

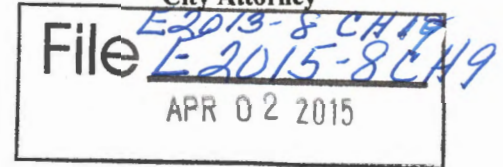


# CITY OF TAMPA

Bob Buckhorn, Mayor

Office of the City Attorney

Julia C. Mandell  
City Attorney



## MEMORANDUM

**TO:** THE HONORABLE CHAIR AND MEMBERS OF CITY COUNCIL

**FROM:** Ernest Mueller, Assistant City Attorney *Ernest Mueller*

**DATE:** March 27, 2015

**SUBJECT:** Agenda Item #3, Proposed Ordinance making changes to Chapter 9 including Chronic Violator Provisions, April 2, 2015, City Council Regular Agenda

Attached please find a revised draft ordinance relating to Chapter 9, for your review. This ordinance is coming before you for 1<sup>st</sup> reading on the April 2, 2015, City Council Regular Agenda.

I have had a chance to review the ordinance with our Municipal Prosecutor, Mike Schmid, since I was last before you on this proposed ordinance and we have made some additional minor changes to the ordinance.

Please feel free to contact me if you have any questions.

**Cc:** Dennis Rogero, Chief of Staff  
Julia C. Mandell, Acting City Attorney  
Mike Schmid, Assistant City Attorney  
Martin Shelby, City Council Attorney  
Shirley Foxx-Knowles, City Clerk



1           Section 2.    That “Chapter 9. Code Enforcement” is created as  
2 follows:

3  
4                           **“CHAPTER 9. CODE ENFORCEMENT”**

5  
6           Section 3.    That “Article I. Definitions, Notice, and other General  
7 Provisions.” is created as follows:

8  
9                           **“ARTICLE I. DEFINITIONS, NOTICE, AND OTHER GENERAL**  
10                           **PROVISIONS”**

11  
12  
13           Section 4.    That “Sec. 9-1. Applicability.” is created as follows:

14  
15           **“Sec. 9-1. Applicability.**

16  
17           This Chapter applies to code enforcement officers acting pursuant to the authority  
18 provided under Florida State Statutes, as well as Tampa City Code and city  
19 ordinances. Nothing in this Chapter shall limit the authority of sworn law  
20 enforcement officers to arrest and/or issue notices to appear as provided for under  
21 Florida Statutes, Florida Criminal Rules of Procedure, or provided for under City  
22 Code. As provided for by law, this Chapter provides for alternative enforcement  
23 of City Codes, and nothing herein shall limit the authority of a code enforcement  
24 officer or sworn law enforcement officer in seeking alternative enforcement. This  
25 Chapter is intended to provide for a cost effective and expedient alternative to  
26 enforcement of the City Code and city ordinances.”

27  
28  
29           Section 5. That “Sec. 9-2. Definitions.” is created as follows:

30  
31           **“Sec. 9-2. Definitions.**

32  
33           The following words, terms and phrases, when used in this chapter, shall have the  
34 meanings ascribed to them in this section, except where the context clearly  
35 indicates a different meaning:

36  
37           Aggrieved Party means:

- 38  
39           (1)    any person that is named or otherwise directly subject to an order  
40 issued by a City official under City Code sections 5-115.3 or 19-5  
41 that negatively affects them by requiring the performance of or the  
42 forbearance from performing an act, or  
43  
44           (2)    a person that is the non-prevailing party in an action for  
45 administrative review by the CESM of an order of a City official  
46 under City Code sections 5-115.3 or 19-5, and may include the  
47 City.

48  
49           Chronic Violator is a violator who has, within 365 days, been issued either  
50 3 violations or 3 Notices of Violations without correcting the violations within  
period specified by notice, or any combination thereof, for the same code

1 violation on the same property. An overgrowth violation pursuant to section 19-  
2 50 of this Code will not be included in the determination of a Chronic Violator.

3  
4 City means the City of Tampa, as well as any of its departments or  
5 divisions, offices or officials acting in the course and scope of their employment.

6  
7 City Code means any of the several chapters of this City of Tampa Code  
8 of Ordinances, City of Tampa ordinances, or any other codes or technical codes of  
9 the City.

10  
11 Code Enforcement Board (CEB) means the City Code Enforcement Board  
12 or Boards, appointed by the Mayor and approved by the City Council. The CEB's  
13 authority shall be coextensive with the grant of authority in F.S. Ch. 162, Pt. I, as  
14 it may be amended from time to time.

15  
16 Code Enforcement Special Magistrate (CESM) means the Special  
17 Magistrate or Magistrates appointed by the Mayor and approved by the City  
18 Council. The Special Magistrate's (or Magistrates') authority shall be coextensive  
19 with the grant of authority in F.S. Ch. 162, Pt. I, as it may be amended from time  
20 to time.

21  
22 Code Enforcement Officer means any designated employee or agent of the  
23 City whose duty it is to enforce codes and ordinances enacted by the City and  
24 may include, but may not be limited to, code inspectors, law enforcement officers,  
25 animal control officers, or fire safety inspectors.

26  
27 Irreparable or Irreversible Violation means a violation that is incapable of  
28 correction, repair or return to an original condition.

29  
30 Itinerant or Transient in Nature Violation means that a violation which  
31 may be moved from place to place or which stays in place for a short time.

32  
33 Local Governing Body Attorney means the legal counselor for the City, to  
34 wit, the City Attorney or his or her designated Assistant City Attorney.

35  
36 Person includes, but is not limited to any individual, firm, partnership,  
37 joint venture, syndicate or other group, or combination acting as a unit,  
38 association, corporation, estate, trust, business trust, trustee, executor,  
39 administrator, receiver, or other fiduciary, body politic or other local  
40 governmental entity, and shall include the plural as well as the singular.

41  
42 Repeat Violation means a violation of a provision of a code or ordinance  
43 by a Violator who, within the three (3) years prior to a present violation, has:

44  
45 (a) been found to have violated the same provision of the City Code  
46 by the CEB, a CESM, or any other quasi-judicial or judicial  
47 process;

48  
49 (b) admitted to violating the same provision of the City Code; or  
50



1           (c) received a civil citation for violating the same provision of the City  
2           Code and either (1) paid the fine; (2) contested the citation and was  
3           found in violation; or (3) was found in violation by reason of  
4           default

5  
6           Secretary means the city clerk, or his/her designees assigned to act as the  
7           secretary to the CEB and CESMs.

8  
9           Violator means the person responsible or believed to be responsible for a  
10          violation.”

11  
12          Section 6. That “**Sec. 9.3. Notice of Violation.**” is created as follows:

13  
14          “Sec. 9-3. Notice of Violation.

