

ORDINANCE 2024-03

AN ORDINANCE OF THE CITY OF BELLEAIR BLUFFS, FLORIDA, AMENDING CHAPTER 21 (CODE ENFORCEMENT BOARD) OF THE CODE OF ORDINANCES OF THE CITY OF BELLEAIR BLUFFS TO REFLECT CHANGES THAT HAVE BEEN ADOPTED IN CHAPTER 162, FLORIDA STATUTES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City Attorney has reviewed the current provisions of Chapter 21 (Code Enforcement Board) of the Code of Ordinances for the City of Belleair Bluffs and has recommended that certain provisions be amended to reflect changes that have been adopted in Chapter 162, Florida Statutes; and

WHEREAS, the recommendations of the City Attorney have been found meritorious by the City Commission; and

WHEREAS, the City Commission has received input from the public at two public hearings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BELLEAIR BLUFFS, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. That Chapter 21 (Code Enforcement Board) of the Code of Ordinances for the City of Belleair Bluffs, Florida, is hereby amended and shall read as follows:

CHAPTER 21 – CODE ENFORCEMENT BOARD

ARTICLE I. IN GENERAL

Sec. 21-1. Definitions.

For the purposes of this Article the following words and phrases shall have the meanings respectively ascribed to them.

BOARD ATTORNEY. The legal counselor for the Board.

CODE ENFORCEMENT BOARD. The Belleair Bluffs Code Enforcement Board created pursuant hereto.

CODE INSPECTOR. Any authorized agent or employee of the City whose duty it is to assure code compliance with the codes and ordinances of the City.

CITY COMMISSION. The legislative body of the City of Belleair Bluffs, Florida.

CITY ATTORNEY. The legal counselor for the City.

REPEAT VIOLATION. A violation of a provision of a code or ordinance by a person whom the Code Enforcement Board, Special Magistrate or any other quasi judicial or judicial process, has previously found 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.

Sec. 21-2. Creation, membership; legislative intent.

- A. There is hereby created within the City the Belleair Bluffs Code Enforcement Board, which shall be composed of five regular members and two alternate members, all of whom shall be residents of the City.
- B. The alternate members of the Board shall be designated as Alternate No. 1 and Alternate No. 2. If there is one regular Board member absent from the Code Enforcement Board meeting Alternate No. 1 will sit as a voting member of the Board. If Alternate No. 1 is not available to sit as a voting member of the Board when one of the regular Board members is absent, then Alternate No. 2 will sit as a voting member of the Board. If there are two or more regular Board members absent from a Board meeting, both alternates will sit as voting members of the Board.
- C. It is the legislative intent of this Article to provide an additional or supplemental means of obtaining compliance with City of Belleair Bluffs codes and ordinances. Nothing contained in this Article shall prohibit the City from enforcing its codes and ordinances by any other means provided by law.

Sec. 21-3. Function; appointments and terms of office.

- A. The Code Enforcement Board shall have the purpose of conducting hearings relating to the enforcement of the occupational licenses, fire, building, zoning, sign, subdivision regulations, Land Development Code regulations, the City Code, and other related technical codes presently in force in the City; to issue findings of fact and to issue orders affording the proper relief consistent with the powers granted by this Article and in accordance with Chapter 162, Florida Statutes (2024), as amended from time to time.
- B. Appointments to the Code Enforcement Board shall be made by the City Commission, in the sole discretion of the City Commission, and appointment of

a majority of the membership shall be made on the basis of experience or interest in the fields of zoning, building, and development control. Whenever possible, the Board shall include an architect, a businessperson, an engineer, a general contractor, a subcontractor and a realtor.

C. The initial appointments to the Code Enforcement Board shall be as follows:

- (1) One member appointed for a term of one year.
- (2) Two members appointed for a term of two years each.
- (3) Two members appointed for a term of three years each.

