FINES; HEARINGS; AND AMENDING SECTION 2-260 (B) RELATING TO CLASSES OF VIOLATIONS AND CIVIL PENALTIES FOR VIOLATIONS OF CITY CODES CONSTITUTING CIVIL INFRACTIONS; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, said Section 2-260 of the Code of Ordinances of the City of Fort Pierce, Florida provides classes of violations of the codes and ordinances of the City of Fort Pierce, Florida which constitute civil infractions for which citations may be issued and penalties to be assessed therefor; and

WHEREAS, the City of Fort Pierce, Florida has determined that the process for issuing citations, the classes of violations and related penalties should be revised in accordance with the provisions of this Ordinance.

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

SECTION 1. Section 2-254, Section 2-257, Section 2-259 and Section 2-260(b) of the Code of Ordinances of the City of Fort Pierce are hereby amended so that same shall read thereafter as follows:

Sec. 2-254. - Citation authorization; violation as civil infraction; maximum civil penalty.

- (a) Any code enforcement officer is hereby authorized to issue a citation to a person when, based upon personal investigation, the code enforcement officer has reasonable cause to believe that the person has committed a violation of any kind or ordinance set forth in section 2-260, ~~and that the county court in and for St. Lucie County will hear the charge.~~ Pursuant to F.S. § 403.413(7), or as the same may hereafter be renumbered, code enforcement officers are designated to enforce the Florida Litter Law (presently codified at F.S. § 403.413).
- (b) A code or ordinance violation for which a citation may be issued pursuant to this article shall be deemed to be a civil infraction.
- (c) The maximum civil penalty for such civil infraction shall not exceed five hundred dollars (\$500.00) per violation. In addition to the civil penalty the code enforcement officer may request that the Special Magistrate or Court issue an order to include ~~plus~~ all applicable costs of prosecution and legislative assessments plus court costs.

- (d) A civil penalty of less than the maximum civil penalty shall be assessed if the violator does not contest the violation. The amount of the penalty for an uncontested citation shall be determined by the class of the violation as set out in section 2-260.

Sec. 2-257. - Form of contents of citation; filing with court.

A citation issued by a code enforcement officer shall be in a form prescribed by the city commission or by administrative order of the Chief Judge of the Nineteenth Judicial Circuit and shall contain the information as set out under the definition of "citation" in section 2-253.

After issuing a citation to an alleged violator ~~that does not require a mandatory court appearance~~, a code enforcement officer shall deposit the original ~~and one copy of the~~ citation with the ~~county court by filing same with the clerk of court~~ Code Enforcement Clerk within two (2) working days. The code enforcement officer shall retain one copy for his records.

After issuing a citation to an alleged violator that requires a mandatory court appearance, a code enforcement officer shall deposit the original citation with the county court by filing same with the Clerk of Court within two (2) working days. The code enforcement officer shall retain one copy for his records.

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

- (a) If the person elects not to contest the citation, such person shall pay in full the applicable reduced civil penalty, as set forth in this article, to the ~~clerk of the court~~ City of Fort Pierce within ~~fourteen (14)~~ thirty (30) calendar days of the issuance of the citation.
- (b) If the person cited elects to pay the applicable reduced civil penalty set forth herein, the person shall be deemed to have admitted the infraction and waived the right to a hearing. If the person cited fails to pay the civil penalty by the ~~fourteenth (14th)~~ thirtieth (30th) calendar day after issuance of the citation or fails to request a ~~court~~ hearing within the time prescribed, ~~the person shall have waived any right to contest the citation and a judgment shall be entered against the person cited in an amount up to the maximum civil penalty plus court costs of ten dollars (\$10.00). In addition, a rule to show cause may be issued by the court requiring the person cited to appear before it so as to explain the persons failure to pay or request a court hearing. Failure to respond to a rule to show cause may result in issuance of an arrest warrant. the code enforcement officer shall request a hearing be scheduled before the Special Magistrate and may request a fine be assessed up to the maximum civil penalty plus court costs of ten dollars (\$10.00).~~
- (c) If the person elects to contest the citation, the person shall request a hearing before the ~~county court~~ Special Magistrate within fourteen (14) calendar days of the date of citation. The ~~clerk of court~~ Code Enforcement Clerk shall notify the ~~issuing agency code enforcement officer~~ of any contested citations and of the ~~court~~ date when such contested citation may be scheduled to be heard by the ~~county court~~ Special Magistrate. The case shall be presented by the code enforcement officer who issued the citation and the standard of proof shall be a preponderance of the evidence. A contest of the citation shall be deemed a waiver by the person of any right to pay the reduced civil penalty and upon a finding by the ~~court~~ Special Magistrate that the person cited committed the civil infraction charged, the ~~court~~ Special Magistrate may order the violator to correct the violation and may impose a civil penalty up to the maximum civil penalty plus all applicable costs of prosecution, plus court costs of ten dollars (\$10.00) but in no event, however, shall any such civil penalty imposed by the ~~court~~ Special Magistrate be less than the reduced civil penalty as provided in this article. The ~~judge~~ Special Magistrate may provide for the civil penalty to be paid, and the violation to be corrected, within such time as the ~~county judge~~ Special Magistrate determines to be appropriate. If the person found to be in violation fails to pay the civil penalty or to correct the violation within the time provided, a civil judgment shall be entered against that person up to the maximum civil penalty.
- (d) Should the person cited schedule a hearing as provided for herein and thereafter fail to appear at such hearing, the person shall be deemed to have waived the right to contest the citation and a civil judgment shall be entered against the person in an amount not to

exceed the maximum civil penalty; provided, however, that the ~~court~~ Special Magistrate shall have the discretion to continue or reschedule any hearing when it determines that doing so will further the interest of justice. In such event, the ~~clerk of court~~ Code Enforcement Clerk shall notify the code enforcement officer and the person cited of the date and time of the hearing as rescheduled. ~~In addition, a rule to show cause may be issued by the county judge requiring the person cited to appear in county court to explain the persons failure to appear at the hearing. Failure to respond to the rule to show cause may result in the issuance of an arrest warrant.~~

