



City of North Port

ORDINANCE NO. 2015-26

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA AMENDING THE NORTH PORT CITY CODE, PART II, CHAPTER 2, ARTICLE IX. CODE ENFORCEMENT, SECTION 2-504. DEFINITIONS, SECTION 2-505. ESTABLISHMENT OF HEARING OFFICER, SECTION 2-506. LEGAL COUNSEL, SECTION 2-507. ENFORCEMENT PROCEDURE, SECTION 2-508. HEARING, SECTION 2-509. POWERS OF HEARING OFFICER, SECTION 2-510. SUBPOENA PROCEDURES, SECTION 2-511. FINES AND LIENS, SECTION 2-512. REHEARING, SECTION 2-513. APPEALS, AND SECTION 2-516. CIVIL PENALTIES; CONTESTING CITATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 - DEFINITIONS

1.01 - Part II, Chapter 2, Article IX, Section 2-504. Definitions are hereby amended to read as follows:

Sec. 2-504. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clerk means the clerk to the city commission or her designee, who shall be responsible to the commission and shall not be confused with the clerk of the circuit court, which is so identified in this article.

~~Code enforcement board means the local government code enforcement board appointed by the city commission, which has been dissolved as of the effective date of the creation of the special magistrate.~~

Code enforcement officer means any designated employee or agent of the City of North Port, one of whose duties it is to enforce codes and ordinances enacted by the City of North Port. Employees or agents who may be designated as "code enforcement officers" may include, but are not limited to, code inspectors, law enforcement officers, animal control officers or firesafety inspectors.

Code inspector means any authorized agent or employee of the City of North Port one of whose duties it is to assure code compliance.

Codes means the ordinances of the City of North Port, Florida, as the same exist and as they may have been amended on the effective date of the ordinance from which this article is derived and as the same may be amended from time to time, including the Florida Building Code and the Florida Land Development Code.

Prosecutor means the person or persons designated by the city manager to present cases to the code enforcement board, or the city attorney when requested by the city manager to serve as prosecutor.

Repeat violation means a violation of a provision of a code or ordinance by a person who has previously been found through a quasi-judicial or judicial process, to have violated or who has admitted violation the same provision within five years prior to the violation, notwithstanding the violations occur at different locations.

~~Special magistrate~~ Hearing Officer means a person appointed pursuant to this article to hold hearings, assess fines, and order mitigation of violations of codes. Any reference to the code enforcement board in the city code, not including this article, shall be deemed to refer to the ~~special magistrate~~ hearing officer, except where context otherwise dictates.

Violator means a person or entity legally responsible for an alleged violation of, or who has been found in violation of, a code or ordinance of the City of North Port.

(Ord. No. 2014-30, § 1, 9-8-2014)

SECTION 2 – ESTABLISHMENT OF HEARING OFFICER

2.01 - Part II, Chapter 2, Article IX, Section 2-505 is hereby amended to read as follows:

Sec. 2-505. - Establishment of ~~special magistrate~~ hearing officer system.

- (a) Creation of alternate code enforcement system. There is hereby created pursuant to F.S. § 162.03(2), an alternate code enforcement system. This alternate code enforcement system shall have the same status as a code enforcement board. Nothing in this section is intended to preclude the city from enforcing any ordinance or code through a court of competent jurisdiction.
- (b) Creation and purpose of ~~special magistrates~~ hearing officers. There is hereby created a code enforcement system which utilizes ~~special magistrates~~ hearing officers, each of whom is to be appointed by the city commission. ~~Special magistrates~~ Hearing officers shall have the authority to conduct hearings to determine whether a violation of any code or an ordinance of the City of North Port within the ~~special magistrate~~ hearing officer jurisdiction has occurred and upon finding that a violation has occurred, impose fines, costs and liens against the violators.
- (c) Qualifications of a ~~special magistrate~~ hearing officer. All ~~special magistrates~~ hearing officers shall be attorneys, for at least five years prior to appointment, who are in good standing with the Florida Bar Association. The ~~special magistrates~~ hearing officers shall reside in or practice law within Sarasota County, Florida, must demonstrate satisfactory knowledge of municipal law and the general procedures for enforcement of municipal codes, and must demonstrate a temperament suitable for the exercise of the quasi-judicial powers vested in each ~~special magistrate~~ hearing officer.
- (d) Appointment; term of service; removal. The city commission shall appoint as many ~~special magistrates~~ hearing officer as are deemed necessary. All ~~special magistrates~~ hearing officer shall be appointed for a term of one to four years and may be reappointed by the city commission. Despite the term for which they were appointed, all ~~magistrates~~ hearing officers serve at the pleasure of the city commission and may be removed from office by majority vote. If any ~~magistrate~~ hearing officer fails to attend two of three successive hearings without good cause, the position shall be considered vacant and the city commission shall promptly fill the remainder of the unexpired term.
- (e) Support staff. The city commission shall provide clerical, administrative and legal support to the ~~special magistrates~~ hearing officers as may be reasonably required for the proper performance of their duties.
- (f) Disqualification. If any ~~special magistrate~~ hearing officer, called on to sit in a particular case, shall find that his/her private or personal interests are involved in the matter coming before him/her, the ~~special magistrate~~ hearing officer shall disqualify

