

Chapter 2

ADMINISTRATION

ARTICLE I -- In General

- Section 2.1 Applications for permits generally; deposit of cost of notice
Section 2.2 - 2.16 Reserved

ARTICLE II -- Boards, Committees and Commissions

DIVISION 1 -- GENERALLY

- Section 2.17 - 2.32 Reserved

DIVISION 2 -- Trees and Gardens Board

- Section 2.33 Created
Section 2.34 Membership
Section 2.35 Meetings and Process
Section 2.36 Purpose
Section 2.37 – 2.52 Reserved

ARTICLE III -- Finance

- Section 2.53 Assessment for police training
Section 2.54 Funds to be used for training

ARTICLE IV -- Enforcement of Codes and Ordinances

- Section 2.55 Notice
Section 2.56 Authority and purpose
Section 2.57 Definitions
Section 2.58 Authority to issue citations
Section 2.59 Ordinances enforced; penalties assessed
Section 2.60 Violations procedure
Section 2-60.1. Effective date
Section 2-61. Separability
Section 2.62 Definitions
Section 2.63 Intent of article
Section 2.64 Jurisdiction
Section 2.65 Memberships, organization and meetings
Section 2.66 Enforcement procedure
Section 2.67 Conduct of hearings
Section 2.68 Powers
Section 2.69 Fines

Section 2.70 Appeals; other enforcement methods
Section 2.71 Notices

Cross references: *Animals*, Chapter 4; *Boats, Beaches and Waterways*, Chapter 5; *Buildings and Building Regulations*, Chapter 6; *Garbage and Refuse*, Chapter. 9; *Housing*, Ch. 11; *Licenses and Business Regulations*, Chapter 12; *Noises*, Chapter 13; *Planning and Development*, Chapter 15; *Taxation*, Chapter 17; *Utilities*, Chapter 19.

State law reference: *Municipal Home Rule Powers Act*, F.S. Chapter 166.

ARTICLE I -- In General

Section 2.1 Applications for permits generally; deposit of cost of notice

Whenever any application is made to the City for the granting of a permit of any kind, whereby it is necessary to publish newspaper notice or to notice property owners or others by mail, the person making application shall pay the cost and expense of giving such notice. The proof of such payment shall be delivered to the City.

(Code 1958, § 1-9)

Cross references: *Advertising and Signs*, Chapter 3; *Buildings and Building Regulations*, Chapter 6; *Flood Prevention and Protection*, Chapter 8; *Housing*, Chapter 11; *Streets, Sidewalks and Other Public Places*, Chapter 16; *Permit Required for Wells*, Section 19.138.

Section 2.2–2.16 Reserved

ARTICLE II. Boards, Committees and Commissions

DIVISION 1 -- GENERALLY

Section 2-17–2.32 Reserved

DIVISION 2 -- TREES AND GARDEN BOARD

Section 2.33 Created

A City Trees and Gardens Board is hereby created. (Ordinance 0902; 06-11-08)

Section 2.34 Membership

The Trees and Gardens Board shall consist of not more than five [5] and not less than three [3] members who shall be appointed by the City Commission. The City Commission shall designate one of the members of the board to serve as the chairman thereof. Each member of the board shall be appointed for a term of three [3] years and the term of each member shall expire on the first Monday in December of the third year of the term served. Vacancies on the board shall be filled by the City Commission for the unexpired term of the member whose vacancy is being filled. All members of the board shall be residents of Crescent City Florida.

(Ordinance of 8-8-68, Section 2; Ordinance 0902, 06-11-09)

Cross references: *Local Planning Agency*, Section 15-18; *Historical Preservation Board*, Section 15. 116; *Tree Board*, Section 18.5.2 *et seq.*

State law reference: *Suspension of Municipal Board Members from Office*, F.S. § 112.501.

Cross reference: *Protection of Trees on Public Property*, Chapter 18.5.

Section 2.35 Meetings and process

Meetings of the Trees and Gardens Board shall be held on a monthly basis at a regularly scheduled day of the month. Notice of the meetings shall be posted at City Hall at least five [5] business days prior to the meeting and shall be open to the public.