15  
16          (a) Form of notice. Pursuant to this Chapter, notice of a violation shall be  
17          provided to a Violator whenever a Code Enforcement Officer has reason to  
18          believe that a violation of one (1) or more provision(s) of the City Code or City  
19          ordinance exists.

20  
21          (b) The notice shall:

22                  (1) Identify the name and address of the Violator;

23                  (2) If applicable, identify the name and address of the record owner of  
24                  the property as shown in the records of the property appraiser;

25                  (3) State the address or the legal description of the real property where  
26                  the alleged violation(s) or condition(s) is located;

27                  (4) Identify the violation(s) or unlawful condition(s);

28                  (5) Direct the Violator to correct the violation(s) or condition(s) within  
29                  a time period of no more than twenty-one (21) calendar days; and

30                  (6) Advise the Violator that if the violation(s) is not corrected within  
31                  the time allotted, then the Violator is subject to enforcement for the  
32                  violation(s) using any of the methods of this Chapter;

33  
34          (c) Notice not required. Whenever it is determined that a violation poses a  
35          serious threat to public health, safety, or welfare; is a Repeat Violation; is an  
36          Irreparable or Irreversible Violation; or is an Itinerant or Transient in Nature  
37          Violation; then the Code Enforcement Officer may immediately:

38                  (1) issue a notice of hearing pursuant to Article II of this chapter,

39                  (2) issue a civil citation pursuant to Chapter 23.5 of the City Code, or

40                  (3) pursue a violation in accordance with section 1-6(a) of the City  
41                  Code without first issuing a notice of violation and providing a time to  
42                  correct the violation.

1 (d) A notice of violation provided to a Violator pursuant to any of the City's  
2 code enforcement methods will be considered as notice for any other code  
3 enforcement method, including the determination of a Repeat Violation.  
4

5 (e) Landlord Courtesy Notice. If a violation, other than a violation of section  
6 19-231 of this Code, is observed on rental property and it is determined that the  
7 tenant is the Violator, a courtesy notice will be provided to the landlord. This  
8 courtesy notice will not be considered in the determination of a Chronic Violator  
9

10 (f) Hardship. If a Violator has a hardship that prevents the correction of the  
11 violation(s) in the time period allotted, then the Violator should notify the Code  
12 Enforcement Officer of the hardship within the time period provided to correct the  
13 violation(s). If the City determines that the hardship is valid, then the Code  
14 Enforcement Officer may extend the time period within which to correct the  
15 violation(s)."  
16

17 Section 7. That "Sec. 9.4. Chronic Violator." is created as follows:  
18

19 "Sec. 9-4. Chronic Violator

20  
21 If, upon investigation of the Code Enforcement Officer, a Violator meets  
22 the criteria of a Chronic Violator, then the Code Enforcement Officer shall pursue  
23 the violation in accordance with section 1-6(a) of the City Code."  
24

25 Section 8. That "Sec. 9-5. Fines and Costs or Abatement." is created as  
26 follows:  
27

28 "Sec. 9-5. Fines and Costs of Abatement

29  
30 Any fine imposed pursuant to this Chapter shall be in addition to  
31 reimbursement of any costs of abatement expended by the City."  
32

33 Section 9. That "Secs. 9-6 through 9-100. Reserved." is created as  
34 follows:  
35

36 "Secs. 9-6 – 9-100. Reserved."  
37

38 Section 10. That "Article II. Code Enforcement Board and Special  
39 Magistrates." is created as follows:  
40

41 "ARTICLE II. CODE ENFORCEMENT BOARD AND SPECIAL  
42 MAGISTRATES"  
43

44 Section 11. That "Sec. 9-101. Municipal Code Enforcement Board and  
45 Special Magistrates created; Authority of Code Enforcement Board and  
46 Special Magistrates." is created as follows:  
47

48 "Sec. 9-101. Municipal Code Enforcement Board and Special Magistrates  
49 created; Authority of Code Enforcement Board and Special Magistrates.  
50

- 1 (a) It is the intent of this chapter to promote, protect and improve the health,  
2 safety, and welfare of the citizens of the City of Tampa.
- 3
- 4 (b) The operation of one or more Code Enforcement Boards ("CEB") and/or  
5 one or more Code Enforcement Special Magistrates ("CESM"), is  
6 authorized by F.S. Ch. 162, Part I, to provide an equitable, expeditious,  
7 effective and inexpensive method of enforcing the City Code.
- 8
- 9
- 10 (c) The CEB and CESMs shall have the authority to impose administrative  
11 fin es and other non-criminal penalties when violations of the City Code  
12 exist, existed, or continue to exist.
- 13
- 14 (d) The CEB and CESMs shall have the authority to make a determination  
15 whether a property condition presents a serious threat to the public health,  
16 safety, and welfare so as to warrant the immediate abatement of the  
17 condition by directing the appropriate City department to make all  
18 reasonable repairs or take all reasonable action necessary to bring said  
19 condition into compliance with the City Code and to charge the Violator  
20 the reasonable cost of the repairs or action along with any fine imposed  
21 pursuant to this Article.
- 22
- 23 (e) The CESMs are authorized to hear and review the appeals of orders  
24 entered by City of Tampa officials pursuant to City Code sections 19-5(a)  
25 or 5.115.3."
- 26

27 Section 12. That "Sec. 9-102. Alternative code enforcement system." is  
28 created as follows:

29

30

31 **"Sec. 9-102. Alternative code enforcement system.**

32

33 Nothing in this chapter shall be deemed or interpreted to create exclusive  
34 jurisdiction in the CEB or CESM for the enforcement of any or all municipal  
35 codes or ordinances. The City may also enforce violations of its City Code and  
36 City ordinances in any court or forum of competent jurisdiction as provided by  
37 law."

38

39

40 Section 13. That "Sec. 9-103. Composition, appointment, terms of  
41 members, residency requirements, removal, vacancies, organization, and  
42 compensation of Code Enforcement Board." is created as follows:

43

44 **"Sec. 9-103. Composition, appointment, terms of members, residency**  
45 **requirements, removal, vacancies, organization, and compensation of Code**  
46 **Enforcement Board.**

47

- 48 (a) The CEB shall consist of seven (7) regular members, and with four (4)  
49 members to be appointed by the mayor and approved by city council and  
50 three (3) members to be appointed by City Council.



