

ORDINANCE NO. C-08-36

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, REPEALING CHAPTER 11, CODE ENFORCEMENT, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, AND ADOPTING A NEW CHAPTER 11, CODE ENFORCEMENT, FOR THE CREATION OF A NEW CODE ENFORCEMENT SYSTEM WITHIN THE CITY OF FORT LAUDERDALE; PROVIDING A DECLARATION OF INTENT; PROVIDING DEFINITIONS; PROVIDING CODE ENFORCEMENT BOARD AND SPECIAL MAGISTRATE PROCEDURES; PROVIDING CODE ENFORCEMENT PROCEDURES; PROVIDING CITATION VIOLATION NOTICE PROCEDURES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCE PROVISIONS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a fundamental purpose of local government is to promote, protect, and improve the health, safety, and general welfare of its residents and visitors; and

WHEREAS, an important part of performing such purpose is enforcement of the codes and ordinances in force within a local government's jurisdiction; and

WHEREAS, Chapter 162, Florida Statutes, provides that a local government may enforce such codes and ordinances by the procedures enumerated in Chapter 162 or a local government may, at its option, adopt an alternate code enforcement system; and

WHEREAS, the City of Fort Lauderdale has heretofore utilized the system and procedures provided for by Chapter 162 for enforcement of codes and ordinances in force in the City of Fort Lauderdale; and

WHEREAS, the City of Fort Lauderdale system and procedures provided for by Chapter 162 are cumbersome and somewhat ineffective in encouraging compliance with the codes and ordinances in force in the City of Fort Lauderdale; and

WHEREAS, the code enforcement system and procedures provided for in this

ordinance are designed to replace the system and procedures provided for in Chapter 162 in order to better meet the code enforcement needs of the City of Fort Lauderdale, while maintaining appropriate safeguards for the rights of accused violators; and

WHEREAS, the City Commission finds that the adoption of the code enforcement system and procedures provided for in this ordinance is in the public interest and will better serve to encourage compliance with the codes and ordinances in force in the City of Fort Lauderdale and promote, protect, and improve the health, safety, and general welfare of the residents and visitors of the City of Fort Lauderdale;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the current Chapter 11, Code Enforcement, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby repealed in its entirety and a new Chapter 11, Code Enforcement, is created to read as follows:

## **Chapter 11**

### **CODE ENFORCEMENT**

#### **DIVISION 1. GENERALLY**

##### **Sec. 11-1. Declaration of intent.**

It is the intent of this chapter to promote, protect and improve the health, safety and welfare of the citizens of the City of Fort Lauderdale (hereinafter referred to as "City") by the creation of a code enforcement system that will provide an equitable, expeditious, efficient and effective method for enforcement of, and to encourage compliance with, the codes, ordinances, rules and regulations of the City, Broward County, State of Florida, and any other statutes, codes, ordinances, rules and regulations that are the subject to enforcement by the City. Pursuant to Section 162.03, Florida Statutes, the City hereby adopts an alternative code enforcement system for the enforcement of its own codes, ordinances, rules and regulations. Any civil penalty prescribed, assessed, or collected pursuant to this article shall not limit any

other civil or administrative remedies that the City may have by law.

**Sec. 11-2. 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:

Administrative hearing shall mean a contested violation hearing before the special magistrate for review of the decision of a code inspector that resulted in issuance of a civil violation notice.

Affidavit of non-compliance shall mean an affidavit of the code inspector certifying that the violator has failed to correct the violation within the time allowed for correction or failed to pay the civil penalty on the citation violation notice within the time allowed.

Appeal shall mean a review by a court of competent jurisdiction of final administrative action of the special magistrate or code enforcement board.

Board shall mean the City of Fort Lauderdale Code Enforcement Board.

Clerk or code enforcement clerk shall mean the administrative staff person in the building department responsible for the preparation, development and coordination of administrative and case management services necessary for the proper functioning of the board and special magistrate.

Citation violation notice shall mean a notice of violation with a civil penalty and fine.

