



# Rules of Procedure for Fort Pierce Special Magistrate Proceedings

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## **Part 1 – General Provisions**

### **1.1 Scope of Rules: Citation**

These Rules govern all proceedings involving the Special Magistrate for the City of Fort Pierce. These Rules may be cited as the “Fort Pierce Special Magistrate Rules of Procedure” and abbreviated as “Special Magistrate Rules.”

### **1.2 Special Magistrate’s Jurisdiction**

The Special Magistrate shall have jurisdiction over proceedings initiated by the Community Response Department, the Building Department, and for all matters assigned to the Special Magistrate by the City Commission for the City of Fort Pierce pursuant to the Code of Ordinances of the City of Fort Pierce.

### **1.3 Authority and Amendment**

(A) These Rules have been adopted by Resolution of the City Commission for the City of Fort Pierce and are intended to be supplemental to the Code of Ordinances of the City of Fort Pierce.

(B) These Rules may only be amended upon request of the City Attorney, the Special Magistrate, or the Department. Any such amendment shall not be effective until approved by the City Commission.

### **1.4 Interpretation; Conflict**

These Rules shall be interpreted so as to be consistent with state law and local ordinances. In the event any provision of these Rules conflicts with any provision of State law or the Code of Ordinances of the City of Fort Pierce, these Rules shall be superseded by those authorities.

### **1.5 Definitions**

Unless required otherwise by context, the following words shall have the meanings provided herein:

(A) Administration Costs mean charges, including those established by Resolution, that are assessed to assist with covering the actual administration of a case file by the City.

(B) Affidavit means a voluntary declaration of facts written down and sworn to by the declarant before an officer authorized to administer oaths.

(C) Code shall refer to the Code of Ordinances of the City of Fort Pierce, Florida, as amended.

(D) Fine means a financial penalty imposed by the Special Magistrate in a written order. Such fine may be a single fee or a fine that accrues for each day a violation continues past the date set for compliance.

(E) Lien means that an Order Imposing Lien has been signed by the Special Magistrate and recorded with the St. Lucie County Clerk of Court. In most cases, a Lien is recorded against both the property and against the property owner. Pursuant to Florida Statutes section 162.09(3), Liens attach to all properties within St. Lucie County also owned by the property owner.

(F) Days: Unless stated otherwise, when used herein, “days” means calendar days.

(G) Department shall mean either:

(1) The Community Response Department, as such Department may be hereafter renamed, for violations involving City Ordinances and the International Property Maintenance Code; or

(2) The Building Department, as such Department may be hereafter renamed, for violations of City Ordinances, the Florida Building Code, and the International Property Maintenance Code.

(H) Department Clerk means the Department administration personnel assigned to the Special Magistrate.

(I) Hard Costs include any expense or fee paid directly by the City to a vendor or third party, including recording fees.

(J) Massey Notice means a written notice to a Respondent that fines have been imposed due to noncompliance with a code enforcement order and providing twenty (20) days to contest the fines in writing and request a hearing, following which an Order Imposing Lien may be signed by the Special Magistrate and recorded with the St. Lucie County Clerk of Court resulting in a Lien.

(K) Nuisance Abatement Expense means the actual cost incurred by the City of having any nuisance condition abated or corrected by the City (lot clearing, securing building, demolition, etc.) as provided for in Chapter 24 of the Code.

(L) Order Determining Violation means a written order issued by the Special Magistrate finding a Respondent has violated the Code.

(M) Respondent means any owner, operator, responsible party, violator or alleged violator that is the subject of a code enforcement action.

(N) Special Magistrate is the person whose office is defined in Code Section 1-43.

## **Part 2 – Pre-Hearing Matters**

### **2.1 Hearings**

Hearings of the Special Magistrate shall be scheduled by the Department at a date, time, and place determined by the Department. The Department shall provide the Special Magistrate with reasonable notice of any such hearing.