(Ordinance of 8-8-68, Section 3; Ordinance 0902, 06-11-08)

Section 2.36 Purpose

The Trees and Gardens Board shall study, investigate, develop and recommend to the City Commission plans for improving the beautification and cleanliness of the City. They shall encourage, advise and recommend programs for the planting and preservation of trees, shrubs, plants, flowers, fruits, vegetables and other approved plant species in the City to provide ornamentation, sustenance, habitat and improved quality of life of the residents of Crescent City. They shall advise and recommend plans to organizations and groups in the city for the beautification of the city, and promote public interest in the general improvement of the appearance of the city. They shall enforce the tree ordinance outlined in Chapter 18.5 of this Code.

(Ordinance of 8-8-48, Section 4; Ordinance 0902, 06-11-08)

Cross references: *Advertising and signs*, Chapter 3; *Buildings and building regulations*, Chapter 6; *Housing*, Chapter 11; *Streets, sidewalks and other public places*, Chapter 16; *Traffic*, Chapter 18; *Duties of Tree Board*, Section 18.5.5.

Sections 2.37 - 2.52 Reserved

ARTICLE III -- Finance

Section 2.53 Assessment for police training

There is hereby assessed by the City in compliance with F.S. Section 943.25(5), an additional \$2.00 as court costs against every person convicted of a violation of a State penal or criminal statute, or convicted of a municipal or county ordinance, where the offense occurred within the City limits of the City of Crescent City. In addition, \$2.00 shall be deducted from every bond estreature or forfeited bail bond related to such penal statutes or ordinances. However, no such assessment shall be made against any person convicted for violation of any State statute, municipal or county ordinance relating to the parking of vehicles.

(Ordinance No. 8302, § 1, 5-12-83)

Section 2.54 Funds to be used for training

All such assessments shall be collected by the appropriate court and shall be remitted to the City and designated for use for law enforcement education and training for members of the police department. The use and expenditure of such funds shall be in accordance with education and training programs for law enforcement personnel as determined by the chief of police and in accordance with F.S. Section 943.14(4).

(Ordinance No: 8302, Section 1, 5-13-83)

Cross reference: *Offenses*, Chapter 14

ARTICLE IV -- Enforcement of Codes and Ordinances

Section 2.55 Notice

All notices required by this Article shall be by certified mail, return receipt requested or, when mail would not be effective, by hand-delivery by the Code Inspector.
(Ordinance No. 9603, 4-11-96; Ordinance No. 9607, 8-1-96)

Section 2.56 Authority and purpose

This division is adopted pursuant to the authority granted municipalities in F.S. Chapter. 162, pt. 2, to supplement methods of enforcing codes and ordinances in the City, and is enacted to protect the public health, safety and welfare of the citizens of the City.
(Ordinance No. 9603, 4-11-96; Ordinance No. 9607, 8-1-96)

Section 2.57 Definitions

For purposes of this Article, the following definitions shall apply:

(a) **City** shall mean the incorporated areas of the City of Crescent City or the administration of the City of Crescent City, Florida.

(b) **Code enforcement officer** means any designated employee or agent of the City whose duty it is to enforce codes and ordinances enacted by the City, as well as a City law enforcement officer as defined below; provided, however, nothing herein shall be construed to authorize any person designated as a Code Enforcement Officer, other than a law enforcement officer, to perform any function or duties of a law enforcement officer other than as specified. A Code Enforcement Officer, other than a law enforcement officer, shall not make physical arrests or take any person into custody and shall be exempt from bonding, and the criminal justice standards and training commission, as defined and required by general law.

(c) **Law enforcement officer** means any person who is elected, appointed, or employed, by the City who is vested with authority to bear arms and make arrests' and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

(d) **Repeat violation** means a violation of a provision of a code or ordinance by a person previously found by the Code Enforcement Board of the City or the county court of Putnam County, Florida, to have violated the same provision, within five [5] years prior to the current violation.

(Ordinance No. 9603, 4-11-96; Ordinance No. 9607, 8-1-96)

Section 2.58 Authority to issue citations

Any code enforcement officer is hereby empowered to issue citations to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted city code or ordinance.