Code shall mean the Code of Ordinances of the City of Fort Lauderdale, the Florida Building Code, Broward Edition, the Florida Fire Prevention Code, any ordinance duly enacted by the City Commission, together with all rules and regulations adopted by the City Commission, and any state, Broward County or uniform law, statute or code that the City is authorized to enforce within its jurisdiction.

Code inspector shall mean any employee or other agent of the city designated by law, ordinance, or the city manager, whose duties are to ensure compliance with and enforce the Code.

Contested violation shall mean a timely request by a violator for an administrative hearing before a special magistrate to contest a citation violation notice.

Director of the building department shall mean the department head of the building department or any representative authorized by him or her to serve in his or her absence.

Reasonable cause shall mean that a reasonable belief exists that a code provision has been violated and that the violator committed, or is the person responsible for allowing, the violation.

~~Recurring violation shall mean a code violation by a person or entity which violation of the Code was corrected and occurred again within 24 hours of said correction.~~

Repeat violation shall mean a code violation by a person or entity who has previously been issued a citation violation notice that was uncontested or has been previously found by the board, special magistrate or any other quasi-judicial or judicial process to have violated the same provision of the Code within five (5) years prior to the violation.

Uncontested violation shall mean payment of a civil penalty indicated on a citation violation notice or failure of a violator to file a written request for an administrative hearing within fifteen (15) days after date of the citation violation notice.

Violator shall mean the person or legal entity alleged or allegedly deemed responsible for the violation of the Code.

Written notice shall mean the mailing of notice by regular mail, certified mail, return receipt requested, hand delivery, overnight courier or by posting as provided for in Section 11-16(b)(2), to the person required to be notified for an alleged code violation.

## **DIVISION 2. CODE ENFORCEMENT BOARD/SPECIAL MAGISTRATE PROCEDURES**

### **Sec. 11-3. Jurisdiction of boards and special magistrate.**

(a) There shall be one Board and one or more special magistrates. The board and special magistrates shall have jurisdiction to hear and decide cases in which violations of any provision of the Code are alleged.

(b) Any alleged violation of the Code may also be enforced by the City in any court of competent jurisdiction.

**Sec. 11-4. Composition of board; qualifications; terms; vacancies; removal of member.**

(a) The board shall be composed of seven (7) members and three (3) alternate members and shall be appointed by the commission. Membership shall include, whenever possible, persons experienced in the following professions:

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

(b) Each member appointed to the board shall possess, in addition to experience or interest in the fields of zoning and building control, the following minimum qualifications:

- (1) Any architect and any engineer so appointed shall be registered under state law regulating the practice of architecture and engineering, respectively, or shall possess similar qualifications under the laws of other states or shall have actual experience deemed by the commission to be equivalent to such registration.
- (2) Any general contractor or subcontractor so appointed shall possess a valid certificate of competency and a local business tax receipt recognized and accepted under state law and the ordinances of the city regulating the business of contracting or subcontracting and, where required, state registration as a contractor or subcontractor, or shall possess similar qualifications under the laws of other states, or shall have actual experience deemed by the commission to be equivalent to such certification.

- (3) Any realtor shall be licensed under state law as either a real estate broker or a salesperson or shall possess similar qualifications under the laws of other states or shall have actual experience deemed by the commission to be equivalent to such licensing and shall hold a current and valid local business tax receipt issued by the city.
- (4) Any business person shall be actively engaged in any lawful business within the city and shall hold a current and valid local business tax receipt issued by the city or shall be an officer or employee of a business entity holding a local business tax receipt issued by the city.
- (5) Each member of the board shall be a resident of the city.
- (c) The initial appointments to the board shall be as follows:
  - (1) Two (2) members shall be appointed for a term of one (1) year each;
  - (2) Three (3) members shall be appointed for a term of two (2) years each;
  - (3) Two (2) members and three (3) alternate members shall be appointed for a term of three (3) years each.

Thereafter, all appointments shall be made by the commission for a term of three (3) years.