Thereafter, any appointment shall be for a term of three years. Members may be reappointed by the City Commission. Appointments to fill any vacancy of a member of the Board shall be for the remainder of the unexpired term of office.

D. Alternate members shall serve three-year terms.

Sec. 21-4. Attendance; removal from office.

- A. Any member of the Code Enforcement Board who fails to attend two out of three successive meetings without cause and without prior approval of the Chairperson, shall automatically forfeit that appointment, and the City Commission shall promptly fill such vacancy.
- B. The members of the Code Enforcement Board shall serve in accordance with the provisions of the Belleair Bluffs City Charter and Code of Ordinances and may be suspended or removed without cause upon the majority vote of the City Commission.

Sec. 21-5. Organization; expenses.

- A. The Code Enforcement Board shall elect one of its members to be Chairperson. The Chairperson shall be a voting member. The person so elected shall function as Chairperson for a one-year term.
- B. Three or more members of the Code Enforcement Board present at any meeting shall constitute a quorum in order for the Code Enforcement Board to conduct its business.
- C. Members of the Code Enforcement Board shall serve without compensation but may be entitled to be reimbursed for travel, mileage and per diem expenses as the City Commission shall authorize.
- D. The City Attorney shall represent the City by presenting cases before the Board.
- E. The Board Attorney shall be counsel to the Code Enforcement Board.

Sec. 21-6. Powers.

The Code Enforcement Board shall have the power to:

- A. Adopt rules for the conduct of its hearings;
- B. Subpoena alleged violators and witnesses to its hearings. Such subpoenas shall be served by the Sheriff's Office;
- C. Subpoena evidence to its hearings;
- D. Take testimony under oath; and
- E. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

Sec. 21-7. Enforcement procedure.

- A. Except as provided in Subsections B and C of this Section, the code enforcement procedure under this chapter shall be as follows:
 - (1) It shall be the duty of the Code Inspector to initiate enforcement proceedings with respect to each code, code section or ordinance; however, no member of the Code Enforcement Board shall have the power to initiate such enforcement proceedings.
 - (2) A Code Inspector may not initiate enforcement proceedings for a potential violation of a duly enacted code or ordinance by way of an anonymous complaint. A person who reports a potential violation of a code or an ordinance must provide his or her name and address to the City before an enforcement proceeding may occur. This subparagraph does not apply if the Code Inspector has reason to believe that the violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.
 - (3) Where a Code Inspector finds or is made aware of a code violation, he/she shall notify the violator, and such notice shall provide a reasonable time within which to correct the violation. Should the violation continue beyond the time specified in the notice, the Code Inspector shall notify the Code Enforcement Board and request a hearing pursuant to Section 21-8. The Code Enforcement Board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand-delivered or mailed as provided by this chapter to the violator. At the option of the Code Enforcement Board, notice may additionally be served by publication or posting as provided in Section 21-11. If the violation is corrected and then recurs, or is not corrected within the time specified by the Code Inspector, the case may be presented to the Code Enforcement Board, even if the violation is corrected prior to the Code Enforcement Board hearing. The notice of hearing shall state that the case shall be presented to the Board, even if the violation is corrected prior to the hearing date.

- B. If a repeat violation is found by the Code Inspector, the Code Inspector shall notify the violator of the repeat violation and shall notify the Code Enforcement Board and request a hearing. The Code Inspector need not provide the violator a reasonable time to correct the repeat violation. The Code Enforcement Board, through its clerical staff, shall schedule a hearing and provide notice pursuant to Section 21-11. The case may be presented to the Code Enforcement Board, even if the repeat violation has been corrected prior to the Code Enforcement Board hearing. The notice of hearing shall state that the case shall be presented to the Board, even if the repeat violation is corrected prior to the hearing date. The Code Enforcement Board retains the right to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator.
- C. If the Code Inspector has reason to believe a violation of 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 Code Enforcement Board and request a hearing.
- D. If the owner of property 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 Inspector 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 paragraphs (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.

