

ORDINANCE 587

AN ORDINANCE OF THE CITY OF SPRINGFIELD, FLORIDA AMENDING CHAPTER 42 TO REPEAL ARTICLE II, THE SUPPLEMENTAL CHAPTER 162 PROCEDURE FOR CODE ENFORCEMENT; DELETING THE REQUIREMENTS THAT SPECIAL MAGISTRATES BE RESIDENTS OF SPRINGFIELD AND SERVE WITHOUT COMPENSATION; AMENDING CIVIL VIOLATION PROCESSES AND HEARING PROCEDURES; PROVIDING THAT THE CITY ADOPT A SCHEDULE OF CIVIL PENALTIES BY RESOLUTION; PROVIDING FOR CODIFICATION; SEVERABILITY; AND AN IMMEDIATELY EFFECTIVE DATE.

SECTION 1. From and after the effective date of this ordinance, CHAPTER 42, Articles II and III of the Code of Ordinances for the City of Springfield are amended to read as follows (deleted text shall be in ~~strikeout~~ and new text in **bold and underlined**):

Chapter 42 - LAW ENFORCEMENT

ARTICLE II. ~~SUPPLEMENTAL PROCEDURE FOR CODE ENFORCEMENT~~

~~Sec. 42-31. Authority and purpose of article.~~

~~This article is adopted pursuant to F.S. ch. 162, pt. II as a supplemental method of enforcing the codes and ordinances of the city and is enacted to protect the public health, safety and welfare of the citizens of the city. In no way is this article intended to replace or exclude the enforcement of code or ordinance violations as otherwise permitted by law.~~

~~Sec. 42-32. Designation of code enforcement officer.~~

~~For the purpose of this article, a code enforcement officer shall be any designated employee or agent of the city whose duty it is to enforce the codes and ordinances enacted by the city.~~

~~Sec. 42-33. Authority of officer to issue citations.~~

~~Any code enforcement officer, so designated by the city, is hereby authorized to issue a citation to a person or business when, based upon personal investigation, the officer has reasonable cause to believe that the person or business (the violator) has committed a civil infraction violation of a duly enacted code or ordinance of the city, and that the county court, in and for the county will hear the charge.~~

~~Sec. 42-34. Notification prior to citation issuance.~~

- ~~(a) Prior to issuing a citation, a code enforcement officer shall provide a notice to the violator that the violator has committed a violation of a city code or ordinance. The officer shall establish a reasonable time period within which the violator must correct the violation.~~
- ~~(b) Notice shall conform to the requirements of F.S. § 162.21.~~

- ~~(c) The time period for corrective action shall be no more than 30 days.~~
- ~~(d) If, upon personal investigation, a code enforcement officer finds that the violator has not corrected the violation, or, in the alternative, made substantial documented effort to correct the violation, the code enforcement officer may issue a citation to the violator.~~
- ~~(e) A code enforcement officer shall not be required to provide the violator with a reasonable time period within which to correct the violation prior to issuing the citation, and may immediately issue a citation if the code enforcement officer has reason to believe that the violation presents a serious threat to public health, safety or welfare; or if the violation is irreparable or irreversible, or if the violator is known to have violated the same code or ordinance at the same location, and has previously been given notice and afforded the opportunity to correct the violation, within one year of the present violation.~~

~~Sec. 42-35. Continuing violations.~~

~~Each day a violation continues subsequent to the issuance of a citation shall constitute a separate violation, for which the initial notice and period for corrective action shall suffice, for which a separate subsequent citation may issue, and for which a separate penalty may apply.~~

~~Sec. 42-36. Form of citation.~~

~~The form of citation shall be as provided by state law.~~

~~Sec. 42-37. Refusal to sign and accept citation.~~

~~Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.~~

~~Sec. 42-38. Penalties for violation of codes and ordinances.~~

- ~~(a) A violation of a code or an ordinance cited and enforced under the provisions of this article shall be deemed a civil infraction.
  - ~~(1) For the first violation, by a civil penalty of \$50.00.~~
  - ~~(2) For the second violation, by a civil penalty of \$150.00.~~
  - ~~(3) For a third violation, by a civil penalty of \$250.00.~~~~
- ~~(b) Any person who fails to pay the appropriate civil penalty or to request a hearing within the time allowed, or who fails to appear in court to contest the citation when a hearing has been requested, or who fails to appear in court as may be required shall be deemed to have waived his right to contest the citation. A judgment may be entered against the person for an amount not to exceed \$500.00, and/or the court may issue a rule to show cause, sui sponte, or upon the request of the city. The court rule shall require the violator to appear before the court to explain why action on the citation has not been taken. If the person who is issued such a rule to show cause fails to appear in response to the court's order, the violator may be held in contempt of court.~~