- 1       **(b) CEB member terms shall be three (3) years.**
- 2
- 3       **(c) The appointments by the Mayor of the four (4) regular members should be**  
4       **made so that, whenever possible, there are board members who reside one**  
5       **(1) each in City Council districts 4, 5, 6, and 7 respectively.**
- 6
- 7       **(d) The three (3) regular members appointed by City Council may reside**  
8       **anywhere within the city.**
- 9
- 10       **(e) The CEB shall also consist of two (2) alternate members, one (1) of which**  
11       **is to be appointed by the Mayor and approved by the City Council and one**  
12       **(1) of which appointed by the City Council. The alternate members may**  
13       **reside anywhere within the City.**
- 14
- 15       **(f) Appointments shall be made in accordance with applicable law and**  
16       **ordinances on the basis of experience or interest in the subject matter**  
17       **jurisdiction of the respective CEB. Appointments shall be made consistent**  
18       **with the Charter on the basis of demonstrated experience and interest in**  
19       **the fields of zoning, building control and other relevant disciplines.**  
20       **Whenever possible, the membership of the CEB shall include an architect,**  
21       **a person engaged in business, an engineer, a general contractor, a sub-**  
22       **contractor and a realtor.**
- 23
- 24
- 25       **(g) CEB members shall be residents of the City at the time of appointment**  
26       **and throughout their terms in office. Any member who is no longer a**  
27       **resident of the City shall be automatically removed and that vacancy filled**  
28       **as provided in this Article.**
- 29
- 30
- 31       **(h) If any CEB member fails to attend any two (2) of three (3) consecutive**  
32       **meetings, without cause and without prior approval of the chair of the**  
33       **CEB, the board may declare the member's office vacant and the vacancy**  
34       **shall be filled as provided in this chapter.**
- 35
- 36       **(i) Appointments to fill a vacancy shall be for the remainder of the unexpired**  
37       **term of office.**
- 38
- 39       **(j) The CEB shall elect the following officers:**
- 40
- 41               **(1) The CEB members shall elect a chair from among their members.**  
42               **The chair shall be allowed to vote on all matters appearing before**  
43               **the board.**
- 44
- 45               **(2) The CEB members shall also elect a vice-chair from among its**  
46               **members. The vice-chair shall preside over the public hearing in**  
47               **the absence of the chair.**
- 48
- 49       **(k) The presence of four (4) or more CEB members shall constitute a quorum.**
- 50



1 (l) CEB members shall not be entitled to compensation; however, all  
2 members shall receive reimbursement for parking in city garages and for  
3 mileage for any board-related business, except travel to and from regularly  
4 scheduled and specially called CEB meetings. Such reimbursement shall  
5 be consistent with City policy.  
6

7 (m) The Local Governing Body Attorney may represent the City and its  
8 departments that bring cases before the CEB. The CEB shall have its own  
9 attorney who shall be responsible for providing the CEB with legal  
10 counsel.  
11

12 (n) Each CEB member shall serve until the appointment and qualification of a  
13 successor.”  
14

15  
16 **Section 14. That “Sec. 9-104. Appointment, terms, residency**  
17 **requirements, and compensation of the Special Magistrates.” is created as**  
18 **follows:**  
19

20 **“Sec. 9-104. Appointment, terms, residency requirements, and compensation**  
21 **of the Special Magistrates.**  
22

23 (a) Each CESM is to be appointed by the Mayor and approved by the City  
24 Council for a term of three (3) years.  
25

26 (b) Appointments shall be made consistent with the Charter on the basis of  
27 demonstrated experience and interest in the fields of zoning, building  
28 control, or other relevant disciplines.  
29

30 (c) The CESMs shall be residents of the City at the time of appointment and  
31 throughout their terms in office. Any CESM who is no longer a resident of  
32 the City shall be automatically removed and that vacancy filled as  
33 provided in this chapter.  
34

35 (d) A CESM may be re-appointed by the Mayor with the approval of a  
36 majority of City Council.  
37

38 (e) A CESM shall receive reimbursement for parking in city garages and for  
39 mileage for any code enforcement related business, except travel to and  
40 from regularly scheduled and specially called hearings. Such  
41 reimbursement shall be consistent with city policy.  
42

43 (f) The Local Governing Body Attorney may represent the City and its  
44 departments that bring cases before a CESM. The CESMs may have their  
45 own attorney who shall be responsible for providing the CESMs with legal  
46 counsel.  
47

48 (g) A Violator whose case has been heard by a CESM and is found guilty  
49 shall be precluded from arguing the same case to the CEB.  
50

1 (h) Each CESM shall serve until appointment and qualification of a  
2 successor.”

3  
4 Section 15. That “**Sec. 9-105. Oath of office.**” is created as follows:  
5

6 **“Sec. 9-105. Oath of office.**  
7

8 Each CEB member and each CESM shall take an oath of office as required by the  
9 City Charter, before executing his or her duties of office.”  
10

11  
12 Section 16. That “**Sec. 9-106. Procedural Powers of the CEB and**  
13 **Special Magistrates.**” is created as follows:  
14

15 **“Sec. 9-106. Procedural Powers of the CEB and Special Magistrates.**  
16

17 (a) The CEB and CESMs shall have the power to:  
18

- 19 (1) Adopt rules of procedure for the conduct of its hearings which are  
20 consistent with the City Code or F.S. Ch. 162;  
21  
22 (2) Subpoena Violators and witnesses to its hearings. Subpoenas may  
23 be served by the sheriff's office or duly qualified private process  
24 server at the expense of the requestor. Issuance and returns of  
25 service for CEB or CESM subpoena shall be governed by the rules  
26 enacted by the CEB or CESM, respectively, to conduct its  
27 hearings;  
28  
29 (3) Subpoena evidence to its hearings;  
30  
31 (4) Take testimony under oath;  
32  
33 (5) Issue an order having the force of law commanding whatever steps  
34 are necessary to bring the violation in compliance. However, no  
35 order can direct action be taken that violates any provision of the  
36 City Code.  
37  
38

39  
40 (b) The CEB and CESMs shall not have the power to award attorneys' fees or  
41 costs.”  
42

43 Section 17. That “**Sec. 9-107. Code enforcement procedures.**” is  
44 created as follows:  
45

46 **“Sec. 9-107. Code enforcement procedures.**  
47

48 (a) It shall be the duty of the responsible City departments to initiate  
49 enforcement proceedings of the City Code and City ordinances; no  
50

1 member of the CEB nor any CESM shall have the power to initiate such  
2 enforcement proceedings.