Sec. 21-8. Hearing procedure.

- A. Upon the request of the Code Inspector or at such other times as may be necessary, the Chairperson of the Code Enforcement Board may call a hearing. Hearings may also be called by a written notice signed by at least two members of the Code Enforcement Board.

- B. The Board shall attempt to convene at least once every month, but may convene more often as the case demand dictates.
- C. Minutes shall be kept of all hearings held by the Code Enforcement Board and all hearings shall be open to the public.
- D. The City Commission shall provide clerical and administrative personnel as may be reasonably required to assist the Board in the proper performance of its duties.
- E. Each case before the Code Enforcement Board shall be presented by the City Attorney or a member of the City staff. If the City prevails in prosecuting the case before the Code Enforcement Board, it shall be entitled to recover all costs incurred in prosecuting the case before the Code Enforcement Board and such costs may be included in the lien authorized under Subsection 21-9.C.
- F. All testimony shall be under oath and shall be recorded. The Code Enforcement Board shall take testimony from the Code Inspector and the alleged violator and may take testimony from any other person having knowledge about the case. The Code Enforcement Board shall not be bound by formal rules of evidence; however, it shall act to ensure fundamental due process in each of its cases.
- G. At the conclusion of each hearing, the Code Enforcement Board shall issue findings of fact, based on evidence of record and conclusions of law, and its order shall provide relief consistent with the powers granted the Board herein. Each finding shall be approved by motion of a majority of those members present and voting, except that, for an action to be official, at least three members of the Code Enforcement Board must vote. 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 Section 21-9, the costs of repairs may be included along with the fine. A certified copy of that order may be recorded in the public records of Pinellas County, Florida, and shall constitute notice to any subsequent purchasers, successors in interest or assigns 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 pursuant to this Subsection and the order is complied with by the date specified in the order, the Code Enforcement Board 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.

Sec. 21-9. Fines, liens and foreclosure.

- A. Upon being notified by the Code Inspector that an order issued by the Code Enforcement Board has not been complied with within the time established in such order, or upon finding that a repeat violation has been committed, the Code Enforcement Board may order the violator to pay a fine to the City, not to exceed \$250.00 per day that a first violation continues past the compliance

date established in its order, or, in the case of a repeat violation, the Code Enforcement Board may order the violator to pay a fine, not to exceed \$500.00 per day for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the Code Inspector. If a finding of a first violation or a repeat violation has been made by the Code Enforcement Board, a hearing shall not be necessary for issuance of the order imposing the fine.

In addition, if the violation is a violation described in Subsection 21-7.C, the Code Enforcement Board 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 pursuant to this Section. Any fine imposed pursuant to this Section may include all such costs of repairs. 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, after due notice and hearing, the Code Enforcement Board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine not to exceed \$5,000.00 per violation.

- B. In determining the amount of the fine, the Code Enforcement Board 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.
- C. A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records of Pinellas County, Florida, and thereafter such order 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 circuit court, such order may be enforced 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 shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this Article shall continue to accrue until the violator comes into compliance or until a judgment is rendered in a suit to foreclose on a lien filed pursuant to this Article, whichever occurs first.
- D. The Code Enforcement Board may reduce a fine imposed pursuant to this Article. The City Commission may, pursuant to its general legislative authority, reduce a fine imposed pursuant to this Article.
- E. After three months from the filing of any lien which remains unpaid, the Code Enforcement Board may authorize the City Attorney to foreclose on such lien in the manner provided by statute for the foreclosure of other municipal liens or

to sue to recover a money judgment for the amount of the lien, plus accrued interest. Such foreclosure may be commenced by the City Attorney upon authority for such foreclosure being granted by the City Commission. No lien created pursuant to the provisions of this Article may be foreclosed on real property which is a homestead under Article X, Section 4 of the State Constitution. The money judgment provisions of this Article shall not apply to real or personal property which is covered under Article X, Section 4, of the State Constitution.