~~Sec. 42-39. Other remedies.~~

~~Nothing contained in this article shall prohibit the city from enforcing this Code and ordinances by any other means. The provisions of this section are additional and supplemental means of enforcing city codes and ordinances by any other means. These enforcement methods may include, but are limited to, the issuance of a citation, a summons, or a notice to appear in county court or arrest for violation of municipal ordinances as provided for in F.S. ch. 901. Unless otherwise provided by law, a person convicted of violating a municipal ordinance may be sentenced to pay a fine, not to exceed \$500.00, and may be sentenced to a definite term of imprisonment, not to exceed 60 days, in a detention facility as authorized by law.~~

Secs. 42-~~3140~~—42-60. - Reserved.

### ARTICLE III. - CODE ENFORCEMENT HEARING OFFICER SYSTEM<sup>[3]</sup>

#### DIVISION 1. - GENERALLY

Sec. 42-61. - Civil offenses and penalties; hearing officers.

The violation of any city ordinance shall constitute a civil offense punishable by civil penalty in the amount prescribed herein. Accordingly, there is hereby created and established a code enforcement position to be filled by hearing officers to enforce the ordinances of the city contained in and enacted prior to this Code.

Secs. 42-62—42-90. - Reserved.

#### DIVISION 2. - HEARING OFFICERS

Sec. 42-91. - Qualifications, appointment and removal of hearing officers; organization.

- (a) ~~Hearing officers shall be residents of the City of Springfield, Florida who possess outstanding reputations for civic pride, interest, integrity, responsibility and business or professional ability. They shall have no criminal or code violation history in their background. Appointments shall be made by the city clerk on the basis of experience or interest in code enforcement. Such appointments shall be submitted to the city commissioners for ratification by majority vote.~~
- (b) The city clerk shall appoint as many hearing officers as are deemed necessary. Appointments shall be made for a term of one year. A hearing officer will be reappointed automatically, unless the city commission elects not to renew an appointment; provided, however, that the election not to renew a hearing officer's appointment and notice thereof occurs 30 days prior to the renewal of that hearing officer's term. There shall be no limit on the number of reappointments that may be given to any individual hearing officer. The mayor or the city commission shall have the authority to remove or suspend hearing officers for cause including, without limitation, those grounds specified by state law. Appointments to fill any vacancy shall be for the remainder of the unexpired term.
- (c) Hearing officers shall not be city employees ~~but shall serve without compensation. Hearing officers may be reimbursed for such travel, mileage, and per diem expenses~~ **and shall be compensated** as authorized by the mayor.

- (d) The city attorney may serve as general counsel to the city. If an appeal to the circuit court is requested pursuant to section 42-125(a) the city attorney shall represent the city at such proceedings.

Sec. 42-92. - Code enforcement procedure.

- (a) For the purpose of this article a "code inspector" is defined to be any agent or employee of the city whose duty is to assure code compliance.
- (b) Code inspectors shall have the authority to initiate enforcement proceedings as provided below. No hearing officer shall have the power to initiate such proceedings.
- (c) For the purpose of this article "violators" shall be deemed to be those persons or entities creating or permitting a violation of a city ordinance, or those persons or entities owning or possessing land on which a violation of an ordinance is created or maintained. The city finds and determines that the owner of land has an obligation to know whether conditions created or maintained on that land violates any city ordinance and therefore is deemed to have actual constructive knowledge of any such violation. The owner of land has a legal duty to determine whether conditions created or maintained on his or her land violate any city ordinance, and to correct such violations.
- (d) A code inspector who finds a violation of a city ordinance shall determine a reasonable time period within which the violator must correct the violation provided that such time period shall be no more than 30 days. The determination shall be based on consideration of fairness: practicality, ease of correction, ability to correct, severity of the violation; nature, extent and probability of danger or danger to the public; and other relevant factors relating to the reasonableness of the time period prescribed. A time for correction need not be specified if the violation is deemed to be an uncorrectable violation.
- (e) A code inspector who finds a violation shall issue a civil violation notice to the violator pursuant to section 42-93.
- (f) The civil violation shall include but not be limited to the following:
  - (1) Date and time of issuance.
  - (2) Name of code inspector and division or department issuing the notice.
  - (3) Name and address of the violator.
  - (4) Ordinance number and section violated.
  - (5) Brief description of the nature of the violation, including location, date and time of violation.
  - (6) Amount of civil penalty for which the violator may be liable.
  - (7) Instructions and due date for paying the fine or filing for an administrative hearing before a hearing officer to appeal the civil fine.
  - (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 additional penalty in the same amount,