- 3  
4 (b) Except as provided in subsections (c), (d), and (e), if a violation of the  
5 City Code or City ordinances is observed, the Code Enforcement Officer  
6 shall notify the Violator and give time to correct the violation. Should the  
7 violation continue beyond the time specified for correction, the Code  
8 Enforcement Officer shall notify the Secretary to schedule a hearing. The  
9 Secretary shall schedule a hearing, and written notice of such hearing shall  
10 be delivered to the Violator as provided by this chapter. Notice may  
11 additionally be served by publication or posting as provided by this  
12 chapter. If the violation is corrected and then recurs or if the violation is  
13 not corrected by the time specified for correction, the case may be  
14 presented to the CEB or CESMs even if the violation was corrected prior  
15 to the hearing and the notice shall so state.
- 16  
17  
18 (c) If a Repeat Violation is found, the Code Enforcement Officer shall notify  
19 the violator of the finding but is not required to give the Violator time to  
20 correct the Repeat Violation before scheduling a hearing before the CEB  
21 or a CESM. The Code Enforcement Officer, upon notifying the Violator  
22 of a Repeat Violation, shall notify the Secretary to schedule a hearing. The  
23 Secretary shall schedule a hearing and shall provide notice as provided by  
24 this chapter to the Violator. If the Repeat Violation has been corrected  
25 prior to the hearing, the case still may be presented to the CEB or CESM  
26 to determine costs and impose reasonable enforcement fees, and the notice  
27 shall so state. The repeat Violator may choose to waive his or her rights to  
28 this hearing and pay said costs and enforcement fees.
- 29  
30  
31 (d) If the Code Enforcement Officer has reason to believe a violation presents  
32 a serious threat to the public health, safety, and welfare, the Code  
33 Enforcement Officer shall make a reasonable effort to notify the Violator  
34 and may immediately notify the Secretary to schedule a hearing.
- 35  
36  
37 (e) If the Code Enforcement Officer has reason to believe a violation is an  
38 Irreparable or Irreversible Violation, the Code Enforcement Officer shall  
39 make a reasonable effort to notify the Violator and may immediately  
40 notify the Secretary to schedule a hearing to determine and impose fines  
41 for the violation and the notice shall so state.”

42  
43 **Section 18. That “Sec. 9-108. Conduct of CEB and CESM hearings.”**  
44 **is created as follows:**

45  
46 **“Sec. 9-108. Conduct of CEB and CESM hearings.**

- 47  
48 (a) The CEB will meet at least once a month unless there are no pending  
49 cases, or at other times as may be necessary. The chair of the CEB may  
50 call hearings of the CEB at times other than the regularly scheduled



1 sessions, upon the request of a department director or the City Attorney's  
2 Office. Hearings may also be called by written notice signed by at least  
3 three (3) members of the CEB.  
4

- 5 (b) CESMs will meet as may be necessary.  
6  
7 (c) Minutes of all CEB shall be kept by the Secretary, including the vote of  
8 each CEB member upon each question and the outcome of the case.  
9  
10 (d) Minutes of all CESM hearings shall be kept by the Secretary, including  
11 the determinations made by the CESM.  
12  
13 (e) All hearings and proceedings shall be open to the public.  
14  
15 (f) All testimony shall be under oath and mechanically recorded. A Violator  
16 or the City may cause the proceedings to be recorded by a certified court  
17 reporter at the requesting party's expense.  
18  
19 (g) The City shall provide a hearing room and clerical and administrative  
20 personnel as may be reasonably required by the CEB or CESMs to  
21 conduct hearings and perform their respective duties.  
22  
23 (h) Each case before the CEB or CESM shall be presented by the  
24 administrative staff, including code enforcement officers of the City  
25 department which is charged with the responsibility for enforcement of the  
26 City Code sections or City ordinances alleged to have been violated.  
27 Additionally, the Local Governing Body Attorney (or designated assistant  
28 city attorney) may present cases before the CEB or CESM.  
29  
30 (i) Formal rules of evidence shall not apply to CEB or CESM proceedings,  
31 but fundamental due process shall be observed and shall govern the  
32 proceedings. Relevant evidence shall be admissible if it is the type of  
33 evidence upon which reasonable and responsible persons would normally  
34 rely in the conduct of business affairs, regardless of the existence of any  
35 common law or statutory rule which might make such evidence  
36 inadmissible over objections in a civil action. The chair of the CEB or the  
37 CESM may exclude irrelevant or unduly repetitious evidence.  
38  
39 (j) Each party to a CEB or CESM hearing shall have the right to call and  
40 examine witnesses, introduce exhibits, cross-examine opposing witnesses,  
41 impeach witnesses and rebut evidence. It shall be the responsibility of the  
42 Violator to create, at his/her own expense a certifiable record of the  
43 proceedings in case of appeal or administrative review.  
44  
45 (k) The Violator has the right at his own expense to be represented by an  
46 attorney at any CEB or CESM hearing.  
47  
48  
49  
50

- 1 (l) The burden of proof shall be with the City to show by the greater weight  
2 of the evidence that a violation of the City Code or City ordinance exists  
3 and that the Violator committed or was responsible for allowing or  
4 maintaining the violation. If the Violator raises one or more defenses, then  
5 the Violator has the burden to prove those defenses by the greater weight  
6 of the evidence.  
7
- 8 (m) If notice of the public hearing to a violator has been provided pursuant to  
9 this chapter, the hearing may be conducted and an order rendered in the  
10 absence of the violator.  
11
- 12 (n) At the conclusion of a CEB hearing, the CEB shall issue an order  
13 containing the findings of fact based on the evidence of record, and  
14 conclusions of law. The order shall be binding on the Violator(s) and  
15 afford the proper relief or penalty consistent with the powers granted in  
16 this chapter. The findings shall be by a motion approved by a majority of  
17 those members present and voting, except that, at least four (4) CEB  
18 members must vote in order for the action to be official. A tie vote  
19 constitutes no action and the matter remains pending before the CEB. If a  
20 tie occurs, the CEB shall continue to vote until there is a majority  
21 approving the motion or the CEB may continue the matter to the next  
22 regular meeting of the CEB at which time those CEB members who were  
23 absent at the time of the original vote shall vote on the motion pending  
24 before the CEB. The board members absent at the original vote must  
25 review the evidence presented in the evidentiary hearing prior to casting  
26 their vote. The order may include a notice that it must be complied with by  
27 a specified date and that a fine may be imposed if the order is not  
28 complied with by that date. The CEB may also determine and include in  
29 its order the rate of the fine to be imposed if the Violator fails to comply  
30 with the order in a timely fashion.  
31
- 32 (o) At the conclusion of a CESM hearing, the CESM shall issue an order  
33 containing the findings of fact based on the evidence of record, and  
34 conclusions of law. The order shall be binding on the Violator(s) and  
35 afford the proper relief or penalty consistent with the powers granted in  
36 this chapter. The order may include a notice that it must be complied with  
37 by a specified date and that a fine may be imposed if the order is not  
38 complied with by that date. The CESM may also determine and include in  
39 its order the rate of the fine to be imposed if the Violator fails to comply  
40 with the order in a timely fashion.  
41
- 42 (p) Under the conditions specified in section 9-107(d), the CEB or CESM  
43 may issue a separate order for any costs incurred by the City in performing  
44 repairs or taking curative actions if the order imposing fine is not complied  
45 with in a timely fashion.  
46  
47  
48  
49  
50

1 (q) If the violation concerns real property, a copy of the order imposing fine  
2 and any order assessing costs for the City taking curative action that have  
3 been certified by the city clerk may be recorded in the public records of  
4 the Hillsborough County and shall constitute binding notice of the  
5 violations found therein to any subsequent purchasers, successors in  
6 interest or assigns.

