

Sec. 2-62. Hearings generally; support services.

(a) Minutes shall be maintained of all hearings held by the special magistrate and code enforcement board, and all hearings shall be open to the public.

(b) The city commission shall provide such clerical and administrative support as may be reasonably required by the special magistrate and code enforcement board for the proper performance of its duties.

(Code 1988, § 2-62(b), (c); Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. § 162.07(1).

Sec. 2-63. Duties of code inspector and city attorney.

(a) The code inspector shall attend the hearings of the code enforcement board and shall assist the board in the conduct of its hearings. The code inspector shall attend the hearings of the special magistrate if there is code enforcement violation before the special magistrate.

(b) The city attorney shall either serve as counsel to the board or shall represent the city by presenting cases before the board, but in no case shall the city attorney serve in both capacities.

(Code 1988, § 2-63; Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. § 162.05(5).

Sec. 2-64. Jurisdiction.

The special magistrate and code enforcement board shall have jurisdiction and authority to hear and decide alleged violations of this Code and city ordinances, where a pending or repeated violation continues to exist, including but not limited to occupational licenses and fire, building, zoning and sign codes.

(Code 1988, § 2-64; Ord. No. 25-08, § 2, 2-13-25)

State law reference—Jurisdiction, F.S. § 162.02.

Sec. 2-65. Enforcement procedure.

(a) It shall be the duty of the code inspector to initiate enforcement proceedings of the applicable city codes and ordinances. The code inspector will determine whether to initiate a code enforce-

ment case with the special magistrate or the code enforcement board presiding. No member of the code enforcement board nor the special magistrate shall have the power to initiate such enforcement proceedings.

(b) Except as provided in subsections (c) and (d) of this section, if a violation of the codes or ordinances is found, the code inspector shall first notify the violator and give the alleged violator a reasonable time to correct the violation. If the violation continues beyond the time specified for correction, the code inspector shall notify the code enforcement board or special magistrate and request a hearing pursuant to the procedure set forth in section 2-66. Written notice of such hearing shall be hand delivered or mailed to the violator and owner of the property on which the code inspector shall then issue an affidavit of compliance or noncompliance which shall be filed with the board or special magistrate. A copy of the affidavit shall be sent to the violator in the same manner provided for notices in section 2-71.

(c) If a repeat violation is found, the code inspector shall notify the violator and owner, but is not required to give the violator or owner a reasonable time to correct the violation. The code inspector, upon notifying the violator and owner of a repeat violation, shall notify the code enforcement board or special magistrate and request a hearing. The code enforcement board or special magistrate, through its clerical staff, shall schedule a hearing and shall provide notice of the hearing pursuant to section 2-71. The case may be presented to the code enforcement board or special magistrate even if the repeat violation has been corrected prior to the board's or special magistrate's hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement board or special magistrate retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his rights to this hearing and pay the costs as determined by the code enforcement board or special magistrate.

(d) 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 property owner and may immediately notify the code enforcement board or special magistrate and request a hearing.

(Code 1988, § 2-65; Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. § 162.06.

Sec. 2-66. Conduct of hearing.

(a) Upon request of the code inspector or at such times as may be necessary, the chair of the code enforcement board may call hearings of the code enforcement board and the special magistrate may call hearings of the special magistrate. Hearings may also be called by written notice signed by at least three members of the code enforcement board. The board or special magistrate, at any hearing, may set a future hearing date. Upon scheduling a hearing, the board or special magistrate shall cause notice thereof to be furnished to the alleged violator and property owner by certified mail, return receipt requested, or by personal service by the code inspector. The notice shall contain the date, time and place of the hearing and shall state the nature of the violation in reference to the appropriate code or ordinance.

(b) At the hearing, the burden of proof shall be upon the code inspector to show by a preponderance of the evidence that a violation does exist.

(c) Assuming proper notice of the hearing has been provided to the alleged violator and owner as provided in subsection (a) of this section, a hearing may proceed in the absence of either or both the alleged violator and the property owner.

(d) All testimony shall be under oath and shall be recorded. The special magistrate or code enforcement board shall take testimony from the code inspector and the alleged violator and from other such witnesses as may be called by the respective sides. The property owner may also present testimony at the hearing, if the owner so desires.

