

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AMENDING ARTICLES I AND II, CHAPTER 5 OF THE CODE OF THE CITY OF ORLANDO, FLORIDA, ENTITLED "CODE ENFORCEMENT BOARD" AND "CODE ENFORCEMENT CITATIONS," BY DELETING SECTION 5.01(3) IN IT'S ENTIRETY; AND BY AMENDING SECTIONS 5.01, 5.03, 5.04, 5.05, 5.06, 5.07, 5.08, 5.09, 5.12, 5.17 AND 5.18 TO CLARIFY THE INTENT; PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council finds that the adoption of this ordinance is necessary to enhance the city's enforcement of certain codes and ordinances; and

WHEREAS, the City Council further finds that said ordinance would provide an equitable, expeditious, and effective method of code enforcement, which will further promote, protect and improve the public health, welfare and safety of the citizens of the City of Orlando.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA:

SECTION ONE. Articles I and II, Chapter 5, Code of the City of Orlando, Florida, is hereby amended as follows:

SEC. 5.01. CODE ENFORCEMENT BOARD CREATED; COMPOSITION; TERMS; REMOVAL; ORGANIZATION.

(1) Pursuant to Chapter 162, Florida Statutes, ~~There~~ is hereby created a Code Enforcement Board of the City of Orlando, Florida, which shall consist of seven (7) members appointed by the Mayor subject to confirmation by the City Council. All members shall be residents of the City and shall serve without compensation.

(2) The membership of the Code Enforcement Board shall be made on the basis of experience or interest in the fields of zoning and building control and shall, whenever possible, include:

- (a) An architect.
- (b) A businessman.
- (c) An engineer.
- (d) A general contractor.
- (e) A subcontractor.
- (f) A realtor.

Each Board member's term shall be for a period of three (3) years. A Board member may be reappointed by the Mayor for one successive term upon approval of the City Council. Appointments to fill any vacancy on the Code Enforcement Board shall be for the remainder of the unexpired term of office.

~~(3) The initial appointments to the Code Enforcement Board shall be as follows:~~

- ~~(a) Two (2) members shall be appointed for a term of one year.~~

~~(b) Three (3) members shall be appointed for a term of two (2) years.~~
~~(c) Two (2) members shall be appointed for a term of three (3) years.~~
 Thereafter, each term shall be for a period of three (3) years. A member may be
 reappointed by the Mayor for one successive term upon approval of the City Council.
 Appointments to fill any vacancy on the Code Enforcement Board shall be for the
 remainder of the unexpired term of office.

SEC. 5.03. JURISDICTION.

(1) The Code Enforcement Board shall have the jurisdiction to hear and
 decide alleged violations of, and pursuant to section 5.12 citations may be issued for
 alleged violations of, the following codes and ordinances of the City of Orlando:

- ~~(f) Garbage, Trash and Weeds~~Solid Waste Management—Chapter
 28 of the Code of the City of Orlando.
- ~~(g) Gas Piping, Appliances and Installation Code~~Gas Code—Chapter
 29 of the Code of the City of Orlando.
- ~~(h)~~ Regulation of Sewer Use and Rates—Chapter 30 of the Code of
 the City of Orlando.
- ~~(i)~~ Minimum Standards Code—Chapter 30A of the Code of the City
 of Orlando.
- ~~(j)~~ Stormwater Utility Code—Chapter 31 of the Code of the City of
 Orlando.
- ~~(k)~~ Lakes and Boating—Chapter 35 of the Code of the City of
 Orlando.
- ~~(l)~~ Licenses—Chapter 36 of the Code of the City of Orlando.
- ~~(m)~~ Adult Entertainment Code – Chapter 37 of the Code of the City of
Orlando.
- ~~(n)~~(n) Noise—Chapter 42 of the Code of the City of Orlando.
- ~~(o)~~(o) Trees and Shrubs—Sections 43.32 through and
 including 43.34 of Chapter 43 of the Code of the City of Orlando.
- ~~(p)~~(p) Plumbing Code—Chapter 47 of the Code of the City of Orlando.
- ~~(q)~~(q) Air Conditioning, Refrigeration, Heating and Ventilating Code—
 Chapter 47A of the Code of the City of Orlando.
- ~~(r)~~(r) Streets and Sidewalks—Chapter 54 of the Code of the City of
 Orlando.
- ~~(s)~~(s) Regulation of Taxicabs, Limousines, Luxury Sedans, Shuttles and
 other Vehicles-for-Hire—Chapter 55 of the Code of the City of Orlando.
- ~~(t)~~(t) Land Development Regulations of the City of Orlando, more
 particularly:
 Chapter 58—Zoning Districts and Uses
 Chapter 59—Concurrency Management
 Chapter 60—Subdivision and Landscaping
 Chapter 61—Roadway Design and Access Management
 Chapter 62—Historic Preservation and Architectural Design
 Chapter 63—Environmental Protection
 Chapter 64—Signs
 ~~Chapter 65—Officers, Boards and Procedures~~
 Chapter 66—Definitions

~~(t)~~(u) Gasoline Station Sign Requirements—Section 43.89 of the Code of the City of Orlando.