### **2.2 Legal Representation; Representation by Agents**

(A) The City Attorney's Office shall represent the City in all cases designated for hearing before the Special Magistrate.

(B) Respondents may be represented by an attorney at any proceeding subject to these Rules. Counsel must file a Notice of Appearance in substantially the form provided by the Department. At a minimum, Counsel must provide their bar number, address, phone number, email address, and must affirmatively state that they represent the Respondent and are authorized to speak on behalf of the Respondent.

Counsel's Notice of Appearance should be filed with the Department no later than ten (10) business days before the proceeding. In the event the notice is filed less than ten (10) business days before the proceeding, the Department may, in its sole discretion, continue or postpone the proceeding to the next available hearing date.

(C) Representation by Agent: Any agent appearing on behalf of a Respondent shall complete the form provided by the Department and deliver it to the Department Clerk at or before the hearing. At the hearing, agents shall be sworn in and shall state on the record their name, their relationship to the Respondent, and that they are expressly authorized by the Respondent to speak on the Respondent's behalf.

### **2.3 Stipulation in Lieu of Hearing**

(A) The Department and Respondent may enter into a written stipulation prior to the hearing whereby there is agreement that the Respondent is in violation.

(1) For violation(s) that require time to cure, the stipulation shall include the time needed for compliance and the amount of the daily fine the Respondent agrees to pay in the event Respondent fails to comply within the agreed-upon time.

(2) For any violation in which a flat rate fee is assessed, the stipulation shall state the amount of the penalty and the time in which the penalty is to be paid.

(B) Stipulations must be signed by the Respondent or their agent and witnessed by the Department staff.

(C) Every Stipulation entered pursuant to this Subpart shall include the following Certification:

*I certify that I am the person charged with the violation described in this stipulation or am an agent authorized to act on behalf of such person (copy of written authorization attached). I have read the stipulation, or its contents were explained to me, and I fully understand what it says, or any questions were answered to my satisfaction. I enter into this stipulation freely and voluntarily, without coercion or duress. I understand that I have a right to a hearing and voluntarily waive such right. I realize that I have a right to be represented by an attorney or was able to consult with an attorney and waive that right. I will contact the Department as soon as I am in compliance so that such compliance may be verified.*

(D) Stipulations shall be filed with the Department Clerk whereupon an Order Approving Stipulation shall be entered thereon and signed by the Special Magistrate. The Stipulation shall be attached to the Order.

#### **2.4 Ex Parte Communication with Special Magistrate Prohibited**

The Special Magistrate shall not discuss the merits of any pending case with any person outside of the public proceeding wherein the case is scheduled to be heard.

#### **2.5 Recusal and Disqualification of the Special Magistrate**

(A) In the event one of the parties moves for, and establishes grounds for, the disqualification of the Special Magistrate, or in the event the Special Magistrate *sua sponte* determines there are grounds for recusal, the Department shall refer the case to a different Special Magistrate.

(B) Pursuant to Florida Statutes section 112.3143, the Special Magistrate shall not decide any case which would inure to the Special Magistrate's special private gain or loss, or which the Special Magistrate knows would inure to the special private gain or loss of any principal by whom the Special Magistrate is retained or to the parent organization or subsidiary of a corporate principal by which the Special Magistrate is retained, or which the Special Magistrate knows would inure to the special private gain or loss of a relative or business associate.

If recusal is required under this subpart (B), the Special Magistrate shall publicly state the grounds for recusal and, within 15 days thereafter, submit to the Department a completed Form 8B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.

#### **2.6 Transcript of Hearing**

Pursuant to Florida Statutes section 286.0105, all Respondents are advised that if you or another person decide to appeal any decision made by the Special Magistrate with respect to any matter considered at its hearing, you or that person will need a record of the proceedings, and that for such purpose, affected persons may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

#### **2.7 Witness Subpoenas**

(A) Subpoenas for witnesses to appear at a Special Magistrate's Hearing may only be issued for testimony that is reasonably relevant to the charge.

