

ORDINANCE NO. 17-28

AN ORDINANCE OF THE COUNTY OF PINELLAS AMENDING THE PINELLAS COUNTY CODE BY AMENDING CHAPTER 2, ARTICLE VIII, RELATING TO CODE ENFORCEMENT BY SPECIAL MAGISTRATES; AMENDING SECTION 2-619, PROVIDING ADDITIONAL PERTINENT DEFINITIONS; AMENDING AND RENAMING SECTION 2-620, CODE ENFORCEMENT SPECIAL MAGISTRATES; AMENDING SECTION 2-622, PROVIDING FOR SPECIAL MAGISTRATE ADMINISTRATIVE DIVISION PROCEDURES; AMENDING SECTION 2-623, RELATING TO CONDUCT OF HEARING BY SPECIAL MAGISTRATE; AMENDING SECTION 2-625, PROVIDING FOR ADMINISTRATIVE FINES, COSTS, AND LIENS; AMENDING SECTION 2-629, PROVIDING FOR THE PROCEDURE TO REDUCE A SPECIAL MAGISTRATE FINE OR LIEN; AMENDING ALL SECTIONS FOR CLARITY, CONSISTENCY AND UNIFORMITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING OF ORDINANCE AND EFFECTIVE DATE; PROVIDING FOR THE AREA EMBRACED; AND PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE.

WHEREAS, pursuant to Section 162.02, Florida Statutes, Pinellas County has previously enacted a special magistrate program to provide for a neutral hearing officer to hear and weigh facts applied to the law, and where appropriate, impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in Pinellas County;

WHEREAS, the Board desires to clarify the roles of the Board of County Commissioners, the County Administrator, the Special Magistrate Administrative Division, the code officer or inspector, and the respondent;

WHEREAS, the Board desires to refine the requirements for applicants to serve as a special magistrate with the goal of ensuring that such applicants possess the necessary skills and experience to hear the matters that come before the special magistrate in accordance with due process and applicable law.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, that:

SECTION 1. Chapter 2, Section 619 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-619. - Definitions.

As used in this article the following terms shall be defined as follows. Where necessary or reasonably implied the singular shall include the plural.

Board shall mean the Board of County Commissioners of Pinellas County.

Code officer or inspector shall mean any authorized agent or employee of Pinellas County whose duty it is to assure code compliance.

Enforcing department shall mean any administrative department or division of Pinellas County charged by Pinellas County ordinance or administrative assignment to enforce any particular code or ordinance in force in Pinellas County.

Florida Bar shall mean the Mandatory bar association regulating the practice of lawyers admitted to practice law in the State of Florida by the Supreme Court of Florida.

Mandatory bar association shall mean any bar association or mandatory organization of a state within the United States of America which has been delegated the authority to regulate the admission of attorneys to practice in that state.

Person shall mean any real person, trust, corporation, estate, or other legal entity recognized by the laws of the State of Florida.

Repeat violation shall mean a violation of a provision of a code or ordinance by a person who has been previously found, through a code enforcement Special magistrate or any other quasi-judicial or judicial process, to have violated or who has admitted to violating the same provision within the preceding 365 days, notwithstanding the violations occur at different locations. For the purposes of this definition, a plea of "No Contest" or "Nolo Contendere" shall be deemed an admission of a violation.

Special magistrate shall mean qualified individuals under this section, appointed by the Board and delegated the authority to hear and decide alleged violations of the codes and ordinances enacted or adopted by Pinellas County which may be prosecuted pursuant to the standards and procedures set forth in this article.

Special magistrate administrative division shall mean the department or division designated by the County Administrator that is responsible for the administrative, secretarial, and clerical support to the appointed Special magistrate.

Violator shall mean the holder of legal title to parcel(s) of property where code violations are alleged by an Enforcing department.

SECTION 2. Chapter 2, Section 620 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-620. – Selection and Duties of Code enforcement Special magistrates.