himself/herself from all participation in the case, and an alternate ~~special magistrate~~ hearing officer shall hear the case. The city manager is authorized to provide an attorney otherwise qualified to sit as a ~~special magistrate~~ hearing officer for an individual case where all ~~special magistrates~~ hearing officers disqualify themselves.

SECTION 3 – LEGAL COUNSEL

3.01 - Part II, Chapter 2, Article IX, Section 2-506 is hereby amended to read as follows:

Sec. 2-506. - Legal counsel.

The city attorney, when requested by the city manager, may represent this municipality and present cases before the ~~special magistrate~~ hearing officer. In no case shall the city attorney act as counsel for the ~~special magistrate~~ hearing officer, thereby eliminating possibilities of a conflict of interest.

SECTION 4 – ENFORCEMENT PROCEDURE

4.01 - Part II, Chapter 2, Article IX, Section 2-507 is hereby amended to read as follows:

Sec. 2-507. - Enforcement procedure.

- (a) It shall be the duty of the code enforcement officer to initiate enforcement proceedings of the various codes; however, no ~~special magistrate~~ hearing officer shall have the power to initiate such enforcement proceedings.
- (b) Except as provided in subsections (c) and (d), if a violation of the codes is found, the code enforcement officer shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code enforcement officer shall notify the ~~special magistrate~~ hearing officer and request a hearing. The ~~special magistrate~~ hearing officer, through clerical staff, shall schedule a hearing, and written notice of such hearing shall be served as provided in F.S. § 162.12 to said violator. At the option of the ~~special magistrate~~ hearing officer, notice may additionally be served by publication or posting as provided in F.S. § 162.12. Evidence that an attempt to hand deliver or mail notice, together with proof of publication or posting as provided in F.S. § 162.12 shall be sufficient to show that the notice requirements of this article have been met, without regard to whether or not the alleged violator actually received such notice. If the violation is corrected and then

recurs or if the violation is not corrected by the time specified for correction by the code enforcement officer, the case may be presented to the ~~special magistrate~~ hearing officer even if the violation has been corrected prior to the hearing, and the notice shall so state.

- (c) If a repeat violation is found, the code enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code enforcement officer, upon notifying the violator of a repeat violation, shall notify the ~~special magistrate~~ hearing officer and request a hearing. The ~~special magistrate~~ hearing officer, through clerical staff, shall schedule a hearing and shall provide notice pursuant to F.S. § 162.12. The case may be presented to the ~~special magistrate~~ hearing officer even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.
- (d) If the code enforcement officer has reason to believe a violation presents a serious threat to the public health, safety and welfare or if the violation is irreparable or irreversible in nature, the code enforcement officer shall make a reasonable effort to notify the violator and immediately notify the ~~special magistrate~~ hearing officer and request a hearing..

SECTION 5 – HEARING

5.01 - Part II, Chapter 2, Article IX, Section 2-508 is hereby amended to read as follows:

Sec. 2-508. - Hearing.