(B) Any party may request the Special Magistrate to authorize the Department Clerk to issue a subpoena and the Special Magistrate may do so only if satisfied that the witness's anticipated testimony is reasonably relevant to the charge.

(C) Every subpoena shall be issued under seal of the City, shall state the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified.

(D) A copy of every subpoena issued by any party shall be delivered to the City Attorney.

(E) Subpoenas shall be served by process server at the expense of the issuing party. A copy of each subpoena served, along with proof of service, shall be filed with the Department Clerk no less than five (5) days before the proceeding.

(F) Subpoenas must be received by the witness no less than seven (7) days before the proceeding that the witness is commanded to attend.

(G) The Special Magistrate may quash any subpoena where the witness requests a protective order and states underlying facts that establish: (1) harassment; (2) that compliance will subject the witness to undue burden; or (3) that compliance will require the witness to travel more than 30 miles from their home or place of work.

(H) Upon request of either party or the witness, the Special Magistrate shall quash any subpoena not issued and served in compliance with this subpart.

### **2.8 Continuance of Hearing for Good Cause**

(A) In the event there are circumstances constituting good cause for postponement of a hearing, the Respondent may file a written request for continuance with the Department on a form provided by the Department. The request must specify the underlying facts constituting good cause for postponement of the hearing with particularity.

(B) The request must be made within a reasonable time following the date the Respondent became aware of the circumstances which form the basis of the request.

(C) If the Department agrees with the request, it shall reschedule the hearing.

(D) In the event the Department does not agree to continue the hearing, the request shall be submitted to the Special Magistrate to determine whether there is good cause for the postponement which outweighs the public interest in proceeding with the hearing as originally scheduled. The Special Magistrate's decision will be made in chambers and promptly filed with the Department Clerk.

### **2.9 Request by Respondent to Appear by Telephone**

(A) Respondents that are unable to attend a Special Magistrate hearing in person due to either a serious personal issue or residing out of state, proof of which must be provided, may request to attend the hearing telephonically.

(B) Respondents requesting to appear telephonically must strictly comply with the following provisions:

(1) The request must be in writing on the form provided by the Department.

(2) The request must be made at least seven (7) days prior to the hearing.

(3) The request must clearly state the reason Respondent is unable to attend in person.

(4) The request must explain the need for a telephonic appearance in lieu of a request for a continuance which would allow the Respondent to appear in person or through an agent.

(5) The Respondent must provide an email address and a phone number.

(C) If the request is granted by the Department, the Respondent must:

(1) Be available to answer the call on the date of the hearing during a 4-hour window; and

(2) Email any exhibits to the Department Clerk no later than three (3) business days prior to the hearing.

(D) Any Respondent permitted to appear by telephone assumes the risk of prejudice that may result from failing to be present in person.

(E) If there is an equipment failure on the part of the Respondent or if the Respondent fails to answer the call after two attempts, the proceeding will not be continued and the Special Magistrate will proceed with the hearing in its normal course, deeming the Respondent willfully absent from the hearing.

## Part 3 - Hearings

### 3.1 Emergency Proceedings

Pursuant to Florida Statutes section 162.06(4), if the code inspector 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 Department shall make a reasonable effort to notify the Respondent and may request the Special Magistrate hold an emergency hearing to address the condition.

### 3.2 Regular Hearings - Order of Business

Cases will be called in the order in which they appear on the agenda for that day, except that the Special Magistrate may take cases out of order as appropriate.

### 3.3 Conduct of Hearings

(A) Pursuant to Florida Statutes section 162.07(1), minutes shall be kept of all Special Magistrate proceedings and all hearings and proceedings of the Special Magistrate shall be open to the public. There is no provision for comments from the public during the hearing.

(B) All testimony shall be under oath and shall be recorded.

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

(D) Pursuant to Florida Statutes section 120.569(2)(g), the Special Magistrate may act to exclude irrelevant, immaterial, or unduly repetitious evidence, 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.