- (a) *Intent.* It is the intent of this section to specify with particularity the hiring process of Special magistrates for code enforcement hearings, to specify the qualifications required to hold the position of Special magistrate, and to specify compensation, scheduling, and provisions for conflicts of interest for Special magistrates.
- (b) *Creation and appointment.* Code enforcement hearings pursuant to this article shall be conducted by appointed Special magistrates. The Board shall appoint Special magistrate candidates having authority to hold hearings, assess fines, and order mitigation for violations of the Pinellas County code. Appointed Special magistrates shall preside over code enforcement hearings on a rotating basis.
- (c) *Notice of Hiring Special Magistrate.* Upon the need to hire one or more Special magistrates, a public notice shall be published in a newspaper or publication of general circulation. Applications for the role of Special magistrate shall be submitted to the County Administrator or his or her designee. The County Administrator shall provide a list of candidates who meet all qualifications pursuant to section 2-620(d) to the Board. The County Administrator or his or her designee may rank the list of applicants based on their respective qualifications and experience, and the Board, in its discretion, may consider or disregard such ranking. The Board, in its discretion, shall appoint at least two, but no more than four, qualified Special magistrates to conduct hearings from the list of candidates provided by the County Administrator. Additionally, the Board may appoint one or more alternate Special magistrates to hold hearings in the event of a vacancy or removal of an appointed Special magistrate.
- (d) *Minimum Qualifications.* Special magistrates shall have the following minimum qualifications:
 - (1) Current member in good standing of the Florida Bar;
 - (2) Licensed by a Mandatory bar association to practice law for a minimum of five years from the date of application for consideration to serve as Special magistrate;
 - (3) No disciplinary history with the Florida Bar or any other bar association of any jurisdiction; and
 - (4) Either (a) prior experience in a judicial capacity as a judge, hearing officer, mediator, or Special magistrate, or (b) Board certification from the Florida Bar in one of the following practice areas: City County and Local Government Law, Civil Trial, Criminal Trial, or State & Federal Government and Administrative Practices.
- (e) *Insufficient Number of Applications.* In the event the County Administrator does not receive a sufficient number of applicants qualified under section 2-620(d) to fill vacancies for Special magistrates, the Board may, in its discretion, appoint attorneys who meet the following qualifications:
 - (1) Current member in good standing and licensed by another Mandatory bar association, or an inactive member of another Mandatory bar association, or an inactive member of the Florida Bar pursuant to 1-3.2(c) of the Rules Regulating the Florida Bar;
 - (2) Licensed by a Mandatory bar association to practice law for a minimum of five years from the date of application for consideration to serve as Special magistrate, or, if

currently inactive, previously having been licensed to practice law for a minimum of five years;

- (3) No disciplinary history with the Florida Bar or any other Mandatory bar association; and
 - (4) Either (a) prior experience in a judicial capacity as a judge, hearing officer, mediator, or Special magistrate, or (b) Board certification from the Florida Bar in one of the following practice areas: City County and Local Government Law, Civil Trial, Criminal Trial, or State & Federal Government and Administrative Practices, or Board certification from another Mandatory bar association similar in nature to the subject matters previously stated.
- (f) *Prior Litigation against Pinellas County.* In the event that a qualified applicant applying for the role of Special magistrate has previously been a party to litigation against Pinellas County, including representing a party against Pinellas County or the applicant being the plaintiff or defendant against Pinellas County, the Board, after reviewing the nature of the litigation, the nature of the applicant's involvement in the litigation, and the duration of time that has passed since the commencement of the litigation, may, in its discretion, disqualify an applicant.
- (g) *Term.* Special magistrates shall serve a term of three years from the date of appointment by the Board. Special magistrates may be reappointed at the discretion of the Board. There shall be no limit on the number of terms a person may serve as a Special magistrate. Despite the term for which they are appointed, all Special magistrates serve at the pleasure of the Board and are independent contractors. Special magistrates are not employees of Pinellas County.
- (h) *Removal.* At any time during a term, the County Administrator shall have the authority to remove a Special magistrate, with or without cause, upon a minimum of ten calendar days' written notice.
- (i) *Vacancy.* If any Special magistrate resigns or is removed prior to expiration of his or her term or the Board determines that the Special magistrate should not be reappointed and no appointed alternate Special magistrate exists, the Board may appoint a Special magistrate from the list of candidates previously provided by the County Administrator to fill the vacancy. If no qualified applicants remain in the previously selected list, a new hiring process shall commence pursuant to this section.
- (j) *Meetings and hearings.*
- (1) *Scheduling.* The Special magistrate administrative division shall be responsible for scheduling meetings of Special magistrates. In the case of an alleged violation as set forth in subsections 2-622(d) or 2-622(e) of this Code, a hearing may be called as soon as possible.
 - (2) *Location.* The location of the meetings shall be in Pinellas County, Florida.
 - (3) *Operating procedures.* All cases brought before Special magistrates on behalf of Pinellas County shall be presented by either a designated code enforcement officer or inspector or an attorney representing the Enforcing department.
 - (4) *Meetings open to the public.* All meetings and public hearings shall be open to the public.
- (k) *Compensation.* The compensation for Special magistrate services may be authorized as specified in the appointing Board resolution. Travel reimbursement is limited to expenses

incurred only for travel outside Pinellas County necessary to fulfill the responsibilities as a Special magistrate. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon prior approval by the Board. No other expenses shall be reimbursable except documented long distance telephone calls to Pinellas County staff to fulfill the responsibilities as a Special magistrate.