~~(u)~~(v) Alcoholic Beverages—Chapter 33 of the Code of the City of Orlando.

(2) The jurisdiction of the City of Orlando Code Enforcement Board shall not be exclusive. Nothing in this Article shall be construed to prohibit the City from enforcing its codes and ordinances by any other means including, but not limited to, a summons, a notice to appear in County Court, an arrest, issuance of a citation, a civil action for injunctive relief, a stop work order, or demolition.

SEC. 5.04. ENFORCEMENT PROCEDURE.

(1) For the purpose of this Chapter, “code ~~inspector~~officer” means any authorized agent or employee of the City of Orlando whose duty it is to insure compliance with the codes and ordinances of the City.

(2) For the purposes of this Chapter, “violation” means ~~a property owner (as found in the Orange County Public Records, whether an individual or business entity or combination thereof) of a premises where a Code violation is alleged and/or when the alleged violation involves the acts of an individual, that person actually committing the alleged Code violation.~~ any owner, operator, or legally responsible person or business entity, who owns, leases, or maintains property that is alleged to have violated City codes and ordinances. Owners are ultimately responsible for controlling conditions and uses on their property. “Violator” also refers to the individual or business entity that actually committed the alleged code violation.

(3) It shall be the duty of the Code ~~Inspector~~Officer to initiate enforcement proceedings of the various codes and ordinances. No member of the Code Enforcement Board shall have the power to initiate such enforcement proceedings.

(4) Except as provided in Subsections (6), (7), (8) and (9), below, if a violation of the codes or ordinances is found, the Code ~~Inspector~~Officer shall notify the alleged violator and give him or her a reasonable time to correct the violation. Notice shall:

c. Specify the violation(s) by code citation and factual description and state the remedial~~remedial~~corrective action required.

e. ~~The written notice referred to above shall be~~ Be considered to be adequately delivered by depositing the notice in the United States Post Office addressed to the property owner at his last known address ~~with postage prepaid thereon, certified mail, return receipt requested. listed in government records.~~

f. Indicate that, if the violation is not corrected within the time specified, a hearing will take place before the Code Enforcement Board ~~at the time and place indicated on the Notice.~~

h. Any violation not corrected in the time and manner specified in the notice pursuant to this Section may be referred to the ~~City of Orlando~~ Code Enforcement Board created pursuant to this Chapter. Major or cumulative minor violations which are deteriorating into hazardous or nuisance conditions may also be subject to proceedings under this section.

(5) Should the violation continue beyond the time specified for correction, the Code ~~Inspector~~Officer shall notify the Code Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed to said violator as provided in Sec. 5.09. If notice by personal service or by mail is not feasible, the ~~Office of Legal Affairs~~ City Attorney's Office may opt to serve notice by publication as provided in Sec. 5.09. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the Code ~~Inspector~~Officer, the case may be presented to the Code Enforcement Board even if the violation has been corrected prior to the Board's hearing, and the notice shall so state.

(6) If the Code ~~Inspector~~Officer has reason to believe a violation, or the condition causing the violation, presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the Code ~~Inspector~~Officer shall make a reasonable effort to notify the violator and may immediately notify the Code Enforcement Board and request a hearing.

(7) If the violation creates a situation where City action is necessary to eliminate an imminent public nuisance, the following notice procedures shall be utilized:

(a) *Notice to Vacate.* Whenever the Building Official, Code Enforcement Division Manager, Fire Marshall, or their Designee, or the Code Enforcement Board, shall declare a building unfit for human occupation and constituting a nuisance, they shall give notice to the owner and occupant(s) of such declaration and placard the building as unfit for human occupancy. Such notice shall:

(1) Contain all elements required ~~by notices~~ generally by Article I, Chapter 30A of the Minimum Standards Codes;

(3) ~~Said notice shall further s~~State that if such repairs, reconstruction, alterations, removal, or demolition are not voluntarily completed within the stated time as set forth in the notice, the Building Official ~~or~~, Code Enforcement Division Manager, Fire Marshall, or their Designee, or the Code Enforcement Board's Designee shall ~~institute~~initiate proceedings charging the person or persons, firm, corporation, or agent with a violation of this Code; and

(4) ~~Said notice s~~Shall also inform the owner and the occupant(s) of their right to appeal the condemnation decision.