- F. No lien provided under this Article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action.
- G. A lien arising from a fine imposed pursuant to this Section runs in favor of the City and the City may execute a satisfaction or release of lien entered pursuant to this Section.
- H. The City shall be entitled to collect all costs incurred in recording and satisfying a valid lien.

Sec. 21-10. Appeals.

Any aggrieved party, including the City, may appeal a ruling or order of the Code Enforcement Board to the Circuit Court of Pinellas County, Florida, in accordance with Florida Statute 162.11 (2024). Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Code Enforcement Board. The appeal provided for herein shall be filed within 30 days of the execution of the order to be appealed.

Sec. 21-11. Notices.

- A. All notices required to be provided by this Chapter shall be by certified mail, return receipt requested, by hand delivery by the Sheriffs Office, Code Inspector or other person designated by the City Commission, or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing that person of the contents of the notice. In the case of commercial premises, notices may be left with the manager or other person in charge.
- B. If notice is sent as set forth in Subsection A. to the property owner at the address listed in the tax collector's office for tax notices or to the address listed in the Pinellas County property appraiser's database and at any other address it may find for the property owner and the notice is returned as unclaimed or refused, the notice may also be served by publication or posting as follows:

- (1) Such notice shall be published in print in a newspaper or on a publicly accessible website as provided in Florida Statute 50.0311 for four weeks. If published in print, the notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Pinellas County, Florida. The newspaper shall meet such requirements as are prescribed under Florida Statute, Ch. 50, for legal and official advertisements.
 - (2) Proof of publication shall be made as provided for in Florida Statute 50.041 and 50.051.
 - (3) In lieu of publication as described in paragraph (1) such notice may be posted for 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 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.
- C. Notice by publication may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under Subparagraph A of this Section. Evidence that an attempt has been made to hand-deliver or mail 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 chapter have been met, without regard to whether or not the alleged violator actually received the notice.

ARTICLE II. SUPPLEMENTAL ENFORCEMENT PROCEDURES

Sec. 21-15. Supplemental enforcement procedures in county court.

- A. The following powers and procedure for supplemental enforcement are hereby authorized by this Section.
- (1) The City Commission may designate certain of its employees or agents as Code Inspectors. The training and qualifications of the employees or agents for such designation shall be determined by the City Commission. The employees or agents who may be designated as Code Inspectors may include, but are not limited to, law enforcement officers, animal control officers, building Code Inspectors, water department employees, or fire safety Inspectors. Designation as a Code Inspector does not provide the Code Inspector with the power of arrest or subject the Code Inspector to the provisions of F.S. §§ 943.085—943.255. Nothing in this Section amends, alters or contravenes the provisions of any state-administered retirement system or any state-supported retirement system established by general law.

- (2) A Code Inspector is authorized to issue a Citation to a person when, based upon personal investigation, the Inspector has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge. The citation will be filed and heard in the County Court, Pinellas County, Florida.
- (3) A Code Inspector may not initiate an investigation of a potential violation of a duly enacted code or ordinance by way of an anonymous complaint. A person who reports a potential violation of a code or an ordinance must provide his or her name and address to the respective local government before an investigation may occur. This paragraph does not apply if the Code Inspector has reason to believe that the violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.
- (4) Prior to issuing a citation, the Code Inspector shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If upon personal investigation, a Code Inspector finds that the person has not corrected the violation within the time period, a Code Inspector may issue a citation to the person who has committed the violation. A Code Inspector 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 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.
- (5) A citation issued by a Code Inspector shall be in a form prescribed by the City and shall contain:
 - (a) The date and time of issuance.
 - (b) The name and address of the person to whom the citation is issued.
 - (c) The date and time the civil infraction was committed.
 - (d) The facts constituting reasonable cause.
 - (e) The number or section of the code or ordinance violated.
 - (f) The name and authority of the Code Inspector.
 - (g) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - (h) The applicable civil penalty if the person elects to contest the citation.
 - (i) The applicable civil penalty if the person elects not to contest the citation.