- (1) *Conflict of interest provisions.* The following conflict of interest provisions shall apply to the Special magistrates; failure on the part of a Special magistrate to comply with the provisions of this section shall constitute grounds for removal by the Board or the County Administrator:
 - (1) Upon appointment, each Special magistrate shall comply with the disclosure requirements imposed by Florida law, including, but not limited to, §§ 112.313 and 112.3145, Florida Statutes.
 - (2) Additionally, each Special magistrate shall comply with the voting requirements imposed by Florida law, including, but not limited to, §§ 286.012 and 112.3143, Florida Statutes.
 - (3) For a period of one year from the date of termination of office as a Special magistrate, such person is hereby expressly prohibited from acting as agent or attorney in any proceedings, petition or other matter before a Special magistrate.
 - (4) No person who is or may become a party to a hearing before a Special magistrate shall communicate *ex parte* with any Special magistrate concerning that violation. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such person may have a direct personal or financial interest in the property subject of the alleged violation.
 - (5) A Special magistrate shall not communicate *ex parte* on his own volition with any party, representative of a party, or interceding person concerning an alleged violation; however, the Special magistrate may consider a request regarding the scheduling or continuance of hearings when such request is made in writing.

SECTION 3. Chapter 2, Section 622 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-622. - Special magistrate administrative division procedures.

- (a) Alleged violations of any of those codes or ordinances of Pinellas County as described herein may be filed with the Special magistrate administrative division by an Enforcing department.
- (b) A first-time Violator, defined as a violator who has never previously been notified of a code violation on any of the Violator's property or properties within Pinellas County, will be given a one-time opportunity to correct the violation within a reasonable amount of time as specified by the Enforcing department. This exception will be afforded to the first-time violator only once by an Enforcing department. Future violations will be handled either as a standard violation as outlined in subsection (c) or as a Repeat violation, if appropriate, as outlined in subsection (d).
- (c) Except as set forth in subsections (d) and (e) below, if a violation of a code or ordinance is believed to exist, the Enforcing department shall specify a reasonable time to correct

the violation. Should the violation continue beyond the time specified for correction, the Special magistrate administrative division shall give notice to the alleged Violator that a code enforcement hearing will be conducted concerning the alleged violation. The notice shall state the time and place of the hearing, as well as the violation alleged to exist. If the violation is corrected and then repeated, or if the violation is not corrected by the time specified for correction by the Enforcing department, the case may be brought for hearing even if the violation has been corrected prior to hearing, and the notice of violation shall so state.

- (d) If a Repeat violation is found, the Enforcing department shall notify the Violator. The Enforcing department is not required to give the Violator reasonable time to correct the violation unless more than 365 days have passed since the Violator has previously, in a code enforcement Special magistrate hearing or other quasi-judicial or judicial process, either (1) been found to have violated the same provision on any of the Violator's properties within Pinellas County, or (2) admitted to violating the same provision in a code enforcement Special magistrate hearing. The Enforcing department, upon notifying the Violator of a Repeat violation, may request a hearing. The Special magistrate administrative division shall give notice to the alleged Violator as set forth in subsection (c) above. The case may be brought for hearing, and a fine may be imposed by the Special magistrate, even if the Repeat violation has been corrected prior to hearing, and the notice shall so state.
- (e) If the Enforcing department 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 Enforcing department shall make reasonable effort to notify the Violator and may immediately request a code enforcement hearing.
- (f) If the owner of property which is subject to a code enforcement proceeding transfers ownership of such property between the time the notice of violation was served and the time of the hearing, such owner shall:
 - (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
 - (2) Deliver to the prospective transferee a copy of the 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 Special magistrate administrative division of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.

A failure to make the disclosures described in subsections (1), (2) and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the hearing shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held. The

transferor, before the sale of the property, and the transferee, upon obtaining title, may also seek reduction in the fine assessed as outlined in Section 2-629.