(c) *Vacating of Declared Building.* Any building condemned as unfit for human occupancy or occupation, and so designated and placarded by the Building Official, Code Enforcement Division Manager, Fire Marshall, or their Designee, of the Code Enforcement Board's Designee, shall be vacated immediately after notice of such condemnation has been given by the Building Official, Code Enforcement Division

Manager, Fire Marshall, or their Designee, to the owner and the occupant(s) of the building in accordance with subsection (b).

(e) *Occupancy of Building.* No building which has been condemned and placarded as unfit for human occupancy or occupation shall again be used for human occupancy or occupation until approval is secured from and such placard is removed by the Building Official, Fire Marshall or Code Enforcement Division Manager, or their Designee, or the Code Enforcement Board's Designee. The Building Official, Code Enforcement Division Manager, Fire Marshall, or their Designee, or the Code Enforcement Board's Designee shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(f) *Condemnation Placards.* Such placards must include a brief and concise summary of the conditions necessitating the condemnation. This shall be accomplished by leaving space on the placard to allow a Code ~~Inspector~~Officer to write in the summary.

(9) (a) For the purpose of this Chapter, "repeat violation" means a violation of a ~~City of Orlando Code or Ordinance~~ City code or ordinance by a person whom the Code Enforcement Board has previously found to have violated the same provision within five (5) years prior to the current violation.

SEC. 5.05. CONDUCT OF HEARING.

(1) Upon request of the Code ~~Inspector~~Officer, or at such other times as may be necessary, ~~the~~ Chairman of the Code Enforcement Board may call a hearing; ~~h~~ Hearings may also be called by written notice signed by at least three (3) members of the Code Enforcement Board. Minutes shall be kept of all hearings by the Code Enforcement Board and all hearings and proceedings shall be open to the public. The Code Enforcement Division shall provide clerical and administrative personnel as may be reasonably required by the Code Enforcement Board for the proper performance of its duties.

(2) Upon scheduling of a hearing, the Board shall cause notice thereof to be furnished to the alleged violator by certified mail, return receipt requested, by personal service, or by publication. Said notice of hearing shall contain the name of the violator, date, time and place of the hearing and shall state the nature of the violation and reference to the appropriate code or ordinance. ~~In cases involving major violations as defined in Article I Chapter 30A of the Minimum Standards Code, the Board shall cause the notice of hearing to be served by U.S. Mail on the tenant(s) of the affected building when applicable. In cases involving condemnation, the notice of hearing shall be served in accordance with section 5.04(7)(b)(1).~~

(3) At the hearing, the burden of proof shall be upon the Code ~~Inspector~~Officer to show, by a preponderance of the evidence, that a violation does exist.

(5) All testimony shall be under oath and shall be recorded. The Board shall take testimony from the Code ~~Inspector~~Officer and alleged violator and from such other witnesses as may be called by the respective sides.

(8) Any member of the Board, or an attorney appointed to represent the Board, may inquire of any witness before the Board. The alleged violator, or his attorney, and the attorney representing the Code ~~Inspector~~Officer shall be permitted to inquire of any witness before the Board and shall be permitted to present brief opening and closing statements.

(9) At the conclusion of the hearing, the Code Enforcement Board shall issue findings of fact, based on evidence in the record, and conclusions of law and shall issue an order affording the proper relief consistent with the powers granted by Florida Statute and by this Chapter. The order shall be stated orally at the meeting and shall be reduced to writing and mailed to the alleged violator within ten (10) days after the hearing. The finding(s) shall be by motion approved by a majority of those present and voting; provided, however, that at least four (4) members of the Board must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date, that a fine may be imposed, and that ~~under the conditions specified in Section 5.04(6), (7) and (8), and Section 5.07(6),~~ the cost of repairs may be included in addition to the fine if the order is not complied with by said date. The order may also include a notice that a repeat violator provision has been invoked pursuant to Florida Statutes ~~e~~Ch. 162, for which a fine may be reactivated without the necessity for a hearing if the same violation is repeated by the violator.

SEC. 5.06. POWERS OF THE CODE ENFORCEMENT BOARD.

The Code Enforcement Board shall have the power to:

(3) ~~Subpoena records, surveys, plats and other documentary evidence, which subpoenas shall be served by the Orlando Police Department.~~Subpoena evidence to its hearings.

SEC. 5.07. FINES AND PENALTIES; COST OF REPAIR; LIENS.

(1) In the case of a first "violation" the Code Enforcement Board may order the violator to pay a fine not to exceed one thousand dollars (\$1,000.00) for each day the violation continues past the date set by the Board's order for compliance.