without the need for additional notices of violation. No appeal is allotted for continued violations beyond the original date of appeal.

- (10) Notice that the filing of a request for an administrative hearing will toll the accrual of continuing violation penalties.
  - (11) Notice that failure to request an administrative hearing within 20 days, or within the specified time period listed for a violation of a specific section of an ordinance, after service of a civil violation notice shall constitute a waiver of the violator's right to an administrative hearing before the hearing officer, and such waiver shall constitute an admission of the violation.
  - (12) Notice that the violator may be liable for the reasonable costs of the administrative hearing should he be found guilty of the violation.
  - (13) Notice that if the violator fails to pay civil penalty in the time allowed, or fails to appear in court to contest the violation, the violator shall be deemed to have waived his right to contest the violation and that, in such case, judgment may be entered against the violator by the hearing officer for the amount of maximum civil penalty.
- (g) After issuing a civil violation notice to an alleged violator, the code inspector shall promptly deposit the original civil violation notice and one copy of the civil violation notice with the City Clerk or his or her designee of the Court of Bay County, Florida.

Sec. 42-93. - Notices.

- (a) All notices required by this part shall be provided to the violator by:
- (1) Certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the property appraiser or tax collector's office for tax notices, and at any other address provided to the city by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subsection (2) and by first class mail directed to the addresses provided to the city by such owner with a properly executed proof of mailing or affidavit confirming the first class mailing;
  - (2) Hand delivered by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;
  - (3) Leaving the violation notice at the violator's usual place of residence with any person residing therein who is more than 15 years of age and informing such person of the contents of the notice; or
  - (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (b) In addition to providing notice as set forth in subsection (a), at the option of the hearing officer, notice may also be served by publication or posting, as follows:
- (1) Such notice be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as

are prescribed under F.S. ch. 50 for legal and official advertisements. Proof of publication shall be made as prescribed in F.S. §§ 50.0541 and 50.051.

- (2) In lieu of publication provided in subsection (1), such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be the city hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice and the date and places of its posting.
- (3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as prescribed in subsection (a) of this section. Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this section together with proof of publication or posting as prescribed in subsection (b) of this section, shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

Secs. 42-94—42-120. - Reserved.

### DIVISION 3. - HEARINGS, PENALTIES AND APPEALS

Sec. 42-121. - Civil penalties and related terms construed.

- (a) Penalties for violations of the ordinances to be enforced by this article shall be in the amount prescribed in the schedule of civil penalties, **which shall be adopted by resolution of the City Commission.** ~~section 42-128.~~
- (b) An "uncorrectable violation" is a violation which cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an on-going condition or circumstance. Each reoccurrence of an uncorrectable violation shall constitute a separate violation and shall subject the violator to an additional penalty double that of the original violation. If, however, a violator has been found guilty of an uncorrectable violation and causes the same uncorrectable violation to occur a second time, each reoccurrence of the uncorrectable violation by the violator shall constitute a repeat violation as provided in subsection (d) of this section.
- (c) "Continuing violations" are those violations which remain uncorrected beyond the reasonable time period for correction in either the civil violation notice or the final order of the hearing officer, whichever is applicable. For each day of continued violation after the time for correction has run, an additional penalty of the same amount as that prescribed for the original violation shall be added. The maximum total fine for any one continuing violation shall not exceed 20 times the original penalty amount.
- (d) A "repeat violation" is a recurring violation of an ordinance by a violator who has been found guilty of the same violation within five years prior to the present violation, or who has admitted violating the same provision within five years prior to the present violation, notwithstanding the violations occurred at different locations. In the case of correctable violations, a repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation the amount of the civil penalty shall be double the

amount of penalty prescribed for the original violation ~~by section 42-128~~. The amount of civil penalty due for each subsequent repeat violation shall be double the amount of the penalty due for the first day of the immediately preceding violation, provided that the maximum penalty payable for the first day of any one repeat violation shall be \$500.00. A repeat violation which remains uncorrected beyond the time prescribed for correction in the civil violation notice shall be treated as a continuing violation.

