

ORDINANCE 19-_____

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE AMENDED BY REVISING SECTION. 2-625 RELATING TO ADMINISTRATIVE FINES, COSTS AND LIENS BY PROVIDING CLARIFICATION AS TO FORECLOSURE AND AUTHORIZING THE INITIATION OF FORECLOSURE AND INJUNCTION ACTIONS IN CERTAIN LIMITED CIRCUMSTANCES; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR SEVERABILITY; PROVIDING FOR REMOVAL FROM THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, Chapter 162, sets forth the framework for seeking foreclosure for non-compliance with Code Enforcement liens; and

WHEREAS, Pinellas County is a densely populated county and continuing Code violations on one property can have negative consequences on neighboring properties and communities; and

WHEREAS, a delegation to the County Attorney of a limited authority to initiate litigation to foreclose on a liens and/or seek injunctions on properties previously found to be non-compliant through a quasi-judicial hearing before the Special Magistrate pursuant to Chapter 2 of this Code will reduce delay in achieving compliance; and

WHEREAS, certain properties when allowed to remain in a state of violation fall into further states of disrepair that threaten the health, safety, welfare, and quiet enjoyment of the communities in which they are located; and

WHEREAS, the necessary approval of the Board of County Commissioners required by Sections 1-8 and 134-9 of the Pinellas County Code and Pinellas County Land Development Code, respectively, are hereby delegated to the County Attorney as set forth herein.

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

Section 1. Section 2-625 of the Pinellas County Code is hereby amended 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, with authorization from the Special Magistrate, foreclose the lien. 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 article may be foreclosed on real property that is a homestead under Article X, Section 4, of the Florida Constitution.
- (g) At the request of the County Administrator, the County Attorney is authorized, subject to the Attorney's professional discretion: (1) to file foreclosure actions authorized by the Special Magistrate, pursuant to subsection (f) of this Section, within the applicable statute of limitations, and/or (2) to initiate injunction proceedings seeking code compliance on properties that remain in non-compliance after three months. The County Attorney will report any such initiation of litigation pursuant to this delegation to the Board, in arrears, at least quarterly. This provision is intended to supplement Sections 1-8 and 134-8, of the Code and authorize the commencement of litigation without further delay, but is not intended to limit the County's enforcement actions initiated pursuant to either of those provisions.

Section 2. Filing of Ordinance: Effective Date

- (a) Pursuant to Section 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 of the ordinance with the Department of State.

Section 3. Severability

If any Section, Subsection, sentence, clause, phrase or provision of this Ordinance is for any reason 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 4. Inclusion in Code.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.