(e) Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(f) Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable 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 the state.

(g) Any member of the board or the special magistrate, the city attorney, the alleged violator and his attorney or other representative of the violator, the property owner and his attorney or other representative of the property owner, and the code inspector shall be permitted to inquire of any witness before the board or special magistrate. Parties shall have the right to present rebuttal evidence.

(h) At the conclusion of the hearing, the special magistrate or code enforcement board 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 the powers granted in this article. The findings shall be made by motion approved by either the special magistrate or by a majority of those board members present and voting, except at least four members of the code enforcement board must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under conditions specified in subsection 2-69(a), the cost of any repairs may be included along with the fine if the order is not complied with by that date. The order shall be reduced to writing and mailed to the alleged violator and property owner within ten days after the hearing.

(i) 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 code enforcement board or 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.

(j) The record shall be subject to review and shall be presented to the court on appeal.

(Code 1988, § 2-66; Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. § 162.07.

Sec. 2-67. Powers.

The special magistrate or code enforcement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings, which subpoena may be served by the police department.
- (3) Subpoena evidence.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.
- (6) Establish and levy fines pursuant to section 2-69.

(Code 1988, § 2-67; Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. § 162.08.

Sec. 2-68. Enforcement of orders.

(a) After an order to correct a violation has been issued and the date for compliance ordered by the code enforcement board or special magistrate has passed, the code inspector shall make an inspection to determine if the alleged violation has been corrected.

(b) The code inspector shall then issue an affidavit of compliance or noncompliance which shall be filed with the special magistrate or board. A copy of the affidavit shall be sent to the violator in the same manner provided for notices in section 2-71.

(c) If the violator has not complied with the order of the special magistrate or board, the special magistrate or board shall be authorized to impose such penalties as provided in section 2-69.

(d) If the special magistrate or board may hold such additional hearings as necessary to ensure compliance.

(Code 1988, § 2-68; Ord. No. 25-08, § 2, 2-13-25)

Sec. 2-69. Administrative fines; lien.

(a) The special magistrate or code enforcement board, upon notification by the code inspector that a previous order of the special magistrate or board has not been complied with by the set time, or, upon finding that the same violation has been repeated by the same violator, may order the violator to pay a fine as specified in subsection (b) of this section if the violation continues past the date set for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in subsection 2-65(d), the special magistrate or code enforcement board shall notify the city commission, which may make all reasonable repairs that are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. If a finding of a violation or a repeat violation has been made as provided in this article, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the special magistrate or code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b) of this section.

(b) 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 and, in addition, may include all costs of repairs pursuant to subsection (a) of this section. However, if the code enforcement board finds the violation to be

irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.

(c) In determining the amount of the fine, if any, the code enforcement board 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 or code enforcement board may reduce a fine imposed pursuant to this section.

(e) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including 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 filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city commission, and the city commission may execute a satisfaction or release of lien entered pursuant to this section.

(f) After three months from the filing of any such lien, which remains unpaid, the special magistrate or code enforcement board may authorize the city attorney to foreclose or to sue to recover a money judgement for the amount of the lien plus accrued interest. No lien created pursuant to this section may be foreclosed on real property which is a homestead under Article X, § 4, of the State Constitution. The money judgement provision of this section shall not apply to real property or personal property which is covered under Article X, § 4, of the State Constitution.

(g) No lien filed pursuant to this section shall continue for a period longer than 20 years after the certified copy of any order imposing a fine has been recorded, unless within that time an action is commenced pursuant to F.S. § 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien, or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in the action. The city commission shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice unless a notice of lis pendens is recorded.

(h) Actions for money judgments under F.S. ch. 162, may be pursued only on fines levied after October 1, 2000.

(Code 1988, § 2-69; Ord. No. 00-51, §§ I—IV, 10-26-00; Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. §§ 162.09, 162.10.

Sec. 2-70. Appeal.

(a) An aggrieved party, including the city commission, may appeal a final administrative order of the special magistrate or code enforcement board to the circuit court of the county by a petition for certiorari. Any such appeal shall be filed within 30 days of the execution of the order to be appealed.

(b) The scope of the review shall be limited to appellate review of the record created before the special magistrate or code enforcement board and shall not be a trial de novo.

(Code 1988, § 2-70(a), (b); Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. § 162.11.