- (j) 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 amount of civil penalty.
- (6) After issuing a citation to an alleged violation, a Code Inspector shall deposit the original citation and one copy of the citation with the county court.
- (7) Any person who willfully refuses to sign and accept a citation issued by a Code Inspector shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.
- (8) The provisions of this Section shall not apply to the enforcement pursuant to F.S. §§ 553.79 and 553.80 of the Florida Building Code adopted pursuant to F.S. § 553.73 as applied to construction, provided that a building permit is either not required or has been issued by the City.
- (9) The violation of a City code or ordinance subject to the provisions of this Chapter shall be a civil infraction and shall be prosecuted in the County Court in the same manner as misdemeanors are prosecuted. The jurisdiction of the County Court is provided by F.S. § 34.01.
- (10) Findings of violations may subject the violator to a maximum fine of \$500.00. Uncontested violations may result in a lower fine, in the discretion of the court.
- (11) Any person charged with a violation of an ordinance in county court may appear and contest the citation, and if found to be in violation, may appeal such finding as provided in Florida Rules of Civil Procedure.
- (12) The County Court may assess costs, service charges and attorneys fees in addition to any fine levied.

ARTICLE III. – SPECIAL MAGISTRATE

Sec. 21-20. - Intent.

The intent of this Article is to create an alternative local government code enforcement system in order to promote, protect, and improve the health, safety, and welfare of the citizens of the City by providing for an equitable, expeditious, effective and efficient method of enforcing any codes or ordinances where pending or repeated violation continues to exist in the City.

Sec. 21-21. Definitions.

The definitions in this Section are applicable to this Article and have the following meanings:

CODE INSPECTOR — Means any authorized agent or employee of the municipality whose duty it is to assure code compliance.

REPEAT VIOLATION — Means a violation of a provision of a code or ordinance by a person who has been previously found through a Code Enforcement Board, Special Magistrate or 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.

Sec. 21-22. Special Magistrates.

There is hereby created and established a code enforcement position to be filled by Special Magistrates to enforce the ordinances and codes of the City.

Sec. 21-23. Qualification of Special Magistrates and removal.

- A. Special Magistrates shall possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability. Appointments shall be made by the City Administrator, subject to ratification by the City Commission.
- B. Appointments shall be made for a term not more than one year. The Special Magistrate may be reappointed by the City Commission. There shall be no limit on the number of reappointments that shall be given to the Special Magistrate; provided, however, that a determination as to removal or reappointment must be made for each Special Magistrate at the end of each of his one-year terms. The City Commission shall have the authority to remove the Special Magistrate with or without cause. Appointments to fill any vacancy shall be for the remainder of the unexpired term.
- C. The Special Magistrate shall not be a city employee. The Special Magistrate shall be compensated at a rate to be determined by the City Administrator, subject to ratification by the City Commission.
- D. The city attorney shall serve as general counsel to the City for all matters heard by the Special Magistrate. If an appeal is taken pursuant to Section 21-30, the city attorney shall represent the city in such proceedings.

Sec. 21-24. Jurisdiction.

The City appointed Special Magistrate shall have jurisdiction to hear and decide alleged violations of any code or ordinances in force in the City including amendments to such codes or ordinances.

Sec. 21-25. Enforcement procedure.

- A. It shall be the duty of a Code Inspector to initiate enforcement proceedings of the various codes and ordinances. The Special Magistrate shall not have the power to initiate such enforcement proceedings.