- (e) A civil penalty imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation.
- (f) If a request for administrative hearing is not timely filed continuing violation penalties shall accrue from the date of correction given in the civil violation notice until the correction is made and payment of fine is received. If the named violator requests an administrative hearing on a correctable violation and loses his appeal, the hearing officer shall determine a reasonable time period within which correction for the violation must be made, based on the considerations set forth in section 42-92(d). If correction is not made within the period set by the hearing officer, continuing violation penalties shall begin after the time of correction has run. No continuing violation penalties shall accrue during the time period from the date of the civil violation notice until the date of the administrative hearing, if the named violator timely requests an administrative hearing to appeal the decision of the code inspector. Continuing violation penalties cannot be imposed by the hearing officer for uncorrectable violations.
- (g) Civil penalties assessed pursuant to this article are due and payable to the City Clerk of ~~Court of Bay County, Florida~~, on the last day of the period allowed for the filing of an appeal to the circuit court from the hearing officer's decision, or, if proper appeal is made, when the appeal has been finally decided adversely to the named violator.
- (h) In addition, if the code inspector 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, or if after attempts under this section to bring a repeat violation into compliance with a provision of a code or ordinance prove unsuccessful, the city may make all reasonable repairs which are required to bring the property into compliance and charge the owner with reasonable cost of the repairs with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the city to make further repairs or to maintain the property and does not create any liability against the city for any damages to the property.

Sec. 42-122. - Rights of violators; payment of fine; right to appeal and correction of violation; failure to pay and correct, or to appeal.

- (a) A violator who has been served with a civil violation notice shall elect either to:
  - (1) Pay the civil penalty in the manner indicated on the notice, and correct the violation within the time specified on the notice (if applicable); or
  - (2) Request an administrative hearing before a hearing officer to appeal the decision of the code inspector which resulted in the issuance of the civil violation notice.
- (b) Appeal by administrative hearing of the notice of violation before a hearing officer shall be accomplished by filing a request in writing to the address indicated on the notice, received

by the hearing officer within the time limit stipulated in the notice, or no later than 20 calendar days after the service of the notice, whichever is earlier. Failure of the named violator to appeal the decision of the code inspector within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the hearing officer. A waiver of right to administrative hearing shall be treated as an admission of the violation and penalties, including continuing violation penalties, shall be assessed by the hearing officer accordingly.

- (c) If the named violator, after notice, does not timely appeal and fails to pay the civil penalty and correct the violation within the time specified (if applicable), the code inspector shall notify the hearing officer and request the hearing officer to issue an order finding the violator guilty and imposing the civil penalty and, if applicable, continuing violation penalties.

Sec. 42-123. - Scheduling and conduct of hearing.

- (a) Upon receipt of a named violator's timely request for an administrative hearing, the hearing officer shall set the matter down for a hearing on the next regularly scheduled hearing date or as soon thereafter as possible or as mandated in the specified ordinance which is enforced pursuant to this article.
- (b) The hearing officer shall provide a notice of hearing by certified mail to the named violator at his last known address. Alternatively, the notice may be delivered as provided in section 42-~~93~~124. The notice of hearing shall include but not be limited to the following:
  - (1) Name of the code inspector who issued the notice.
  - (2) Factual description of the alleged violation.
  - (3) Date of alleged violation.
  - (4) Ordinance and section allegedly violated.
  - (5) Place, date and time of hearing.
  - (6) Right of violator to be represented by a lawyer.
  - (7) Right of violator to present witnesses and evidence.
  - (8) Notice that failure of violator to attend hearing may result in civil penalty being assessed against him.
  - (9) Notice that requests for continuances will not be considered if not received by the hearing officer at least ten calendar days prior to the date set for the hearing.
- (c) The hearing officers shall call hearings ~~on a biweekly basis or~~ upon request of the **City Clerk of Court of Bay County, Florida**. All hearings shall be set for the next scheduled hearing date after receipt of the appeal. No hearing shall be set sooner than 20 calendar days from the date of service of the notice of violation.
- (d) A hearing date shall not be postponed or continued unless a request of continuance is received in writing by the hearing officer at least ten calendar days prior to the date set for the hearing.