7  
8  
9 (r) If an order is recorded in the public records pursuant to this chapter and  
10 the order is complied with by the date specified in the order, the CEB or  
11 CESM shall issue an order acknowledging compliance or a release that  
12 shall be recorded in the public records. A hearing is not required for  
13 issuance of an order acknowledging compliance or release.”

14  
15 Section 19. That “Sec. 9-109, Mandatory disclosures upon the transfer  
16 of property.” is created as follows:  
17

18 **“Sec. 9-109. Mandatory disclosures upon the transfer of property.**  
19

20 (a) If the owner of property that is the subject of an enforcement proceeding  
21 before the CEB or a CESM transfers ownership of that property between  
22 the time that the initial pleading (notice of violation) is served and the time  
23 that a hearing has been scheduled, such owner shall:  
24

25 (1) Disclose the existence and nature of the proceedings in writing to  
26 the prospective transferee; and  
27

28 (2) Deliver to the prospective transferee copies of any and all  
29 pleadings, including all notices of violation, affidavits of violation,  
30 and notices of any kind, including hearing notices received by the  
31 transferor prior to the transfer; and  
32

33 (3) Disclose in writing to the prospective transferee that the new  
34 owner will be responsible for compliance with the applicable code  
35 provisions and any order(s) issued in the CEB or CESM  
36 proceeding; and  
37

38  
39 (b) File a notice with the Secretary of the transfer of the property, identifying  
40 the new owner by full name(s) and address and attaching copies of the  
41 disclosures made to the new owner no later than five (5) days from the  
42 date of transfer or closing.  
43

44 (c) Failure to make the disclosures required by this section before the transfer  
45 of the property shall create a rebuttable presumption of fraud.  
46

47 (d) If the property is transferred to a bona fide purchaser for value in an arm’s  
48 length transaction before the hearing, the proceedings will not be  
49  
50



1 dismissed but the new owner will be provided a reasonable time period to  
2 correct the violations previously cited before the hearing is held.”  
3

4 **Section 20.** That “**Sec. 9-110. Administrative fines and costs of**  
5 **repair.”** is created as follows:  
6

7 **“Sec. 9-110. Administrative fines and costs of repair.**  
8

- 9
- 10 (a) The CEB or CESMs, may order a Violator that has failed to comply with  
11 an order of the CEB or CESM, to pay a fine in an amount within the limits  
12 specified in this section for each day the violation continues past the date  
13 set by the CEB or CESM for compliance.  
14
- 15 (b) When the CEB or CESM has found a violation to be a Repeat Violation,  
16 the CEB or CESM may order the violator to pay a fine in an amount  
17 within the limits specified in this section for each day the Repeat Violation  
18 continues past the date notice of the repeat violation was provided to the  
19 violator.  
20
- 21 (c) Whenever the CEB or CESM orders a Violator to effect repairs or  
22 otherwise correct a City Code or City ordinance violation by a certain  
23 date, the Code Enforcement Officer shall inspect the premises or  
24 otherwise investigate whether the order of the CEB or CESM has been  
25 complied with in a timely manner on the day following the deadline or as  
26 soon thereafter as reasonable. Upon a finding of non-compliance, the Code  
27 Enforcement Officer shall file with the Secretary an inspection report  
28 setting forth the facts of such of non-compliance. A copy of the inspection  
29 report shall be served on the violator by hand delivery or U.S. Mail.  
30
- 31
- 32 (d) A fine imposed pursuant to this section shall not exceed one thousand  
33 dollars (\$1,000.00) per day per violation for a first violation and shall not  
34 exceed five thousand dollars (\$5,000.00) per day per violation for a  
35 Repeat Violation.  
36
- 37 (e) If the CEB or CESMs finds an Irreparable or Irreversible Violation, a fine  
38 not to exceed fifteen thousand dollars (\$15,000.00) per violation may be  
39 imposed.  
40
- 41
- 42 (f) In determining the amount of any fine, the CEB or CESMs should  
43 consider:  
44
- 45 (1) the gravity of the violation,  
46
- 47 (2) any actions by a Violator to correct the violation, and  
48
- 49 (3) any previous violations committed by the Violator.  
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- (g) If the CEB or a CESM makes a finding that a violation presents a serious threat to the public health, safety and welfare, the CEB or CESM may direct the appropriate City department, to make all reasonable repairs or take all reasonable action necessary to bring the property into compliance and charge the Violator with the reasonable costs of the repairs or action along with the fine imposed pursuant to this section. Making such repairs or taking such action does not create a continuing obligation on the part of the City to make further repairs, take further action, or maintain the property and does not create any liability against the City for any damages to or loss of property.
  - (h) Except for Irreparable or Irreversible Violations, the CEB or CESM may reduce a fine imposed pursuant to this section in such amounts and upon such conditions, including time deadlines, as deemed appropriate up to the time that the order is referred to the Local Governing Body Attorney for enforcement. Subsequent thereto, requests for fine reductions and lien settlements shall be directed to and handled by the Local Governing Body Attorney who shall have the same discretion to negotiate these fines and liens as for matters in litigation.”

22  
23  
24  
25

Section 21. That “Sec. 9-111. Challenges to inspect report.” is created as follows:

26  
27

**“Sec. 9-111. Challenges to inspection report.**

28  
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A Violator who disputes an inspection report finding the violations are not in compliance by the deadline given by the CEB or CESM, may seek a hearing before the CEB or the CESM to challenge the report by filing a written motion with the Secretary and serving a copy on the city attorney's office no later than ten (10) days from the date of service of the inspection report. The motion will set forth with specificity the grounds for challenging the findings. The Secretary will schedule a hearing and notify the violator by U.S. Mail. If the CEB or CESM, after hearing the motion, upholds the finding(s) of the Code Enforcement Officer, all costs arising from the hearing may be assessed against the Violator and included in the lien authorized by this chapter.”

39  
40

Section 22. That “Sec. 9-112. Liens.” is created as follows:

41  
42  
43

**“Sec. 9-112. Liens.**

- 44  
45  
46  
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48  
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50
- (a) A certified copy of an order imposing a fine or a fine plus costs may be recorded in the public records of Hillsborough County and shall thereafter constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the Violator(s). Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of the state, including

1 execution and levy against personal property, but such order shall not be  
2 deemed to be a court judgment except for enforcement purposes.