- (a) Upon request of the code enforcement officer or at such other times as may be necessary, the ~~special magistrate~~ hearing officer may call a hearing. All hearings and proceedings shall be open to the public. Minutes shall be maintained of all hearings and a record shall be maintained of all evidence considered by the ~~special magistrate~~ hearing officer.
- (b) Each case before the ~~special magistrate~~ hearing officer shall be presented by the prosecutor for the city.
- (c) The ~~special magistrate~~ hearing officer shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The burden of proof shall be upon the prosecutor to show by a preponderance of the evidence that a violation does exist and that the violator committed or was responsible for maintaining or allowing the violation to continue. The ~~special magistrate~~ hearing officer shall take

testimony from the code enforcement officer, witnesses and the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Irrelevant evidence should be excluded and should not be the basis for a finding of fact.

- (d) In cases involving multiple violations, the ~~special magistrate~~ hearing officer shall make a decision as to all violations singularly and not in any combination thereof.
- (e) At the conclusion of the hearing, the ~~special magistrate~~ hearing officer shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted by this article. Orders shall be based upon substantial competent evidence entered into the record, and based upon a preponderance of the evidence. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the city and shall constitute notice to any subsequent purchasers, successors in interest or assigns, if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the ~~special magistrate~~ hearing officer shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance. A copy of all orders issued shall be filed with the clerk to the ~~special magistrate~~ hearing officer promptly after issuance and shall be deemed rendered (executed) upon the date of said filing. A copy of all such orders shall be mailed by certified mail, return receipt requested, to the alleged violator within ten days following the date the order is rendered.
- (f) Should the ~~special magistrate~~ hearing officer be unable to issue a decision immediately following any hearing because of questions of law or other matters of such nature that a decision cannot immediately be made, the ~~special magistrate~~ hearing officer may withhold issuing his or her decision for a period not exceeding 30 days. The ~~special magistrate~~ hearing officer shall thereafter issue its decision pursuant to subsection (e) of this section..

SECTION 6 – POWERS OF HEARING OFFICER

6.01 - Part II, Chapter 2, Article IX, Section 2-509 is hereby amended to read as follows:

Sec. 2-509. - Powers of ~~special magistrate~~ hearing officer.

The ~~special magistrate~~ hearing officer shall have the power to:

- (1) Adopt rules for the conduct of hearings.
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county where the person to be served is found or by the City of North Port Police Department.
- (3) Subpoena evidence to hearings.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

SECTION 7 – SUBPOENA PROCEDURES

7.01 - Part II, Chapter 2, Article IX, Section 2-510 is hereby amended to read as follows:

Sec. 2-510. - Subpoena procedures.

- (a) Subpoena for testimony before the ~~special magistrate~~ hearing officer. Every subpoena for testimony before the ~~special magistrate~~ hearing officer shall be issued by the clerk to the city commission under the seal of the City of North Port. Each subpoena shall state the name of the ~~special magistrate~~ hearing officer, the title of the action, the case number of the action, the name and address of the person to whom the subpoena is issued and the time, place and location of the hearing at which the person is directed to appear and shall be prepared by the party requesting issuance.
- (b) Subpoena for production of documentary evidence. A subpoena may also command the person to whom it is directed to produce the books, papers, documents or tangible items designated therein. The ~~special magistrate~~ hearing officer upon motion by a party and promptly and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable and

oppressive or condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents or tangible items.

- (c) Service of subpoenas. A subpoena may be served by the sheriff of the county where the person to be served is found or by the City of North Port Police Department. Service is made by delivering a copy of the subpoena to the person to be served or by leaving the copies at his usual place of abode with any person residing therein who is 15 years of age or older and informing the person of their contents. All officers to whom subpoenas have been directed for service shall note on the original subpoena the time it comes into his possession, the time when it is executed, the manner of execution and the name of the person on whom it was executed. The original subpoena shall be filed with the clerk of the city commission. Payment of any service fee shall be made by the party at whose request the service is made.
- (d) Witness fee and payment. Persons subpoenaed shall be entitled to a witness fee and mileage compensation as provided for in F.S. § 92.142. The cost of the witness fee and mileage compensation shall be borne by the party at whose request the subpoena is issued and shall be paid to the witness at or before the time of service.