(Ordinance No. 9603, 4-11-96; Ordinance No. 9607, 8-1-96)

Section 2.59 Ordinances enforced; penalties assessed

All City codes and/or ordinances may be enforced by this Article, by citation to the county court, except where prohibited by law or statute. A violation of a City code or ordinance is a civil infraction. There is hereby adopted the following uniform fine schedule:

	<i>Fine</i>	<i>Costs</i>	<i>Total</i>
Class 1	\$135.00	\$ 22.00	\$157.00
Class 2	\$110.00	\$ 22.00	\$132.00
Class 3	\$ 60.00	\$ 22.00	\$ 82.00
Class 4	\$ 35.00	\$ 22.00	\$ 57.00
Class 5	\$ 10.00	\$ 22.00	\$ 32.00

Repeat violations shall carry a fine of up to five hundred dollars [\$500.00] in the discretion of the court if contested by the violator and, if not contested by the violator, a maximum civil penalty of less than five hundred dollars [\$500.00] in the discretion of the court. The following fines are hereby imposed on the following violations of this Code:

UNIFORM FINE SCHEDULE

Chapter 3. Advertising and Signs		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
3-5	Permitting	4
3-7	Standards	4
3-8	Nonconforming	4
Chapter 4. Animals		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
4-6	Dead Animals – Duty of Owner to remove from public place; costs	4
4-10	Operation of Kennel	2
Chapter 5. Parks and Waterways		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
5-65	Buildings, etc., encroaching upon bottom width.	4
5-66	Depositing effluvia, refuse, etc in waters	3
5-67	Obstructing	4
5-68	Obstructing water channels, lowering level of Lake Stella	3
Chapter 6. Building Construction and Maintenance		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
6-1 to 6-5	Building codes and permitting	2
6-25	Posting 911-address	4

Chapter 7. Fire Prevention and Protection		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
7-1	Fire prevention codes	2
Chapter 8. Flood Prevention and Protection		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
8-9	Compliance with flood prevention and protection required	2
Chapter 9. Garbage and Refuse		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
9-3 to 9-4	Placement of garbage	4
9-5	Containers	4
9-6	Dangerous materials	4
9-7	Deposit of garbage or trash on unoccupied premises	4
9-8	Construction and demolition debris	4
9-10	Spent oils or greases	4
9-11	Accumulation of garbage or trash limited	4
9-12	Transportation of garbage	4
9-13	Wet garbage	4
9-20	Burning or burying garbage in city	4
9-50	Storage or depositing of junked vehicles	4
Chapter 10. Health and Sanitation		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
10-20	Duty of property owner to keep premises clean	3
10-22	Obnoxious and contaminating odors	3
10-23	Storing of rubbish, automobiles etc, prohibited	3
10-24	Breeding places for mosquitoes prohibited	3
10-27	Prohibited conditions on premises declared a nuisance	3
10-28	Failure to abate	3
Chapter 12. License and Business Regulations		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
12-1	License required to engage in business or profession in City	2
12-51	Sales in streets and other public places, generally	2
12-69	License required; fee	2
12-93	Contractors and/or special contractors	2
12-111	Licensed-Required	2
12-113	License-Fee	2
12-114	Prohibited areas-By license	2

12-172	Application	2
12-182	<u>Garage sale permit</u>	<u>5</u>
12-501	Permit Required	2
12-502	Display of sale property	3
12-503	Display of permit	3
Chapter 13. Noises		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
<u>13-1</u>	<u>Prohibitions-unlawful noise</u>	<u>3</u>
<u>13-2</u>	<u>Sound level limits</u>	<u>3</u>
<u>13-3</u>	<u>Noises prohibited, unnecessary noise</u>	<u>3</u>
<u>13-7</u>	<u>Use of loudspeakers, public address systems</u>	<u>3</u>
Chapter 14. General Offenses		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
14-4	Glass, tacks, etc., on streets	3
14-7	Consumption or possession of open containers of alcoholic beverages on public property	4
14-9	Occupying a motor home, camper, automobile etc.	3
Chapter 16. Streets, Sidewalks and other Public Places		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
16-17	Excavation in streets-permit required	2
Chapter 18. Traffic and Vehicles		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
18-4	Stopping, standing or parking in prohibited places	5
18-5	Additional parking regulations	5
18-6	Parking prohibited at all time on certain streets	5
18-7	Unattended vehicles, trucks	5
18-8	Obstruction of traffic by parking	5
18-9	Alleys; parking in, obstructing	5
18-10	Parking on streets not entirely paved	5
18-11	Hindering vehicle of a another being parked	5
18-12	Hindering a parked vehicle	5
18-13	Parking prohibited for certain purposes.	5
18-14	Passenger curb loading zones; time limit; passenger use	5
18-15	Freight curb loading zones; time limit; passenger use	5
18-16	Angle parking, obedience to signs	5
18-17	Parking of commercial vehicles	5
18-18	Parking restrictions generally	5