(d) Any member or alternate member may be reappointed. Appointments to fill any vacancy to the board shall be for the remainder of the unexpired term of office.

(e) When any board member fails to attend two (2) out of three (3) successive meetings without cause and without prior approval of the board chairperson, the board shall declare the member's office vacant and the commission shall promptly fill such vacancy. The members shall serve at the pleasure of the commission and may be suspended and removed for cause. Any member who becomes a candidate for public elective office, or becomes an employee of the city, shall automatically forfeit his membership. When any board member fails to attend two (2) out of three (3) successive meetings which they are scheduled to attend without cause and without prior approval of the board chairperson, the board shall declare the member's office vacant and the commission shall promptly fill such vacancy.

(f) An alternate member shall act only in the absence, or due to a disability or disqualification, of a regular board member.

**Sec. 11-5. Organization.**

(a) The board shall consist of a chairperson, a vice-chairperson and such other officers as the board shall deem necessary, after election to such position by the board members.

(b) Officers of the board shall be elected by a majority vote of the membership at the first meeting of the board, after the initial appointment of the membership and annually thereafter.

(c) A member of the board may be elected to serve as an officer without restriction as to the number of terms served.

**Sec. 11-6. Quorum.**

A minimum of four (4) members of the board shall constitute a quorum. An alternate member shall be considered as one (1) of such members for quorum purposes.

**Sec. 11-7. Compensation.**

Members of the board shall serve without compensation, but may be reimbursed for such travel expenses, mileage expenses and other per diem expenses as may be authorized by the city commission or by city ordinance.

**Sec. 11-8. Rules and regulations.**

The board or the special magistrate may adopt such rules and regulations the board or special magistrate finds necessary to carry out the provisions of this chapter, subject to approval by the city commission. All such rules shall be consistent with the Code and the requirements for the conduct of quasi-judicial proceedings and due process.

**Sec. 11-9. Legal counsel to the board.**

The city commission shall appoint an attorney who is a member of the Florida Bar, either residing or practicing in the city, to represent and act as counsel to the board, and such person shall attend all meetings of the board. The attorney shall be compensated as provided for by the commission.

**Sec. 11-10. Special Magistrates; qualifications.**

Special magistrates shall be members in good standing of the Florida Bar and either a certified mediator under the rules of the Florida Supreme Court, an arbitrator qualified by a recognized Arbitration Association, or a former judge. Special magistrates shall be authorized to hear and decide cases involving code violations in the same manner as the Board.

**DIVISION 3. CODE ENFORCEMENT PROCEDURES**

**Sec. 11-11. Enforcement procedures.**

(a) Code inspectors shall have the authority to initiate enforcement action of the Code and present and prosecute cases before the board or special magistrate. No board member or special magistrate shall have the power to initiate such proceedings.

(b) If a violation of Code is alleged to exist, the code inspector shall, unless subsections (c) or (d) of this section apply, provide written notice to the alleged violator of the violation and afford that person a reasonable time, in light of the nature of the violation, to correct it. This time period for correction shall be no more than thirty (30) days, unless providing a longer time period is reasonable. Should the violation continue beyond the time specified for correction, the code inspector shall notify the clerk who shall schedule a hearing before the board, or special magistrate; and the code inspector, clerk, law enforcement officer or other person designated by the city commission shall provide written notice of the hearing, as provided in section 11-16, to the alleged violator. 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 board or 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 inspector shall provide written notice to the alleged repeat violator, but is not required to give the repeat violator time to correct the violation. Upon notifying the alleged repeat violator of a repeat violation, the code inspector shall notify the clerk who shall schedule a hearing before the board or special magistrate and the clerk shall provide notice of the hearing to the alleged repeat violator as provided in section 11-16. The



repeat violation may be presented to the board or special magistrate even if the repeat violation has been corrected prior to the board or special magistrate hearing.

(d) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety or welfare or if the violation is irreparable or irreversible in nature, the code inspector may proceed directly to a hearing upon approval of the director of the building department, without notifying the alleged violator; provided, however, where possible, the code inspector shall use his/her best efforts to ensure that reasonable notice shall be given to the alleged violator.

