

**CODE ENFORCEMENT BOARD MEETING**  
**Wednesday, February 12, 2020 – 2:00 p.m.**  
**City Hall, Council Chambers, Vero Beach, Florida**

**AGENDA**

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIENCE**
- 3. PRELIMINARY MATTERS**
  - A) Adoption of Minutes – January 8, 2020**
  - B) Agenda Additions, Deletions and Adoption**
- 4. UNLICENSED CONTRACTORS/CITATIONS**
- 5. EVIDENTIARY HEARINGS**
  - A) Citation Appeals**
  - B) Non-Compliance / Compliance Reports**
    - 1. Request for Board Order**
      - a. CASE #20-CE-10578 / 225M**  
**VIOLATOR:** Ralph Femminella  
**VIOLATION:** Public nuisance – property is open and unsecured, trash throughout the property – Code Sections 38-31 (a) (b)(5)(8)  
**VIOLATION ADDRESS:** 4000 Atlantic Boulevard, Vero Beach, Florida 32960  
**(Failure to comply; Failure to pay \$50 civil penalty)**
      - b. CASE #17-CE-7966 / 1187M**  
**VIOLATOR:** T Mobile / Magenta Wireless, LLC; JLG Corporation Services, Inc., Agent  
**VIOLATION:** Failure to obtain Business Tax Receipt – Code Section 70.62 (a)(1)  
**VIOLATION ADDRESS:** 524 21<sup>st</sup> Street, Vero Beach, Florida 32960  
**(Code Officer found the property in compliance on January 3, 2020. The initial civil penalty of \$50 was received on January 9, 2018 – The Board allowed five (5) days to correct from the date of the hearing (December 13, 2017) or continuing penalties would commence, which commenced on December 19, 2017. ESTIMATED CALCULATION: Days of non-compliance: December 19, 2017 through January 2, 2020 = 745 days x \$50 = \$37,250)**

- c. **CASE #19-CE-10470 / 2212M**  
**VIOLATOR:** T Mobile / Magenta Wireless, LLC; JLG Corporation Services, Inc., Agent  
**VIOLATION:** Failure to obtain Business Tax Receipt – Code Section 70.62 (a)(1)  
**VIOLATION ADDRESS:** 524 21<sup>st</sup> Street, Vero Beach, Florida 32960  
**(Code Officer found the property in compliance on January 3, 2020. The initial civil penalty of \$100 was received on December 9, 2019 – Continuing penalties of \$100 per day commenced on November 15, 2019 (the day after the original compliance date of November 14, 2019). ESTIMATED CALCULATION: Days of non-compliance: November 15, 2019 through January 2, 2020 = 49 days x \$100 = \$4,900)**

- 6. **OLD BUSINESS**
- 7. **ADMINISTRATIVE MATTERS**
- 8. **CLERK’S MATTERS**
- 9. **ATTORNEY’S MATTERS**
  - A) **Article VII – Code Enforcement**
- 10. **CHAIRMAN’S MATTERS**
- 11. **MEMBER’S MATTERS**
- 12. **ADJOURNMENT**

This is a Public Meeting. Should any interested party seek to appeal any decision made by the Board with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings and that, for such purpose he may need to ensure that a record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Anyone who needs a special accommodation for this meeting may contact the City’s Americans with Disabilities Act (ADA) Coordinator at 978-4920 at least 48 hours in advance of the meeting.

**CODE ENFORCEMENT BOARD MINUTES**  
**Wednesday, January 8, 2020 – 2:00 p.m.**  
**City Hall, Council Chambers, Vero Beach, Florida**

**PRESENT:** Chairman, Kirk Noonan; Vice Chairman, Linda Hillman; Members: Eric Price (arrived at 2:04 p.m.), Christopher Bryant, Frank Pizzichillo, Stephen McDonald, Richard Kennedy, and Alternate Member #1, Ken Daige **Also Present:** City Attorney, John Turner; Code Enforcement Officer, Melody Sanderson and Deputy City Clerk, Sherri Philo

**Excused Absence:** Sharon Gorry

**1. CALL TO ORDER**

The Chairman called today's meeting to order at 2:00 p.m.

**2. PLEDGE OF ALLEGIENCE**

The Chairman led the Board members and the audience in the Pledge of Allegiance to the flag.

The Deputy City Clerk swore in staff and all witnesses present for today's hearing en masse.

**3. PRELIMINARY MATTERS**

**A) Adoption of Minutes – December 11, 2019**

\*Please note that this item was heard after item 3-B).

**Mr. Hillman made a motion to adopt the minutes of the December 11, 2019 Code Enforcement Board meeting. Mr. Pizzichillo seconded the motion and it passed unanimously.**

**B) Agenda Additions, Deletions and Adoption**

Ms. Melody Sanderson, Code Enforcement Officer, pulled Case #19-CE-10539 – FQSR RE II, LLC; dba KBP Foods / Rachel Blevens and Case #19-CE-10496 – Danny M. Bennett; Elizabeth R. Bowler (owners) and Karl Taylor (Realtor) from today's agenda. She reported that both cases are in compliance and the civil penalties have been paid.

**Mr. Pizzichillo made a motion to adopt the agenda as amended. Mr. Kennedy seconded the motion and it passed unanimously.**

**4. UNLICENSED CONTRACTORS/CITATIONS**

None

**5. EVIDENTIARY HEARINGS**

**A) Citation Appeals**

**1. CASE #19-CE-10541 / 2230M**

**VIOLATOR:** Cheryl Sangbush

**VIOLATION:** Operating a guest house and transient quarters in a residential zone

**VIOLATION ADDRESS:** 4890 Bethel Creek Drive, #4, Vero Beach, Florida 32963

Ms. Sanderson reported that this is a repeat violation. Service of the citation was provided by property posting. This case is being heard today as an appeal.

Ms. Cheryl Sangbush, Property Owner, reported that she is in the real estate industry and has been selling real estate in Indian River County for about 15 years. She took full responsibility of the first citation and immediately paid the \$500 civil penalty. She reported that she is now in complete compliance and is renting at the 30-day minimum. She said there was an issue when she made the changes to the site in that she used her I-Phone rather than her computer because she was out of town and the settings are a little different. She reported that the entire month of December had been rented except for two (2) days and at the time she received this citation that the site was still showing a minimum rental of three (3) days. She thought that she was in compliance, but because the site showed three (3) days minimum rental in December she was not in compliance with the City. She is contesting this citation as she is now in complete compliance.

Ms. Sanderson reported that the citation was issued based on her conversation with a guest who advised her that they rented the home for one (1) week.

Mr. Kennedy asked if they were now in compliance.

Ms. Sanderson reported that the tenants have left.

Mr. Daige asked Ms. Sanderson how she monitors the property to ensure that they stay in compliance.

Ms. Sanderson reported that she checks the advertising, interviews guests, and watches the vehicle turnover.

Mr. Daige asked in December, was the property rented by the day or by the month.

Ms. Sanderson said there were several rentals.

Mr. Daige asked about the month of December.

Ms. Sanderson reported that one (1) citation was in November and one (1) citation was in December.

Mr. Pizzichillo asked Ms. Sangbush in that period of time, how many rentals did she have that were less than 30-days.

Ms. Sangbush reported that she listed the property on Airbnb in the summer and had it on for a three (3) day minimum since June, 2019.

Mr. Pizzichillo asked how many times was it rented for less than 30-days from June through the present time.

Ms. Sangbush reported that she had almost 100% occupancy.

Ms. Sanderson reported that based on the reviews in their backup information, there were four (4) or five (5) rentals per month.

Mr. Pizzichillo asked Ms. Sangbush if she was aware of the Ordinance.

Ms. Sangbush answered yes.

Mr. Bryant asked how many times was she a repeat violator.

Ms. Sanderson reported that this is her second violation. The first citation was issued in November with a \$500 civil penalty, which was paid on December 10, 2019. This citation is the second violation with a \$500 civil penalty based on the week. She noted that per City Code, it should be \$500 per night.

Mr. Daige asked Ms. Sanderson for her recommendation.

Ms. Sanderson said that the citation should stand.

Mr. Pizzichillo questioned at what citation amount.

Ms. Sanderson answered \$500 plus enforcement costs.

**Mr. Pizzichillo made a motion that Ms. Sanderson's recommendation be put into a motion and voted upon the Board, up or down. Mr. McDonald seconded the motion.**

Mr. John Turner, City Attorney, encouraged the Board to make sure there is no more discussion before they entertain a motion.

Ms. Sangbush said that she is in compliance. She said that she has been in compliance since the date of the first letter and the first citation. She said in going forward she understands that this is to be taken seriously. She said that she does not have a problem with renting for a 30-day minimum and that she is in compliance moving forward.

Mr. McDonald said she is only being cited for one (1) day (\$500).

Ms. Sanderson said that is correct.

**Mr. Pizzichillo made a motion that the appeal be denied and that the original amount stand.**

Ms. Sanderson said that she would ask that the Board finds that there was a violation, that the property is now in compliance and to issue a Board order for the initial \$500 civil penalty and the \$79.64 enforcement costs.

**Mr. Pizzichillo put those exact words into his motion (that the Board finds that there was a violation, the violation has been corrected, and issues a Board order to pay the \$500 civil penalty along with the cost of enforcement in the amount of \$79.64). Mr. Bryant seconded the motion and it passed unanimously.**

**B) Non-Compliance / Compliance Reports**

**1. Request for Board Order**

- a. CASE #19-CE-10496 / 2215M**  
**VIOLATOR:** Danny M. Bennett; Elizabeth R. Bowler (owners) and Karl Taylor (Realtor)  
**VIOLATION:** Sign violation – Code Section 38.09 (f)  
**VIOLATION ADDRESS:** 902 Tides Road, Vero Beach, Florida 32963  
**(Failure to comply; Failure to pay \$50 civil penalty)**

This item was pulled from today's agenda.

- b. CASE #19-CE-10509 / 2218M**  
**VIOLATOR:** Frances Cappelen  
**VIOLATION:** Failure to obtain Code Compliance Certification or a building permit for concrete driveway and concrete wall – Code Sections 64.05 (a)(b)(9)(a); 22-106; 22-181  
**VIOLATION ADDRESS:** 2511 Atlantic Boulevard, Vero Beach, Florida 32960  
**(Failure to comply)**

Ms. Sanderson reported that the violation has not been corrected and the civil penalty has been paid. She reported that she spoke with Mr. Cappelen yesterday and they came to an agreement that he could complete the permit process within 45 days. She asked that the Board finds there is a violation, the violation continues, that the civil penalty has been paid and to issue a Board order to correct the violation within 30-days.

Mr. Pizzichillo asked Ms. Sanderson for her recommendation.

Ms. Sanderson recommended a Board order to correct the violation within 45-days.

**Mr. Pizzichillo put that in the form of a motion. Mr. Kennedy seconded the motion.**

Mr. Noonan asked if it is okay if he made a motion.

**Mr. Pizzichillo withdrew his motion.**

Mr. Turner said that he would prefer that when they do have a motion that they state it as clearly as they can and then ask for a second. He said if Mr. Pizzichillo wants to withdraw his motion he can do that, but he would request that they state exactly what the motion is from the dais.

Mr. Pizzichillo said his thinking is that he gets a recommendation from the person making the citation and he doesn't want to misquote her so whatever her words are, if he is happy with them, he would like to put them exactly into his motion, which is why he does it the way he does it.

Mr. Turner said that he would suggest when they submit a motion for consideration, that they state the motion and then they can ask staff if that is what has been recommended. He said this is for clarification so they know exactly what the Board has done and what has been voted on. He said Parliamentary Procedure usually requires that the motion be made from the dais or from the body who is meeting. That is the reason why he is bringing this up. He understands Mr. Pizzichillo's concerns about wanting to make sure that everything is in the motion. He would just suggest that once they make the motion they could ask in substance what the recommendation is. That is his recommendation to the Board.

**Mr. Pizzichillo again withdrew his motion.**

**Mr. Noonan made a motion that the Board finds there is a violation, the violation continues, and that the Board issues a Board order to correct within 45-days and if the violation is not corrected continuing civil penalties shall commence beginning on December 6, 2019. Mr. Pizzichillo seconded the motion and it passed unanimously.**

**c. CASE #19-CE-10511 / 2220M**

**VIOLATOR:** P. Scott McCracken

**VIOLATION:** Weeds, grass, and undergrowth at a height of more than 12 inches – Code Section 38-31 (a)(b)(1)

**VIOLATION ADDRESS:** 2716 Laurel Drive, Vero Beach, Florida 32960

**(Failure to comply; Failure to pay \$100 civil penalty)**

Ms. Sanderson reported that this repeat violation. Service of the citation was provided by posting of the property and by first class mail to the property owner's residence. The violation was corrected three (3) weeks after the compliance date and the civil penalty has not been paid. She asked that the Board finds that there was a violation, the property is now in compliance, and that the Board issues a Board order to pay the \$100 civil penalty and the cost of enforcement in the amount of \$33.44.

Mr. Kennedy said that he has seen this name (Mr. P. Scott McCracken, Violator) many times. He asked Ms. Sanderson if she speaks to him.

Ms. Sanderson said as many citations as he has had at this property and his other property, he has never acknowledged a citation, attended a hearing, or responded to her.

Mr. Kennedy asked Mr. Turner what remedy does the Board have. He said this makes a farce out of this Board.

Mr. Turner said the fine and lien system is what they have. He said they could exercise all the authority granted under the Ordinance and proceed that way.

Mr. Daige said it was stated that there are other fines. He said this citation has a \$100 civil penalty, plus costs.

Ms. Sanderson explained that the \$100 civil penalty on this citation is because it is a repeat violation.

Mr. Daige asked are there any unpaid penalties besides this one.

Ms. Sanderson answered yes.

Mr. Daige asked because this seems to be a problem, going forward, what is the possibility of enacting a lien against this property.

Mr. Turner explained that the procedure for citations are a little different than notices. He said they have had a problem in trying to get some enforcement on citations. His recommendation is that through the citation system, if there is a remedy for filing a lien on the property that they proceed in that direction if that is an available remedy. He said that is the only way they are actually going to collect anything.

Mrs. Hillman said if a lien is put against the property and they want to sell it, the lien would have to be paid.

Ms. Sanderson said that is her understanding.

Mr. Daige said to his knowledge the lien would stay with the property, it would accumulate penalties over the years, and they would catch it during a title search and it would either get paid or they would negotiate it. He asked Mr. Turner, if it is not in place now, if he would look into the paperwork that needs to be done so when this happens again it could be enacted.

Mr. Turner said that he and the Deputy City Clerk would get back to the Board with a recommendation.

Mr. Pizzichillo asked when did this problem begin.

Ms. Sanderson asked if he was referring to this case.

Mr. Pizzichillo said any case that this violator has not paid.

Mr. Bryant asked for the date of the very first time she was at this site.

Ms. Sanderson said that she initiated a case on April 10, 2019, for a different violation.

Mr. Pizzichillo asked if it was paid.

Ms. Sanderson said not to her knowledge.

Mr. Pizzichillo asked does the City go in and cut the grass and do whatever they have to do to make it healthy.