- B. A Code Inspector may not initiate enforcement proceedings for a potential violation of a duly enacted code or ordinance by way of an anonymous complaint. A person who reports a potential violation of a code or an ordinance must provide his or her name and address to the respective local government before an enforcement proceeding may occur. This paragraph does not apply if the Code Inspector has reason to believe that the violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.
- C. Except as provided in Subsections D and E of this Section, if a violation of the Code is found, a Code Enforcement Officer shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue past the time specified for correction, a Code Inspector shall notify the Special Magistrate and request a hearing. The Special Magistrate, through his clerical staff, shall schedule a hearing; and written notice of such hearing shall be hand delivered or mailed as provided in Section 21-31 to such violator. At the option of the Special Magistrate, notice may additionally be served by publication or posting as provided in Section 21-31. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by a Code Inspector, the case may be presented to the Special Magistrate even if the violations has been corrected prior to the Special Magistrate hearing, and the notice shall so state.
- D. If a repeat violation is found, a Code Inspector shall notify the violator, but is not required to give the violator a reasonable time to correct the violation. A Code Inspector, upon notifying the violator of a repeat violation, shall notify the Special Magistrate and request a hearing. The Special Magistrate, through his clerical staff, shall schedule a hearing and shall provide notice as provided in Section 21-31. The case may be presented to the Special Magistrate even if the repeat violation has been corrected prior to the code enforcement 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 rights to this hearing and pay such costs as determined by the Special Magistrate.
- E. If a 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 violations is irreparable or irreversible in nature, a Code Inspector shall make a reasonable effort to notify the violator and may immediately notify the Special Magistrate and request a hearing.
- F. If the owner of property that is subject to an enforcement proceeding before an 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:

- (a) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
- (b) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
- (c) 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.
- (d) 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 5 days after the date of the transfer.

A failure to make the disclosures described in paragraphs (a), (b), and (c) 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.

Sec. 21-26. Conduct of hearing.

- A. Upon request of a Code Inspector, or at such other times as may be necessary, the Special Magistrate may call a code enforcement hearing.
- B. Minutes shall be kept of all hearings held by the Special Magistrate, and all hearings and proceedings shall be open to the public. The City Commission shall provide clerical and administrative personnel as may be reasonably required by the Special Magistrate for the proper performance of his duties.
- C. Each case before the Special Magistrate shall be presented by the City Attorney or by a member 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 in Subsection 21-28.E.
- D. The Special Magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Special Magistrate shall take testimony from the Code Inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
- E. 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 herein. 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

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.

- F. A certified copy of such order may be recorded in the public records of Pinellas 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.
- G. If an order is recorded in the public records pursuant to Subsection 21-28E 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.

Sec. 21-27. Powers of the Special Magistrate.

The Special Magistrate shall have the power to:

- (1) Adopt rules for the conduct of hearings.
- (2) Subpoena alleged violators and witnesses to hearings. Subpoenas may be served by the designated law enforcement agency of the City.
- (3) Subpoena evidence to a hearing.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.

Sec. 21-28. Administrative fines; cost of repair; liens.

- A. The Special Magistrate, upon notification by a Code Inspector 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 Inspector. In addition, if the violation is a violation as described in Subsection 21-25.E, the Special Magistrate shall notify the city administration 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 with this Section. Making such repairs does not a 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 Subsection, 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. of this Section.

- B. 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) of this Section. However, if a Special Magistrate finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.
- C. In determining the amount of the fine, if any, the 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.
- D. The Special Magistrate may reduce a fine imposed pursuant to this Section.
- E. A certified copy of an order imposing a fine may be recorded in the public records of Pinellas County 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 may be enforced 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 article shall continue to accrue until the violations comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this article, whichever occurs first. A lien arising from a fine imposed pursuant to this Section runs in favor of the city and the city 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, the City Commission 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 Subsection may be foreclosed on real property which is homestead under Section 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 Section 4, Article X, of the State Constitution.

Sec. 21-29. Duration of lien.

No lien provided under this Article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction.

In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, to include a reasonable attorney's fee, that it incurs in the foreclosure. The City shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Sec. 21-30. Appeals.

An aggrieved party, including the local governing authority, may appeal a final administrative order of the Special Magistrate to the Circuit Court of Pinellas County. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

Sec. 21-31. Notices.