(e) If the owner of property which is subject to an enforcement proceeding before the board, special magistrate, or quasi-judicial or judicial process, transfers ownership of such property between the time the initial written notice is served to the violator and the time of the board or special magistrate hearing, such owner shall:

- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee; and
- (2) Deliver to the prospective transferee a copy of all notices and other materials relating to the code enforcement proceeding received by the owner; and
- (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 by the board or special magistrate; and
- (4) File a notice with the clerk 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 (5) days after date of the transfer; and
- (5) A failure to make the disclosures described in Sections 11-11(e)(1)-(4) before the transfer creates a rebuttal 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.

**Sec. 11-12. Hearing; penalties; liens.**

(a) The time, date and place set for the board hearing or special magistrate hearing shall be scheduled and notice of the hearing shall be provided to the alleged violator and the code inspector by the clerk or clerk's designee. If the code inspector has reason to believe a violation presents a serious threat to the public health, safety and welfare, or is irreparable or irreversible in nature, a special or emergency hearing may be called as provided in section 11-11(d).

(b) At the time, date and place set for the hearing, the board or special magistrate shall hear and consider all testimony offered and shall examine and consider all relevant evidence presented. The fact finding determination of the board or special magistrate shall be limited to whether the violation alleged did occur and, if so, whether the violator can be held responsible for that violation. After the conclusion of the hearing, the board or special magistrate shall issue findings of fact and conclusions of law in a written order affording the proper relief consistent with the powers granted in this chapter. An order may include the date by which the violations shall be corrected, a daily fine amount which may be imposed for non compliance with the order, an additional fine may be imposed for the cost of correction of violation by the city and administrative costs of the proceedings. If the violation, or 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 board or special magistrate shall notify the city 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. 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. An order of the board or special magistrate shall be announced orally at the meeting and shall be reduced to writing and served on the violator as provided in section 11-16. A hearing is not required to acknowledge compliance.

(c) Upon notification by the code inspector to the clerk that an order of the board or special magistrate has not been complied or upon finding that a repeat violation has been committed, a hearing shall be scheduled and notice of the hearing shall be provided to the alleged violator as provided in section 11-16. The board or special magistrate may issue an order requiring the violator to pay a fine not to exceed five hundred dollars (\$500.00) per day for each day that the violation continues past the date set by the board or special magistrate for compliance. The board or special magistrate may also issue an order requiring a repeat violator to pay a fine not to exceed one thousand dollars (\$1,000.00) per day for each day the

repeat violation occurs, continues past the date on the repeat violation notice to the violator of the repeat violation. If the board or special magistrate finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed fifteen thousand dollars (\$15,000.00) per violation.

(d) In determining the amount of daily fines, if any, the board or special magistrate shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

(e) A certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it shall constitute a lien against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator, and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until a judgment is rendered in a suit filed pursuant to this section, whichever occurs first. After three (3) months from the filing of any such lien, which lien remains unpaid, the city attorney may foreclose upon the lien in the same manner as mortgage liens are foreclosed. The duration and effect of such lien shall be consistent with Florida law. No lien created pursuant to this Chapter may be foreclosed on real property which is homestead under s. 4, Art. X of the Florida Constitution.

(f) In the event the board or the special magistrate believes that a violation presents a serious threat to the public health, safety or welfare, the board or the special magistrate may request approval from the city commission for the city attorney to seek appropriate injunctive relief in the name of the city in the appropriate court.

(g) The findings, conclusions and order of the board shall be by motion approved by a majority of those present and voting, except that at least four (4) members of the board must vote for the action to be official.

**Sec. 11-13. Hearing procedures.**

(a) No board member or special magistrate shall act in any case in which that member or special magistrate has a conflict of interest.