18-19	Erasure of chalk marks on tires of parked vehicles	5
18-20	Off-street parking areas of city property	5
18-21	Taxicab and bus operators; parking on other than stands or stops	5
18-22	Use of white canes restricted to blind pedestrians	5
18-23	Duty of driver or pedestrian with respect to a blind pedestrian with a white cane.	5
18-24	Permits required for parade processions, sound trucks, weighted or oversized vehicles	5
18-25	Hitchhiking prohibited	5
Chapter 19. Utilities		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
19-2	Unlawful connection	2
19-3	Connecting old plumbing	2
19-23	Sanitary requirements	2
19-24	Connections with sewer required	2
19-26	Unlawful construction	2
19-27	Disposal requirements	2
19-28	Septic tanks	2
19-29	Sanitary disposal devices required – commercial/assemble uses	2
19-30	Failure to maintain plumbing system	2
19-31	Application to leased or rented property	2
19-33	Nonconforming privies declared a nuisance	2
19-35	Duty to connect to city sewer	2
19-38	Draining oil, greases, etc., into sanitary sewer system	2
19-39	Turning water on	2
19-61	Cross connections between city and private water systems	2
19-62	Meddling with waterworks equipment or outlets	2
19-117	Tampering with meters or system, gas system	2
19-136	Wells for household water use prohibited	2
19-138	Permit required	2
Chapter 20. Vehicles for Hire		
<i>Code Section</i>	<i>Description</i>	<i>Class of Fine</i>
20-1	Stands on street	4
20-4	Parking in front of residences-limited to 5 minutes	4

(Ordinance No. 9603, 4-11-96; Ordinance No. 9607, 8-1-96)

Section 2.60 Violations procedure

(a) A Code Enforcement Officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted City code or ordinance. However, prior to issuing a citation, a Code Enforcement Officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty [30] days. If, upon personal investigation, a Code Enforcement Officer finds that the person has not corrected the violation within the time period, a Code Enforcement Officer may issue a citation to the person who has committed the violation. A Code Enforcement Officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the Code Enforcement Officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(b) A Code Enforcement Officer shall issue a notice of violation in a form prescribed by the City and it shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the person to whom the citation is issued.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting reasonable cause.
- (5) The number or section of the code or ordinance violated
- (6) The name and authority of the code enforcement officer or law enforcement officer.
- (7) The procedure for the person to follow in order to pay the civil penalty or contest the citation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citations, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(c) After issuing a citation to an alleged violator, a Code Enforcement Officer shall deposit the original citation and one copy of the citation with the county court.

(d) The maximum civil penalty shall not exceed five hundred dollars [\$500.00].

(e) A civil penalty of less than the maximum civil penalty shall be imposed if the person who has committed the civil infraction does not contest the citation.

(f) 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 Sections 775.082 or § 775.083, *Florida Statutes*.

(g) If a person fails to pay the civil penalty, or fails to appear in court to contest the citation, the court may issue an order to show cause upon the request of the City. The *Order to Show Cause* shall require the person to appear before the court to explain why action on the citation has not been taken or the civil penalty paid. If any person who is issued such an order fails to appear in response to the court's directive and/or fails to pay the civil penalty, that person may be held in contempt of court.

(Ordinance No. 9603, 4-11-96; Ordinance No. 9607, 8-1-96)

Section 2.61 Reserved

Section 2.62 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Code inspector and code enforcement officer means the City Manager or his designee.
- (b) Commission means the governing body of the City.
- (c) Enforcement board means the Code Enforcement Board.

(Ordinance 03-05, 10-09-03)

Section 2.63 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 City by providing an equitable, expeditious, effective and inexpensive method of enforcing the codes of the City described in this Article.