Ms. Sanderson reported that the violation has been corrected.

Mr. Pizzichillo asked Mr. Turner for his recommendation.

Mr. Turner said under the Code, a citation for a Code violation or a citation resulting from a Notice of Hearing can be filed, but it is not a lien and it is not giving notice of a lien. He said they need to take an additional step and make it a lien. He is hoping to contribute on how that process will be done. Normally the process is one of advising, giving notice to the owner that certain actions will be taken on the property for code violations and they are to appear before the Board and if they appear and are found in violation or if they do not appear after being given notice and an opportunity to be heard, then a lien would be filed. So, they would give the violators notice and an opportunity to appear. He said once they have complied with due process then there are some options the Board can take, which is what he is researching.

Mr. Pizzichillo said if he understands it correctly, the Board could make a motion that Mr. Scott McCracken should be served a notice or action for his violations and also give Mr. McCracken the opportunity to appear before the Board in writing and if not then they can proceed with a lien. He asked if that is correct.

Ms. Sanderson asked haven't they already done that by noticing him with the citation. She said that Mr. McCracken opted to ignore it and then he had written Notice of Hearing and was given the option to appear today if he wanted to make a compelling case.

Mr. Daige said with the lien situation, in hearing the City Attorney speak, staff needs to look into the paperwork and put some type of policy in writing that the Board can have so if the property is going to be liened, it will be done according to when Mr. Turner brings back the paperwork.

At this time, the Board discussed the lien process and how to make it stronger. It was agreed by the Board to allow Mr. Turner time to research this and bring back his recommendations.

Mr. Turner said that he would research this. He said that he is going to look for what would the law recognize and what they are authorized to do under the Ordinance and under State Statute.

Mr. Pizzichillo said that he is under the impression that they have sent several notices in the past. He asked is that correct.

Ms. Sanderson said there have been prior violations with notices issued.

Mr. Pizzichillo asked when they send a notice on this case, because the violator did not show up, that they put "final notice before further action is taken," which might stimulate some movement.

Ms. Sanderson said they can't do that because at today's hearing when the Board finds that the violator is in compliance and issues a Board order to pay, the violator has to receive that notice so they can't just immediately go to that action.

Mr. Turner said there is notice on there, but his problem is what are they allowed. He said first they have to give notice, they have to give the violator the opportunity to be heard, etc.

Mr. McDonald said there is language in the document about fees, penalties, etc.

Mr. Pizzichillo asked Ms. Sanderson to her knowledge, how many citations in the past has Mr. McCracken had.

Ms. Sanderson said there was a citation on April 10, 2019, for interior demolition and windows without a permit.

Mrs. Hillman asked did he pay the civil penalty.

Ms. Sanderson said not to her knowledge.

Ms. Sanderson reported that there was another case on the property in that timeframe for having a dumpster and construction trailer on the site without a current building permit.

Mr. Pizzichillo questioned that he (Mr. McCracken) didn't pay for that either.

Ms. Sanderson answered not to her knowledge.

Mr. McDonald asked is this on the same property.

Ms. Sanderson answered yes.

Ms. Sanderson reported there was a previous citation for overgrowth.

Mrs. Hillman said that is four (4) citations including today's case. She asked if any of them have been paid.

Ms. Sanderson said not to her knowledge.

Mr. Daige said they are looking at today's case and questioned what about the previous fines that have not been paid. He asked how is that handled.

Mr. Pizzichillo suggested that the Board ask the City Attorney to write a very serious letter to Mr. McCracken.

Mr. Turner said that he did not feel comfortable doing that. He would rather Mr. McCracken deal with Code Enforcement. He said if it comes to the point that staff feels the Board can direct them for lien purposes and filing suit foreclosing, that is the ultimate.

Mr. Pizzichillo asked how many more times does the Board have to sit at the dais and put up with these events of non-payment. He said somewhere along the line they may lose their patience and his patience is up.

Mr. Daige said they don't have the amount of fines against this property.

Mr. Noonan said the Board does not have the capability to roll everything together. He said each case is individual.

Mr. Turner asked what actions has the Board taken in the past.

Mr. Noonan said past cases were always in the past and not relevant to the case at hand.

Mr. Turner said that is correct. Every case is treated individually on its own facts and merits. He asked the Board how they handled a case where they had someone with a lot of back fines that were never paid and feel that they are immune from any kind of serious action from the Board or from Code Enforcement.

Ms. Sanderson pointed out that when the Board issues a Board order, there is verbiage on the order that states in part that it is going to include the costs of satisfying and recording releases of the resulting lien upon payment. So, it is not a surprise that the properties are liened.

Mr. Turner that is fine, but the Board needs to take that information and direct that liens be filed, direct that they be foreclosed on, etc.

Mr. Noonan asked when the Board order is recorded, doesn't that become a lien.

Mr. Turner said they are discussing citations.

Mr. Kennedy asked can the Board expand on that and state that no further permits will be issued to this contractor or to anyone.

Mr. Turner said that question was previously asked and he did some research on it and the answer is maybe.

Mr. Price said they could report the fact that Mr. McCracken owes money to the City to the Licensing Board and the Licensing Board can revoke his license.

Mr. Turner said that is correct; that is their remedy.

Mr. Daige said according to the Code Enforcement Officer, there are other fines that are not paid on this property. He asked what happens in that situation.

Mrs. Hillman asked wouldn't they add all them together and send the information to the Licensing Board.

Mr. Price said that he didn't know their procedures are or if they would honor this. He said the Board can't prevent Mr. McCracken from working, but if his license is revoked they can.

Mr. Turner asked can the Building Official do that.

Ms. Sanderson said they could ask Mr. Scott McAdam, Indian River Count Building Official, if this is something that can be presented to the County Construction Board of Adjustment.

Mr. McDonald suggested that the Board wait on further discussion about this until Mr. Turner brings back more information to them. The Board members agreed.

**Mr. Noonan made a motion that the Board finds there was a violation, the property is now in compliance, and that the Board issues a Board order for payment of the \$100**

**civil penalty and the cost of enforcement of \$33.44. Mr. Pizzichillo seconded the motion and it passed unanimously.**

- d. **CASE #19-CE-10539 / 2228M**  
**VIOLATOR:** FQSR RE II, LLC; dba KBP Foods / Rachel Blevins  
**VIOLATION:** Oak Tree removed without a permit – Code Section 72.41  
**VIOLATION ADDRESS:** 4040 20<sup>th</sup> Street, Vero Beach, Florida 32960  
**(Failure to comply; Failure to pay \$50 civil penalty)**

This item was pulled from today's agenda.

- e. **CASE #19-CE-10413 / 2179M**  
**VIOLATOR:** G&S Investments of Indian River County, Inc. / Charles Sullivan, Jr., Agent; Michael Miller's Marine Service, LLC / Michael Miller, Sr., Agent  
**VIOLATION:** Site Plan approval needed for the property and right-of-way encroachment – Code Sections 64.06 (a)(e)(8)(h); 71.06  
**VIOLATION ADDRESS:** 1305 29<sup>th</sup> Street, Vero Beach, Florida 32960  
**(Failure to comply)**

Ms. Sanderson reported that service of the citation was provided by service to the property owner and posting for the tenant of the property. The civil penalty has been paid. She asked that the Board finds there is a violation, the violation continues and the civil penalty has been paid. That the Board issues a Board order to correct the violation within 21 days and if not in compliance continuing penalties shall commence on October 11, 2019 and to pay the cost of enforcement in the amount of \$90.23.

Mr. Noonan asked how much time does she want the Board to give them.

Ms. Sanderson answered 21 days. She reported that she spoke with Mr. Michael Miller, Agent, this morning and met prior to today's hearing. She said that Mr. Miller was on his way to the Planning and Development Department and she is confident that they will be in compliance within that timeframe.

Mr. Noonan suggested that they allow 30 days to come into compliance.

Ms. Sanderson agreed.

**Mr. Noonan made a motion that the Board finds there is violation, the violation continues, that the civil penalty has been paid, and that the Board issues a Board order for the property to come into compliance within 30-days of today's date and if not, continuing civil penalties shall commence as of October 11, 2019, and to pay the \$90.23 cost of enforcement. Mr. Kennedy seconded the motion and it passed unanimously.**

## **6. OLD BUSINESS**

None

**7. ADMINISTRATIVE MATTERS**

None

**8. CLERK'S MATTERS**

None

**9. ATTORNEY'S MATTERS**

None

**10. CHAIRMAN'S MATTERS**

None

**11. MEMBER'S MATTERS**

None

**12. ADJOURNMENT**

Today's meeting adjourned at 3:03 p.m.

/sp



**BEFORE THE CODE ENFORCEMENT BOARD  
OF THE CITY OF VERO BEACH, FLORIDA**  
1053 20<sup>TH</sup> PLACE  
VERO BEACH, FLORIDA 32960  
Telephone (772) 978-4640

5B)1a

CITY OF VERO BEACH

vs.

CASE No's.: 20-CE-10578

RALPH FEMMINELLA  
Violator

Citation No.: 2255M

TO: Ralph Femminella  
1251 Seaway Drive  
Ft. Pierce, Florida 34949

**NOTICE OF HEARING**

AND 4000 Atlantic Boulevard  
Vero Beach, Florida 32960

**YOU ARE HERBY NOTIFIED** that a hearing is scheduled before the Code Enforcement Board of the City of Vero Beach ("Board") regarding the above-styled code enforcement case as follows:

**DATE and TIME:** February 12<sup>th</sup>, 2020 at 2:00 P.M.

**LOCATION OF HEARING:** VERO BEACH CITY HALL, COUNCIL CHAMBERS, 1053 20<sup>th</sup> PLACE, VERO BEACH, FL

**PURPOSE OF HEARING:**

- Appeal of code enforcement citation.
- Failure to Correct Violation(s).
- Failure to Pay Civil Penalty and/or Costs.
- Other (describe): \_\_\_\_\_

**YOUR HEARING RIGHTS:** You have the right to be represented at the hearing by an attorney at your own expense if you so choose, however an attorney is not required. You have the right to present witnesses and other evidence on your behalf and to cross-examine witnesses against you. You have the right to testify or not testify on your own behalf.

**CITATION APPEALS:** Pursuant to COVB Code sec. 2-303, the Board's authority on appeal of a citation is limited to fact-finding only. If your appeal of the citation is to contest the interpretation or application of the Code provision(s) cited as being violated, such appeal must be made in writing to the designated administrative authority of the City as defined in sec. 2-303 or that

appeal is waived. If such administrative appeal is taken, it must be finally decided before the Board may hear appeal of the citation.

**IF YOU FAIL TO APPEAR:** If you do not appear at the hearing in person or by your attorney to defend this matter, you will be deemed to have waived your right to a hearing and the Board may rule against you in your absence and enter an order accordingly. Also take notice that such waiver of your right to a hearing will be deemed your admission of the violation(s) cited if the hearing is for appeal of the citation.

**LATE CORRECTION OF VIOLATION OR LATE PAYMENT:** This case may be presented to the Board even if all cited violations have been corrected and civil penalties and costs have been paid prior to the hearing.

**HEARING RECORD:** This hearing involves non-criminal code enforcement matters. You are responsible for insuring, at your own expense, that a verbatim record of the hearing is made by a Florida certified court reporter should you desire to appeal an adverse decision of the Board to the Circuit Court.

**POSTPONEMENTS:** No request for postponement of the hearing will be considered unless such request is made in writing, stating good reason for the requested postponement, and received by the board clerk at least five (5) days prior to the date set for the hearing at: City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960.

PLEASE GOVERN YOURSELF ACCORDINGLY.

FOR THE CODE ENFORCEMENT BOARD

Date: January 30, 2020

By:   
Board Clerk

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Notice of Hearing was provided to the above-named violator by first class U.S. Mail addressed to the above-specified address this

30<sup>th</sup> day of January 2020.

  
Board Clerk



**VERO BEACH POLICE DEPARTMENT**  
**CODE ENFORCEMENT DIVISION**  
 1055 20th Street  
 Vero Beach, FL 32960

**CODE ENFORCEMENT CITATION**

No. 2255M / 20-CE-10578

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on January 02, 2020 at 8:50 am

Name: **Femminella, Ralph**  
**1251 Seaway Drive**  
 of: **Fort Pierce, FL 34949**

at (violation address): 4000 Atlantic Boulevard in the City of Vero Beach, Florida committed the following civil offense: **Public nuisances.**

Violation of code provision(s): 38-31 (a)(b)(50 (8))

Facts constituting violation: Property is open and unsecured. Please secure access to property. Trash throughout the property. Please clean up trash on property.

**CIVIL PENALTY: \$50.00**

**PAY BY DATE: 01/31/2020**

**REPEAT VIOLATION**

**✓ CORRECTION REQUIRED BY: 01/24/2020. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: Sanderson  
 Department: VBPD Code Enforcement

Date Issued: 01/17/2020  
 Telephone: 7729784561

**RIGHT TO HEARING OR TO PAY REDUCED PENALTY:** You must either file a written request for a hearing to contest this citation OR pay the reduced civil penalty specified above at: City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960. WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION. Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

Your signature below acknowledges receipt of a copy of this citation and is NOT an admission of the violation. Willful refusal to sign and accept this citation is a misdemeanor criminal offense punishable as provided by law.

\_\_\_\_\_  
 Signature of Individual

Date: \_\_\_\_\_

CLERK COPY - 20-000038

Certified Mail Receipt: 70182290000037006504





**BEFORE THE CODE ENFORCEMENT BOARD**  
 OF THE CITY OF VERO BEACH, FLORIDA  
 1053 20<sup>TH</sup> PLACE  
 VERO BEACH, FLORIDA 32960  
 Telephone (772) 978-4640

5B)16

CITY OF VERO BEACH

vs.

CASE No's.: 17-CE-7966

T MOBILE / MAGENTA WIRELESS, LLC  
JLG CORPORATION SERVICES, INC. - AGENT  
 Violator

Citation No.: 1187M

**TO:** T Mobile / Magenta Wireless, LLC  
JLG Corporation Services, Inc. - Agent  
1805 Ponce De Leon Boulevard, Suite 400  
Coral Gables, Florida 33134

**NOTICE OF HEARING**

AND 524 21<sup>st</sup> Street  
Vero Beach, Florida 32960

AND

Vero Beach Shopping Center, LTD  
3838 Tamiami Trail N, Suite 416  
Naples, Florida 34103-3586

AND Vero Beach Properties, LLC  
3838 Tamiami Trail N, Suite 416  
Naples, Florida 34103-3586

**YOU ARE HERBY NOTIFIED** that a hearing is scheduled before the Code Enforcement Board of the City of Vero Beach ("Board") regarding the above-styled code enforcement case as follows:

**DATE and TIME:** February 12<sup>th</sup>, 2020 at 2:00 P.M.

**LOCATION OF HEARING:** VERO BEACH CITY HALL, COUNCIL CHAMBERS, 1053 20<sup>th</sup> PLACE, VERO BEACH, FL

**PURPOSE OF HEARING:**

- Appeal of code enforcement citation.
- Failure to Correct Violation(s).
- Failure to Pay Civil Penalty and/or Costs.
- Other (describe): Request of the Code Enforcement Officer to find in compliance, to cease continuing penalties, and to pay

**YOUR HEARING RIGHTS:** You have the right to be represented at the hearing by an attorney at your own expense if you so choose, however an attorney is not required. You have the right to

present witnesses and other evidence on your behalf and to cross-examine witnesses against you. You have the right to testify or not testify on your own behalf.