(E) The Special Magistrate shall first take testimony and evidence from the Department in support of the charge. Next, the Special Magistrate shall take testimony and evidence from the Respondent in opposition to the charge.

(F) Each side may present witnesses and both sides shall have a right to cross-examine any witness under oath.

(G) Any member of the public desiring to testify may be recognized by the Special Magistrate upon demonstrating direct knowledge of the facts of the case and a special or unique interest in the outcome that is different in kind and degree from other members of the community at large. Such testimony shall be under oath, and subject to cross-examination.

(H) The Special Magistrate may question any witness and may call any witness believed necessary.

(I) The Special Magistrate may continue a hearing in the interest of justice, should there be a determination that further information is necessary from either party, whereupon there shall be declared a date certain for continuation of the proceeding. A hearing shall not be continued for the Respondent to comply the violation unless the Department agrees to such a continuance, and the Special Magistrate determines it is in the best interest of the City to do so.

(J) 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 the powers granted by State law and the Code.

## Part 4 – Post Hearing Matters

### 4.1 Extensions of Compliance Date

(A) Requests for Extension of time to comply with an Order shall:

- (1) be in writing in substantially the form provided by the Department; and

(2) be received by the Department prior to the compliance date.

(B) Discretionary Extensions by the Department

(1) The Department may, within its discretion, give a Respondent additional time to comply with the Special Magistrate's order.

(2) Extensions by the Department under this Rule may not exceed ninety (90) days from the original compliance date.

(C) Special Magistrate's Extension

(1) If the Department denies a request for an extension made under Special Magistrate's Rule 4.1(B), or if the Respondent is unable to comply within an extended time frame granted by the Department, the Respondent may request an extension from the Special Magistrate.

Special Magistrate's Extensions may only be granted where extenuating circumstances prevent compliance, such as, but not limited to, financial or serious personal issues.

(2) Testimony and evidence shall be limited to the extenuating circumstances alleged by the Respondent that prevent compliance with the original order (including any prior extensions of the original order).

(3) At the close of the evidence, 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 the powers granted by State law and the Code.

(4) The Special Magistrate's ruling shall be reduced to writing and a copy of the Order on Request for Extension shall be mailed to the Respondent through Regular Mail.

#### **4.2 Appellate Review of Special Magistrate Orders**

(A) Pursuant to Florida Statutes section 162.11, "an aggrieved party, including the local governing body, may appeal a final administrative order of the Special Magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed."

(B) Appeals of Special Magistrate Orders are governed by the Florida Rules of Appellate Procedure.

(C) An appeal does not automatically stay enforcement of the appealed order. Requests for stays pending appellate review are governed by Florida Rule of Appellate Procedure 9.310.

#### **4.3 Motion for Relief from Judgment**

(A) Florida Rule of Civil Procedure 1.540 shall govern Motions for Relief from Judgment due to mistake, inadvertence, excusable neglect, newly discovered evidence, fraud, etc.

(B) At the discretion of the Special Magistrate, a timely-filed Motion for Relief from Judgment may be granted or denied in chambers or may be considered at a regularly scheduled hearing with notice to the parties.

(C) A Motion for Relief from Judgment does not toll the time for filing an appeal.

### **Part 5 – Non-Compliance: Fines; Liens**

#### **5.1 Assessment of Fines on Non-Compliance:**

(A) Affidavit of Non-Compliance: In the event the Department finds that the Respondent has not timely complied with an Order Determining Violation, either within the time originally ordered or as extended pursuant to these Rules, the Department shall prepare an Affidavit of Non-Compliance detailing and documenting the non-compliance and submit it to the Special Magistrate for review.

The Special Magistrate shall review the Affidavit of Non-Compliance to determine that the amount of the fine as ordered in the Order Determining Violation is reasonable. Pursuant to Florida Statutes section 162.09(2)(b), when determining the reasonableness of the fine, the Special Magistrate shall consider the following items:

- (1) The gravity of the violation;
- (2) Any actions taken by the Respondent to correct the violation; and
- (3) Any previous violations committed by the Respondent.