(Ordinance 03-05, 10-09-03)

Section 2.64 Jurisdiction

The Code Enforcement Board created by this Article, pursuant to F.S. Chapter 162, shall exist pursuant to the intent of that statute until and unless the City Commission shall determine that such intent is not being implemented. The Code Enforcement Board shall enforce and have jurisdiction of the following provisions of this Code*:

- (a) Chapter 6 - Advertising
- (b) Chapter 14 - Animals
- (c) Chapter 18 - Buildings and Building Regulations
- (d) Chapter 30, Article II - Nuisances
- (e) Chapter 30, Article III - Junked Automobiles and Abandoned Property
- (f) Chapter 62 - Signs
- (g) Chapter 70 - Streets, Sidewalks and Other Public Places.
- (h) Chapter 86 - Utilities
- (i) Chapter 94 - Zoning

(Ordinance 03-05, 10-09-03)

***Editor's Note:** The Chapter numbers listed is paragraphs (a) – (i) do not exist in the City's Code of Ordinances or its Land Development Code, but the listed topics are covered within both the Code of Ordinances and the Land Development Code.

Section 2.65 Memberships organization and meetings

(a) **Number of members; qualifications.** There is hereby created a Code Enforcement Board of the City, which shall consist of seven [7] members to be appointed by the City Commission, who shall serve without compensation. The City Commission may also appoint up to two [2] alternate members who may serve on the board in the absence of board members and who shall also serve without compensation. All members of the board as well as the alternate members shall be residents of the City.

(b) **Composition.** The membership of the Code Enforcement Board shall whenever possible include experts in the following fields:

- (1) Architecture
- (2) Business.
- (3) Engineering
- (4) General contracting.
- (5) Subcontracting.
- (6) Real estate.

(c) **Reappointment of members.** Any member may be reappointed for successive terms upon approval by the City Commission.

(d) **Term of office of members.** The initial appointments to the enforcement board shall be as follows:

- (1) Two members shall be appointed for a term of one [1] year.
- (2) Three members shall be appointed for a term of two [2] years.
- (3) Two members shall be appointed for a term of three [3] years.
- (4) The alternate members shall be appointed for an initial term which will expire on the last day of the month of September, 2003. Thereafter, said alternate members or their successors shall be appointed for terms of three [3] years each.

Thereafter, each term shall be for a period of three [3] years.

(e) **Removal of members; vacancies.** Members of the enforcement board may be removed from office by the commission for cause upon written charges and after a public hearing. If any member fails to attend two out of three successive meetings without cause and without prior approval of the chairperson of the enforcement board, the board shall declare the member's office vacant and the commission shall promptly fill such vacancy. The commission shall fill vacancies for the unexpired term affected.

(f) **Officers.** At the first meeting of the Code Enforcement Board, the members shall elect a chairperson and a vice-chairperson from among the members; the vice-chairperson shall preside in the absence of the chairperson.

(g) **Quorum.** The presence of four or more members shall constitute a quorum of the enforcement board necessary to take action.

(h) **Compensation of members.** Board members shall serve without compensation, but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the City Commission.

(i) **Calling of special meetings.** Special meetings of the Code Enforcement Board may be convened by the chairperson upon the giving of notice thereof to each member of the enforcement board. Unless waived by a majority of the enforcement board, notice of a special meeting shall be given at least twenty-four [24] hours prior thereto.

(j) **Minutes; hearings to be open to public; personnel; legal counsel.** Minutes shall be maintained of all hearings held by the Code Enforcement Board, and all hearings shall be open to the public. The City Commission shall provide clerical and administrative personnel as may be reasonably required by the Code Enforcement Board for the proper performance of its duties. The City Attorney shall be counsel to the Code Enforcement Board.
(Ordinance 03-05, 10-09-03)

Section 2.66 Enforcement procedure

(a) **Initiation of enforcement proceedings.** It shall be the duty of the Code Inspector to initiate enforcement proceedings of the various codes. No board member shall have the power to initiate enforcement proceedings.

(b) **Notice of violation; request for hearing.** If a violation of the codes is found, the Code Inspector shall notify the violator, unless subsection (c) of this section applies, and give the violator a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Inspector shall notify the Code Enforcement Board and request a hearing pursuant to the procedure in Section 2.67(a). Written notice shall be mailed to the violator as provided in this division.