- 3  
4 (b) A fine imposed pursuant to this chapter shall continue to accrue until the  
5 violations are corrected or until judgment is rendered in a suit filed  
6 pursuant to this chapter, whichever occurs first.
- 7  
8 (c) A lien arising from a fine imposed pursuant to this chapter runs in favor of  
9 the City and the City may execute a satisfaction or release of such a lien.
- 10  
11 (d) The CEB or CESM may authorize the City Attorney's Office to foreclose  
12 any unpaid lien or to sue to recover a money judgment for the amount of  
13 the lien plus accrued interest after three (3) months from the filing date of  
14 the lien. No lien created pursuant to the provisions of this chapter may be  
15 foreclosed on real property that is homestead under Section 4, Article X of  
16 the State Constitution. Actions for money judgments under this chapter  
17 may be pursued only on fines levied after October 1, 2000, and the money  
18 judgment provisions of this chapter shall not apply to personal or real  
19 property covered by § 4(a), Art. X, of the Florida Constitution.
- 20  
21 (e) No lien provided under this chapter shall continue for a period of longer  
22 than twenty (20) years after the certified copy of an order imposing a fine  
23 has been recorded, unless within that time an action is commenced  
24 pursuant to section 9-14 in a court of competent jurisdiction.
- 25  
26 (f) In an action to foreclose on a lien or for money damages the prevailing  
27 parties are entitled to recover all costs, including a reasonable attorney's  
28 fee, incurred in the action. The City shall be entitled to collect all costs  
29 incurred in recording and satisfying a valid lien.
- 30  
31 (g) The continuation of the lien affected by the commencement of the action  
32 shall not be good against creditors or subsequent purchasers for valuable  
33 consideration without notice, unless a notice of lis pendens is recorded."

34  
35  
36  
37  
38 **Section 23.** That "Sec. 9-113. Appeal." is created as follows:

39  
40 **"Sec. 9-113. Appeal.**

41  
42 A party, including the City, may appeal a final administrative order of the CEB or  
43 CESM issued pursuant to sections 9-11, 9-12, and 9-17 hereof in the Circuit Court  
44 of the Thirteenth Judicial Circuit of Florida. An appeal shall be filed within thirty  
45 (30) days of the date of entry of the order to be reviewed. A copy of the notice  
46 shall be mailed to the Secretary and served upon the City Attorney's Office but an  
47 action must be filed with the Circuit Court following procedural rules applicable  
48 to such proceedings."  
49  
50



1                   Section 24. That "Sec. 9-114. Rehearing." is created as follows:  
2

3                   "Sec. 9-114. Rehearing.  
4

5                   (a)     A party who has been adversely affected by the result of a public hearing  
6                   before the CEB or CESM may move for a new hearing on the matter upon  
7                   the grounds enumerated below. A motion for rehearing must be served and  
8                   filed within ten (10) days after the date of entry of the CEB or CESM  
9                   order. The time cannot be extended. A motion that is served within the  
10                   ten-day period may be amended to allege new grounds with leave of the  
11                   CEB or CESM. On its own initiative, the CEB or CESM may order  
12                   rehearing within ten (10) days after the entry of the order. After timely  
13                   service of a motion, the time to file a notice of appeal runs from the date  
14                   of rendition of the order on the motion, and not from any order that has  
15                   been entered. If a notice of appeal is filed by the moving party before the  
16                   motion for rehearing is heard, the motion for rehearing is waived. The  
17                   ground of a motion for rehearing shall fall into one (1) or more of the  
18                   following categories:  
19

- 20
- 21                   (1)     Factual errors on of the record;
  - 22                   (2)     Procedural errors committed during the public hearing;
  - 23                   (3)     Perjury committed by a person testifying at the hearing;
  - 24                   (4)     Newly discovered evidence.
- 25

26                   (b)     A rehearing cannot be granted if the sole purpose of the rehearing request  
27                   is to extend the compliance date.  
28

29                   (c)     Notwithstanding paragraph (b) above, the City may request a rehearing  
30                   within or beyond the ten (10) days to seek the modification of an order in  
31                   the event of extenuating circumstances.  
32

33

34                   Section 25. That "Sec. 9-115. Setting aside orders." is created as  
35                   follows:  
36

37                   "Sec. 9-115. Setting aside orders.  
38

39                   If within ninety (90) days after the expiration of a deadline to correct violations  
40                   set by the CEB or CESM, the City has received notice that enforcement action  
41                   could not be commenced or continued due to the application of statutory law,  
42                   including but not limited to federal bankruptcy stays or protections available  
43                   under the Soldier and Sailors Relief Act, then the City will move to have the CEB  
44                   or CESM set aside the order and remand the case back to the applicable  
45                   department for further action, as may be applicable."  
46  
47  
48  
49  
50

1           Section 26. That "Sec. 9-116. Loss of jurisdiction." is created as  
2 follows:  
3

4           "Sec. 9-116. Loss of jurisdiction.  
5

6           The jurisdiction of the CEB and CESM to entertain any action on a case will  
7 cease ninety (90) days after the expiration of a deadline to correct violations set  
8 by the CEB or CESM, unless the CEB or CESM specifically retains jurisdiction  
9 for an additional ninety (90) days. In no event will the CEB or CESM retain  
10 jurisdiction for more than one hundred eighty (180) days after the deadline."  
11

12           Section 27. That "Sec. 9-117. Notices." is created as follows:  
13

14           "Sec. 9-117. Notices.  
15

16           (a) All notices to a Violator required by this chapter shall be provided as  
17 follows:  
18

19           (1) Certified mail, and at the option of the City return receipt  
20 requested, to the address listed in the tax collector's office for tax  
21 notices or to the address listed in the county property appraiser's  
22 database. The City may also provide an additional notice to any  
23 other address it may find for the property owner. For property  
24 owned by a corporation, notices may be provided by certified mail  
25 to the registered agent of the corporation. If any notice sent by  
26 certified mail is not signed as received within 30 days after the  
27 postmarked date of mailing, notice may be provided by posting as  
28 described in paragraph (b)(2) below;  
29

30           (2) Hand delivery by the sheriff's office, Code Enforcement Officer or  
31 any other person duly designated and authorized by the City;  
32

33           (3) Leaving the notice at the Violator's usual place of residence with  
34 any person residing therein who is above fifteen (15) years of age  
35 and informing that person of the contents of the notice; or  
36

37           (4) In the case of commercial premises, leaving the notice with the  
38 manager or other person in charge.  
39

40           (b) In addition to providing notice as set forth in subsection 9-117(a), at the  
41 option of the Code Enforcement Officer as to notices of violation and the  
42 CEB or CESM as to notices of hearing, a notice may be served by  
43 publication or posting as follows:  
44

45           (1) Publishing the notice once during each week for four (4)  
46 consecutive weeks (four (4) publications being sufficient) in a  
47  
48  
49  
50

1 newspaper of general circulation in Hillsborough County. The  
2 newspaper shall meet such requirements as are prescribed under  
3 F.S. Ch. 50, for legal and official advertisements. Proof of  
4 publication shall be made as provided in F.S. §§ 50.041 and  
5 50.051.