Upon notification from the code inspector that the Respondent failed to timely comply with an Order Determining Violation and upon finding that the amount of the fine is reasonable, the Special Magistrate shall issue an Order Assessing Fine.

(B) Notice of Fine (Massey Notice): Upon an Order Assessing Fine being signed by the Special Magistrate, the Department shall send a Massey Notice to the Respondent providing notice of the fine, the amount of the fine, and that a Lien may be imposed. The Respondent will be advised that they have twenty (20) days to request a hearing at which the Respondent will have the opportunity to challenge the Affidavit of Non-Compliance, the fine, and the resulting Lien.

In nuisance abatement cases, an invoice for the abatement that was performed by the City or City vendor to bring the property into compliance shall be sent to the property owner. Such invoice shall serve as the Massey Notice and shall contain appropriate language advising the Respondent that they have twenty (20) days to request a hearing at which the Respondent may contest the Affidavit of Non-Compliance, the amount of the fine and/or invoice amount and the resulting Lien.

(C) If any Respondent does not request a Massey Hearing, or fails to appear for the scheduled Massey Hearing, the Department will submit the case to the Special Magistrate for issuance of an Order Imposing Lien.

### **5.2 Contesting Fines: Massey Hearing**

(A) If a written request contesting fines is received by the Department that complies with the Massey Notice, a Massey Hearing shall be scheduled before the Special Magistrate. Notice of the hearing shall be sent to the requesting party no later than fourteen (14) days prior to the hearing date. Such notice shall include the date, time, and location of the hearing.

(B) A Massey Hearing is not a re-hearing, and the validity of the violation(s) is not at issue. In determining the appropriate amount of the fine, pursuant to Florida Statutes section 162.09(2)(b) the Special Magistrate shall consider:

- (1) The gravity of the violation(s);
- (2) Any actions taken by the Respondent to correct the violation(s); and
- (3) Any previous violations committed by the Respondent.

(D) 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 by State law and the Code.

(E) Failure of a requesting party to attend the scheduled Massey Hearing is considered a waiver of the request and the Department may proceed pursuant to Special Magistrate Rule 5.1(C).

### **5.3 Imposing Lien**

(A) The Order Imposing Lien shall authorize the City Attorney or a designee to initiate foreclosure proceedings if the Lien remains unpaid after three months from filing and all legal requirements for foreclosure have been met.

(B) A certified copy of the Order Imposing Lien shall be provided by the City Clerk and pursuant to Florida Statutes section 162.09(3) “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.”

#### **5.4 Lien Reduction Requests**

Pursuant to Code Section 1-80, Liens imposed may qualify for a reduction if the requirements set forth by this Rule are met; however, there is no guarantee a reduction will be granted of any Lien that was legally placed upon the person or property.

The requesting party is responsible for determining the method in which the reduction is processed. Once the request has been properly submitted and a determination made, no secondary or supplemental request will be considered.

(A) Requirements for All Lien Reduction Requests: All requests to reduce a Lien imposed by the City must meet the following requirements:

- (1) The request must be in writing on a form provided by the Department;
- (2) The applicable fee as set by City Resolution must accompany the Lien Reduction Request;
- (3) The request must include a statement or explanation as to why the City should consider the request for reduction, including a narrative with any supporting documentation to be considered in furtherance of such request;
- (4) The request must be made by the owner. If the request is made by any other interested party, written proof of permission to act on behalf of the owner must be provided on a form provided by the Department;
- (5) A copy of the deed showing title transfer to the current owner must be provided. If the Lien encumbered the property when the current owner acquired title, and the property was conveyed to the owner via Special Warranty Deed or Warranty Deed, the owner must provide proof of their attempt to have the guaranteeing party take responsibility for the debt without success; and
- (6) The property receiving the benefit of a Lien reduction is in compliance with the City of Fort Pierce’s Code of Ordinances.