Sec. 2-71. Notices.

(a) All notices required by this division shall be provided to the alleged violator and owner of the property on which the alleged violation has occurred by certified mail, return receipt requested; by hand delivery by the code inspector, law enforcement officer or other person

designated by the city commission; or by leaving the notice or a copy thereof at the violator's and owner'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.

(b) In addition to providing notice as set forth in subsection (a) of this section, at the option of the code enforcement board, notice may also be served by publication or posting, 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 where the the special magistrate or 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 provided in F.S. §§ 50.041 and 50.051.
- (2) In lieu of publication as described in subsection (b)(1) of this section, such notice may be posted for at least ten days 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 city hall. 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.
- (3) 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.

(c) 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 subsection (b) of this section, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator and property owner actually received such notice.

(Code 1988, § 2-71; Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. § 162.12.

Sec. 2-72. Repeat violations.

Under this division, repeat violation means any violation of a provision of this Code by any person whom the special magistrate or code enforcement board has previously found to have violated the same provision within five years prior to the violation.

(Code 1988, § 2-72; Ord. No. 25-08, § 2, 2-13-25)

State law reference—Similar provisions, F.S. § 162.03(5).

Sec. 2-73. Nonexclusivity.

This division is not the exclusive basis for enforcement of violation of this Code and the city's ordinances. All other procedures, provisions, ordinances and laws relating to the violation or enforcement of this Code and the city's ordinances are and shall be available to the city, its commission, boards and authorized officers and employees.

(Code 1988, § 2-73)

Secs. 2-74—2-80. Reserved.

DIVISION 3. CODE ENFORCEMENT CITATION PROGRAM*

Sec. 2-81. Codes and ordinances enforced.

All codes and ordinances of the city may be enforced by citation to the County Court of Orange County, Florida, except as prohibited by law. The provisions of this division are an additional and supplemental means of enforcing city codes and ordinances and may be used for the enforcement of any code or ordinance, or for the enforcement of all codes and ordinances. Nothing contained in this division shall prohibit the city from enforcing its codes and ordinances by any other means.

Sec. 2-82. Applicable codes and ordinances.

A schedule of codes and ordinances, which may be enforced pursuant to the supplemental

***Editor's note**—Ord. No. 01-05, adopted Jan. 11, 2001, set out provisions pertaining to the code enforcement citation program. To maintain the numeric sequencing of this Code, said ordinance provisions have been included as §§ 2-81—2-92 at the discretion of the editor to read as herein set out. See the Code Comparative Table.

code enforcement citation procedures contained herein, is attached to Ordinance No. 01-05 as Exhibit "A. The schedule of codes and ordinances shall include such codes and ordinances as they may be from time to time amended, renumbered, codified or recodified including codes and ordinances enacted subsequent to the adoption of this article. The schedule of codes and ordinances set forth in Exhibit "A" endeavors to include the civil infractions of city codes and ordinances to be enforced by citation, but is not all-inclusive. All violations of city codes and ordinances, except as prohibited by law, includ-

ing violations of codes and ordinances subsequently enacted may be enforced by citation without further amendment to this article. All violations of codes and ordinances not listed in Exhibit "A" shall be penalized as Class I violations unless the applicable section of such code or ordinance lists a specific civil penalty in which case the specifically listed civil penalty shall control. Violations of Chapter 74 of the Code of Ordinances, "Traffic and Vehicles", shall continue to be penalized according to the civil penalties listed in Chapter 74 as they may now exist or be from time to time amended.