6  
7  
8 (2) A notice may be posted at least ten (10) days prior to the hearing or  
9 to the expiration of any deadline contained in a notice, in at least  
10 two (2) locations, one (1) of which shall be on the property at  
11 which the violation is alleged to exist and the other of which shall  
12 be in the lobby of Tampa City Hall, 315 East Kennedy Boulevard,  
13 Tampa, Florida. Proof of posting shall be made by affidavit of the  
14 person(s) posting the notice(s) and shall include a copy (which  
15 may be in the form of a photograph) of the notice posted and the  
16 date and places of its posting.

17  
18 (c) Notice by publication or posting may run concurrently with, or may  
19 follow, an attempt or attempts to provide notice by hand delivery or by  
20 mail as provided in paragraph (a) hereof.

21  
22 (d) Evidence that an attempt has been made to deliver or mail notice as  
23 provided in paragraph (a) hereof, together with proof of publication or  
24 posting as provided in paragraph (b)(1) and (2), shall be sufficient to show  
25 that the notice requirements of this Chapter have been met, without regard  
26 whether or not the Violator received actual notice.”

27  
28  
29 **Section 28.** That “**Sec. 9-118. Powers of CESMs to review orders**  
30 **entered by City of Tampa officials and procedures therefor.”** is created as  
31 follows:

32  
33 **“Sec. 9-118. Powers of CESMs to review orders entered by City officials and**  
34 **procedures therefor.**

35  
36 (a) An Aggrieved Party may seek de novo review before a CESM of an order  
37 entered by the designated City official (hereinafter “City Official”) under  
38 Sections 19-5(a) or 5-115.3 of the City Code.

39  
40 (b) A notice of violation directing a Violator to take corrective action as called  
41 for under section 9-107 of this chapter is not a reviewable final order for  
42 purposes of this section.

43  
44 (c) Proceedings under this section are not governed by the provisions of F.S.  
45 Ch. 162.

46  
47 (d) To initiate the review process from an order issued by the Director of the  
48 Department of Neighborhood Empowerment (the “Director”), an  
49 Aggrieved Party must file a written notice with the Secretary and serve a  
50 copy thereof to the Director, no later than thirty (30) days from the date of  
the order being reviewed, which shall set forth the following:



- 1                   (1) The name, mailing address and telephone number of the Aggrieved  
2                   Party. All further papers and notices shall be mailed to the address  
3                   provided by the Aggrieved Party in the notice unless written notice  
4                   of change of address is filed with the Secretary.  
5  
6                   (2) Identify the order being challenged. A copy of the challenged order  
7                   must be attached to the notice.  
8  
9                   (3) The legal and factual grounds supporting the Aggrieved Party's  
10                  claim for review.  
11  
12                  (4) The Aggrieved Party shall file, together with the notice, any  
13                  documents and items that it wishes the CESM to consider at the  
14                  review hearing.  
15  
16                  (e) To initiate the review process from an order issued by the building  
17                  official, an Aggrieved Party shall follow and be governed by the  
18                  procedures and time-frames set out in City Code Section 5-115.8.  
19  
20                  (1) The building official shall forward all properly filed requests for  
21                  administrative review to the Secretary together with copies of such  
22                  papers or files constituting the record kept by the City in  
23                  connection with the challenged order and any documents filed by  
24                  the Aggrieved Party.  
25  
26                  (2) It shall be the responsibility of the Secretary to schedule a hearing  
27                  before the CESM.  
28  
29                  (3) The Secretary shall mail a notice of hearing to the Aggrieved Party  
30                  and any attorney representing the Aggrieved Party.  
31  
32                  (f) Upon receipt of a timely notice, the Secretary will schedule a review  
33                  hearing before the CESM. A notice of hearing will be mailed to the  
34                  Aggrieved Party. The Secretary will compile the record which shall  
35                  consist of the file and papers kept by the City Official in connection with  
36                  the challenged order and any documents filed by the Aggrieved Party.  
37  
38                  (g) At any hearing of the CESM reviewing an order entered by the City  
39                  Official, fundamental due process will be observed and the parties shall  
40                  have the right to call or cross-examine witnesses.  
41  
42                  (h) The CESM may issue an order affirming or reversing the order of the City  
43                  official under its review but in no event modify, condition, or change the  
44                  terms of said order."  
45

46                  Section 29. That "Sec. 9-119. Conflict of interest." is created as follows:

47                  "Sec. 9-119. Conflict of interest.

48                  Conflict of interest provisions shall apply to members of the CEB and CESM  
49                  pursuant to F.S. §§ 112.3143 and 286.012."  
50

1           **Section 30.** That all ordinances and conflicts herewith are appealed to the  
2 extent of any conflict.  
3

4           **Section 31.** That if any part of this ordinance shall be declared  
5 unconstitutional or invalid by a court of competent jurisdiction, the remaining  
6 provisions at the City of Tampa's election shall remain in full force and effect.  
7

8           **Section 32.** That this ordinance shall take effect within thirty (30) days  
9 upon becoming a law.  
10

11  
12           PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY  
13 OF TAMPA, FLORIDA ON \_\_\_\_\_  
14

15  
16 ATTEST:  
17

18  
19 \_\_\_\_\_  
20 CHAIRMAN/CHAIRMAN PRO TEM  
21 CITY COUNCIL  
22

23  
24 \_\_\_\_\_  
25 CITY CLERK/DEPUTY CITY CLERK  
26

27  
28  
29 APPROVED BY ME ON \_\_\_\_\_  
30

31  
32  
33  
34 \_\_\_\_\_  
35 BOB BUCKHORN, MAYOR  
36

37  
38 PREPARED AND APPROVED AS TO  
39 LEGAL SUFFICIENCY BY:  
40

41  
42                   E/S  
43 \_\_\_\_\_  
44 ERNEST MUELLER  
45 ASSISTANT CITY ATTORNEY  
46

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48  
49 K:/Debbie/Ordinances/Chapter 9/Ordinance\_new ch 9\_03202015  
50

**Chapter 9—CODE ENFORCEMENT**

**~~• Sec. 9-1.—Municipal code enforcement board and special magistrates created; authority of code enforcement board and special magistrates.~~**

~~(a)~~

~~The operation of one (1) or more code enforcement boards ("CEB") and one (1) or more Special Magistrates, is hereby authorized pursuant to and in the manner set forth at F.S. Ch. 162, to provide an equitable, expeditious, effective and inexpensive method of enforcing any City of Tampa Code provision or ordinance in force.~~