- ~~(e)~~ ~~Should the person cited willfully fail to comply with a court order to abate or correct the violation, the court, after due notice and hearing on the matter, may hold the violator in civil contempt and may enter an order to that effect.~~
- ~~(fe)~~ In the event that a civil judgement is entered against the person cited as provided herein, the city may record ~~a certified copy of said~~ the judgment in the Official Records of St. Lucie County and the same shall thereafter constitute a lien against the land on which the violation exists, if the violator is the owner of such property, and upon any other real or personal property owned by the violator.
- ~~(gf)~~ In the event an order is entered finding that a violation of the ordinance cited has been committed, the city may record ~~a certified copy of~~ said order in the Official Records of St. Lucie County and the same shall thereafter constitute notice to and be binding upon the violator and any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and any subsequent purchasers, successors in interest, or assigns if the violation concerns real property.
- ~~(hg)~~ If the person cited has been previously cited for the same violation at least two (2) times within a twelve (12) month period or commits a violation that requires a mandatory court appearance, upon issuance of ~~a third or subsequent~~ the citation, the person shall not have the option of paying a reduced civil penalty but instead shall appear before a county court judge ~~within twenty-one (21) calendar days~~ to answer the charge.
- ~~(gh)~~ Payment of any civil penalty imposed by this article shall be made to the ~~clerk of court the City of Fort Pierce, who shall forward the monies collected to the City of Fort Pierce general fund.~~ If a judgment has been entered for the civil penalty and satisfied, the code enforcement officer shall be notified that the judgment is satisfied and a satisfaction of judgment shall then be prepared and recorded in the Official Records of St. Lucie County.
- ~~(hi)~~ The Florida Rules of Civil Procedure and the Florida Evidence Code shall apply.

Sec. 2-260. - Classes of violations.

- (b) Violations of the city codes and ordinances which constitute civil infractions for which citations may be issued are as follows:

Chapter or Section	Description	Class
Sec. 4-64 <u>5-375</u>	Sea Turtle Lighting	II
Sec. 5-73	House numbers required	I
Sec. 5-370	Exterior property and landscaping	I
Sec. 5-371	Exterior areas	I
Sec. 8.5	Minimum occupancy standards for residential dwellings	III
Ch. 9	Occupational License – not otherwise specified	II
Sec. 9-80	Street vendors; permit required	I
Sec. 9-82	Seasonal vendors; permit required	I
Sec. 9-335	Garage sales regulations	I
<u>Sec. 10-23</u>	<u>Parking regulations</u>	<u>I</u>
Sec. 11-10	Storage of scraps and waste	II

Sec. 11-11	Storage of commodity in vehicle	II
Sec. 11-24	Destruction of public property	I
Sec. 11-26	Distribution of handbills	I
Sec. 11-30	Refrigerators and Iceboxes; safety regulations	III
Sec. 11-39	Exhibiting obscene pictures or papers	II
Ch. 15	Signs	II
Sec. 16-22	Littering / dumping prohibited	II
Sec. 16-27	Bulk trash removal; residential	II
Sec. 16-46	Nuisances on property – not otherwise specified	III
Sec. 16-46 / 48(1)(5)	Nuisance as an Object – outside storage	I
Sec. 16-46 / 48(10)(d)	Nuisance as an Object – disabled vehicles	I
Sec. 16-46 / 48(11)	Nuisance as an Object – outside storage of indoor furniture	I
Sec. 17-33	Maintenance of Stormwater Facilities	III
Sec. 17-96	Stormwater Discharges Prohibited	III
Sec. 20-5	Use of water during drought	I
Sec. 21-54	Using vessel as place of business	II
Ch. 22	Zoning violations – not otherwise specified	II
Sec. 22-60	Parking commercial vehicles in residential areas	III
Sec. 22-71(b)	Arcade / Amusement Centers – design standards	I
Sec. 22-79	Compliance with conditions of approval	III
Sec. 22-187(11)	Screening of refuse collection areas	I
Sec. 22.192	Tree removal permit required	I

SECTION 2. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

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

SECTION 4. This Ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM
& CORRECTNESS:

James M. Messer
City Attorney

STATE OF FLORIDA)
ST. LUCIE COUNTY)^{SS}

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 16-017 was duly advertised by title only in the St. Lucie News Tribune on August 27, 2016; copy of said ordinance was made available at the office of the City Clerk to the public upon request; said ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on September 6, 2016; and was duly introduced, read by title only, and passed on second and final reading on September 19, 2016, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the 19th day of September, 2016.

Linda Hudson,
Mayor Commissioner

Linda W. Cox,
City Clerk

(CITY SEAL)