(B) Administrative Review by the Department of Lien Reduction Request:

- (1) The Department has the authority to process a Lien reduction request and submit a Release of Lien to the City Manager for signature without the need for a hearing if any of the following conditions are met.
  - (a) The amount of the settlement for a property zoned residential with less than four (4) dwelling units is \$5,000 or more and is payable in less than 30 days; or
  - (b) The amount of the settlement for a property either zoned residential with four (4) or more dwelling units, zoned commercial, or zoned industrial is \$10,000 or more and is payable in less than 30 days; or
  - (c) The settlement is based upon the receipt of excess tax sale proceeds that have been received by the City and respectively cover the Administration Costs incurred; or
  - (d) For partial releases, the amount of the settlement is equal to 4% of the Lien to be released or \$2,500.00, whichever is greater and is payable in less than 30 days; or
  - (e) The amount of the settlement for Nuisance Abatement Liens is equal to or greater than the Hard Costs for service plus 50% of the interest, penalties, and administration fees assessed by the City and is payable in less than 30 days.
- (2) If one of the above conditions is met and the Department agrees to administrative review and reduction of the Lien, the Department and requesting party shall enter into an agreement to settle the Lien reduction.

Any signed agreement between the requesting party and the Department to settle the Lien reduction shall constitute a waiver of hearing by the Special Magistrate by both parties.

(3) If the Department believes additional review of a Lien Reduction Request is in the best interest of the City, the Department may decline the Requestor's application for administrative review and forward the matter for a hearing before the Special Magistrate.

(C) Special Magistrate Review of Lien Reduction Request

(1) If the requesting party chooses not to waive his or her right to a hearing, or the Department has determined the request requires additional review, the Department shall schedule a hearing of the request before the Special Magistrate, with notice to the requesting party no later than fourteen (14) days prior to the hearing date.

(2) The Hearing on Lien Reduction Request shall not be a hearing de novo of the original case but shall be limited solely to the issue of whether the Lien assessed should be reduced. The burden of proof shall be on the requesting party to show good cause for reducing the Lien.

(3) The Department shall make the initial presentation to the Special Magistrate. Such presentation shall include, but is not limited to, the facts of the case, the total amount due to the City, a breakdown of the Administration Costs for processing the case, and any information available to the Department to support the Special Magistrate's review of the reduction criteria.

(4) The requesting party may make a presentation through both oral testimony and submitted evidence to the Special Magistrate detailing the reason for the reduction request.

(5) After hearing testimony and reviewing the evidence presented by both parties, the Special Magistrate shall make a determination based upon consideration of the following criteria:

(a) Whether the requesting party is the person responsible for the original violation that resulted in the Lien;

(b) Whether the requesting party has established the existence of extenuating circumstances that prevented timely compliance and/or any extenuating circumstances that support the reduction below the minimum administrative review amounts provided in Special Magistrate Rule 5.4(B)(1);

(c) Whether there is a current code enforcement action on this property or any other property under common ownership;

(d) The type and number of Lien reductions granted for this property or any other property under common ownership in the past 24 months; and

(e) Whether granting of the reduction is in the best interest of the City.

(6) If the Special Magistrate determines that the request for reduction is to be approved, the following conditions must be met:

(a) For Nuisance Abatement Liens, the reduced amount is no less than the amount sufficient to cover the Hard Costs for services plus Administration Costs, which must include all mailing and recording fees plus any additional costs or fees as may be necessary to cover the processing of the case. If foreclosure proceedings have been initiated, all costs associated with the process must be included in the reduced amount.

(b) For all other Liens, the reduced amount is no less than an amount sufficient to cover the Administration Costs for processing the case.

(c) The standard time to pay the reduced amount is sixty (60) days but may be extended up to twelve (12) months if sufficient evidence to support the extension is provided by the requesting party. In no event shall the time to pay exceed twelve (12) months.