(b) All hearings of the board or special magistrate shall be open to the public, and any person whose interests may be affected by the matter before the board or special magistrate shall be given an opportunity to be heard at the time the alleged violation is heard by the special magistrate. Official minutes of all board and special magistrate hearings shall be kept.

(c) Hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. They shall, however, be conducted in accordance with accepted parliamentary procedures relative to motions, votes and decisions. Fundamental due process shall be observed and shall govern all hearings.

(d) All relevant evidence shall be admitted if, in the opinion of the board or special magistrate, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make such evidence inadmissible over objections in civil actions. The chairperson of the board or special magistrate may exclude irrelevant or unduly repetitious evidence.

(e) Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

(f) Each party to the hearing shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach witnesses and rebut evidence.

(g) The alleged violator may be represented by an attorney or may be represented by another person upon providing a notarized statement by alleged violator to allow such representation at any board or special magistrate hearing.

(h) All testimony before the board or special magistrate shall be under oath and shall be recorded. The alleged violator or the city may cause the proceedings to be recorded by a certified court reporter or by a certified recording instrument.

(i) The burden of proof shall be with the code inspector to show by the greater weight of evidence that a code violation exists and that the alleged violator committed, or was responsible

for maintaining or permitting the violation to continue.

(j) If notice has been provided pursuant to Section 11-16 prior to the hearing, a hearing may be conducted and an order rendered in the absence of the violator.

(k) The board or the special magistrate may, for good cause shown, postpone or continue a hearing. The board may so act upon a majority vote of those members present and voting.

(l) The clerk shall be custodian of the tangible evidence submitted which shall be retained by the clerk until time for an appeal has expired or otherwise required by law.

**Sec. 11-14. Orders; appeals.**

(a) Every order of the board or the special magistrate shall be final, subject to the right of any aggrieved party, including the city or the violator, to appeal a final administrative order of the board or the special magistrate to the circuit court in and for Broward County, Florida. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the board or the special magistrate. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

(b) Every order of the board or the special magistrate shall have the force of law, shall be in writing and shall include findings of fact and conclusions of law.

(c) Every order shall be signed by the chairperson of the board, or in his absence, the vice-chairperson, or the special magistrate, and shall be filed in the office of the clerk. A copy of the signed order shall be sent to the violator as provided in section 11-16.

(d) The board or the special magistrate shall, in every proceeding, make a decision without unreasonable or unnecessary delay and shall proceed to hear the cases on the agenda for that day.

**Sec. 11-15. Subpoena powers.**

The code inspector, the board, the special magistrate or the alleged violator may request that witnesses and records, including surveys, plats and other materials, be subpoenaed to any the Board or Special Magistrate hearings. Subpoenas may be served by officers of the police department of the city, police aides or other such persons authorized to deliver subpoenas.

The chairperson of the board or the special magistrate shall provide the clerk of the board with sufficient signed and blank witness and document subpoenas to be provided to alleged violators and code inspectors for the purpose of having witnesses and records subpoenaed. The violator shall pay to the city a fixed fee for each subpoena served. The amount of the fixed fee shall be in accordance with F.S. § 30.231; the fees charged by County Sheriff for witness subpoenas.

**Sec. 11-16. Service of notices.**

(a) All notices required by this chapter shall be provided to the alleged violator, the alleged violator's authorized agent, or with the manager or other person in charge of commercial properties of alleged violator by first-class mail and certified mail, return receipt requested at the address listed in the Broward County Property Appraiser's office or other mailing address provided to the City by the violator or violator's agent; overnight courier; by hand delivery by the sheriff, or other law enforcement officer, code inspector, clerk, special magistrate or other person designated by the city commission; or by leaving the notice at the violator's usual place of residence with some person of his family above fifteen (15) years of age and informing such person of the contents of the notice.

(b) In addition to providing notice as set forth in subsection (a), notice may also be served by publication or posting, as follows:

- (1) Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in the county. 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; or
- (2) Such notice may be posted for at least ten (10) days in at least two (2) locations, one (1) of which shall be the property upon which the violation is alleged to exist and the other of which shall be at 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 or attempts to provide notice by hand delivery or by mail as required under subsection (a).