(c) **Emergencies.** If the Code Inspector has reason to believe a violation presents a serious threat to the public health, safety and welfare, the Code Inspector may proceed directly to the procedure in Section 2.286 without notifying the violator by the written notice provided in subsection (b) of this section.
(Ordinance 03-05, 10-09-03)

Section 2.67 Conduct of hearings

(a) **Calling of hearings.** The chairperson of the Code Enforcement Board may call hearings of the enforcement board, and hearings may also be called by written notice signed by at least three [3] members of the enforcement board. The enforcement board at any hearing may

set a future hearing date. The enforcement board should attempt to convene no less frequently than once every two [2] months, but may meet more or less often as the demand necessitates.

(b) **Minutes; hearings to be open to public; personnel.** Minutes shall be kept of all hearings by the Enforcement Board and all hearings shall be open to the public. The commission shall provide clerical and administrative personnel as may be reasonably required by the enforcement board for the proper performance of its duties.

(c) **Presentation of cases.** The Code Inspector shall present each case before the Code Enforcement Board.

(d) **Hearing of cases; testimony.** The Enforcement Board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Enforcement Board shall take testimony from the Code Inspector and alleged violator. Formal rules of evidence shall not apply; however, fundamental due process shall be observed and govern the proceedings.

(e) **Decision; issuance of order; voting.** At the conclusion of the hearing, the Code Enforcement Board shall issue findings of fact and conclusions of law and shall issue an order affording the proper relief consistent with powers granted in this division. The findings shall be by motion approved by a majority of those present and voting, except that at least three [3] members of the enforcement board must vote in favor of the action to be official.
(Ordinance 03-05, 10-09-03)

Section 2.68 Powers

The Code Enforcement Board shall have the power to:

- (a) Adopt rules for the conduct of its hearings.
- (b) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the City's Police Department.
- (c) Subpoena evidence to its hearings.
- (d) Take testimony under oath.
- (e) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.
(Ordinance 03-05, 10-09-03)

Section 2.69 Fines

(a) The Code Enforcement Board, upon notification by the Code Inspector that an order of the enforcement board 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 enforcement board 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 F.S. § 162.06(4), the Code Enforcement Board shall notify the City Commission, which may make all reasonable repairs which 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 division, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the 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. In determining the amount of the fine, if any, the 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.

The Code Enforcement Board may reduce a fine imposed pursuant to this section.

(c) 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 division 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. 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. After three [3] months from the filing of any such lien that remains unpaid, the Code Enforcement Board may authorize the City Attorney to foreclose on the lien. No lien created pursuant to the provisions of this division may be foreclosed on real property which is a homestead under section 4, Article X of the *State Constitution*.

(d) No lien provided under the *Local Government Code Enforcement Boards Act* (F.S. § 162.01 *et seq.*) shall continue for a period longer than twenty [20] years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in the foreclosure. The City Commission shall be entitled to collect all costs incurred in

recording and satisfying a valid lien. The continuation of the lien effected 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.

(Ordinance 03-05; 10-09-03)

Section 2.70 Appeals; other enforcement methods

(a) An aggrieved party, including the City, may appeal a final administrative order of the Code Enforcement Board to the circuit court of the county. An appeal shall be filed within thirty [30] days of the execution of the order to be appealed.

(b) Nothing contained in this Article shall prohibit the City from enforcing its codes by any other means. It is the intent of this Article to provide an additional or supplemental means of obtaining compliance with City codes.

(Ordinance 03-05; 10-09-03)

Section 2.71 Notices

(a) All notices required by this division shall be provided to the alleged violator by certified mail, return receipt requested; by hand-delivery by the sheriff or other law enforcement officer, code inspector or other person designated by the City Commission; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen [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 [4] 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 Chapter 50, *Florida Statutes*, for legal and official advertisements. Proof of publication shall be made as provided in Sections 50.041 and 50.051, *Florida Statutes*.
- (2) In lieu of publication as described in subsection (b)(1) of this section, such notice may be posted for at least ten [10] days in at least two [2] 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 primary municipal government office. 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. Evidence that an attempt has been made to hand-deliver or mail the 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 Article have been met, without regard to whether or not the alleged violator actually received such notice.

(Ordinance 03-05; 10-09-03)