**CITATION APPEALS:** Pursuant to COVB Code sec. 2-303, the Board's authority on appeal of a citation is limited to fact-finding only. If your appeal of the citation is to contest the interpretation or application of the Code provision(s) cited as being violated, such appeal must be made in writing to the designated administrative authority of the City as defined in sec. 2-303 or that appeal is waived. If such administrative appeal is taken, it must be finally decided before the Board may hear appeal of the citation.

**IF YOU FAIL TO APPEAR:** If you do not appear at the hearing in person or by your attorney to defend this matter, you will be deemed to have waived your right to a hearing and the Board may rule against you in your absence and enter an order accordingly. Also take notice that such waiver of your right to a hearing will be deemed your admission of the violation(s) cited if the hearing is for appeal of the citation.

**LATE CORRECTION OF VIOLATION OR LATE PAYMENT:** This case may be presented to the Board even if all cited violations have been corrected and civil penalties and costs have been paid prior to the hearing.

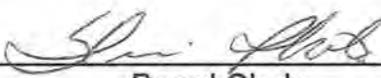
**HEARING RECORD:** This hearing involves non-criminal code enforcement matters. You are responsible for insuring, at your own expense, that a verbatim record of the hearing is made by a Florida certified court reporter should you desire to appeal an adverse decision of the Board to the Circuit Court.

**POSTPONEMENTS:** No request for postponement of the hearing will be considered unless such request is made in writing, stating good reason for the requested postponement, and received by the board clerk at least five (5) days prior to the date set for the hearing at: City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960.

PLEASE GOVERN YOURSELF ACCORDINGLY.

FOR THE CODE ENFORCEMENT BOARD

Date: January 30, 2020

By:   
Board Clerk

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Notice of Hearing was provided to the above-named violator by first class U.S. Mail addressed to the above-specified address this

30<sup>th</sup> day of January 2020.

  
Board Clerk



**BEFORE THE CODE ENFORCEMENT BOARD  
OF THE CITY OF VERO BEACH, FLORIDA**  
1053 20<sup>TH</sup> PLACE  
VERO BEACH, FLORIDA 32960

**CITY OF VERO BEACH**

**CASE NO. 17-CE-7966**

vs.

**CITATION NO. 1187M**

**T MOBILE / MAGENTA WIRELESS, LLC  
JLG CORPORTION SERVICES, INC. - AGENT  
1805 Ponce De Leon Boulevard, Suite 400  
Coral Gables, Florida 33134**

**ORDER FINDING VIOLATION, DIRECTING CORRECTION  
AND PAYMENT OF CIVIL PENALTY AND IMPOSING CONTINUING PENALTIES**

**VIOLATION:** City of Vero Beach Code, sections 70-62(a)(1) – Failure to obtain Business Tax Receipt.

**LOCATION:** 524 21<sup>st</sup> Street, Vero Beach, Florida 32960

The above-styled case having come before the Code Enforcement Board of the City of Vero Beach ("Board") on the 13<sup>th</sup> day of December, 2017, on request of the code enforcement officer for a Board order finding violation, and the Board having heard testimony of the code enforcement officer and having reviewed the record in this action, on motion made and approved, found that:

1. The citation and notice of hearing in this case were served as provided by law, and the violator did not appear.
2. The violation continues, and the civil penalty in the amount of \$50.00 has not been paid.
3. The City has not requested enforcement costs be assessed, however the City is entitled pursuant to law to recover all costs of recording the Board's orders in the public records and for satisfying and recording releases of the resulting liens upon payment.

**IT IS THEREFORE ORDERED AND ADJUDGED BY THE BOARD THAT:**

The violator is deemed to have committed the violation as specified above and on the citation. There is hereby imposed the civil penalty of **\$50.00**, which shall be paid to the City Clerk within thirty (30) days from the date of this Order. The violator shall correct the violation within **five (5) days** of this Board Order by obtaining its Business Tax Receipt or daily continuing penalties of **\$50.00** are hereby imposed for each day the violation remains uncorrected after such time together with the initial

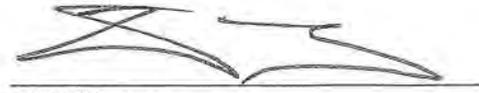
civil penalty of **\$50.00** and all costs of recording the Board's orders in the public records and for satisfying and recording release of the resulting liens upon payment.

**DONE AND ORDERED** at Vero Beach, Indian River County, Florida this 27<sup>th</sup> day of December 2017.

ATTEST:

CODE ENFORCEMENT BOARD

  
Sherri Philo  
As Board Clerk

  
Kirk Noonan  
Chairman

[Seal]

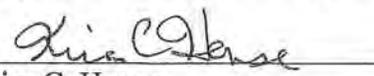
THIS IS TO CERTIFY THAT THIS IS A  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN THIS OFFICE.

SHERRI PHILO

BY:  , D.C.

DATE: December 27, 2017

Approved as to form and legal sufficiency:

  
Kira C. Honse  
As Board Attorney

**IMPORTANT INFORMATION**

**Correction of Violations:** AFTER CORRECTING THE VIOLATIONS YOU MUST NOTIFY THE CODE ENFORCEMENT OFFICER; by Telephone 772-978-4551 or 772-978-4561, or in person at the Code Enforcement Office, Vero Beach Police Department, 1055 20<sup>th</sup> Street, Vero Beach, FL 32960 in order to request re-inspection to avoid imposition of additional civil penalties against you.

**Payment of Civil Penalties and Costs:** You must contact the City Clerk's office at 772-978-4700 for the total amount of civil penalties, enforcement costs, recording and other costs required to satisfy this order and lien. Civil penalties and costs may be paid in person at the City Clerk's office located in City Hall, 1053 20<sup>th</sup> Place, Vero Beach, Florida 32960, Monday through Friday between 8:30 a.m. and 5:00 p.m., or by mailing a check or money order to said address, payable to "City of Vero Beach." Do not mail cash!

**Repeat Violation:** Repeat violation of the same Code provision by the violator, even if committed at a different location, can result in the issuance of a code enforcement citation and assessment of increased civil penalties for the repeat offense.

**Notice of Right to Appeal Board Decision:** An aggrieved party may appeal the Board's order to the Circuit Court in Indian River County, Florida. A written notice of appeal, together with a copy of the order appealed, must be filed with the Clerk of the Code Enforcement Board *and* with the Clerk of the Circuit Court, together with the applicable court filing fees, within thirty (30) days after the date of this order or the right to appeal is waived. An appeal is limited to appellate review of the record of the proceedings created before the Code Enforcement Board. Ref. F.S. 26.012(1); Florida Rules of Appellate Procedure, 9.030(c)(1)(C); 9.110(c).



**VERO BEACH POLICE DEPARTMENT  
CODE ENFORCEMENT DIVISION**

1055 20th Street  
Vero Beach, FL 32960

**CODE ENFORCEMENT CITATION**

No. **1187M / 17-CE-7966** of Vero Beach

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH

Receipt No: 27818000002

Jan 08, 2018 15:48

Print No:

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on **October 18, 2017** at **n/a**

CITY OF VERO BEACH  
GENERAL FUND

Amount on Acct: \$50.00

Name: **T Mobile / Magenta Wireless, LLC / JLG Corp Svcs, Inc, Agent**  
**1805 Ponce De Leon Bv, Suite 400**  
of: **Coral Gables, FL 33134**

JAN 09 2018

at (violation address): **524 21st Street** in the City of Vero Beach, Florida committed the following civil offense: **Business Tax Required for the business and has not been obtained.**

PAID  
CASHIER NO. 2

Violation of code provision(s): 70.62 (a) (1), 38.17 (a) (k)

Facts constituting violation: Business Tax Receipt must be obtained from the Vero Beach Planning Department.

**CIVIL PENALTY: \$50.00**

**PAY BY DATE: 11/29/2017**

**REPEAT VIOLATION**

**CORRECTION REQUIRED BY: 11/17/2017. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: Sanderson

Date Issued: 11/14/2017

Department: VBPD Code Enforcement

Telephone: 7729784561

**RIGHT TO HEARING OR TO PAY REDUCED PENALTY:** You must either file a written request for a hearing to contest this citation OR pay the reduced civil penalty specified above at: City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960. **WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

Your signature below acknowledges receipt of a copy of this citation and is NOT an admission of the violation. Willful refusal to sign and accept this citation is a misdemeanor criminal offense punishable as provided by law.

\_\_\_\_\_  
Signature of Individual

Date: \_\_\_\_\_

CLERK COPY - 17-001220

Certified Mail Receipt: 7016091000014806

ORIGINAL



**VERO BEACH POLICE DEPARTMENT  
CODE ENFORCEMENT DIVISION**

**1055 20th Street  
Vero Beach, FL 32960**

**CODE ENFORCEMENT CITATION**

**No. 1187M / 17-CE-7966**

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on **October 18, 2017** at **n/a**

Name: **T Mobile**  
**524 21st Street**  
of: **Vero Beach, FL 32960**

at (violation address): **524 21st Street** in the City of Vero Beach, Florida committed the following civil offense: **Business Tax Required for the business and has not been obtained.**

Violation of code provision(s): **70.62 (a) (1), 38.17 (a) (k)**

Facts constituting violation: **Business Tax Receipt must be obtained from the Vero Beach Planning Department.**

**CIVIL PENALTY: \$50.00 PAY BY DATE: 11/29/2017 REPEAT VIOLATION**

**✶ CORRECTION REQUIRED BY: 11/17/2017. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: **Sanderson**  
Department: **VBPD Code Enforcement**

Date Issued: **11/14/2017**  
Telephone: **7729784561**

**RIGHT TO HEARING OR TO PAY REDUCED PENALTY:** You must either file a written request for a hearing to contest this citation **OR** pay the reduced civil penalty specified above at: **City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960.** **WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

Your signature below acknowledges receipt of a copy of this citation and is **NOT** an admission of the violation. Willful refusal to sign and accept this citation is a misdemeanor criminal offense punishable as provided by law.

\_\_\_\_\_  
Signature of Individual

Date: \_\_\_\_\_

CLERK COPY - 17-001220

Certified Mail Receipt:

ORIGINAL



**BEFORE THE CODE ENFORCEMENT BOARD**  
 OF THE CITY OF VERO BEACH, FLORIDA  
 1053 20<sup>TH</sup> PLACE  
 VERO BEACH, FLORIDA 32960  
 Telephone (772) 978-4640

5-B)1c

CITY OF VERO BEACH

vs.

CASE No's.: 19-CE-10470

T MOBILE / MAGENTA WIRELESS, LLC  
JLG CORPORATION SERVICES, INC. - AGENT  
 Violator

Citation No.: 2212M

**TO:** T Mobile / Magenta Wireless, LLC  
JLG Corporation Services, Inc. - Agent  
1805 Ponce De Leon Boulevard, Suite 400  
Coral Gables, Florida 33134

**NOTICE OF HEARING**

AND 524 21<sup>st</sup> Street  
Vero Beach, Florida 32960

AND

Vero Beach Shopping Center, LTD  
3838 Tamiami Trail N, Suite 416  
Naples, Florida 34103-3586

AND Vero Beach Properties, LLC  
3838 Tamiami Trail N, Suite 416  
Naples, Florida 34103-3586

**YOU ARE HERBY NOTIFIED** that a hearing is scheduled before the Code Enforcement Board of the City of Vero Beach ("Board") regarding the above-styled code enforcement case as follows:

**DATE and TIME:** February 12<sup>th</sup>, 2020 at 2:00 P.M.

**LOCATION OF HEARING:** VERO BEACH CITY HALL, COUNCIL CHAMBERS, 1053 20<sup>th</sup> PLACE, VERO BEACH, FL

**PURPOSE OF HEARING:**

- Appeal of code enforcement citation.
- Failure to Correct Violation(s).
- Failure to Pay Civil Penalty and/or Costs.
- Other (describe): Request of the Code Enforcement Officer to find in compliance, to cease continuing penalties, and to pay

**YOUR HEARING RIGHTS:** You have the right to be represented at the hearing by an attorney at your own expense if you so choose, however an attorney is not required. You have the right to

present witnesses and other evidence on your behalf and to cross-examine witnesses against you. You have the right to testify or not testify on your own behalf.

**CITATION APPEALS:** Pursuant to COVB Code sec. 2-303, the Board's authority on appeal of a citation is limited to fact-finding only. If your appeal of the citation is to contest the interpretation or application of the Code provision(s) cited as being violated, such appeal must be made in writing to the designated administrative authority of the City as defined in sec. 2-303 or that appeal is waived. If such administrative appeal is taken, it must be finally decided before the Board may hear appeal of the citation.

**IF YOU FAIL TO APPEAR:** If you do not appear at the hearing in person or by your attorney to defend this matter, you will be deemed to have waived your right to a hearing and the Board may rule against you in your absence and enter an order accordingly. Also take notice that such waiver of your right to a hearing will be deemed your admission of the violation(s) cited if the hearing is for appeal of the citation.

**LATE CORRECTION OF VIOLATION OR LATE PAYMENT:** This case may be presented to the Board even if all cited violations have been corrected and civil penalties and costs have been paid prior to the hearing.

**HEARING RECORD:** This hearing involves non-criminal code enforcement matters. You are responsible for insuring, at your own expense, that a verbatim record of the hearing is made by a Florida certified court reporter should you desire to appeal an adverse decision of the Board to the Circuit Court.

**POSTPONEMENTS:** No request for postponement of the hearing will be considered unless such request is made in writing, stating good reason for the requested postponement, and received by the board clerk at least five (5) days prior to the date set for the hearing at: City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960.

PLEASE GOVERN YOURSELF ACCORDINGLY.

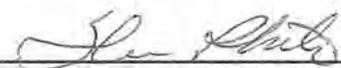
FOR THE CODE ENFORCEMENT BOARD

Date: January 30, 2020

By:   
Board Clerk

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Notice of Hearing was provided to the above-named violator by first class U.S. Mail addressed to the above-specified address this 30<sup>th</sup> day of January 2020.

  
Board Clerk



**BEFORE THE CODE ENFORCEMENT BOARD  
OF THE CITY OF VERO BEACH, FLORIDA  
1053 20<sup>TH</sup> PLACE  
VERO BEACH, FLORIDA 32960**

**CITY OF VERO BEACH**

**CASE NO. 19-CE-10470**

vs.