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

#### **DIVISION 4. CITATION VIOLATION NOTICE PROCEDURES**

##### **Sec 11.17. Authority of code inspectors.**

Code inspectors shall have the authority to initiate enforcement action by issuance of a citation violation notice whenever, based upon personal investigation, the code inspector has reasonable and probable grounds to believe that a violation of a code provision has occurred or exists. No board member or special magistrate shall have the authority to initiate or prosecute any enforcement action.

##### **Sec. 11-18. Enforcement procedures.**

(a) A code inspector is authorized to issue a citation violation notice to a person or entity when, based upon his/her personal investigation, the code inspector has reasonable cause to believe that the person has committed or was responsible for maintaining or permitting a violation of the Code.

(b) A code inspector shall issue a written warning notice pursuant to Section 11-16, with no civil penalty as a first response to a violation, except as provided in subsection (d). If the code inspector finds that a violation is correctable, the code inspector shall determine a reasonable time period within which the violator must correct the violation. The warning notice shall state the time for correction of violation, amount of the civil penalty to be paid should the violation remain uncorrected after the time period determined by the code inspector and that the violator shall contact the code inspector upon complying with corrective action.

(c) If upon his/her personal investigation, a code inspector finds that the person has not corrected the violation within the time period specified in the warning notice, or if the violation of

the code is corrected and recurs, a code inspector shall issue a citation violation notice pursuant to Section 11-16, to the person who has committed the violation or was responsible for maintaining or permitting a violation of the Code.

(d) A code inspector does not have to provide the violator with a warning notice or a reasonable time to correct the violation prior to issuing a citation violation notice if a repeat violation is found, or if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or if the violator is engaged in violations of a itinerant or transient nature.

(e) A citation violation notice issued by a code inspector shall be in a form prescribed by the City and shall contain:

- (1) The location, date and time of the violation.
- (2) The name and address of the violator.
- (3) A brief factual description of the nature of the violation.
- (4) The date of issuance of the citation notice.
- (5) The number or the section of the code violated.
- (6) The name of the code inspector issuing the citation notice.
- (7) The procedure for the violator to follow to pay the civil penalty, including the due date for payment of the civil penalty.
- (8) The procedure for the violator to follow to request an administrative hearing.
- (9) The amount of the civil penalty for an uncontested violation.
- (10) The amount of the civil penalty for a contested violation.
- (11) The specified time period to correct the violation.
- (12) A conspicuous statement that if the violator fails to pay the civil penalty within the time allowed, or fails to timely request an administrative hearing within



fifteen (15) days of the date of the citation violation notice, the violator shall be deemed to have waived his/her right to an administrative hearing and such a waiver shall constitute an admission of violation.

(f) After providing notice of a citation violation notice pursuant to Section 11-16, the code inspector shall provide the original citation violation notice to the clerk.

(g) Any person who willfully refuses to accept a citation violation notice served by a code inspector shall be guilty of a misdemeanor of the second degree punishable as provided in F.S. § 775.082, as amended, or F.S. § 775.083, as amended.

**Sec. 11-19. Civil penalties; administrative hearing; failure to pay/correct.**

(a) Civil penalties assessed pursuant to this article are due and payable to the clerk on or before the last day of the period allowed for the filing of an administrative hearing, or for the filing of an appeal from a special magistrate decision at an administrative hearing, or if proper appeal is made, when the appeal has been finally decided adversely to the violator.

(b) A violator who has been served with a citation violation notice shall elect either to:

- (1) Correct the violation and pay the civil penalty in the manner indicated on the citation violation notice; or
- (2) Request an administrative hearing before a special magistrate to contest the citation violation notice.

(c) A violator shall request an administrative hearing by filing a written request for such hearing with the clerk, or clerk's designee, no later than fifteen (15) days after the date of the citation violation notice. The request shall include the name and address of the violator and the citation violation notice number.