- A. All notices required to be provided by this Chapter shall be by certified mail, return receipt requested, by hand delivery by the Sheriffs Office, Code Inspector or other person designated by the City Commission, or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing that person of the contents of the notice. In the case of commercial premises, notices may be left with the manager or other person in charge.
- B. If notice is sent as set forth in Subsection A. to the property owner at the address listed in the tax collector's office for tax notices or to the address listed in the Pinellas County property appraiser's database and at any other address it may find for the property owner and the notice is returned as unclaimed or refused, the notice may also be served by publication or posting as follows:
 - (1) Such notice shall be published in print in a newspaper or on a publicly accessible website as provided in Florida Statute 50.0311 for four weeks. If published in print, the notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Pinellas County, Florida. The newspaper shall meet such requirements as are prescribed under Florida Statute, Ch. 50, for legal and official advertisements.
 - (2) Proof of publication shall be made as provided for in Florida Statute 50.041 and 50.051.
 - (3) In lieu of publication as described in paragraph (1) such notice may be posted for 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 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.

- C. Notice by publication may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under Subparagraph A of this Section. Evidence that an attempt has been made to hand-deliver or mail 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 Chapter have been met, without regard to whether or not the alleged violator actually received the notice.

Sec: 21-32. Optional enforcement.

The provisions of this Article shall in no way be construed to limit the power of the City to proceed in any other civil or criminal proceeding or in any other forum to obtain enforcement of its Code provisions.

Sec. 21-33. Conflict of interest.

- A. No person who is or may become a party or a witness to a hearing before the Special Magistrate shall communicate with the Special Magistrate concerning that violation except at the hearings provided for in this Article. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such person may have a direct, personal or financial interest in the property which is the subject of the alleged violation.
- B. No Special Magistrate shall communicate with any party, witness, representative of a party, or interceding person concerning any alleged violation except at the hearings provided for in this Chapter.
- C. Failure on the part of Special Magistrate to comply with the provisions of this Subsection shall constitute grounds for removal by the City Commission.

Section 2. Ordinances or parts of ordinances in conflict herewith to the extent that such conflict exists are hereby repealed.

Section 3. For purposes of codification of any existing section of the Belleair Bluffs Code herein amended, words **underlined** represent additions to original text, words **stricken** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 4. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any

remainder of the Ordinance shall withstand any severed provision, as the City Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 5. The Codifier shall codify the substantive amendments to the Land Development Code of the City Belleair Bluffs contained in Section 1 of this Ordinance as provided for therein and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 6. Pursuant to Florida Statutes §166.041(4), this Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BELLEAIR BLUFFS, FLORIDA, THIS 20 DAY OF MAY, 2024.



Mayor Chris Arbutine

ATTEST:



Alexis A. Silcox, City Clerk



PASSED ON FIRST READING: MARCH 25, 2024

PASSED ON SECOND READING: MAY 20, 2024

Business Impact Estimate

Proposed ordinance's title/reference:

ORDINANCE 2024-03 AN ORDINANCE OF THE CITY OF BELLEAIR BLUFFS, FLORIDA, AMENDING CHAPTER 21 (CODE ENFORCEMENT BOARD) OF THE CODE OF ORDINANCES OF THE CITY OF BELLEAIR BLUFFS TO REFLECT CHANGES THAT HAVE BEEN ADOPTED IN CHAPTER 162, FLORIDA STATUTES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the City is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☒ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals, and welfare):

This ordinance provides for compliance with the changes in Florida State Statutes Chapter 162 as it relates to the establishment of a Code Enforcement Board and enforcement procedures.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the city, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur.**
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and**
- (c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.**

None. This proposed ordinance imposes no direct compliance costs on businesses and imposes no new charges or fees on those businesses.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None. There are no businesses that should be impacted by the adoption of this ordinance.

4. Additional information the governing body deems useful (if any):

None.