**CITATION NO. 2212M**

**T MOBILE / MAGENTA WIRELESS, LLC /  
JLG CORP. SERVICES, AGENT  
1805 Ponce De Leon Boulevard, Suite 400  
Coral Gables, Florida 33134**

**ORDER FINDING VIOLATION, TO PAY INITIAL CIVIL PENALTY;  
ALLOWING ADDITIONAL TIME FOR COMPLIANCE AND  
ASSESSING CONTINUING PENALTIES**

**VIOLATION:** City of Vero Beach Code, Section 70.62 (a)(1) - Business Tax Receipt required.  
**LOCATION:** 524 21<sup>ST</sup> Street, Vero Beach, Florida 32960

The above-styled case having come before the Code Enforcement Board of the City of Vero Beach ("Board") on the 11<sup>th</sup> day of November, 2019, on request of the Code Officer for a Board Order, and the Board having heard testimony of the Code Enforcement Officer and having reviewed the record in this action, on motion made and approved, found that:

1. The citation and notice of hearing in this case were served as provided by law, and the violator did not appear.
2. The violator did not appeal issuance of the citation in this case within the time allowed by law and thereby waived the right to a hearing before the Board to contest the issuance of the citation, which waiver of hearing is deemed an admission of the violation specified in the citation. The civil penalty in the amount of \$100.00 has not been paid.
3. It would be appropriate to allow additional time to come into compliance.
4. The City has not requested enforcement costs. The City is entitled pursuant to law to recover the initial civil penalty and all costs of recording the Board's orders in the public records and for satisfying and recording releases of the resulting liens upon payment.

**IT IS THEREFORE ORDERED AND ADJUDGED BY THE BOARD THAT:**

The violator is deemed to have committed the violation as specified above and on the citation. The violator is to pay to the City Clerk's office the initial civil penalty of **\$100.00** within thirty (30) days of this Board order. The violator has ten (10) days (December 21, 2019) to correct the violation. If the violation is not corrected and the **\$100.00** initial civil penalty has not been paid, a continuing penalty will be imposed in the amount of **\$100.00** per day for each day the violations have existed and continue to exist after November 14, 2019 (the date given on the citation for correction) until the date corrected, together with all costs of recording the Board's orders in the public records and costs of satisfying and recording releases of the resulting lien upon payment.

**DONE AND ORDERED** at Vero Beach, Indian River County, Florida this 8<sup>th</sup> day  
of January 201920

ATTEST:

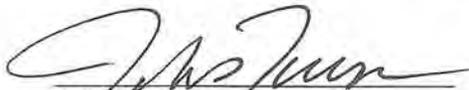
**CODE ENFORCEMENT BOARD**

  
Sherri Philo  
as Board Clerk

  
Kirk Noonan  
as Board Chairman

[Seal]

Approved as to form and legal sufficiency:

  
John S. Turner  
as Board Attorney

**IMPORTANT INFORMATION**

**Correction of Violations:** AFTER CORRECTING THE VIOLATIONS YOU MUST NOTIFY THE CODE ENFORCEMENT OFFICER; by Telephone 772-978-4551 or 772-978-4561, or in person at the Code Enforcement Office, Vero Beach Police Department, 1055 20<sup>th</sup> Street, Vero Beach, FL 32960 in order to request re-inspection to avoid imposition of additional civil penalties against you.

**Payment of Civil Penalties and Costs:** You must contact the City Clerk's office at 772-978-4700 for the total amount of civil penalties, enforcement costs, recording and other costs required to satisfy this order and lien. Civil penalties and costs may be paid in person at the City Clerk's office located in City Hall, 1053 20<sup>th</sup> Place, Vero Beach, Florida 32960, Monday through Friday between 8:30 a.m. and 5:00 p.m., or by mailing a check or money order to said address, payable to "City of Vero Beach." Do not mail cash!

**Repeat Violation:** Repeat violation of the same Code provision by the violator, even if committed at a different location, can result in the issuance of a code enforcement citation and assessment of increased civil penalties for the repeat offense.

**Notice of Right to Appeal Board Decision:** An aggrieved party may appeal the Board's order to the Circuit Court in Indian River County, Florida. A written notice of appeal, together with a copy of the order appealed, must be filed with the Clerk of the Code Enforcement Board *and* with the Clerk of the Circuit Court, together with the applicable court filing fees, within thirty (30) days after the date of this order or the right to appeal is waived. An appeal is limited to appellate review of the record of the proceedings created before the Code Enforcement Board. Ref. F.S. 26.012(1); Florida Rules of Appellate Procedure, 9.030(c)(1)(C); 9.110(c).



**VERO BEACH POLICE DEPARTMENT**  
**CODE ENFORCEMENT DIVISION**  
 1055 20th Street  
 Vero Beach, FL 32960

**CODE ENFORCEMENT CITATION**

No. 2212M / 19-CE-10470

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on October 31, 2019 at n/a

Name: **T Mobile/ Magenta Wireless, LLC / JLG Corp Services, Inc. Agent**  
**1805 Ponce De Leon Bv, Suite 400**  
 of: **Coral Gables, FL 33134**

at (violation address): 524 21st Street in the City of Vero Beach, Florida committed the following civil offense: **Business Tax Receipt required every year for the business and has not been obtained.**

Violation of code provision(s): 70.62 (a)(1)

Facts constituting violation: Business Tax Receipt must be obtained from the Vero Beach Planning Department in City Hall. Delinquent Business Tax Receipts from prior years must be paid.

**CIVIL PENALTY: \$100.00**

**PAY BY DATE: 11/14/2019**

**REPEAT VIOLATION**

**CORRECTION REQUIRED BY: 11/14/2019. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: Sanderson  
 Department: VBPD Code Enforcement

Date Issued: 10/31/2019  
 Telephone: 7729784561

**RIGHT TO HEARING OR TO PAY REDUCED PENALTY:** You must either file a written request for a hearing to contest this citation OR pay the reduced civil penalty specified above at: City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960. **WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

Your signature below acknowledges receipt of a copy of this citation and is NOT an admission of the violation. Willful refusal to sign and accept this citation is a misdemeanor criminal offense punishable as provided by law.

\_\_\_\_\_  
 Signature of Individual

Date: \_\_\_\_\_

CLERK COPY - 19-001622

Certified Mail Receipt: 7018229000037013724





**VERO BEACH POLICE DEPARTMENT**  
**CODE ENFORCEMENT DIVISION**  
 1055 20th Street  
 Vero Beach, FL 32960

**CODE ENFORCEMENT CITATION**

No. 1187M / 17-CE-7966

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on October 18, 2017 at n/a

Name: **T Mobile / Magenta Wireless, LLC / JLG Corp Svcs, Inc, Agent**  
**1805 Ponce De Leon B, Suite 400**  
 of: **Cotal Gables, FL 33134**

at (violation address): 524 21st Street in the City of Vero Beach, Florida committed the following civil offense: **Business Tax Required for the business and has not been obtained.**

Violation of code provision(s): 70.62 (a)(1), 38.17 (a)(k)

Facts constituting violation: Business Tax Receipt must be obtained from the Vero Beach Planning Department.

**CIVIL PENALTY: \$50.00                      PAY BY DATE: 11/29/2017                      REPEAT VIOLATION**

**CORRECTION REQUIRED BY: 11/17/2017. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: Sanderson  
 Department: VBPD Code Enforcement

Date Issued: 11/14/2017  
 Telephone: 7729784561

**RIGHT TO HEARING OR TO PAY REDUCED PENALTY:** You must either file a written request for a hearing to contest this citation OR pay the reduced civil penalty specified above at: **City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960.** **WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

Your signature below acknowledges receipt of a copy of this citation and is **NOT** an admission of the violation. Willful refusal to sign and accept this citation is a misdemeanor criminal offense punishable as provided by law.

\_\_\_\_\_  
 Signature of Individual

Date: \_\_\_\_\_

VIOLATOR COPY - 17-001220

Certified Mail Receipt: 7016091000014806

**COPY**



**VERO BEACH POLICE DEPARTMENT  
CODE ENFORCEMENT DIVISION  
1055 20th Street  
Vero Beach, FL 32960**

**CODE ENFORCEMENT CITATION**

**No. 1187M / 17-CE-7966**

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on **October 18, 2017** at **n/a**

Name: **Vero Beach Shopping Center, LTD VB Properties, LLC  
IRC Investor Services, LLC**  
of: **3838 Tamiami Trail N, Suite 416  
Naples, FL 34103-3586**

at (violation address): **524 21st Street** in the City of Vero Beach, Florida committed the following civil offense: **Business Tax Required for the business and has not been obtained.**

Violation of code provision(s): **70.62 (a)(1), 38.17 (a)(k)**

Facts constituting violation: **Business Tax Receipt must be obtained from the Vero Beach Planning Department.**

**CIVIL PENALTY: \$50.00**

**PAY BY DATE: 11/29/2017**

**REPEAT VIOLATION**

**CORRECTION REQUIRED BY: 11/17/2017. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: **Sanderson**  
Department: **VBPD Code Enforcement**

Date Issued: **11/14/2017**  
Telephone: **7729784561**

**RIGHT TO HEARING OR TO PAY REDUCED PENALTY:** You must either file a written request for a hearing to contest this citation **OR** pay the reduced civil penalty specified above at: **City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960.** **WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

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\_\_\_\_\_  
Signature of Individual

Date: \_\_\_\_\_

CLERK COPY - 17-001220

Certified Mail Receipt: 7018229000037013731

ORIGINAL



**VERO BEACH POLICE DEPARTMENT**  
**CODE ENFORCEMENT DIVISION**  
 1055 20th Street  
 Vero Beach, FL 32960

**CODE ENFORCEMENT CITATION**

No. 2212M / 19-CE-10470

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on October 31, 2019 at n/a

Name: **T Mobile / Magenta Wireless, LLC**  
**524 21st Street**  
 of: **Vero Beach, FL 32960**

at (violation address): 524 21st Street in the City of Vero Beach, Florida committed the following civil offense: **Business Tax Receipt required every year for the business and has not been obtained.**

Violation of code provision(s): 70.62 (a)(1)

Facts constituting violation: Business Tax Receipt must be obtained from the Vero Beach Planning Department in City Hall. Delinquent Business Tax Receipts from prior years must be paid.

**CIVIL PENALTY: \$100.00**

**PAY BY DATE: 11/14/2019**

**REPEAT VIOLATION**

**CORRECTION REQUIRED BY: 11/14/2019. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: Sanderson  
 Department: VBPD Code Enforcement

Date Issued: 10/31/2019  
 Telephone: 7729784561

**RIGHT TO HEARING OR TO PAY REDUCED PENALTY:** You must either file a written request for a hearing to contest this citation OR pay the reduced civil penalty specified above at: **City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960.** **WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

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\_\_\_\_\_  
 Signature of Individual

Date: \_\_\_\_\_

CLERK COPY - 19-001622

Certified Mail Receipt: 70182290000037013717

ORIGINAL



**VERO BEACH POLICE DEPARTMENT  
CODE ENFORCEMENT DIVISION  
1055 20th Street  
Vero Beach, FL 32960**

**CODE ENFORCEMENT CITATION**

**No. 1187M / 17-CE-7966**

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on **October 18, 2017** at **n/a**

Name: **T Mobile**  
**524 21st Street**  
of: **Vero Beach, FL 32960**

at (violation address): **524 21st Street** in the City of Vero Beach, Florida committed the following civil offense: **Business Tax Required for the business and has not been obtained.**

Violation of code provision(s): **70.62 (a)(1), 38.17 (a)(k)**

Facts constituting violation: **Business Tax Receipt must be obtained from the Vero Beach Planning Department.**

**CIVIL PENALTY: \$50.00                      PAY BY DATE: 11/29/2017                      REPEAT VIOLATION**

**CORRECTION REQUIRED BY: 11/17/2017. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: **Sanderson**  
Department: **VBPD Code Enforcement**

Date Issued: **11/14/2017**  
Telephone: **7729784561**

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\_\_\_\_\_  
Signature of Individual

Date: \_\_\_\_\_

VIOLATOR COPY - 17-001220

Certified Mail Receipt: 7016091000014806

**COPY**



**VERO BEACH POLICE DEPARTMENT  
CODE ENFORCEMENT DIVISION  
1055 20th Street  
Vero Beach, FL 32960**

**CODE ENFORCEMENT CITATION**

**No. 1187M / 17-CE-7966**

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on October 18, 2017 at n/a

Name: **Vero Beach Shopping Center, LTD VB Properties, LLC  
IRC Investor Services, LLC**  
of: **3838 Tamiami Trail N, Suite 416  
Naples, FL 34103-3586**

at (violation address): 524 21st Street in the City of Vero Beach, Florida committed the following civil offense: **Business Tax Required for the business and has not been obtained.**

Violation of code provision(s): 70.62 (a).(1), 38.17 (a).(k)

Facts constituting violation: Business Tax Receipt must be obtained from the Vero Beach Planning Department.  
**CIVIL PENALTY: \$50.00                      PAY BY DATE: 11/29/2017                      REPEAT VIOLATION**

**CORRECTION REQUIRED BY: 11/17/2017. This is a correctable violation and must be corrected by the date specified.** Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: Sanderson  
Department: VBPD Code Enforcement

Date Issued: 11/14/2017  
Telephone: 7729784561

**RIGHT TO HEARING OR TO PAY REDUCED PENALTY:** You must either file a written request for a hearing to contest this citation OR pay the reduced civil penalty specified above at: City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960. **WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

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\_\_\_\_\_  
Signature of Individual

Date: \_\_\_\_\_

CLERK COPY - 17-001220

Certified Mail Receipt: 7018229000037013731

ORIGINAL

## ARTICLE VII. CODE ENFORCEMENT\*

9-A)

## DIVISION 1. GENERALLY

**Sec. 2-261. Title.**

This article shall constitute and may be cited as the "Code Enforcement Ordinance of the City of Vero Beach."

(Ord. No. 2013-05, § 2, 1-22-2013)

**Sec. 2-262. Intent; exemption from Chapter 162, Florida Statutes; application; provisions supplemental.**

(a) *Intent.* It is the intent of this article to promote, protect, and improve the health, safety, and general welfare of the citizens of the City of Vero Beach by the creation of a code enforcement system and procedures that will provide an equitable, expeditious, efficient, and effective method for enforcement of, and to encourage compliance with, the code, ordinances, rules, and regulations of the City of Vero Beach and the state, county and uniform laws, statutes, codes, ordinances, rules, and regulations that may be enforced by the city pursuant to this article.

(b) *Exemption from F.S. Chapter 162; application of article.* The City of Vero Beach shall be exempt from the provisions of F.S. ch. 162, to the extent that said chapter relates to any code provision that is or may be adopted or enforced within the city, specifically including but not limited to city, state, county, and uniform laws, statutes, codes, ordinances, rules, and regulations that may be enforced by the city. The procedures specified in this article may be used to enforce any such code provision, including but not limited to the following specified matters as they may be adopted or regulated by this Code, but excluding any violation delineated strictly as a criminal offense or limited to other enforcement procedures:

- (1) Alarm systems;
- (2) Alcoholic beverages;
- (3) Amusements and entertainment;
- (4) Animals;
- (5) Aviation;
- (6) Boardinghouses;

\***Editor's note**—Ord. No. 2013-05, § 2, adopted Jan. 22, 2013, amended Art. VII in its entirety to read as herein set out. Former Art. VII, §§ 2-261—2-263, 2-276—2-279, 2-296—2-306, pertained to similar subject matter, and derived from Ord. No. 2008-07, § 1, adopted June 17, 2008.