(d) Failure of a violator to file a written request for an administrative hearing within fifteen (15) days after date of the citation violation notice shall constitute a waiver of the violator's right to an administrative hearing to contest the citation violation notice and is deemed an admission of the violation and ~~civil penalties and costs may~~ shall be assessed and costs may be assessed accordingly.

(e) If a violator fails to correct the violation and/or pay the civil penalty by the specified time period as written on the citation violation notice or timely request an administrative hearing, the special magistrate shall be informed of such failure by an affidavit of non compliance executed by a code inspector. The clerk shall send to the violator a notice of a hearing for non compliance. Such notice of hearing shall be served as provided in Section 11-16. At the date, time, and place set such hearing, the special magistrate may shall order the fine be imposed as specified in the citation violation notice.

(f) A certified copy of said order imposing the fine may be recorded in the public records of the county and once recorded, it shall constitute a lien against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator, and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court except for enforcement purposes.

**Sec. 11-20. Scheduling and conduct of administrative hearing.**

(a) Upon receipt of a violator's timely request for an administrative hearing, the clerk, or clerk's designee, shall schedule the administrative hearing on the next available regularly scheduled special magistrate hearing date, or as soon thereafter as possible.

(b) The clerk, or clerk's designee, shall send a notice of hearing by certified and regular mail to the violator at the address provided by the violator on the request for an administrative hearing.

(c) The notice of an administrative hearing shall include:

- (1) Notice that the violator to be represented by an attorney.
- (2) Notice that the violator to present witnesses and evidence.
- (3) Notice that failure of the violator to attend the administrative hearing may result in a civil penalty being assessed in the absence of the violator.
- (4) Notice that a request for a continuance will not be considered if not received in writing by the clerk at least five (5) calendar days prior to the hearing date

scheduled by the clerk.

- (5) Notice that the violator will be responsible for a verbatim record of the hearing should they desire to appeal the special magistrate's decision.

(d) The administrative hearing shall be conducted as provided in Section 11-13. The fact-finding determination of the special magistrate at the administrative hearing shall be limited to whether the violation alleged did occur and, if so, whether the person named in the citation violation notice can be held responsible for that violation. At the conclusion of the administrative hearing, the special magistrate shall issue findings of fact and conclusions of law and if the City prevails, impose the civil penalty as set forth in Section 11-25.

(e) If the violator is found to have committed or responsible for committing the violation, the order of the special magistrate shall require the violator to pay a fine in accordance with Section 11-25. Such order may also command a violator to take whatever steps are necessary to bring a violation into compliance. The order shall be announced orally at the hearing and shall be reduced to writing and served on the violator at the hearing or subsequent to the hearing shall be reduced to writing and served as provided in section 11-16.

#### **Sec. 11-21. Repeat Violations.**

For the first repeat violation, the amount of the civil penalty shall be double the amount of the penalty prescribed for the original violation in Section 11-25. The amount of civil penalty due for each subsequent repeat violation shall be double the amount of the immediately preceding violation, provided that the maximum penalty payable for any repeat violation shall be five hundred dollars (\$500.00).

#### **Sec. 11-22. Collections.**

The clerk may, for the purpose of collecting any delinquent civil penalties or costs from a violator, whether or not reduced to a lien, refer the delinquency to a debt collection agency. The collection fee, including any reasonable attorney's fee, paid to any collection agency shall be in accordance with Florida law.

**Sec. 11-23. Provisions contained herein are supplemental.**

Nothing contained in this Chapter shall prohibit the city from enforcing the code by any other means. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of the Code.

**Sec. 11-24. Policies and procedures.**

Prior to the effective date of this ordinance, City Commission shall approve by resolution a manual setting forth the policies and procedures including, but not limited to, the specific code violations which will be heard by the special magistrate(s), the specific code violations which will be heard by the board and the specific guidelines which will determine enforcement of the code pursuant to Division 3 of this Chapter or Division 4 of this Chapter.