SECTION 8 – FINES AND LIENS

8.01 - Part II, Chapter 2, Article IX, Section 2-511 is hereby amended to read as follows:

Sec. 2-511. Fines and liens.

- (a) Generally. The ~~special magistrate~~ hearing officer, upon notification by the code enforcement officer that an order of the ~~special magistrate~~ hearing officer has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the ~~special magistrate~~ hearing officer for compliance or, in the case of a repeat violation, for each day the repeat violation continues past the date of notice to the violator of the repeat violation. If a finding of a violation or a repeat violation has been made as provided in this article, a hearing shall not be necessary for issuance of the order imposing the fine.
- (b) Fine.
 - (1) A fine imposed pursuant to this section shall not exceed the following amounts, unless otherwise provided by the unified land development code or city code:
 - a. \$25.00 per day for any violation of the unified land development code;

- b. \$50.00 per day for any violation of the Florida Building Codes;
 - c. \$10.00 per day for any other violation of the code of the City of North Port, Florida not otherwise identified in (b)(1)a. or (b)(1)b.
 - d. \$250.00 per day for any violation to Chapter 1, Florida Building Code, as it pertains to unsafe building abatement as determined by the Building Official
 - ~~d. \$5,000.00 per violation for a violation that is irreparable or irreversible in nature.~~
 - e. The hearing officer may impose fines for repeat violations. Such fines shall not exceed \$500.00 per day per violation for a repeat violation. In addition to such fines, a hearing officer may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs taken by the local government.
- (2) In determining the amount of the fine, if any, the ~~special magistrate~~ hearing officer shall consider the following factors:
- a. The gravity of the violation.
 - b. Any actions taken by the violator to correct the violation.
 - c. Any previous violations committed by the violator.
 - 1. However, no order issued by the ~~special magistrate~~ hearing officer shall be deemed to be invalid or unenforceable because it fails to demonstrate that the previous factors were considered ~~by the special magistrate~~.
- (3) Until such time as an order imposing a fine has been recorded as a lien, the ~~special magistrate~~ hearing officer may reduce a fine imposed pursuant to this section. After such time as an order imposing a fine has been recorded as a lien, the only entity that has the ability to reduce such fine shall be the city commission.
- (4) Any daily fine which is imposed pursuant to this section shall continue to accrue until such time as the violation is brought into compliance, and such compliance is confirmed in accordance with subsection 2-511(c), or until the maximum cumulative fine has been reached, as defined in subsection 2-511(b)(5).
- (5) The maximum cumulative fine which may be imposed pursuant to this section is as follows, unless a higher amount for a particular violation is expressly provided by the unified land development code or city code:
- a. \$2,000.00 for any violation of the unified land development code;
 - b. \$5,000.00 for any violation of the Florida Building Code; ~~or~~ except for violations as defined as 2-511(b)(1)(d); as it pertains to unsafe abatement as determined by the Building Official. There is no maximum fine cap for violations defined in 2-511(b)(1)(d).
 - c. \$1,000.00 for any other violation of a city code or ordinance.

d. \$25,000.00 for any repeat violations

- (c) Order imposing fine constitutes a lien. A certified copy of an order imposing a fine, or fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance, until the maximum cumulative fine has been reached, or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. After an order finding a violation and imposing a fine is entered, it shall be the responsibility of the property owner to inform the City of North Port that the violation has been corrected, and to request a re-inspection of the property to stop the accrual of any running fines. After the city has entered an order imposing a fine which makes a finding of fact that a property is not in compliance with the city's code, no property shall be deemed to be in compliance until such time as the property owner has requested a re-inspection of the property, in writing, and the city has issued an affidavit of compliance, and the property shall in fact remain in violation of the city code until such time as a re-inspection has been requested and conducted in accordance with this section. After three months from the filing of any such lien which remains unpaid, the hearing officer may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgement for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Section 4, Article X of the State Constitution. Such lien shall bear interest at the lawful rate for court judgments from the date of its filing.
- (d) Settlement of fines and liens. The North Port City Commission hereby establishes a code enforcement lien relief program which has the following terms and conditions.
- (1) Lien reduction.
- a. Property owners of residentially zoned properties may apply to the code compliance office for a reduction of code enforcement liens encumbering property.
 - b. The property must be in compliance with all city codes at the time of application.
 - c. Liens will be reduced to the maximum cumulative fine adopted by subsection 2-511(b)(5) plus the city's actual abatement and administrative costs incurred during enforcement.