(2) In cases where the same violation(s) has been committed by the same violator ~~on more than one occasion~~pursuant to 5.04(9)(b) and where the Code Enforcement Board has found that such violations(s) did occur, the Code Enforcement Board may order a Repeat Violator Penalty not to exceed five thousand dollars (\$5,000.00) per day for each day the repeat violation continues, beginning with the date the repeat violation is found by the ~~e~~Code InspectorOfficer to have occurred, and a hearing shall not be necessary for issuance of the order imposing the fine.

SEC. 5.08. APPEAL.

(1) An aggrieved party, including the ~~City Council of the~~ City of Orlando, may appeal a final administrative order of the Code Enforcement Board to the Circuit Court. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Code enforcement Board. An appeal shall be governed by the provisions set forth in § 162.11, Florida Statutes, and shall be filed within thirty (30) days of the execution of the order to be appealed.

~~(3) The Code Enforcement Board shall, by rule, establish reasonable charges for the preparation of the record to be paid by the appealing party.~~

SEC. 5.09. NOTICES.

(1) All notices of violation required by this Chapter shall be provided to the alleged violator by certified mail, return receipt requested; or by hand delivery by the sheriff or other law enforcement officer, Code ~~Inspector~~ Officer, or other person designated by City Council; or by leaving the notice at the alleged violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If leaving notice at commercial premises, notice shall be left with the manager or other person in charge.

(2) In addition to providing notice as set forth in Subsection (1), at the option and direction of the City Attorney's Office, notice may also be served by publication as follows:

(b) The newspaper shall meet such requirements as are prescribed under Florida Statutes ~~e~~ Ch. 50 for legal and official advertisements.

(3) In lieu of publication as described in subsection (2), such notice may be posted for at least ten (10) days prior to the hearing or prior to the expiration of any deadline contained in the notice at the property upon which the violation is alleged to exist and at the office of the City Clerk.

SEC. 5.12 CITATION AUTHORIZATION; VIOLATION OF CIVIL INFRACTION; MAXIMUM CIVIL PENALTY.

(3) The maximum civil penalty for such a civil infraction shall not exceed \$500.00 per violation plus all applicable costs of prosecution and legislative assessments plus court costs. ~~of ten dollars (\$10.00).~~

SEC. 5.17. PAYMENT OF REDUCED CIVIL PENALTY; COURT HEARINGS.

(2) If the person cited elects to pay the applicable reduced civil penalty set forth herein, the person shall be deemed to have admitted the infraction and waived the right to a hearing. If the person cited fails to pay the civil penalty by the fourteenth (14th) calendar day after issuance of the citation or fails to request a court hearing within the time prescribed, the person shall have waived any right to contest the citation and a judgment shall be entered against the person cited in the amount up to the maximum civil penalty plus court costs, ~~of ten dollars (\$10.00).~~ In addition, the Rule to Show Cause may be issued by the County Judge requiring the person cited to appear in County Court to explain the person's failure to pay or request a court hearing. Failure to respond to the Rule to Show Cause may result in issuance of an arrest warrant.

(5) A County Judge, after a hearing on the citation, shall make a determination whether or not a violation of the code or ordinance cited has been committed. If a violation is found to have occurred, the County Judge may order the violator to correct the violation and may impose a civil penalty up to the maximum civil penalty plus all applicable costs of prosecution and legislative assessments, plus court costs, ~~of ten dollars (\$10.00);~~ in no event, however, shall such civil penalty imposed by the County Judge be less than the reduced civil penalty set forth in Section 5.19.

SEC. 5.18. PROCEDURE FOR PAYMENT OF CIVIL PENALTY.

Payment of any civil penalty imposed by this ordinance shall be made to the Clerk of the Court, who shall forward the monies collected to the City's ~~Director of Finance~~ for deposit into the City's fund. ~~If a judgment has been entered for the civil penalty, the Clerk of the Court shall notify the City when the judgment has been paid and the necessary Satisfaction of Judgment shall be prepared and recorded in the Official Records of Orange County.~~

SECTION TWO. CODIFICATION. The City Clerk and the City Attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION THREE. SCRIVENER'S ERROR. The City Attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, this _____ day of _____, 2015.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this _____ day of _____, 2015.

DONE, THE SECOND READING, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City

ORDINANCE NO. 2014-53

Council of the City of Orlando, Florida, at a regular meeting, this _____ day of _____, 2015.

BY THE MAYOR/MAYOR PRO TEMPORE
OF THE CITY OF ORLANDO, FLORIDA:

Mayor / Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

City Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

City Attorney

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