**Cross references**—Building codes and standards, § 22-181 et seq.; coastal construction code, § 22-241 et seq.

**State law reference**—Code enforcement, F.S. ch. 162.

- (7) Boats and waterways;
- (8) Buildings and building regulations;
- (9) Bulkheads and waterways;
- (10) Business tax;
- (11) Contractors and contracting;
- (12) Environment;
- (13) Flood damage prevention and drainage;
- (14) Land development;
- (15) Landscaping and tree protection;
- (16) Marine activities, structures and facilities;
- (17) Parks and recreation;
- (18) Property and structure maintenance;
- (19) Public nuisances;
- (20) Public rights-of-way;
- (21) Sales and solicitation;
- (22) Signs and satellite dish antennas;
- (23) Solid waste;
- (24) Traffic and vehicles;
- (25) Utilities;
- (26) Vehicles for hire;
- (27) Subdivisions; and
- (28) Zoning and land use.

(c) *Provisions supplemental.* Nothing contained in this article or code shall prohibit the city from enforcing any code provision by any other means. The enforcement procedures specified in this article are cumulative to all others available to the city and shall not be deemed to be prerequisites to filing suit for enforcement in a court of competent jurisdiction. No civil penalty or costs prescribed, assessed, or collected pursuant to this article shall limit any other civil or administrative remedies that the city may have by law to abate any continuing violation or public nuisance.

(Ord. No. 2013-05, § 2, 1-22-2013)

**Sec. 2-263. Definitions.**

As used in this article:

*Affidavit of non-compliance* means an affidavit of the officer certifying that the violator has failed to correct the violation within the time allowed for correction.

*Appeal* means:

- (1) An administrative hearing before the board for review of the issuance of a code enforcement citation;
- (2) A review by a court of competent jurisdiction of final administrative action of the board; and
- (3) The act of timely filing a written request for an administrative hearing before the board or a notice of appeal for appellate review of final board action by a court of competent jurisdiction.

*Board* means the Code Enforcement Board of the City of Vero Beach as authorized in this article and duly created and its members appointed by the city council.

*Code enforcement citation* and *citation* mean a written notice of the violation of a code provision issued by a code enforcement officer.

*Code* means the Code of the City of Vero Beach and all ordinances duly enacted by the city council, and all rules and regulations adopted pursuant thereto by the city council, and shall include all provisions of state, county, and uniform law, statute, code, ordinance, rule, and regulation adopted by the city council or that the city is otherwise authorized to enforce within its jurisdiction.

*Code enforcement officer* and *officer* mean any employee or agent of the city whose duty is to assure enforcement of and compliance with the code within the city and shall include, but is not limited to, any duly sworn law enforcement officer of the city, any animal control or parking enforcement officer of the city, and any building official, building inspector, and other compliance officer of the city or Indian River County exercising their official duties as authorized within the city.

*Compliance agreement* means a written agreement executed and approved as provided in section 2-302 of this article whereby the violator admits the violation, waives the right to an administrative hearing to contest the citation if one has been issued, and agrees to correct the violation by an agreed date.

*Continuing violation* means a correctable violation that remains uncorrected beyond the time period for correction stated in the code enforcement citation or the board order, whichever is applicable.

*Correctable violation* means:

- (1) A violation of a code provision that is comprised of an ongoing condition, circumstance, or activity that requires some action or inaction to remedy the violation rather than a single prohibited act; and
- (2) A violation of a code provision that requires mitigation of the violation or its effects in order to be deemed corrected.

*Costs* means costs and expenses incurred by the city in enforcing any code provision, including but not limited to the cost and expense for enforcement inspections, investigations, testing and monitoring, administrative hearings, preparation of reports, notices, orders, liens, releases, and other documents, photographs, video recordings, title searches, collection fees, recording fees, postage and other service fees, materials and supplies, and other demonstrable administrative and enforcement costs and expenses of an enforcement action arising from the violation of any code provision.

*Party* means the named violator or the city.

*Repeat violation* means a violation of a code provision by a person or entity who has been previously found by 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. In the case of correctable violations, a repeat violation at the same location can occur only after correction of the previous violation has been made.

*Special magistrate* and *magistrate* mean a code enforcement special magistrate as authorized in this article and duly appointed by the city council.

*Stop order* means any written statement, written directive, or written order stating that the cited work or activity shall cease, the reason for the order, and the conditions under which the cited work or activity will be permitted to resume.

*Uncontested violation* means a violation for which a code enforcement citation is issued and:

- (1) An appeal hearing is not timely requested by the violator, or
- (2) An appeal hearing is timely requested by the violator, but the violator fails to appear for such hearing after notice of the hearing date and time is given to the violator as provided in this article.

*Uncorrectable violation* means a violation of a code provision that cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an ongoing condition, circumstance, or activity, but shall not include a violation of a code provision that requires mitigation of the violation or its effects.

*Violator* means a person or legal entity alleged or deemed legally responsible for a violation subject to enforcement under this article and may include all tenants, property owners, and other responsible persons and entities.

*Warning* means a code enforcement citation or separate document issued as provided in this article without assessment of a civil penalty in order to inform the violator of the applicable law and encourage future compliance and, if issued for a correctable violation, to provide the violator with an opportunity to correct the violation and avoid issuance of a code enforcement citation assessing a civil penalty or commencement of other enforcement action.

(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-17, § 2, 7-21-2015)

**Secs. 2-264—2-275. Reserved.**

## DIVISION 2. CODE ENFORCEMENT BOARD AND MAGISTRATES

### **Sec. 2-276. Code enforcement board.**

(a) *Composition; board member qualifications, appointment, term, and removal.* The Code Enforcement Board of the City of Vero Beach shall be composed of seven regular members and two alternate members appointed by the city council in its sole discretion, as follows:

- (1) Board members shall be residents of the city who possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability and demonstrate experience, interest, and knowledge in code enforcement matters.
- (2) Appointment and reappointment of board members shall be made in accordance with the applicable ordinances of the city and the additional qualifications specified in this section. The Charter officers of the city shall make recommendations to the city council regarding appointments and reappointments. The membership of the board shall, whenever possible, include an architect, a business person, an engineer, a general contractor, a subcontractor, and a realtor. Board members shall have no contract or property right in their respective positions.
- (3)
  - a. Appointment and reappointment of board members shall be made for a term of four years, except as otherwise provided in this article.
  - b. A member may be reappointed upon approval of the city council in its sole discretion.
  - c. An appointment to fill a vacancy on the board shall be for the remainder of the unexpired term of office. If any member fails to attend two of three successive meetings without cause and without prior approval of the chair, the board shall declare the member's office vacant, and the city council shall promptly fill such vacancy.
  - d. The members shall serve at the pleasure of the city council in accordance with the ordinances and resolutions of the city and may be suspended or removed by the city council in its sole discretion upon majority vote of the full city council.

(b) *Board chairman and vice-chairman.* The members of the board shall elect a chair and vice-chair annually from among the regular members of the board in attendance at the first meeting of the board subsequent to the annual city council election. The chair and vice-chair shall be voting members and may initiate or second motions.

(c) *Quorum; board action.* The presence of four or more members shall constitute a quorum. All findings and determinations of the board shall be by motion approved by a majority of those members present and voting, except that at least four members of the board must vote in order for the action of the board to be official.

(d) *Compensation of board members.* Unless otherwise provided by the city council, board members shall serve without compensation, but may be reimbursed for such travel, training, mileage, and per diem expenses as may be authorized by the city council.

(e) *Duties and powers.* The board shall have the duty and power to:

- (1) Hold hearings on a regular monthly basis as needed and upon the written call of the board chairman, the vice-chairman in the chairman's absence, or at least three regular board members.
- (2) Adopt rules for the conduct of hearings before the board. All such rules shall be consistent with the code and the requirements for the conduct of quasi-judicial proceedings and due process. Such rules shall also govern hearings before special magistrates, as the context permits.
- (3) Serve as impartial judge to hear and justly make final determination of matters within the board's jurisdiction and to issue appropriate orders as the circumstances and justice require.
- (4) Conduct evidentiary hearings on appeals to the board regarding issuance of code enforcement citations and to continue such hearings from time to time as the board deems appropriate in the interest of justice.
- (5) Subpoena violators, witnesses, and evidence to hearings on its own motion.
- (6) Take testimony under oath and receive other evidence.
- (7) Issue orders having the force of law to command action or the cessation of action to correct or mitigate a violation found by the board to exist.
- (8) Make findings and determinations regarding whether a violation found by the board to exist constitutes a public nuisance representing a threat to the public health, safety, and welfare.
- (9) Issue orders having the force of law to assess and order the payment of civil penalties and costs.
- (10) Retain jurisdiction over the proceedings and orders of the board until the time for appeal has run or an appeal is filed.
- (11) Mitigate, compromise, settle, reduce, and waive civil penalties for good and reasonable cause shown as determined by the board in the interest of justice if the violator has

corrected the violation and otherwise complied with the board's orders even though a board order assessing the civil penalties has otherwise become final. However, the board may not take any such action regarding civil penalties that have become a lien by the recording of a certified copy of the order in the public records nor may the board take any such action as to any costs and expenses assessed or otherwise due the city.

- (12) Study and report on code enforcement matters submitted by the city council to the board for consideration and recommendation.

(f) *Limitation of authority.* No board member shall have the authority to initiate or prosecute any enforcement action. Any board member who is a complainant or appears as a witness in any case or proceeding before the board or a special magistrate shall be disqualified to otherwise participate or act in their official capacity in such case or proceeding.

(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-17, § 2, 7-21-2015)

#### **Sec. 2-277. Special magistrates.**

(a) *Office created.* There is hereby created and established the office of special magistrate. References in this article to the board shall include and apply to all duly appointed special magistrates, as the context permits.

(b) *Qualifications.* Special magistrates shall be members of the Florida Bar in good standing for five or more years and residents of the City of Vero Beach who possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability and demonstrate experience, interest, and knowledge in code enforcement matters.

(c) *Appointment; term; removal.* The city council may appoint one or more special magistrates as it deems necessary for furtherance of the intent of this article. Appointments shall be made for a term of one year. Any special magistrate may be reappointed at the sole discretion of the city council. The Charter officers of the city shall make recommendations to the city council regarding appointments and reappointments. There shall be no limit on the number of reappointments of any individual special magistrate; provided, however, that a determination as to reappointment must be made for each individual special magistrate at the end of each term. Special magistrates shall serve at the pleasure of the city council and may be suspended or removed by the city council in its sole discretion upon majority vote of the full city council. Appointments to fill any vacancy shall be for the remainder of the unexpired term. Special magistrates shall have no contract or property right in their respective positions.

(d) *Compensation.* Unless otherwise provided by the city council, special magistrates shall serve without compensation, but may be reimbursed for such travel, training, mileage, and per diem expenses as may be authorized by the city council.

(e) *Duties and powers.* Special magistrates shall have the same duties, powers, and limitation on powers as those conferred on the board under this article, as the context permits. (Ord. No. 2013-05, § 2, 1-22-2013)

**Sec. 2-278. Board attorney.**

The city attorney or his designee shall be general counsel to the board and special magistrates and shall provide those legal services as may be reasonably required for the proper performance of their duties. The city attorney and his designee shall not also prosecute or present cases before the board or any special magistrate.

(Ord. No. 2013-05, § 2, 1-22-2013)

**Sec. 2-279. Board clerk.**

The city clerk or his designee shall be clerk to the board and special magistrates and shall provide those clerical and administrative services as may be reasonably required for the proper performance of their duties. The board clerk shall keep the minutes of each meeting, a record of each proceeding, and a progress docket for each enforcement action filed with the board clerk. The board clerk shall be custodian of the board's official records and all tangible evidence received, and shall administer oaths as authorized by law, prepare agendas and orders, issue notices and subpoenas, and prepare or issue other documents required or otherwise necessary under this article.

(Ord. No. 2013-05, § 2, 1-22-2013)

**Secs. 2-280—2-295. Reserved.****DIVISION 3. CODE ENFORCEMENT PROCEDURES****Sec. 2-296. Authority of code enforcement officers; enforcement procedures.**

(a) *Authority of code enforcement officers.* Code enforcement officers shall have the following duties and authority that shall be in addition to all other duties or authority they may have by law:

- (1) Investigate violations of code provisions and initiate code enforcement action pursuant to this article.
- (2) Issue citations, warnings, and stop orders pursuant to this article.
- (3) Enforce the provisions of F.S. §§ 489.127(1), 489.132(1), and 489.531(1), relating to contracting and unlicensed, uncertified, or unregistered contractors.
- (4) Present and prosecute code enforcement cases before the board.

(b) *Commencement of code enforcement action; citations.* Whenever, based upon personal investigation, an officer has reasonable and probable grounds to believe that a violation of a code provision subject to enforcement under this article has occurred or exists, the officer finding such violation may issue a code enforcement citation to the violator. When more than one violation of the same or different code provisions is found by an officer to have occurred or exist at the same property or location such multiple violations may be cited on a single citation specifying the combined civil penalties assessed for all of the violations or such multiple violations may be cited on separate citations. If the officer finds that a violation is correctable,

the officer shall determine a reasonable time period within which the violator must correct the violation. This determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of the violation; nature, extent and probability of danger or damage to the public; and any other relevant factors relating to the reasonableness of the time period prescribed by the officer. The officer shall specify on the citation the date by which correction must be made in order to avoid further enforcement action, however, the officer is not required to give the violator time to correct the violation and a time period for correction need not be specified if the officer determines the violation to be uncorrectable or a repeat violation.

(c) *Warnings.* A code enforcement citation or a separate document may be issued as a warning with no civil penalty as the first response to a violation in any instance in which it is reasonable for the officer to determine that the violator was unaware of the code provision violated or the violator was unclear as to how to comply with such code provision. Multiple violations found at the same location may be specified in a single warning. Issuance of a warning shall not be deemed to be a prerequisite to issuance of a citation assessing a civil penalty or any other enforcement action.