SECTION 4. Chapter 2, Section 623 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-623. - Conduct of hearing by Special magistrate.

- (a) Upon request of the Enforcing department or respondent who has received notice of a violation, a hearing before the Special magistrate shall be convened. Minutes shall be kept of all code enforcement hearings by a member of the Special magistrate administrative division and all hearings shall be open to the public. The Special magistrate administrative division shall receive all requests for hearings and shall provide notice, scheduling and agendas of hearings to all parties.
- (b) Where proper notice of the hearing has been provided to the alleged Violator pursuant to section 2-628, a hearing may proceed even in the absence of the alleged Violator.
- (c) At such hearing, the burden of proof shall be upon the Enforcing department to show by a preponderance of the evidence that a violation exists, or in the case of a Repeat violation, existed on the date that the Enforcing department gave notice to the Violator of a Repeat violation pursuant to subsection 2-622(d).
- (d) All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. Upon determination of the Special magistrate, irrelevant, immaterial or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form.
- (e) The Special magistrate may inquire of or question any witness present at the hearing. The alleged Violator (hereinafter also referred to as respondent), respondent's attorney, code enforcement officers, or an attorney representing the Enforcing department shall be permitted to inquire of or question any witness present at the hearing. The Special magistrate may consider testimony presented by the Enforcing department, the respondent or any other witnesses.
- (f) At the conclusion of the hearing, the Special magistrate shall render his or her findings of facts and conclusions of law orally based on evidence entered into the record. These findings shall be reflected in a written order, copies of which shall be transmitted to the respondent and the Enforcing department within ten business days (excluding federal holidays and Pinellas County Government observed holidays) after the hearing. The order may include a notice that the order must be complied with by a specified date and that a fine and costs may be imposed and, under the circumstances set forth in subsection 2-622(e), the cost of any corrective action necessary may be included along with the fine if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of Pinellas County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns, and the findings therein shall be binding upon the Violator and any subsequent purchasers, successors

in interest, or assigns. If an order is recorded in the public records pursuant to this paragraph and the order is complied with by the date specified in the order, the Enforcing Department shall issue an Affidavit of Compliance acknowledging compliance within thirty calendar days from notification of compliance by the Violator. The Affidavit of Compliance shall be recorded in the public records of Pinellas County. A hearing is not required to issue such an Affidavit acknowledging compliance.

- (g) If, upon notification of compliance by the Violator, no Affidavit of Compliance is recorded within thirty calendar days, the Violator may request a hearing before the Special Magistrate to determine whether compliance has been achieved and seek further redress as necessary.
- (h) If Pinellas County prevails in prosecuting a case before the Special magistrate, it shall be entitled to recover all costs incurred as allowed by law and shall so state in the order. Whether and to what extent such costs are imposed shall be within the discretion of the Special magistrate but shall not exceed the actual costs incurred.

SECTION 5. Chapter 2, Section 625 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-625. - Administrative fines; costs; liens.

- (a) The Special magistrate, upon notification by the Enforcing department that a code enforcement order has not been complied with within the set time, may order the Violator to pay a fine in an amount specified in this section for each day the violation continues past the date for compliance set forth in the order, or upon notification by the Enforcing department that a Repeat violation has occurred in the case of a Repeat Violator, for each day the Repeat violation continues, beginning with the date the Repeat violation is found to have occurred by the Enforcing department. If a finding of a Repeat violation has been made, a hearing shall not be necessary for issuance of the order imposing the fine. An order imposing a fine shall be sent to the Violator with a notice that the Violator may request a hearing to challenge the fine amount within 20 days of the order. Orders imposing fines shall not be filed as liens until the latter of the expiration of such 20-day notice period, or the completion of such timely requested challenge. A challenge to an order imposing a fine shall be limited to a consideration of only such new findings necessary to impose an appropriate fine and create a lien.
- (b) In addition, if the violation is a violation described in subsection 2-622(e), the Enforcing department shall notify the Special Magistrate. The Enforcing department may immediately take all corrective actions necessary which are required to secure the property and ensure public health and safety, and charge the Violator with the reasonable costs of the corrective actions along with the fine imposed pursuant to this section. Taking such actions does not create a continuing obligation on the part of the local governing body to take further actions or to maintain the property and does not create any liability against the local governing body for damages to the property if such repairs were completed in good faith.
- (c) A fine imposed pursuant to this section shall not exceed \$1,000.00 per day for a first violation and shall not exceed \$5,000.00 per day for a Repeat violation and, in addition, may include all costs of repairs or other corrective action pursuant to subsection (a) of this section. If, after due notice and hearing, the Special magistrate finds a violation to be irreparable or irreversible in nature, the Special magistrate may impose a fine not to exceed \$15,000.00 per violation or

as otherwise authorized by Florida State Statute. In determining the amount of fine, if any, the Special magistrate shall consider the following factors:

- (1) The gravity of the violation;
 - (2) Any actions taken by the Violator to correct the violation; and
 - (3) Any previous violations committed by the Violator.
- (d) The Special magistrate may, in its discretion, adopt a consent order proposed by the Enforcing department setting forth agreed terms for payment of any fine in lieu of execution or foreclosure as set forth in subsection (e), below.
- (e) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records in the Office of the Clerk of the Circuit Court in and for Pinellas County, Florida. Once recorded the certified copy of an order shall constitute a lien against the land on which the violation(s) exists and upon any other real or personal property owned by the violator in Pinellas County, and it shall be enforceable 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 or until judgment is rendered in a suit to foreclose on a lien, filed pursuant to this section, whichever comes first. Once recorded the lien shall be superior to any mortgages, liens, or other instruments recorded subsequent to the filing of the code enforcement lien.
- (f) After three months from the filing of any such lien which remains unpaid, the county may foreclose the lien in the same manner as mortgage liens are foreclosed. Such lien shall bear interest at the rate allowable by law from the date of compliance set forth in the recorded order acknowledging compliance. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. No lien created pursuant to the provisions of this ordinance may be foreclosed on real property that is a homestead under Article X, Section 4, of the Florida Constitution.

SECTION 6. Chapter 2, Section 629 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-629. - Procedure to request that a fine or lien imposed pursuant to section 2-625 be reduced; conditions and criteria therefor.

- (a) The legal owner of property against which a fine or lien has been imposed pursuant to section 2-625, whether it be the Violator or a subsequent purchaser of the property, or an Enforcing department, may seek a satisfaction of such fine or lien with less than full payment thereof.
- (b) No such motion shall be granted by the Special magistrate unless:
 - (1) All ad valorem property taxes, Special assessments, county utility charges and other government-imposed liens against the subject real property have been paid; and
 - (2) All county code violations as related to the order rendered by the Special magistrate at the initial violation hearing have been corrected under necessary permits issued therefor.

- (c) The legal owner or Enforcing department may seek such satisfaction:
 - (1) Upon motion to the Special magistrate as prescribed by subsection (c); or
 - (2) Upon joint motion between the Enforcing department and the legal owner as prescribed by subsection (d).
- (d) Reduction upon Motion.
 - (1) Either party may move for a reduction in fine or lien as ordered from an initial violation hearing. Said motion shall be filed with the Special magistrate administrative division, a copy of which shall be furnished by the movant to the other party.
 - (2) A hearing shall be convened by the Special magistrate administrative division before the Special magistrate, with Notice pursuant to section 2-628 being transmitted to both the legal owner and the Enforcing department. All procedures as outlined in section 2-623 shall apply to a hearing for reduction in fine or lien.
 - (3) At the hearing, the movant shall have the opportunity to advise the Special magistrate of the mitigating factors as basis for reduction.
 - (4) The Enforcing department shall appear at said hearing and advise the Special magistrate as to whether compliance has been achieved at the subject property as related to the order rendered by the Special magistrate at the initial violation hearing, and in addition shall advise as to whether all ad valorem property taxes, Special assessments, county utility charges and other government-imposed liens against the subject real property have been paid, and whether the legal owner is personally indebted to the county for any reason.
 - (5) At the conclusion of the hearing, the Special magistrate shall render his or her findings of facts and conclusions of law orally based on evidence entered into the record. These findings shall be reflected in a written order, copies of which shall be transmitted to the respondent and the Enforcing department by the Special magistrate administrative division within ten business days (excluding federal holidays and Pinellas County Government observed holidays) after the hearing.
 - (6) The Special magistrate may, in addition to granting or denying the request for reduction in fines and liens, also assess his or her costs for the hearing in the order, to be paid by the moving party.
- (e) Reduction upon joint motion.
 - (1) If an agreement for reduction in a fine has been reached between an Enforcing department and a legal owner of the subject property, a joint motion signed by representatives for both parties may be filed with the Special magistrate administrative division, along with a proposed order outlining the terms of reduction and/or vacating any fines or liens, as applicable.
 - (2) The Enforcing department shall determine whether compliance have been achieved as related to the order rendered by the Special magistrate at the initial violation hearing, determine whether all ad valorem property taxes, Special assessments, county utility charges and other government-imposed liens against the subject real property have

been paid, and whether the legal owner is personally indebted to the county for any reason.