EXHIBIT A
CODE ENFORCEMENT CITATION PROGRAM
SCHEDULE OF CODES AND ORDINANCES AND CLASSIFICATIONS OF VIOLATIONS

<i>Paragraph</i>	<i>Short Title</i>	<i>Assigned Class</i>
Chapter 6	Alcoholic Beverages	
Sec. 6-4(a)—(e)	Violation of time for selling alcoholic beverages	2
Sec. 6-5	Possession, consumption in public	1
Chapter 10	Amusements and Entertainment	
Sec. 10-242	Failure to obtain permit for entertainment festival	2
Chapter 14	Animals	
Article I, II, III	Violation of animal control ordinance	See Orange County Code
Chapter 18	Buildings and Building Regulations	
Sec. 18-91; Sec. 18-91.5	Failure to obtain a required building permit when the valuation of the improvement is less than \$5,000.00	3
Sec. 18-91; Sec. 18-91.5	Failure to obtain a required building permit when the valuation of the improvement is \$5,000.00 or greater	4
Sec. 18-121	Occupying a residential building without a CO	3
Sec. 18-121	Occupying a nonresidential building without a CO	5
Sec. 18-357	Failure to display assigned street numbers—Residential	1
Sec. 18-357	Failure to display assigned street numbers—Non-Residential	2
Chapter 22	Businesses	
Sec. 22-27(1)—(4)	Failure to comply with solicitation laws	1
Sec. 22-28	Failure to obtain open-air vendor permit	3
Sec. 22-32	Failure to comply with permitting requirements	1
Sec. 22-61	Failure to obtain roll-off container service permit	3

<i>Paragraph</i>	<i>Short Title</i>	<i>Assigned Class</i>
Sec. 22-99	Failure to obtain or comply with terms of motion photography production permit	4
Article V	Failure to comply with residential garage sale laws	1
Chapter 26	Cemeteries	
Sec. 26-35(a)–(o)	Violation of rules of conduct in cemetery	1
Sec. 26-36(a)–(e)	Violation of motor vehicle operating rules in cemetery	1
Sec. 26-43(a)–(f)	Failure to comply with rules for trees, shrubs, and flowers in cemetery	1
Chapter 30	Civil Emergencies	
Sec. 30-29	Violation of automatic emergency measures	4
Sec. 30-30	Violation of discretionary emergency measures	3
Chapter 34	Emergency Services	
Sec. 34-52(c)(5)	False alarms, 5th response within 6 months	3
Chapter 38	Environment	
Sec. 38-56(a)	Excessive accumulation or unintended growth of weeds, undergrowth or other dead or living plant life or stagnant water, rubbish, debris, trash and all other objectionable, unsightly or unsanitary matter	2
Sec. 38-56(b)	Condition of a general nuisance nature and menace to the public health, safety and welfare or any condition creating a circumstance whereby the property or the safety of persons traveling upon the streets, road rights-of-way or sidewalks	3
Sec. 38-57	Improper storing of rubbish	2
Sec. 38-58	Unauthorized accumulation of rubbish	2
Sec. 38-59	Actions to allow scattering of refuse	3
Sec. 38-60	Failure to keep premises clean	2
Sec. 38-61	Discharging foul water or depositing decaying matter	2
Sec. 38-62	Allowing mosquito breeding places to exist	2
Sec. 38-121, 38-122	Littering	1
Sec. 38-155	Violation of Noise Code	2
Sec. 38-166	Failure to obtain permit for sound amplifier	1
Chapter 50	Offenses and Miscellaneous Provisions	
Sec. 50-31, 50-32, 50-33	Violation of Picketing Code	2
Sec. 50-62(a)	Violation of Fireworks Code	2
Sec. 50-92	Panhandling	2
Sec. 50-121	Disorderly conduct	1
Sec. 50-151	Engaging in prohibited acts in public areas	1

<i>Paragraph</i>	<i>Short Title</i>	<i>Assigned Class</i>
Chapter 58	Solid Waste	
Sec. 58-3(g)	Failure to provide proper refuse containers at construction site	2
Sec. 58-5(1)	Improper placement of debris on property	1
Sec. 58-5(3)	Placing or allowing placement of rubbish or debris into street, alley, or drainage system	1
Sec. 58-5(4)	Failure to remove existing accumulation of refuse or rubbish	3
Sec. 58-8(b), (c)	Improper placement of tree trunks, limbs, and other debris	1
Chapter 62	Streets and Sidewalks	
Sec. 62-62	Planting of trees, shrubs, or bushes on city rights-of-way without prior consent of city commission	1
Sec. 62-64	Creating or allowing a traffic hazard of a plant, bush shrub or tree on private property after 30 days of notification	2
Sec. 62-132	Failure to obtain permit for construction	4
Article VII	Failure to obtain permit; failure to comply with sidewalk cafes and merchandise display requirements and law	3
Chapter 66	Taxation	
Sec. 66-93(b)	Operating without an occupational license	4