(d) *Service of citations and warnings.* Service of a code enforcement citation or warning shall be effected by:

- (1) Delivery of a copy to the violator or the violator's authorized agent by a code enforcement officer; or
- (2) A code enforcement officer leaving a copy of the citation at the violator's usual place of residence with any person residing therein who is 15 years of age or older and informing that person of its contents; or
- (3) A code enforcement officer leaving a copy of the citation with the manager or other person in charge in the case of commercial premises or real property; or
- (4) Mailing a copy of the citation by certified mail, with delivery evidenced by a signed return receipt, to the violator's last known mailing address as listed in the tax records of Indian River County, the records of the Florida Department of Highway Safety and Motor Vehicles, the records of the Florida Department of State, Division of Corporations, the records of the city, or other mailing address provided to the city or the code enforcement officer by the violator or the violator's agent; or
- (5) Posting a copy of the citation in a conspicuous place on the premises or real property upon which the violation has been observed and mailing a copy by first class mail to or posting in a conspicuous place at the violator's last known mailing address as determined in paragraph (4). Service by such posting and first class mailing shall be evidenced by an affidavit of service and shall be deemed sufficient and complete upon such posting and mailing; or

- (6) If the violator is a legal entity other than a natural person, serving, in any manner provided in this section, any officer, partner, member, or registered agent of such entity as listed in the records of the State of Florida or the state or country in which the entity is organized if not registered in this state; or
  - (7) If the citation or a separate document is issued as a warning, first class mailing to the violator's last known mailing address as determined in paragraph (4) or by any other method provided for service in this section. Service of a warning by first class mail shall be deemed sufficient and complete on mailing to such address.
- (e) *Contents of citation.* The code enforcement citation shall include the following:
- (1) Date of issuance.
  - (2) Name of officer and division or department issuing the citation.
  - (3) Name and address of the violator.
  - (4) Section number of the code provision that has been violated.
  - (5) Brief factual description of the nature of the violation, including location, date, and time of violation.
  - (6) Amount of the applicable civil penalty to be paid if the violator elects to pay the civil penalty and amount of the maximum civil penalty for which the violator may be liable if the violator elects to appear before the board and is found by the board, after the hearing, to have committed the violation.
  - (7) Instructions and due date for paying the civil penalty or filing for an administrative hearing to appeal the issuance of the citation.
  - (8) Time within which the violation must be corrected, if applicable.
  - (9) Notice that each day of continued violation after the time period for correction has run shall be deemed a continuing violation subject to assessment of additional penalties, without the need for issuance of additional citations, if applicable.
  - (10) Notice that the violator must notify the officer after the violation is corrected, if applicable.
  - (11) If issued as a violation warning, notice that a repeat of the same violation, even if the violation occurs at a different location, or failure to correct the violation within the time period given for correction in the warning, will result in issuance of a citation assessing a civil penalty.
  - (12) Notice that the filing of a request for an administrative hearing will toll the accrual of continuing violation penalties.
  - (13) Notice that failure to request an administrative hearing within ten days after service of the civil violation notice, excluding Saturdays, Sundays, and legal holidays, shall constitute a waiver of the violator's right to an administrative hearing and that such waiver shall constitute an admission of the violation.

- (14) Notice that the violator may be liable for the reasonable costs of the administrative hearing if the violator is found to have committed the violation.
- (15) Notice that the violator may be liable for the costs and expenses incurred by the city as a result of the enforcement action if the violator is found to have committed the violation.
- (16) Notice that if the violator does not correct the violation, if applicable, or request a hearing within the time allowed, the city may cause correction of the violation and charge the violator for the reasonable costs and expenses incurred by the city for such correction plus an administrative fee, which expenses and fees shall be a lien against the property on which the violation is corrected.

(f) *Filing of citation; recording.* After serving the code enforcement citation, the officer shall deposit the original and one copy of the citation with the board clerk. A certified copy of the code enforcement citation or a notice of violation based upon the citation may be recorded in the public records of the county. Such recording under this section shall not act as or be a lien on any property and shall not act as a notice of a lien on any property, but shall merely act as public notice of the existence of the violation. Warnings shall not be filed with the board clerk or recorded in the public records, but shall be retained in the records of the city department or division issuing the warning.

(g) *Citation amendment.* A code enforcement citation may be amended by the city at any time prior to final adjudication by filing an amended citation with the board clerk and providing a copy to the violator. After amendment the case shall proceed on the amended citation, however the board may postpone any hearing based on the amended citation as justice may require.

(h) *Citation withdrawal.* A code enforcement citation may be withdrawn by the city at any time prior to final adjudication. A citation filed with the board clerk shall be withdrawn by the city filing a written notice of withdrawal with the board clerk and providing a copy to the violator or by oral announcement before the board at a hearing noticed to the violator, in which case the withdrawal shall be noted in the record. After withdrawal of the citation the board clerk shall close the case.

(i) *Stop orders; appeal; non-compliance.* Whenever, based upon personal investigation, the officer has reasonable and probable grounds to believe an unsafe condition exists or may result in damage to persons or property may occur due to continuation of the work or activities comprising the violation, or if the violation concerns the failure to obtain any required administrative approval, permit, inspection, or license prior to commencing or continuing the work or activities, the officer may order the work or activity immediately stopped by service of a stop order in the same manner as a code enforcement citation. Failure to comply with the stop order and cease the work or activities shall be a separate violation of this code and shall be punished by a civil penalty of \$500.00 per day for each day the stop order is violated. Appeal of the issuance of a stop order shall be to the issuing officer's department head, in writing, within ten days of service of the stop order and thereafter as provided in the general appeal

provisions of this code for appeal of administrative decisions. The work or activities subject of the stop order shall be stayed pending final resolution of the appeal. Appeal of the issuance of a code enforcement citation for violation of a stop order shall be as provided for appeal of the issuance of any other code enforcement citation. A stop order may be amended, modified, cancelled, or withdrawn by the issuing officer as the circumstances require, in which case the violator shall be notified of such action.

(j) *Refusal to sign citation; interference with officer; impersonating officer.* Any person who willfully refuses to sign and accept service of a code enforcement citation personally served by any code enforcement officer shall be guilty of a misdemeanor of the second degree as provided by F.S. §§ 162.21(6), 489.127(5)(m), 489.531(4)(m), or 828.27(5), and punishable as provided in F.S. §§ 775.082 and 775.083. Any person who otherwise willfully interferes with any code enforcement officer in the performance of the officer's official duties, or who falsely represents himself to be a code enforcement officer, shall be guilty of a violation of this Code punishable as provided in section 1-14 of this Code.

(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-17, § 2, 7-21-2015)

**Sec. 2-297. Violator duty to inform property transferee.**

If the violator is the owner of the real property or commercial enterprise that is subject to an enforcement action concerning a correctable violation and such violator transfers ownership of the property or commercial enterprise after service of the code enforcement citation, such violator shall:

- (1) Disclose to the prospective transferee, in writing, the existence and the nature of the enforcement action.
- (2) Deliver to the prospective transferee a copy of the citations and notices and other materials relating to the enforcement action received by the violator.
- (3) Disclose to the prospective transferee, in writing, that the new owner will be responsible for correction of the violation and compliance with the applicable code provisions and orders issued in the code enforcement action.
- (4) File a notice with the code enforcement officer of the transfer of ownership, 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.

Failure of the violator to make the disclosures described in subsections (1), (2), and (3) before the transfer of ownership creates a rebuttable presumption of fraud, and unless such presumption is rebutted and the new owner is shown to be responsible for correcting the violation and paying the accrued civil penalties and costs, such violator shall be responsible for all civil penalties and costs assessed for the violation through the date of its correction. If ownership is transferred before the enforcement action is concluded, the case shall not be

dismissed and may proceed against the violator for any outstanding civil penalties and costs, however, the new owner shall be provided a reasonable period of time to correct the violation prior to enforcement action being initiated against the new owner.

(Ord. No. 2013-05, § 2, 1-22-2013)

**Sec. 2-298. Service of notices, orders, liens, and other documents.**

Except as otherwise provided in this article, service of notices, orders, liens, and other documents required or authorized by this article shall be by serving a copy by:

- (1) Any method provided in this article for service of a code enforcement citation; or
- (2) First class mailing, evidenced by a certificate of service, to the violator's last known mailing address as specified on the code enforcement citation or as found in the tax records of Indian River County, the records of the Florida Department of Highway Safety and Motor Vehicles, the records of the Florida Department of State, Division of Corporations, the records of the city, or other mailing address provided to the city or the code enforcement officer by the violator or the violator's agent. Service by first class mail shall be deemed sufficient and complete on mailing to such address.

(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-17, § 2, 7-21-2015)

**Sec. 2-299. Time computation.**

Time computation shall be as provided in this section except when otherwise provided. In computing any period of time prescribed or allowed by this article or by order of the board, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this section, "legal holiday" includes New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States.

(Ord. No. 2013-05, § 2, 1-22-2013)

**Sec. 2-300. Civil penalties.**

(a) *Generally.* Each violation of a code provision enforced pursuant to the procedures specified in this article shall constitute a civil offense punishable as provided in this article.

(b) *Maximum penalty.* Except as otherwise provided for the specified code provision violated, each violation of a code provision enforced under this article shall be punishable by assessment of a civil penalty not exceeding \$500.00. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense punishable by such

maximum civil penalty. In determining the amount of a civil penalty, the board shall consider: (1) the gravity of the violation; (2) any actions taken by the violator to correct or mitigate the violation; and (3) any previous violations committed by the violator.

(c) *Reduced penalty for uncontested violation.* Except as otherwise provided by the code provisions applicable, a violator that does not contest the violation alleged in the citation shall be entitled to pay a reduced civil penalty in the following prescribed amounts:

First violation .....	\$50.00
First repeat violation within five (5) years.....	\$100.00
Second repeat violation within five (5) years.....	\$150.00
Third repeat violation within five (5) years .....	\$250.00
Fourth and subsequent repeat violations within five (5) years .....	\$500.00

(d) *Waiver of right to pay reduced penalty.* A violator that elects to appear before the board waives the right to pay the reduced civil penalty specified on the citation.

(e) *Repeat uncorrectable violation.* Each reoccurrence of an uncorrectable violation shall constitute a separate violation and shall subject the violator to a separate civil penalty in the same amount as prescribed for the first violation. If, however, a violator has been previously found guilty of or admitted an uncorrectable violation and causes the same uncorrectable violation to occur a second or subsequent time within five years of the prior violation, notwithstanding the violations occur at different locations, each reoccurrence of the uncorrectable violation by such violator shall constitute a repeat violation.

(f) *Continuing violation.* For each day of continued violation after the time for correction of a correctable violation has run, an additional penalty in the same amount as that prescribed for the first violation shall be added. Unless an appeal is timely filed, continuing violation penalties shall accrue commencing with the first day after the date for correction given in the code enforcement citation or board order and continue until the date the correction is made. Continuing violation penalties shall not be imposed for uncorrectable violations.

(g) *Continuing repeat violation.* A repeat correctable violation that remains uncorrected beyond the time prescribed for correction shall be treated as a continuing violation, except that the continuing violation penalties may be assessed by the board commencing with the first day after the date the repeat violation first occurred and continue until the date correction is made.

(h) *Assessment of penalty after contested violation hearing.*

(1) *Uncorrectable violation.* A violator found by the board, after the hearing, to have violated the provision of the code alleged in the citation that is an uncorrectable or repeat uncorrectable violation, may be punished by assessment of a civil penalty of not more than the maximum civil penalty for such violation.

- (2) *Correctable violation.* If the board finds, after the hearing, that the alleged correctable violation exists, the board may assess for the initial violation a civil penalty of not more than the maximum civil penalty for such violation; shall order that the violation be corrected within a reasonable time period as determined by the considerations set forth in subsection 2-296(b); and shall establish the continuing civil penalty to be assessed should the violator not correct the violation within the time allowed. If correction is not made by the set time, the board may assess the continuing violation penalties for each day the violation continues past the date set for correction. Except as provided for a repeat correctable violation, continuing violation penalties shall not be assessed for the time period commencing the first day after the date the violation first occurred, as found by the board, through the date established by the board for correction.
- (3) *Repeat correctable violation.* If the board finds, after the hearing, that the alleged repeat correctable violation exists, the board may assess for the initial repeat violation a civil penalty of not more than the maximum civil penalty for such violation; shall order that the violation be corrected within a reasonable time period as determined by the considerations set forth in subsection 2-296(b) and taking into consideration the repeat nature of the violation; and shall establish the continuing civil penalty to be imposed should the violator not correct the violation within the time allowed. If correction is not made by the set time, the board may assess the continuing violation penalties for each day the repeat violation continues, beginning with the first day after the date the repeat violation first occurred, as found by the board.

(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-17, § 2, 7-21-2015; Ord. No. 2018-07, § 2, 6-19-2018)

**Sec. 2-301. Rights of violators; appeal; assessment and payment of civil penalties and costs; failure to pay or correct, or to appeal.**

(a) *Code enforcement citation.* A violator who has been served with a code enforcement citation shall elect either to:

- (1) Pay the civil penalty in the manner indicated on the citation and correct the violation, if a correctable violation, within the time specified on the citation; or
- (2) Appeal by administrative hearing the issuance of the citation by filing a written request for a hearing with the board clerk no later than ten days after service of the citation, excluding Saturdays, Sundays, and legal holidays. However, a violator that files, within such time period, an administrative appeal to the designated administrative authority of the city regarding the interpretation or application of any code provision alleged in the citation to be violated shall have ten days from the date of the final determination of such administrative appeal to file a written request for a hearing on the citation with the board clerk, excluding Saturdays, Sundays, and legal holidays. Failure of the violator to appeal within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing on the

citation. Such a waiver of the right to an administrative hearing shall be deemed an admission of the violation and thereafter penalties and costs may be assessed and other appropriate action taken accordingly by the board.

(b) *Warning.* A violator who has been served with a code enforcement warning shall refrain from repeating the violation. If a correctable violation, the violator shall correct the violation within the time specified on the warning. The violator may be given an opportunity to enter into a compliance agreement as provided in section 2-302. The issuance of a warning is not appealable as a warning does not impose a civil penalty or other deprivation of property subject to review.

(c) *Due date.* Unless additional time is granted by the board for good cause, civil penalties and costs assessed pursuant to this article are due and payable to the city on the last day of the period allowed for the filing of a request for an administrative hearing or for the filing of an appeal from a board decision, or if proper appeal is made, when the appeal has been finally decided adversely to the violator, if applicable.

(d) *Failure to pay penalty or appeal.* If the violator, after service of the code enforcement citation for an uncorrectable violation or for a correctable violation that is corrected within the time specified in the citation, fails to pay the civil penalty by the due date and fails to timely request an administrative hearing, the board shall be informed of such failure by report from the officer or board clerk and the board may thereafter enter an order ordering the violator to pay the civil penalty specified on the citation or take such other action as the board deems appropriate under the circumstances and in the interest of justice. The city shall be entitled to also recover costs of the action from the violator upon filing of an affidavit of the costs with the board clerk, which costs shall be included in the order. At least ten days before the hearing, the board clerk shall send the violator notice of the hearing at which such report of non-compliance will be made, together with a copy of any affidavits filed. The case may be presented to the board even if the civil penalty is subsequently paid prior to the board hearing, and the notice of hearing shall so state.

(e) *Failure to correct violation or appeal.* If the violator, after service of the code enforcement citation for a correctable violation, fails to correct the violation within the time specified in the citation and fails to timely request an administrative hearing, the board shall be informed of such failure by report from the officer and filing with the board clerk an affidavit of non-compliance. The board may thereafter enter an appropriate order directing the violator to correct the violation and assessing civil penalties and costs, grant additional time for correction of the violation, or take such other action as the board deems appropriate under the circumstances and in the interest of justice. The city shall be entitled to also recover costs of the action from the violator upon filing of an affidavit of the costs with the board clerk, which costs shall be included in any order issued by the board. At least ten days before the hearing, the board clerk shall send the violator notice of the hearing at which such report of non-compliance will be made, together with a copy of any affidavits filed. If the violation is corrected and then recurs or if the violation is not corrected by the time specified

by the code enforcement officer for correction, the case may be presented to the board even if the violation has been corrected prior to the board hearing, and the notice of hearing shall so state.