- (e) All hearings of the hearing officer shall be open to the public. All testimony shall be under oath and shall be electronically recorded. Assuming proper notice, a hearing may proceed in the absence of the named violator.
- (f) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript. Minutes shall be kept of all hearings by each hearing officer.
- (g) ~~The Bay County Clerk of Court~~ **City Clerk** shall provide clerical and administrative personnel, services, forms and facilities as may be reasonably required by each hearing officer for the proper performance of his duties and shall collect and pay over to the city all civil penalties, costs and other sums due and payable hereunder, retaining such portion thereof as from time to time may be established by resolution of the city commission to compensate the clerk for such assistance.
- (h) Each case before a hearing officer shall be presented by **the code inspector and/or the City Attorney** ~~city clerk or his designee~~.
- (i) The hearing need not be conducted in accordance with formal rules relating to evidence and witness but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the hearing officer finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
- (j) The hearing officer may take testimony from the code inspector and the alleged violator. 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 him to testify; and to rebut the evidence against him.
- (k) The hearing officer shall make findings of fact based on evidence of record. In order to make a finding upholding the code inspector's decision, the hearing officer must find that a preponderance of evidence indicates that the named violator was responsible for the violation of the relevant section of the Code as charged.
- (l) If the named violator is found guilty of the violation, he may be held liable for the reasonable costs of the administrative hearing ~~as set forth by the Bay County Clerk of Court~~. If the city prevails in prosecuting a case before the hearing officer, the city shall be entitled to recover all costs incurred in prosecuting the case before the hearing officer and such costs will be included in the lien authorized under section 42-124~~8~~.
- (m) The fact-finding determination of the hearing shall be limited to whether the violation alleged did occur and, if so, whether the person named in the civil violation notice is held responsible for that violation ~~as provided in section 42-123(e)~~. Based upon this fact-finding determination, the hearing officer shall either reverse or affirm the decision of the code inspector as to the responsibility of the named violator for the Code violation and shall issue an order affording the proper relief. If the hearing officer affirms the decision of the code inspector, the hearing officer shall issue an order and shall determine a reasonable time period within which correction of the violation must be made. If the hearing officer reverses the decision of the code inspector and finds the named violator not responsible for the Code violation alleged in the civil violation notice, the named violator shall not be liable for the payment of the civil penalty, absent reversal of the hearing officer's findings ~~pursuant to~~

~~section 5, O~~ **section 42-123(o)**. If the decision of the hearing officer is to affirm, then the following elements shall be included in the order:

- (1) Amount of civil penalty.
  - (2) Administrative costs of hearing.
  - (3) Date by which the violation must be corrected to prevent imposition of continuing violation penalties (if applicable).
- (n) The hearing officer shall have the power to:
- (1) Adopt procedures for the conduct of hearings.
  - (2) Subpoena alleged violators and witnesses for hearings, subpoenas may be served by the law enforcement officers, by the staff of the hearing officer or by the code inspector.
  - (3) Subpoena evidence.
  - (4) Take testimony under oath.
  - (5) Assess and order the payment of civil penalties as provided herein.
- (o) Appeals:
- (1) A hearing officer shall postpone a hearing if the named violator, prior to the scheduled hearing date, files with a duly authorized city board of appropriate jurisdiction a timely administrative appeal concerning the interpretation or application of any technical provisions of the Code section allegedly violated. However, once an issue has been determined by a hearing officer in a specific case, that issue may not be further reviewed by a city board in that specific case. A named violator waives his right to appeal to other city boards if the violator does not apply for such appeal prior to the violator's code enforcement hearing before the hearing officer.
  - (2) Upon exhaustion of a timely filed administrative appeal and finalization of the administrative order by such board, the hearing officer may exercise all powers given to him by this article. The hearing officer shall not, however, exercise any jurisdiction over such alleged Code violations until the time allowed for court appeal of the ruling of such board has lapsed or until such further appeal has been exhausted.
  - (3) The hearing officer shall be bound by the interpretations and decisions of duly authorized city boards concerning the provisions of the codes. In the event such a board decides that an alleged violation of the ordinance is not in accordance with such boards interpretation of the ordinance provision on which the violation is based, the hearing officers shall not be empowered to proceed with the enforcement of the violation.
- (p) If the owner of property which is subject to an enforcement action or proceeding transfers ownership of such property between the time the initial citation or citations were issued and the time of the hearing, such owner shall:
- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
  - (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.