(3) Upon receipt of the joint motion and proposed order, the Special Magistrate shall:

- i. Execute the order; or
- ii. Reject the order if legally invalid.

(f) If the subject property for which a fine reduction is being considered is owned by a government or quasi-government entity, the Special magistrate may reduce such fine even if the violation has not been corrected.

SECTION 7. The remaining sections of Chapter 2, Article VIII, are amended to read as follows:

Sec. 2-618. - Intent of article.

It is the intent of this article to promote, protect and improve the health, safety and welfare of the citizens of the county by authorizing the appointment of one or more Special magistrates with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in Pinellas County, where a pending or Repeat violation continues to exist.

Sec. 2-621. - Jurisdiction of Special magistrates.

Special magistrates shall have the jurisdiction and authority to hear and decide alleged violations of the codes and ordinances enacted or adopted by Pinellas County which may be prosecuted pursuant to the standards and procedures set forth in this article.

Sec. 2-624. - Special magistrate powers and duties.

Special magistrates shall have the following powers and duties to:

- (a) Hold hearings pursuant to section 2-623.
- (b) Subpoena alleged Violators and witnesses to its hearings. Subpoenas may be served by a sheriff or other authorized persons consistent with Rule 1.410(d) Florida Rules of Civil Procedure, upon request, by the Special magistrate.
- (c) Subpoena records, surveys, plats and other documentary materials.
- (d) Take testimony under oath.
- (e) Make findings of fact and conclusions of law as are necessary to enforce the provisions of the Pinellas County Code and Land Development Code and issue orders having the full force and effect of law to command whatever steps are necessary to bring a violation into compliance.
- (f) Assess fines pursuant to section 2-625 of this article, including costs relating to the prosecution of cases before the Special magistrate in those cases where the governing body prevails.
- (g) Lien property and assess costs pursuant to section 2-625 of this article.

(h) Assess costs pursuant to section 2-623 of this article.

Sec. 2-626. - Other legal remedies.

In addition to the administrative penalties and enforcement procedures provided in this article, the Board may institute any lawful civil action or proceeding to prevent, restrain, or abate violations of codes or ordinances or through its agents issue cease and desist orders. An Enforcing department shall have the authority to issue cease and desist orders in the form of written official notices given to the owner of the subject building, property, or premises, or to his agent, lessee, tenant, contractor, or to any person using the land, building or premises where such violation has been committed or shall exist. Any failure to comply with a cease and desist order issued by an Enforcing department shall be regarded, during any penalty setting phase, as an exaggerating circumstance by the Special magistrate should any process relative to section 2-625 result from the violation that is the subject of the cease and desist order.

Sec. 2-627. - Appeal.

Any aggrieved party, including Pinellas County, may appeal an order of the Special magistrate to a court of competent jurisdiction within 30 calendar days of the execution of the order to be appealed. The county may assess a reasonable charge for the preparation of the record to be paid by the petitioner in accordance with F.S. § 119.07.

Sec. 2-628. - Notices.

(a) All notices required by this article shall be provided to the alleged 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 tax collector's office for tax notices, and at any other address provided to Pinellas County government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described below in subsections (b)(1)(a) and (b)(2)(a) and by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing;
- (2) Hand delivery by the sheriff or other law enforcement officer, Code officer or inspector, or other person designated by the Board;
- (3) Leaving the notice at the Violator's usual place of residence with any person residing therein who is above 15 years of age and informing 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 Special magistrate administrative division, notice may also be served by publication or posting, as follows:

- (1) (a) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Pinellas County. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50, for legal and official advertisements.

- (b) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
- (2) (a) In lieu of publication as described in subsection a., such notice may be posted at least ten calendar 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 at the front door of the Pinellas County Courthouse.
- (b) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
- (c) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (1).


Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), 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.

SECTION 8. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 9. Area Embraced. This article shall be in effect in the unincorporated areas of Pinellas County.

SECTION 10. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 11. Filing of Ordinance; Effective Date. Pursuant to § 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing with the Department of State.

APPROVED AS TO FORM
By: 
Office of the County Attorney