(f) *Failure to comply with board order or appeal.* If the violator, when an adverse board order is rendered after an administrative hearing on a contested violation, fails to correct the violation within the time specified in the order or fails to pay the civil penalties or costs

assessed, and fails to timely appeal the board decision, the board shall be informed of such failure by report from the officer and filing with the board clerk an affidavit of non-compliance and the board may thereafter enter an appropriate order or take such other action as the board deems appropriate under the circumstances and in the interest of justice. The city shall be entitled to also recover any additional costs of the action from the violator upon request of the city and filing of an affidavit of costs with the board clerk. At least ten days before the hearing, the board clerk shall send the violator notice of the hearing at which such report of non-compliance will be made, together with a copy of any affidavits filed. The case may be presented to the board even if the violation has been corrected and the civil penalties and costs have been paid prior to the board hearing, and the notice of hearing shall so state.

(g) *Service of orders.* The board clerk shall send a copy of all board orders entered to the violator and the code enforcement officer.

(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-03, § 2, 1-6-2015; Ord. No. 2015-17, § 2, 7-21-2015)

#### **Sec. 2-302. Compliance agreements.**

(a) *Waiver of hearing to contest citation; additional time to correct.* A violator that agrees with a correctable violation specified in the code enforcement citation, but requests additional time to correct the violation, may be given an opportunity to avoid further enforcement action by executing a compliance agreement in lieu of electing one of the options under section 2-301(a). Acceptance for participation in a compliance agreement shall be determined in the discretion of the code enforcement officer and such officer's supervisor in consideration of fairness; ease of correction of the violation; the severity of the violation; the violator's demonstrated cooperation; the likelihood of a successful outcome; whether the violation is a repeat violation; and any other relevant factors. If approved for participation, the violator shall execute a compliance agreement admitting to the violation and waiving the right to an administrative hearing to contest the issuance of the citation. The violator shall then have such reasonable additional time agreed to between the violator and the code enforcement officer to correct the violation before continuing penalties will begin to accrue. The code enforcement officer may extend, no more than one time and with the approval of the officer's supervisor, such agreed additional time if the violator demonstrates good faith and progress in making the correction and that a reasonable need for an extension of time exists.

(b) *Contents of compliance agreement.* The compliance agreement shall be in writing on a form provided by the city. Such form shall include but is not limited to the following:

- (1) The violator's admission of the violation and acknowledgment that the violator has an absolute right to have an administrative hearing to contest the issuance of the code enforcement citation; the waiver of the right to an administrative hearing is solely the violator's option; and by signing the waiver the violator voluntarily waives the right to such a hearing.
- (2) The agreed date by which the violation must be corrected or continuing civil penalties will begin to accrue.

- (3) The amount of the daily continuing civil penalty that will be assessed if the violation is not corrected by the agreed correction date.
- (4) The violator's agreement to correct the violation by the agreed correction date.
- (5) The violator's agreement to pay by an agreed date the civil penalty assessed on the citation, city's costs incurred in the case, and the cost of re-inspection, except to the extent any of such civil penalty or costs are waived by the city.
- (6) The action or inaction required of the violator to correct the violation.
- (7) The violator's agreement that if the violation is not corrected or the costs are not paid by the agreed correction date the board may enter an order assessing the daily continuing penalties and the costs, plus any additional costs incurred by the city subsequent to the waiver.
- (8) If applicable based on the nature of the violation, the violator's agreement that if the violation is not corrected by the agreed correction date, regardless of whether or not it is deemed a public nuisance, the city or its contractors may enter the property without liability to the violator and without further notice to the violator and make all reasonable repairs and perform all work required to correct the violation at the violator's expense and assess such costs plus an administrative fee as a special assessment against the property on which the violation was corrected.

(c) *Hearing on non-compliance.* If the violator fails to correct the violation or pay the civil penalty or costs as agreed by the violator, the board shall be informed of such failure by report from the officer and filing with the board clerk an affidavit of non-compliance. The issues for determination by the board at the hearing shall be limited to whether or not the violation was corrected and the civil penalty and costs paid as agreed by the violator. At least ten days before the hearing, the board clerk shall send the violator notice of the hearing at which such report of non-compliance will be made, together with a copy of any affidavits filed. The case may be presented to the board even if the violation has been corrected and the civil penalty and costs have been paid prior to the board hearing, and the notice of hearing shall so state.

(d) *Board action after non-compliance.* If the board finds, after the hearing, that the violation has not been corrected, the board may enter an order ordering the violator to correct the violation and assessing the continuing penalties and, if the initial civil penalty or costs are unpaid, ordering the violator to pay such civil penalty and costs. If the finding is that the violation has been corrected, but the civil penalty or costs have not been paid, the board may enter an order ordering the violator to pay such unpaid civil penalty and costs. The board shall also assess in any order entered against the violator any additional costs incurred and requested by the city subsequent to the waiver of hearing. The board may grant the violator additional time for compliance if the board finds that the violator has demonstrated good faith and progress in correction of the violation, if applicable, and shown a reasonable need for an extension of time to complete correction of the violation or pay the civil penalty and costs. The board clerk shall send a copy of the board order to the violator and the code enforcement officer.

(e) *Correction of violation by city; assessment of costs.* Whenever the board enters a final order pursuant to this section finding that the violation has not been corrected, and the nature of the violation is such that it lends itself to correction by the city, the city manager may, pursuant to the purchasing requirements of this code and the compliance agreement, immediately cause all reasonable repairs and work to be done to correct the violation, regardless of whether or not the violation is deemed a public nuisance. The city manager may employ such city or contracted labor and materials as the city manager finds reasonably necessary to correct the violation. Entry on the real property and making such repairs or corrections to correct the violation shall not create a continuing obligation on the part of the city to make further repairs or corrections or to maintain the property and shall not create any liability against the city or any official, employee or contractor of the city for any damages to the property if entry on the property and the repairs and work are made in good faith to correct the violation. The reasonable costs incurred by the city for the repairs and work to correct the violation, plus an administrative fee of ten percent or \$150.00, whichever is greater, shall be assessed as a special assessment lien by resolution of the city council as provided in subsections 2-304(b) and (c) against the real property on which the violation was corrected.

(f) *Agreement to correct violation after warning.* A violator that agrees with a correctable violation specified in the warning, but requests additional time to correct the violation, may be given an opportunity to enter into a compliance agreement to suspend code enforcement action and correct the violation pursuant to the applicable provisions of this section. Such compliance agreement may require the payment of costs. The remedy for failure of the violator to correct the violation as agreed or otherwise satisfy the terms of the compliance agreement shall be limited to issuance of a code enforcement citation as if the compliance agreement had not been entered into by the violator. In such instance, the compliance agreement and any admissions and waivers contained therein shall be of no further force and effect and shall be inadmissible in any subsequent code enforcement action.

(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-03, § 3, 1-6-2015; Ord. No. 2015-17, § 2, 7-21-2015)

**Sec. 2-303. Scheduling and conduct of hearing requested by violator.**

(a) *Scheduling of hearing.* Upon receipt of the violator's timely request for an administrative hearing to contest the issuance of the code enforcement citation, the board clerk shall set and notice the matter for hearing at the next regularly scheduled board meeting or as soon thereafter as possible. The board clerk shall return an untimely request for an administrative hearing to the violator with written explanation for its return and retain a record of such action.

(b) *Notice of hearing; contents.* At least ten days before the hearing, the board clerk shall send a notice of hearing to the violator and provide a copy to the officer issuing the citation. The notice of hearing on a contested citation shall include the following:

- (1) Place, date and time of the hearing.
- (2) Right of the violator to be represented by an attorney.

- (3) Right of the violator to present witnesses and evidence.
- (4) Notice that failure of the violator to attend the hearing will constitute a waiver of the right to an administrative hearing and that such waiver shall be deemed an admission of the violation alleged in the code enforcement citation and that the board may enter a final order accordingly.
- (5) Notice that the violator will be responsible for insuring that a verbatim record of the hearing is made by a Florida certified court reporter, at the violator's own expense, should the violator intend to appeal any adverse decision of the board.
- (6) Notice that requests for a postponement of the hearing will only be considered if received by the board clerk at least five days prior to the date set for the hearing.
- (7) Notice that the case may be presented to the board even if all cited violations have been corrected and the civil penalties and costs have been paid prior to the hearing.
- (8) Notice that the board's authority on appeal of a citation is limited to fact-finding only and that if the appeal is to contest the interpretation or application of the Code provision(s) cited as being violated, such appeal must be made in writing to the designated administrative authority as defined in section 2-303 or that appeal is waived.

(c) *Subpoenas.* The board clerk shall execute and issue subpoenas for hearings upon written application of a party or at the direction of the board. Only a sheriff, deputy sheriff, officer of the city police department, or other person certified to serve process may serve subpoenas. The serving officer shall promptly file a written return of service with the board clerk. The party requesting the issuance of a subpoena shall pay the cost of service. The board clerk may require payment of the cost of service before issuance of the subpoena. The city shall pay the cost of service for subpoenas issued on the board's own motion. A violator found by the board to have committed or who admits the violation shall be assessed the costs of service incurred by the city.

(d) *Time of hearing.* No hearing shall be set sooner than ten days from the date of service of the code enforcement citation, excluding Saturdays, Sundays, and legal holidays, unless such minimum time period is waived in writing by the violator.

(e) *Hearing postponement.* A scheduled hearing may be postponed and rescheduled one time by the board clerk provided a request for the postponement showing good cause is received in writing by the board clerk at least five days prior to the date set for the hearing and such request is approved by the board chairman or vice chairman in the chairman's absence. The clerk shall send to the violator and issuing officer notice of the new date for any hearing so postponed.

(f) *Hearings public.* Board meetings shall be open to the public, however, participation in any administrative hearing is limited to the parties in the enforcement action, their attorneys and legal representatives, witnesses called by a party, board members, and board staff.

(g) *Testimony.* All hearing testimony shall be under oath or affirmation administered by the board clerk.

(h) *Violator failure to appear.* Upon a showing of proper notice of the hearing being sent to the violator, the hearing may proceed in the absence of the violator and appropriate action taken by the board as provided in this article.

(i) *Continuation of hearing.* Once commenced, no hearing shall be deferred or continued except for good cause shown and as justice may require as determined by the board.

(j) *Hearing record.* The board clerk shall take minutes of the hearing and electronically record hearing proceedings. The violator shall be responsible for insuring a verbatim record of the hearing is made, at the violator's expense, by a Florida certified court reporter should the violator intend to appeal any adverse decision of the board. Transcription of such verbatim hearing record shall be at the expense of the requesting party.

(k) *Prosecution of case.* Each case shall be presented before the board by the initiating officer or other designee as the city manager may appoint from time to time. The city manager is authorized to retain legal counsel to serve as prosecutor in those cases deemed necessary by the city manager.

(l) *Rules of evidence.* Formal rules relating to evidence and witnesses shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Any relevant testimony and other evidence submitted by a party shall be admitted if the board finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.

(m) *Witnesses and evidence.* Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence against the party. Each party shall have the right to inquire of any board member about ex parte communications regarding the case.

(n) *Retention of exhibits.* The board clerk shall be the custodian of all tangible evidence submitted, which shall be retained by the board clerk until the time for an appeal has expired and as required by the applicable public records retention schedule pursuant to state law.

(o) *Board action.* The board shall make its findings of fact and determinations based on evidence of record upon conclusion of the hearing. All findings and determinations of the board shall be by motion approved by a majority of those members present and voting, except that at least four members of the board must vote in order for the action to be official.

(p) *Costs.* If the violator is found to have committed the violation, the board shall assess against the violator the reasonable costs of the administrative hearing and the reasonable costs incurred by the city in the enforcement action. The costs and expenses requested by the city for reimbursement shall be calculated and submitted to the board for assessment at the hearing.

(q) *Board determination; time to correct violation; board order.* The determination of the board for purposes of a contested code enforcement citation shall be limited to fact-finding as to whether or not the violation alleged did occur or exists and, if so, whether the person or entity named in the citation is responsible for that violation. The findings and determination of the board shall be based on a preponderance of the evidence presented at the hearing and the interpretation and application of the code provisions alleged to be violated as such interpretation and application is determined by the designated administrative authority of the city. If the board finds the violator responsible for a correctable violation, the board shall determine a reasonable time period within which correction of the violation must be made, as determined by the considerations set forth in subsection 2-296(b) and taking into consideration whether the violation is a repeat violation, provided however, that such time period shall be no more than 30 days unless the board determines that a longer time period is reasonable and necessary based on the evidence presented. If the board finds that the violator is not responsible for the violation alleged in the code enforcement citation, the violator shall not be liable for the payment of any civil penalty or costs, absent reversal of the board's findings after an appeal. If the decision of the board is to find the violator responsible for the violation alleged, then the following elements shall be included in the board's final order, a copy of which shall be sent by the board clerk to the violator and the code enforcement officer:

- (1) Total amount of civil penalty imposed, if any;
- (2) Costs and expenses of the enforcement action assessed, including costs of the administrative hearing;
- (3) Instructions and due date for paying the civil penalties and costs;
- (4) Date by which the violation must be corrected to prevent imposition of continuing penalties, if applicable;
- (5) Notice that the violator must notify the code enforcement officer for re-inspection after the violation is corrected, if applicable;
- (6) Notice that failure to comply with the board's order on a continuing violation will result in the issuance of an appropriate order assessing the continuing penalties;
- (7) If the board finds that the violation exists and constitutes a public nuisance representing a threat to the public health, safety, and welfare, notice that the violation is deemed a public nuisance and should the violator fail to correct the violation and abate such public nuisance or appeal within the time allowed, the city or its contractors may enter the property and cause the repairs or work reasonably necessary to correct the violation and abate the public nuisance with the costs and expenses incurred by the city for such correction, plus an administrative fee, charged as a special assessment lien against the property on which the violation was corrected;
- (8) Notice of the right to appeal the board action to the circuit court.