- (3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
- (4) File a notice with the hearing officer of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days of the transfer.

A failure to make the disclosure described in subsections (p)(1), (2), and (3) above, before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed but the new owner will be added as an additional party of record and thereafter shall be provided a reasonable period of time as determined by the code inspector to correct the violation before the hearing is held. Continuing violation penalties, if any, shall continue to accrue against the original party. No civil penalty or continuing violation penalties shall accrue against the new owner until and unless the new owner shall fail to correct the violation within the reasonable period provided to the new owner. All parties shall be jointly and severally liable for any penalties up to the amount common among them, and the amounts paid the city shall be first applied to that common, joint and several amount.

Sec. 42-124. - Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; foreclosure.

- (a) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties. In an action to compel payment of civil penalties, the prevailing party is entitled to recover all costs, including reasonable attorney's fee that it incurred in the action. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien.
- (b) A certified copy of an order imposing a civil penalty, or a penalty plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of the state, including execution and levy against personal property of the violator, but such order shall not be deemed a court judgment except for enforcement purposes. After three months from the filing of any such lien which remains unpaid, the city may foreclose or otherwise execute on the lien.
- (c) If an order is recorded in public records, and the order is complied with by the date specified in the order, the 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.
- (d) Notwithstanding any provisions of this Code, no municipal officer, agent, employee or board shall approve, grant, or issue any operating permit, license, building permit, certificate of use and occupancy, occupational licenses, platting action or zoning action to any named violator with:
  - (1) Unpaid civil penalties;
  - (2) Unpaid administrative costs of hearing;
  - (3) Unpaid investigative, enforcement, testing or monitoring costs; or

- (4) Unpaid liens, any or all of which are owned to the city pursuant to the provisions of the Code of the City of Springfield, Florida.

Sec. 42-125. - Appeals.

- (a) The named violator of the city may appeal a final order of the hearing officer for all violations by filing notice of appeal in the Circuit Court in and for Bay County, Florida. Such appeal shall not be hearing de novo but shall be limited to appellate review of the record created before the hearing officer. An appeal shall be filed within 30 days of the execution of the order of the appealed.
- (b) Unless the findings of the hearing officer are overturned in a proceeding held pursuant to subsection (a) of this section all findings of the hearing officer shall be admissible in any proceeding to collect unpaid penalties.

~~Sec. 42-126. - Adoption of F.S. ch. 162; creation and adoption of a code enforcement hearing officer system as authorized in F.S. § 162.22.~~

- ~~(a) - The city has adopted F.S. ch. 162 and its provisions and powers in the enforcement of city ordinances. Florida Statutes § 162.22 authorizes the city to create and adopt its own policies, procedures and methods in the enforcement of its Codes and Ordinances.~~
- ~~(b) - The city, by the adoption of Ordinance No. 381 adopted January 4, 1999, has established a code enforcement hearing officer system utilizing a one person hearing officer through which the decision of the code inspector may be appealed. The system sets forth the entire procedure for appointment of the hearing officer, length of term, removal, duties, responsibilities and powers. It also sets forth the code enforcement procedures, penalties for violations, rights of the violator to appeal, schedule and conduct of the hearings and the city's method of recovering unpaid penalties.~~

Sec. 42-1267. - Supplemental provisions.

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

Sec. 42-1278. - Schedule of civil penalties.