- (d) The requesting party shall be solely responsible for ensuring the total amount due is paid within the time frame provided. The City will not establish a payment plan for the requesting party, however partial payments will be accepted.
- (e) Failure to pay the reduced amount in the time ordered will result in the amount of the Lien reverting to the amount presented to the Special Magistrate for reduction plus any interest and penalties that were held in abeyance, and interest and penalties shall resume accruing.
- (7) Failure of a requesting party to attend the scheduled Lien Reduction Hearing is considered a waiver of the request and the Department may ask that the Special Magistrate dismiss the request.
- (8) An aggrieved party who wishes to further their request for a Lien reduction may appeal the decision of the Special Magistrate to the City Commission. The appeal must be filed with the City Clerk within thirty (30) days of the execution by the Special Magistrate of the Order on Lien Reduction Request.
  - (a) The appealing party must submit a written notice of appeal together with the appeal fee as established by Resolution. Appeal fees shall not be reduced, waived, or refunded.
  - (b) The notice of appeal shall state the decision that is being appealed, the date of such decision, the grounds for the appeal, and a brief summary of the relief which is sought. Any materials the appealing party wishes to be considered in support of their appeal must be attached to the notice of appeal as additional evidence may not be introduced at the Commission meeting.
  - (c) The decision of the City Commission shall be final.

## **Part 6 - Foreclosure**

### **6.1 Authority to Foreclose**

In accordance with Florida Statutes section 162.09(3) and Code Section 1-77(4), after three (3) months from the filing of a Lien which remains unpaid, the City may foreclose on the Lien.

### **6.2 Department Review of Foreclosure Criteria**

- (A) The Department shall determine if a Lien qualifies for foreclosure action by confirming:
  - (1) the property is not homesteaded;
  - (2) all notice requirements have been met;
  - (3) the owner was provided the opportunity to be heard prior to imposition of the Lien;
  - (4) the Lien remains unpaid; and
  - (5) a tax deed sale is not pending for the property.
- (B) If the Department finds the Lien qualifies for foreclosure, an Affidavit attesting to these actions shall be placed in the file.

### **6.3 Notice of Intent to Foreclose**

If a Lien qualifies for foreclosure, the Department shall issue a Notice of Intent to Foreclose.

- (A) The Notice of Intent to Foreclose, together with a copy of all Liens included in the foreclosure, shall be provided to the property owner through the use of a process server. If the process server is unable to serve the owner, the Notice of Intent to Foreclose shall be provided to the property owner in the following manner:
  - (1) Via Regular Mail and certified mail, return receipt requested; and
  - (2) by posting a copy at the property.
- (B) The Notice of Intent to Foreclose will provide the owner thirty (30) days to resolve any outstanding Liens. If the outstanding Liens are not resolved within thirty (30) days after the Notice of Intent to Foreclose is

received by an owner, the Liens may be referred to the City Attorney or their designee to commence foreclosure proceedings.

### **Part 7 – Floodplain Management Appeals and Variances**

All requests for appeals and requests for variances of the City’s Floodplain Management Ordinance must meet the following requirements:

- (A) The request must be in writing on the form provided by the Department.
- (B) The request must be made by a person aggrieved by the decision or determination made by the floodplain administrator in administration of the City’s Floodplain Management Ordinance.
- (C) The request must include a statement or explanation as to why the City should consider the request for appeal or variance including a narrative with any supporting documentation to be considered in furtherance of such request.
- (D) There shall be established an application fee of \$500.00 for all requests for Floodplain Management appeals and variances. Such fee shall be paid at the time of submittal of the request. Application fees shall not be reduced, waived, or refunded.
- (E) Upon receipt of a request, a hearing shall be set before the Special Magistrate. Notice of the hearing and the procedures of the hearing shall follow the Code and these Rules.

(Revised July, 2024)