**Sec. 11-25. Civil penalties.****TABLE INSET:**

		<u>Civil Penalty</u>	
<u>Code Section</u>	<u>Description of Violation</u>	<u>Uncontested</u>	<u>Contested</u>
<u>Florida Building Code, Sec. 105.1</u>	<u>WORK WITHOUT PERMITS</u>	<u>\$200.00</u>	<u>\$275.00</u>
<u>Code of Broward County, Chapter 39</u>	<u>BROWARD COUNTY ZONING</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 3</u>	<u>ADVERTISING</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 5</u>	<u>ALCOHOLIC BEVERAGES</u>	<u>\$150.00</u>	<u>\$225.00</u>

<u>City of Fort Lauderdale, Code of Ordinances, Chapter 6 Excluding Sec. 6-11</u>	<u>ANIMALS</u>	<u>\$100.00</u>	<u>\$175.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 6, Sec. 6-11</u>	<u>ANIMALS</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 8</u>	<u>BOATS, DOCKS, BEACHES AND WATERWAYS</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 9 Excluding Sec. 9-276(a) and Sec. 9-328</u>	<u>MINIMUM HOUSING</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 9, Sec. 9-276(a)</u>	<u>UNFIT FOR HUMAN HABITATION</u>	<u>\$200.00</u>	<u>\$275.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 9, Sec. 9-328</u>	<u>VACANT/UNSECURED</u>	<u>\$200.00</u>	<u>\$275.00</u>
<u>Florida Fire Prevention Code</u>	<u>FIRE PREVENTION AND PROTECTION</u>	<u>\$200.00</u>	<u>\$275.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 15</u>	<u>BUSINESS TAX</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 17</u>	<u>NOISE CONTROL</u>	<u>\$200.00</u>	<u>\$275.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 18</u>	<u>NUISANCES</u>	<u>\$200.00</u>	<u>\$275.00</u>

<u>City of Fort Lauderdale, Code of Ordinances, Chapter 23</u>	<u>SOLICITORS, PEDDLERS, ETC.</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 24 Excluding Sec. 24-11 &amp; 24-7</u>	<u>SOLID WASTE</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 24, Sec. 24-7</u>	<u>LITTERING UNLAWFUL ACCUMULATIONS</u>	<u>\$200.00</u>	<u>\$275.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 24, Sec. 24-11</u>	<u>CONSTRUCTION SITES</u>	<u>\$200.00</u>	<u>\$275.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 25</u>	<u>STREETS AND SIDEWALKS</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 26</u>	<u>TRAFFIC</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 27</u>	<u>VEHICLES FOR HIRE</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 28 Excluding Sec. 28-1</u>	<u>WATER, WASTEWATER AND STORMWATER</u>	<u>\$150.00</u>	<u>\$225.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 28, Sec. 28-1</u>	<u>WATER RESTRICTIONS</u>	<u>\$50.00</u>	<u>\$125.00</u>
<u>City of Fort Lauderdale, Code of Ordinances, Chapter 47</u>	<u>UNIFIED LAND DEVELOPMENT REGULATIONS</u>	<u>\$150.00</u>	<u>\$225.00</u>

**Sec. 11-26. Additional enforcement powers.**

In addition to the powers and authority given to the city, board and special magistrates pursuant to this article, the city may, in its discretion, exercise any powers given to municipalities by Florida Statutes, Chapter 162, as amended, and all other municipal powers.

SECTION 3. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 4. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 5. That nothing in this ordinance shall be construed so as to affect any past or pending code enforcement action, notice of violation, or order of the board or special magistrate, or any past, pending, or existing liens, fines, costs, or other obligations arising from code enforcement, or otherwise, all of which shall continue in full force and effect as if this ordinance has not been adopted.

SECTION 6. That this Ordinance shall be in full force and effect ninety (90) days from the date of final passage.

PASSED FIRST READING this the 1st day of July, 2008.  
PASSED SECOND READING this the 15th day of July, 2008.

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Mayor  
JIM NAUGLE

ATTEST:

ORDINANCE NO. C-08-36

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City Clerk  
JONDA K. JOSEPH

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