**The schedule of civil penalties shall be prescribed by Resolution of the City Commission, as amended from time to time, which may be enforced pursuant to the provisions of this chapter. The schedule of penalties shall reference the code section and the dollar amount of civil penalty for the violation of said section. Any descriptions of violations in the schedule of civil penalties adopted by Resolution of the City Commission shall be for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this chapter, regardless of whether all activities proscribed or required within that particular section are described. In the**

**absence of a schedule of civil penalties or in the event a violation is not listed or no specific penalty is provided, the Code Officer may impose a civil penalty not to exceed \$500.00.**

The following table shows the sections of this article, as they may be amended from time to time, which may be enforced pursuant to the provisions of this article; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The "descriptions of violations" are for informal purposes and are not meant to limit or define the nature of the violations or the subject matter of the subject Code sections, except to the extent that the different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this article, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

<i>Violation</i>	<i>Ordinance No./ Code section</i>	<i>Civil Penalty</i>
Other	380, Ch. 50	\$ 25.00
Animal cruelty	341, Sec. 14-61; 398, Sec. 14-61	100.00
Animal, pen violation	341, Sec. 14-69(a), (b); 398, Sec. 14-69(a) — (e)	50.00
Animal violations, other	341, Ch. 14	25.00
Unlawful accumulation of tires/rims	330, Sec. 34-31 et seq.	50.00
Improper disposal commercial garbage	380, Sec. 34-62(a)(2)	50.00
Improper disposal hazardous materials	380, Sec. 34-62(a)(2)	200.00
Sanitary nuisance	380, Sec. 34-62(a)(3)	100.00
Violation of stop order	380, Sec. 34-63(b)(4)	200.00

Water pollution	380, Sec. 34-62(a)(14)	200.00
Burning violation	380, Sec. 34-62(a)(17)	50.00
Water ban violation	380, Sec. 34-62(a)(19)	50.00
Burning during state or local ban	380, Sec. 34-62(a), (20)	100.00
Use of mobile home for purpose other than residence	380, Sec. 34-62(25)a	50.00
Occupying RV, camper or trailer outside RV park	380, Sec. 34-62(25)b	50.00
Improper connection of utilities to an RV, camper or trailer	380, Sec. 34-62(25)e	50.00
Parking mobile home without permit	380, Sec. 34-62(25)d	100.00
Abandoned/unmaintained mobile home	380, Sec. 34-62(25)e	50.00
Refusal to sign Code Enforcement Citation	340, Sec. 42-37	50.00
Failure to have mobile home permitted or inspected	348, Sec. 46-34	100.00
Obstructing drainage	206, Sec. 50-5	50.00
Dealing in junk	279, Ch. 62, Art. III	100.00
Dumping or allowing dumping from outside city limits	377, Sec. 66-2(a)	200.00
Improper disposal of bio. hazards	377, Sec. 66-2(e)	200.00
Sanitation violations, other	377, Sec. 66-3	25.00
Commercial trash fee violation	365, Sec. 66-7	100.00

<del>Building numbering violation</del>	<del>404, Sec. 70-33</del>	50.00
<del>Occupational license violation</del>	<del>358, Ch. 74, Art. II</del>	100.00
<del>Derelict vehicle</del>	<del>382, Sec. 78-62</del>	100.00
<del>Vehicle, other</del>	<del>382, Sec. 78-63</del>	50.00
<del>Water/sewage, mandatory connection violation</del>	<del>329, Sec. 82-31 et seq.</del>	50.00
<del>Building/septic tank violation</del>	<del>209, Sec. 82-153</del>	100.00
<del>Sign violation, other</del>	<del>LDR, Art. IV</del>	100.00
<del>Sign permit violation</del>	<del>LDR, Art. IV, Sec. 4-5</del>	300.00
<del>Sign, prohibited</del>	<del>LDR, Art. IV, Sec. 4-6</del>	300.00
<del>Unsafe structure by, rental</del>	<del>Rental, Sec. II, A, 1</del>	200.00
<del>Violation of do not rent</del>	<del>Rental, Sec. II, A, 5</del>	200.00
<del>Removal of posted civil violation</del>	<del>Rental, Sec. II, F, 1</del>	100.00

**SECTION 2.** It is the intent of the City Commission that the provisions of this ordinance shall become and be made a part of the City of Springfield’s Code of Ordinances, and that the sections of this ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 3.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

**SECTION 4.** This ordinance shall take effect immediately upon passage.

**PASSED and ADOPTED** in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 5<sup>th</sup> day of December, 2022.


**City of Springfield, Florida**

  
\_\_\_\_\_  
Ralph Hammond, Mayor

ATTEST:

  
\_\_\_\_\_  
Teresa Cox, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kevin Obos, City Attorney