(r) *Code interpretation; appeal; postponement of hearing; administrative interpretation binding.*

- (1) A violator that contests the interpretation or application of any code provision alleged in the citation to be violated shall appeal the determination of such interpretation or application to the designated administrative authority of the city in the manner specified in this Code or such appeal shall be deemed waived. The violator shall not be charged an administrative appeal fee when filing such an appeal arising from issuance of the citation, however the board shall assess such fees as costs against the violator upon request of the city if the board's final determination on the citation is against the violator.
- (2) The board shall postpone the hearing and the board's determination on the citation if the violator contests at the hearing the interpretation or application of any code provision alleged in the citation to be violated or if the violator has filed with the designated administrative authority a written administrative appeal concerning the subject interpretation or application and the appeal has not been finally determined. If such written appeal has not been filed at the time of the hearing, the board shall grant the violator ten days from the date of the hearing to file the written appeal and provide a copy to the board clerk. If the violator fails to file the appeal with the designated administrative authority by the end of such period, the board clerk shall automatically schedule the hearing on the appeal of the citation for the next available board meeting. It shall be the responsibility of the violator to provide evidence to the board clerk that such administrative appeal has been timely filed. A violator waives all right to an administrative appeal concerning the interpretation or application of any code provision as it relates to the enforcement action if the violator does not timely apply for such appeal.
- (3) Upon exhaustion of a timely filed administrative appeal to the designated administrative authority concerning the interpretation or application of any code provision alleged to be violated and final determination of such administrative appeal, the board may exercise all powers granted under this article consistent with such final determination. The board shall not, however, exercise any jurisdiction over such alleged code violation until the time allowed for appeal of such final determination of the administrative appeal has lapsed or until such further appeal has been exhausted.
- (4) The board shall be bound by the determinations of the designated administrative authority concerning the interpretation and application of the codes, ordinances, rules, and regulations within the jurisdiction of such designated administrative authority. In the event the designated administrative authority determines that an alleged violation is not in accordance with such designated administrative authority's determination of the interpretation or application of the code provision on which the violation is based, the board shall not be empowered to proceed with the enforcement action.

(s) *Designated administrative authority.* For purposes of this article, "designated administrative authority" means the city official, department head or director, or his designee, having jurisdiction and responsibility for administration of the code, ordinance, rule, or regulation the

interpretation or application of which is contested in the code enforcement action. Such term includes the city manager, city council, and designated city boards in the exercise of their jurisdiction and authority to hear and determine appeals from administrative decisions pursuant to this Code, but excludes the code enforcement board and any special magistrate. (Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-03, § 4, 1-6-2015; Ord. No. 2015-17, § 2, 7-21-2015)

**Sec. 2-304. Violation constituting public nuisance; correction by city; assessment of costs as lien.**

(a) *Violation constituting public nuisance; correction by city.* Whenever the board enters an order finding a continuing violation exists that constitutes a public nuisance representing a threat to the public health, safety, or welfare, the board clerk shall send a copy of such order to the violator, all mortgagees and other lienors having an interest in the real property as shown in the public records of the county, and to the code enforcement officer. If such violation remains unabated after the time for appeal has run and an appeal is not filed or the order is finally affirmed after appeal, the city manager may, subject to the purchasing provisions of this code, cause all reasonable repairs and work to be done to correct the violation and abate the public nuisance, and the order shall so state. The city manager may employ such city or contracted labor and materials as the city manager finds reasonably necessary to correct the violation and abate the public nuisance. Entry on the real property and making such repairs or corrections to abate the public nuisance shall not create a continuing obligation on the part of the city to make further repairs or corrections or to maintain the property and shall not create any liability against the city or any official, employee or contractor of the city for any damages to the property if entry on the property and the repairs and work are made in good faith to abate the public nuisance.

(b) *Costs of correction.* The reasonable costs incurred by the city for the repairs and work to correct the violation and abate the public nuisance, plus an administrative fee of ten percent or \$150.00, whichever is greater, shall be assessed against the real property on which the violation was corrected. Such assessment shall be levied by resolution of the city council and shall be a special assessment lien against the real property, which lien shall accrue interest at the legal rate as of the date the resolution is adopted. The city attorney shall prepare the lien resolution and record it in the public records of the county after its adoption.

(c) *Notice of lien resolution hearing.* At least ten days before the city council meeting at which the adoption of the lien resolution will be considered, the city clerk shall send notice of such meeting to the violator, all mortgagees and other lienors having an interest in the real property as shown in the public records of the county, and to the code enforcement officer. The violator, as well as such mortgagees and lienors, if any, may appear before the city council and shall be heard on the proposed lien resolution.

(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-17, § 2, 7-21-2015)

**Sec. 2-305. Recovery of unpaid civil penalties and costs; unpaid penalties and costs to constitute a lien; foreclosure; duration of liens; prohibition of administrative action.**

(a) *Judicial remedies.* Upon approval of the city council, the city attorney may cause proceedings to be instituted in a court of competent jurisdiction to compel correction of a violation, compel payment of civil penalties and costs assessed, or foreclose on any lien.

(b) *Unpaid penalties and costs to constitute a lien; enforcement.* A certified copy of a board order assessing a civil penalty or costs may be recorded in the public records of each jurisdiction where appropriate and thereafter shall constitute a lien against the land on which the violation occurred, if applicable, and a lien upon all other real and personal property owned by the violator at the time of such recording or thereafter acquired by the violator, except as otherwise provided by law. Such liens shall inure to the benefit of the city and may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's personal property, but shall not be deemed to be a court judgment except for enforcement purposes. The city may foreclose or otherwise execute on any lien that remains unpaid after 90 days from the recording of any such order.

(c) *Duration of lien; foreclosure; attorneys' fees.* No lien created pursuant to this article shall continue for a period longer than 20 years, unless within that time an action on the lien is commenced in a court of competent jurisdiction. In such action, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred in such action. In the event each party shall partially prevail in such action, costs and attorneys' fees shall be equitably apportioned between the parties by the court. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by commencement of an action on the lien shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded in the public records of the county.

(d) *Discharge of liens.* Any lien created pursuant to this article may be satisfied and discharged by paying to the city the amount of civil penalties and costs specified in the order or lien and accruing through the date of correction of the violation plus the cost of re-inspection, and all costs of repairs and work incurred by the city to correct the violation plus the administrative fee and interest, if applicable, together with all collection and administrative costs, recording fees, and costs and fees to prepare and record a release and satisfaction of the lien in the public records. The amount payable to satisfy any lien may be reduced only by approval of the city council, in its sole discretion.

(e) *Release and satisfaction.* When the amount payable under a lien has been received by the city, the city attorney shall cause evidence of the satisfaction and discharge of such lien to be prepared and executed and thereafter duly recorded in the public records of each appropriate jurisdiction. The city manager is authorized to execute any such release and satisfaction on behalf of the city upon collection of the full amount payable to the city.

(f) *Use of collection agency.* The city manager may, for the purpose of collecting any delinquent civil penalties or costs from a violator, whether or not reduced to a lien, contract with any debt collection agency or attorney doing business within or without this state for the collection of such delinquent civil penalties or costs and the costs of the collection. The costs of collection, including any reasonable attorney's fee, paid or owed to any collection agency or attorney retained by the city, shall be added to the balance owed and paid by the violator, in an amount not to exceed 40 percent of the amount owed at the time the matter is referred for collection. The city may share confidential information with such collection agency or attorney necessary for the collection.

(g) *Prohibition of administrative action.* Regardless of any other code provision and unless deemed necessary for correction or abatement of the violation or for compliance with section 2-308 regarding lien reductions, or in order to avoid imminent peril to life or property, no officer, official, agent, employee or board of the city shall approve, grant, or issue any operating permit, license, building permit, certificate of use or occupancy, variance, platting action, zoning action, or the like regarding or for the real property of any violator with: (1) any uncorrected violation of any code provision on such real property; (2) any unpaid civil penalty or costs arising from a code enforcement action regarding such real property; or (3) any unpaid code enforcement, correction, or abatement lien against such real property; any or all of which are outstanding or owed to the city pursuant to the provisions of this article or any other code provision. Appeal of any denial or refusal to act pursuant to this section shall be as provided in the general appeal provisions of this Code for appeal of an administrative decision and shall be a prerequisite to any judicial proceeding on the matter.  
(Ord. No. 2013-05, § 2, 1-22-2013; Ord. No. 2015-17, § 2, 7-21-2015)

**Sec. 2-306. Rehearing; amendment of orders.**

(a) *Rehearing; grounds.* The board may rehear all or part of the issues in any enforcement action upon any party demonstrating sufficient grounds for a rehearing or on the board's own initiative. Sufficient grounds shall include but are not limited to:

- (1) Mistake, inadvertence, surprise, or excusable neglect of a party or the party's representative;
- (2) Newly discovered evidence which could not have been timely discovered before the hearing resulting in entry of the board order by the exercise of due diligence, is more likely than not to change the outcome, was discovered after the conclusion of the hearing or proceeding, is material to the issues raised in the hearing or proceeding, and is not impeachment or cumulative evidence;
- (3) Fraud, misrepresentation, or other misconduct of an adverse party; or
- (4) Lack of notice of the enforcement action or hearing.

(b) *Written request required; time for request; hearing on request.* A request for rehearing shall be in writing, specifying the specific grounds for the rehearing, and shall be filed with the board clerk no later than ten days after rendition of the board order. A timely request may

be amended to state new grounds in the discretion of the board at any time before the request is determined. The board clerk shall set and notice a hearing on an authorized and timely request for rehearing in the manner provided in this article for administrative hearings. If after the hearing the board finds sufficient grounds and grants the request, the rehearing may proceed at that time on the issues approved by the board for rehearing. In the alternative, the board may schedule the rehearing for a date and time certain as the board deems appropriate, in which case the board shall issue an order granting the rehearing, specifying the date and time for the rehearing and the issues on which the board granted rehearing. The board clerk shall serve a copy of the board order on the parties and provide a copy to the code enforcement officer.

(c) *Time for appeal tolled; abandonment of request.* An authorized and timely request for a rehearing under this section, until disposed of, tolls the time to file a notice of appeal of the final board action. A party, who files a request for rehearing and before the request is disposed of files an appeal from the same board order on which the rehearing is requested, is deemed to have abandoned the request for a rehearing.

(d) *Amendment of orders.* The board may take additional testimony and receive additional evidence, reconsider and amend its orders, or enter new orders, as the circumstances and justice requires.

(Ord. No. 2013-05, § 2, 1-22-2013)

**Sec. 2-307. Appeal of board order; admissibility of board action.**

(a) *Appeal of board order to circuit court.* In an appeal to review final orders of the board, the appellant shall file the original notice of appeal with the board clerk within 30 days of rendition of the order to be reviewed, and file a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the court. The board clerk shall provide a copy of the notice of appeal to the code enforcement officer and the board attorney upon filing. Such an appeal shall proceed in accordance with the procedures provided by the Florida Rules of Appellate Procedure for the review of final administrative action and shall not be a hearing de novo but shall be limited to appellate review of the record created before the board. The code enforcement board, individual board members, magistrates, or code enforcement officers shall not be named as parties to such an appeal.

(b) *Findings and action of board admissible.* Unless the action of the board is overturned in an appellate proceeding held pursuant to this article, all findings and action of the board shall be admissible in any proceeding to collect unpaid penalties or costs, foreclose any lien, or compel the correction of any violation.

(Ord. No. 2013-05, § 2, 1-22-2013)

**Sec. 2-308. Reduction or forgiveness of code enforcement liens.**

Where a certified copy of a code enforcement order has been recorded in the public records and has become a lien against the land or property of a property owner, such property owner may request a reduction or forgiveness of all or any portion of such lien as follows:

(a) *Requests for lien reduction or forgiveness.* The property owner requesting reduction or forgiveness of all or any portion of a code enforcement lien shall complete and file with the city clerk an application in the form provided by the city. The application shall include:

- (1) Payment of a non-refundable application fee of \$100.00 for processing the application;
- (2) A copy of the recorded code enforcement order imposing civil penalties and/or costs;
- (3) A copy of the code enforcement order finding the violation has been corrected and the subject property brought into compliance with the code;
- (4) The factual circumstances upon which the property owner believes the application should be granted;
- (5) The reasons, if any, compliance was not obtained prior to the order imposing civil penalties and/or costs being recorded;
- (6) The amount of the lien reduction being sought;
- (7) Any other information which the property owner deems pertinent to the request, including but not limited to the circumstances that exist which would warrant a reduction or forgiveness of all or any portion of the lien; and
- (8) The sworn and notarized signature of the property owner.

(b) *Application processing; review and recommendation by city manager.* Upon receipt of an application for lien reduction or forgiveness, the city clerk shall forward the application and any supporting records to the city manager. The city manager shall review the application and supporting records and confirm that the subject property has been brought into compliance with all code provisions and remains in compliance. If the application is complete and the subject property is in compliance with the code, the city manager shall forward his recommendation to the city clerk regarding reduction of the amount of the lien, forgiveness of the full amount of the lien, or denial of the property owner's request in its entirety after consideration of the following factors:

- (1) The nature of the violation;
- (2) The severity of the violation;
- (3) Whether the violation was a repeat violation of the same or a different code provision;
- (4) The duration of the violation;
- (5) The extent to which the property owner cooperated with the city in causing correction of the violations and bringing the property into compliance;
- (6) Whether and the extent to which city funds or resources were expended to bring the property into compliance, including code enforcement costs;

- (7) Whether the property owner purchased the subject property subsequent to recording of the code enforcement order and whether such lien should have been considered by the property owner prior to purchasing the property;
- (8) Whether the city council or the code enforcement board or magistrate has previously reduced the amount of the lien under consideration either at the request of the current or a previous property owner;
- (9) Whether there are any other unsatisfied code enforcement penalties or costs owed to the city by the property owner or code enforcement liens on other property owned by the property owner;
- (10) Whether there are any other properties owned by the property owner that have uncorrected violations of any code provision;
- (11) The accrued amount of the code enforcement lien as compared to the fair value of the subject property;
- (12) Any financial hardship of the property owner; and
- (13) Any additional mitigating circumstances which may warrant the reduction or forgiveness of all or a portion of the code enforcement lien.

(c) *Presentation to city council.* After receipt of the city manager's recommendation, the city clerk shall schedule the property owner's request for the next available city council meeting. The city clerk shall provide the property owner notice of the date and time of the city council meeting at which the request will be considered.

(d) *City council action.* Upon consideration of the information provided by the property owner, the recommendation of the city manager, and any other relevant documentation or statements as to the factors warranting lien reduction or forgiveness, the city council may reduce the amount of the lien, forgive the full amount of the lien, or deny the request in its entirety. The city council may attach any conditions to its decision which the city council finds appropriate in its discretion.

(e) *Compliance with conditions.* Failure of the property owner to comply with all conditions established by the city council in conjunction with the approval of a lien reduction or forgiveness shall result in the automatic denial of the request regardless of the city council's decision as to such lien reduction or forgiveness.

(f) *Effect of denial of request.* If the request for lien reduction or forgiveness is denied or if the request is automatically denied due to the failure of the property owner to comply with the conditions established by the city council, the property owner shall thereafter be barred from making a subsequent request for reduction or forgiveness of the subject lien for a period of one year from the date of the denial. During the one-year period the subject lien may only be satisfied and released upon payment of the full amount due.

(g) *Satisfaction of lien.* When the amount payable under a lien reduced or forgiven by the city council has been received by the city, the city attorney shall cause evidence of the satisfaction and discharge of such lien to be prepared and executed and thereafter duly

recorded in the public records of each appropriate jurisdiction. The city manager is authorized to execute any such release and satisfaction on behalf of the city upon collection of such full amount.

(h) *Nature of decision.* Code enforcement liens are an asset of the city. Any action of the city council to reduce the amount of the lien, forgive the full amount of the lien, or deny the request in its entirety is strictly a discretionary decision and not a final administrative decision or order which is appealable.

(Ord. No. 2013-05, § 2, 1-22-2013)

**Secs. 2-309—2-330. Reserved.**