

CODE ENFORCEMENT POLICY AND PROCEDURES

Enforcement procedure.

- (1) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes.
- (2) The code inspector may not initiate enforcement proceedings for a potential violation of the codes by way of an anonymous complaint. A person who reports a potential violation of a code must provide his or her name and address to the County's Compliance Division before an enforcement proceeding may occur. This paragraph does not apply if the code inspector has reason to believe that the violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.
- (3) Except as provided in subsections (4) and (5) of this Enforcement Procedure section, if a violation of the codes is found, the code inspector shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the Compliance Division at either 850-653-5337 or 850-653-9783 and request a hearing. The County Compliance Division, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided below in the Notices section to the violator. Notice may additionally be served by publication or posting as provided in the Notices section. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the special magistrate even if the violation has been corrected prior to the code enforcement hearing, and the notice shall so state.
- (4) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the Compliance Division at either 850-653-5337 or 850-653-9783 and request a hearing. The County Compliance Division shall schedule a hearing and written notice of such hearing shall be hand delivered or mailed as provided in the Notices section to the violator. The case may be presented to the special magistrate even if the repeat violation has been corrected prior to the code enforcement hearing, and the notice shall so state.
- (5) If the code inspector 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 inspector shall make a reasonable effort to notify the violator and may immediately notify the County Compliance Division at 850-653-9783 or 850-653-5337 and request a hearing.
- (e) The burden is on the County to show, by preponderance of the evidence, that a violation has occurred.

Hearing procedure.

- (a) Following a request from the Code Enforcement Officer, the County Compliance Division may schedule a hearing before the special magistrate. The special magistrate may, at any hearing, set a future hearing date.
- (b) Minutes shall be kept of all hearings held by the special magistrate and all such hearings shall be open to the public.
- (d) The County Coordinator shall provide clerical and administrative personnel as may be required to assist the special magistrate in the proper performance of its duties.
- (e) Each case before the special magistrate shall be presented by a representative of the county.
- (f) The County Attorney shall represent the County at the hearing.

- (g) Cases scheduled for a particular day shall be heard. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from the code inspector, the alleged violator and any other person familiar with the case or having knowledge about the case. The special magistrate shall not be bound by any formal rules of evidence; however, it shall act to ensure fundamental due process in each case brought before him or her.
- (h) At the conclusion of the hearing, the special magistrate 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 herein. 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 such date. A certified copy of such order may be recorded in the public records of the county 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 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.
- (i) Any case may be continued by the special magistrate for good cause shown. If the special magistrate's consideration of a case has already been publicly noticed, the County Attorney may grant a continuance prior to the meeting at which a case is to be heard, provided that the request is unopposed by all parties. The continuance shall be announced during the publicly noticed hearing.

Administrative fines; liens.

- (a) The special magistrate, upon notification by the code inspector that it's order 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 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 part, a hearing shall not be necessary for issuance of the order imposing the fine.
- (b) The special magistrate, through the administrative assistance of the County Coordinator, shall provide by certified mail the findings of fact and conclusions of law to the property owner with a notice that the property owner may request a hearing challenging the fine amount within 20 days from the date of the findings of fact and conclusions of law. The findings of fact and conclusions of law shall be recorded after 20 days unless the property owner files a timely request for hearing. If such a hearing is requested, the hearing shall be limited to a consideration of only those new findings necessary to impose an appropriate fine.
- (c) A fine 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. If the special magistrate finds the violation to be irreparable or irreversible in nature, it may impose a one-time fine not to exceed \$5,000.00 per violation. In determining the amount of the 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.
 - (3) Any previous violations committed by the violator.
- (d) The special magistrate may reduce a fine imposed pursuant to this section upon request after the violation has been corrected.
- (e) A certified copy of an order imposing a fine shall 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 the state, including levy against the personal property, 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 occurs first. After three months from the filing of any such lien which remains unpaid, the special magistrate may authorize the County Attorney to foreclose on the lien. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Fla. Const. art. X, § 4. A lien arising from a fine imposed pursuant to this section runs in favor of the county, and the county may execute a satisfaction or release of lien entered pursuant to this section.

Appeals.

An aggrieved party, including the county, may appeal a final administrative order of the special magistrate to the circuit court. An appeal shall be filed within 30 days of the execution of the order to be appealed.

Notices.

- (a) All notices required by this article shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff, code inspector or other person designated by the Board of County Commissioners; by 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, in the case of commercial premises, leaving the notice with the manager or other person in charge.
- (b) If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subsection (d) of this section.
- (c) In addition to providing notice as set forth in subsection (a) of this section, at the option of the special magistrate, notice may also be served by publication as follows:
 - (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 501 for legal and official advertisements.
 - (2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
- (d) In lieu of publication as described in subsection (c) of this section, 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, at the property upon which the violation is alleged to exist and at the front door of the courthouse or the main county governmental center.
- (e) 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 provided in subsections (c) and (d) of this section, 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. Notice by publication or posting may run concurrently with, or may follow, an attempt to provide notice by hand delivery or by mail as required under subsection (a) of this section.

Applicability

- (a) A special magistrate shall have the same status as an enforcement board under Ch. 162, Fla. Stat.
- (b) In the event of conflict between these policies and procedures and Ch. 162, Fla. Stat., then Ch. 162 shall govern.