- d. The application fee for the lien reduction will be \$150.00. The application shall be per property, not per code enforcement case.
 - e. The property owner shall, within 30 days from the date of the notification of the lien reduction amount, make full payment of that amount. Failure to do so will void the application and a release of lien shall not be executed.
 - f. Lien relief does not apply to liens from fines imposed after October 25, 2010.
- (2) Lien release.
- a. Property owners who purchase property through a foreclosure sale, clerk's sale, or other judicially imposed sale, may apply for a release of any code enforcement board liens on the property after the sale closes, except for actual abatement and administrative costs.
 - b. The property owner shall not have been the owner of the property at the time the lien was imposed.
 - c. The property must be in compliance with all city codes at the time of application.
 - d. The fee for the application for the lien release will be \$150.00. The application shall be per property, not per code enforcement case.
 - e. The property owner shall, within 30 days from the date of the notification of the lien reduction amount, make full payment of that amount. Failure to do so will void the application and a release of lien shall not be executed.
 - f. ~~Lien relief does not apply to liens from fines imposed after October 25, 2010.~~
- (3) Alternative procedure for non-owners. In anticipation of a pending sale, persons with a bona fide purchase contract for affected properties may seek an anticipatory lien reduction provided that:
- a. The property is residentially zoned.
 - b. The property must be in compliance with all city codes at the time of application, or must meet the requirements of subsection (f) below.
 - c. The application fee for the lien reduction will be \$150.00. The application shall be per property, not per code enforcement case and must be authorized by the current owner of the property.
 - d. Liens will be reduced to the maximum cumulative fine adopted by subsection 2-511(b)(5) plus the city's actual abatement and administrative costs incurred during enforcement.
 - e. The property owner or applicant shall, within 30 days from the date of the notification of the lien reduction amount, make full payment of that amount. Failure to do so will void the application and a release of lien shall not be executed.

- f. In the event the property is not in compliance at the time of application, the applicant must, in addition to prepaying the reduced lien amount, enter into an agreement with the city giving the applicant 90 days from closing to bring the property into compliance with any existing code enforcement orders. Failure to bring the property into compliance within the 90-day period shall result in the reinstatement of the previous fine amounts and code enforcement proceedings.
 - g. Lien relief does not apply to liens from fines imposed after October 25, 2010.
- (4) Authority. The city manager or designee shall develop the application for use with the lien relief program. The city manager is authorized to approve the applications seeking the lien reduction or lien releases and to sign the satisfaction and release of liens necessary to execute the relief program. The city manager or designee is hereby authorized in consultation with the city attorney to enter into and enforce agreements with current and potential property owners to ensure compliance with this program.
- (5) Special assessment liens. Subsection 2-511(d) does not apply to special assessment liens.
- (e) Duration of lien; action to foreclose. No lien shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in the foreclosure. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(Ord. No. 2014-30, § 1, 9-8-2014)

SECTION 9 – REHEARING

9.01 - Part II, Chapter 2, Article IX, Section 2-512 is hereby amended to read as follows:

Sec. 2-512. - Rehearing.

- (a) Either the prosecutor or the violator may request a rehearing of the decision of the ~~special magistrate~~ hearing officer. A request for rehearing shall be made, in writing, and shall be filed with the clerk within ten days of the date that the ~~special magistrate~~ hearing officer mails its written order. A request for rehearing shall be based only on the ground that the decision was contrary to the evidence or that the hearing involved an

error on a ruling of law which was fundamental to the decision of the ~~special magistrate~~ hearing officer. The written request for rehearing shall specify the precise reasons therefore.

- (b) The ~~special magistrate~~ hearing officer shall make a determination as to whether or not to rehear the matter. Written notice of a denial of rehearing shall be provided to the parties. If the ~~special magistrate~~ hearing officer decides to grant a rehearing, he or she may:
- (1) Schedule a hearing where the parties will be given the opportunity of presenting evidence or argument limited to the specific reasons for which the rehearing was granted; or
 - (2) Modify or reverse its prior order, without receiving further evidence, provided that the change is based on a finding that the prior decision of the ~~special magistrate~~ hearing officer resulted from an error of law.
- (c) Until a request for rehearing has been denied or otherwise disposed of, the order of the ~~special magistrate~~ hearing officer shall be stayed and the time for taking an appeal, pursuant to this article, shall not commence to run until the date upon which the ~~special magistrate~~ hearing officer has finally disposed of the request for rehearing by denying the same, or otherwise.

SECTION 10 – APPEALS

10.01 - Part II, Chapter 2, Article IX, Section 2-513 is hereby amended to read as follows:

Sec. 2-513. - Appeals.

An aggrieved party, including the local governing body, may appeal a final administrative order of the ~~special magistrate~~ hearing officer to the Sarasota County 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 ~~special magistrate~~ hearing officer. An appeal shall be filed within 30 days of the execution of the order to be appealed.

SECTION 11 – CIVIL PENALTIES; CONTESTING CITATION

11.01 - Part II, Chapter 2, Article IX, Section 2-516 is hereby amended to read as follows:

Sec. 2-516. - Civil penalties; contesting citation.

- (a) All city codes and ordinances may be enforced by this section, by citation to the office of the city clerk, except where prohibited by law or statute. If the violation is not contested and the violation is the offender's first offense, the violation is punishable by a civil penalty of \$50.00. A second uncontested violation is punishable by a civil penalty of \$150.00. A violator who has committed two or more prior offenses and who does not contest the latest violation is punishable by a civil penalty of \$400.00.
- (b) Violation of a code or ordinance enforced pursuant to F.S. ch. 162, pt. II (F.S. § 162.21 et seq.) is a civil infraction subject to a maximum civil penalty not to exceed \$500.00, provided that if a violator does not contest the citation, a civil penalty of less than the maximum civil penalty in accordance with the penalty schedule provided in subsection (a) herein shall apply.
- (c) Citations are to be contested with the North Port ~~special magistrate~~ hearing officer. If the person elects not to contest the citation, he shall pay the applicable civil penalty to the office of the city clerk within 30 days after issuance of the citation. If the person elects to contest the citation, he shall request a hearing through the office of the city clerk within 30 days after issuance of the citation. The clerk shall schedule a hearing before the ~~special magistrate~~ hearing officer on the next available agenda and shall provide written notice of the hearing to the person and code enforcement officer.
- (d) If the person fails to pay the civil penalty within the time allowed, fails to timely request a hearing or fails to appear before the ~~special magistrate~~ hearing officer to contest the citation, he shall be deemed to have waived his right to contest the citation and, in such case, judgment may be entered against the person for an amount up to the maximum penalty and attached as a special assessment lien against the property owner and/or real property of the person committing the violation.
- (e) Court costs may be imposed as provided by law.

SECTION 12 SEVERABILITY:

12.01 If any section, subsection, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not fully affect the validity of the remaining portions thereof.

SECTION 13 CONFLICTS:

13.01 In the event of any conflict between the provisions of this Ordinance and any other ordinance, resolution, or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 14 EFFECTIVE DATE:


14.01 This Ordinance shall take effect immediately upon its adoption by the Commission of the City of North Port, Florida.

READ BY TITLE ONLY in public session on this 28th day of September 2015.

PASSED AND ADOPTED on the second and final reading held in public session this 13

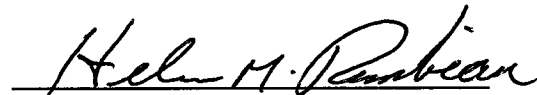
day of October, 2015.

CITY OF NORTH PORT, FLORIDA



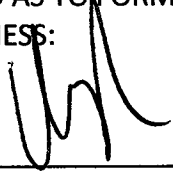
RHONDA Y. DIFRANCO
MAYOR

ATTEST:



HELEN M. RAIMBEAU, MMC
CITY CLERK

APPROVED AS TO FORM AND
CORRECTNESS:

A handwritten signature in black ink, appearing to be 'M Moriarty', written over a horizontal line.

MARK MORIARTY
CITY ATTORNEY