~~(b)~~

~~The CEB and Special Magistrates shall have the authority to impose administrative fines and other non-criminal penalties when pending violations exist or continue to exist.~~

~~(c)~~

~~The CEB and Special Magistrates shall have the authority to impose fines and other non-criminal penalties, regardless of whether the violation is pending, when it has been established that the violation is:~~

~~(i)~~

~~A repeat violation;~~

~~(ii)~~

~~A serious threat to the public health, safety, and welfare; or~~

~~(iii)~~

~~An irreparable or irreversible violation.~~

~~(d)~~

~~The CEB and Special Magistrates shall have the authority to make a determination whether a property condition presents a serious threat to the public health, safety, and welfare so as to warrant the immediate abatement of the condition by directing the appropriate City department to make all reasonable repairs or take all reasonable action necessary to bring said condition into compliance with the City Code and to charge the violator the reasonable cost of the repairs or action along with any fine imposed pursuant to this Chapter.~~

~~(e)~~



The CEB and Special Magistrates shall hear and review the appeals of orders entered by the Director of the Department of Code Enforcement under Chapter 19-5(a) of the Tampa City Code.

(f)

It is the intent of this chapter to promote, protect and improve the health, safety, and welfare of the citizens of the City of Tampa.

• ~~Sec. 9-2. Alternative code enforcement system.~~

~~Nothing in this chapter shall be deemed or interpreted to create exclusive jurisdiction in the CEB or Special Magistrates for the enforcement of any or all municipal codes or ordinances. The City of Tampa may also enforce violations of its codes and ordinances in any court or forum of competent jurisdiction as provided by law.~~

• ~~Sec. 9-3. Definitions.~~

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

~~Aggrieved Party means (1) any person that is named or otherwise directly subject to an order of the Director of the Department of Code Enforcement that negatively affects them by requiring the performance of or the forbearance from performing an act, or (2) a person that is the non-prevailing party in an action for administrative review by the CEB of an order of the Director of the Department of Code Enforcement, and may include the city.~~

~~City means the City of Tampa, as well as any of its departments or divisions, offices or officials acting in the course and scope of their employment.~~

~~Code means any of the several chapters of this City Code, City of Tampa ordinances, or any other codes or technical codes of the City.~~

~~Code Enforcement Board (CEB) means the City Code Enforcement Board or Boards, appointed by the Mayor and approved by the City Council. The Board's (or Boards') authority shall be coextensive with the grant of authority in F.S. Ch. 162, Pt. 1, as it may be amended from time to time.~~

~~Code inspector or inspector means any authorized agent or employee of the City whose duty it is to ensure code compliance.~~

~~Irreparable or irreversible violation means a violation that causes harm, damage, injury or change that is incapable of correction, repair or return to an original condition.~~

~~Local governing body attorney means the legal counselor for the City, to-wit, the City Attorney or his or her designated Assistant City Attorney.~~

~~Person means any natural person, corporation, firm, partnership, association or other legal entity or person recognized or allowed to do business under Florida law.~~

~~Repeat violation means a violation of a provision of a code or ordinance by a person who has been previously found through a code enforcement board or any other quasi-judicial or judicial process to have violated, or has admitted violating the same provision of the code within three (3) years prior to the violation, notwithstanding the violations occurred at different locations.~~

~~Secretary means the city clerk, or his/her designees assigned to act as the secretary to the CEB and Special Magistrates.~~

~~Special Magistrate means the Special Magistrate or Magistrates appointed by the Mayor and approved by the City Council. The Special Magistrate's (or Magistrates') authority shall be coextensive with the grant of authority in F.S. Ch. 162, Pt. 1, as it may be amended from time to time.~~

~~• **Ses. B 4. — Composition, appointment, terms of members, residency requirements, removal, vacancies, organization, and compensation of code enforcement board.**~~

~~(a)~~

~~The CEB shall consist of seven (7) regular members, and with four (4) members to be appointed by the mayor and approved by city council and three (3) members to be appointed by city council. The initial appointments of the regular members to the CEB shall be as follows:~~

~~(1)~~

~~Two (2) members appointed for a term of one (1) year each;~~

~~(2)~~

~~Three (3) members appointed for a term of two (2) years each; and~~

~~(3)~~

~~Two (2) members appointed for a term of three (3) years each.~~

~~Thereafter, all appointments shall be made for terms of three (3) years.~~

~~(b)~~

~~The appointments by the mayor of the four (4) regular members should be made so that there are board members who reside one (1) each in city council districts 4, 5, 6, and 7 respectively.~~

~~(c)~~

~~The three (3) regular members appointed by city council may reside anywhere within the city.~~

~~(d)~~

~~The CEB shall also consist of two (2) alternate members, one (1) of which is to be appointed by the mayor and approved by the city council and one (1) of which appointed by the city council. The alternate members may reside anywhere within the city.~~

~~(e)~~

~~Appointments shall be made in accordance with applicable law and ordinances on the basis of experience or interest in the subject matter jurisdiction of the respective code enforcement board. Appointments shall be made consistent with the Charter on the basis of demonstrated experience and interest in the fields of zoning, building control and other relevant disciplines. Whenever possible, the membership of the CEB shall include an architect, a person engaged in business, an engineer, a general contractor, a sub-contractor and a realtor.~~

~~(f)~~

~~Members of the CEB shall be residents of the city at the time of appointment and throughout their terms in office. Any member who is no longer a resident of the city shall be automatically removed and that vacancy filled as provided in this chapter.~~

~~(g)~~

~~If any CEB member fails to attend any two (2) of three (3) consecutive meetings, without cause and without prior approval of the chair of the CEB, the board may declare the member's office vacant and the vacancy shall be filled as provided in this chapter.~~

~~(h)~~

~~A member may be re-appointed by the mayor with the approval of a majority of the entire membership of the city council.~~

~~(i)~~

~~Appointments to fill a vacancy shall be for the remainder of the unexpired term of office.~~

~~(j)~~

~~The CEB shall elect the following officers:~~

~~(1)~~

~~The members of the CEB shall elect a chair from among their members. The chair shall be allowed to vote on all matters appearing before the board.~~

~~(2)~~

~~The members of the CEB shall also elect a vice-chair from among its members. The vice-chair shall preside over the public hearing in the absence of the chair.~~



~~(k)~~

~~The presence of four (4) or more members shall constitute a quorum.~~

~~(l)~~

~~Members shall not be entitled to compensation; however, all members shall receive reimbursement for parking in city garages and for mileage for any board-related business, except travel to and from regularly scheduled and specially called board meetings. Such reimbursement shall be consistent with city policy.~~

~~(m)~~

~~The local governing body attorney may represent the City of Tampa and its departments bringing cases before the CEB. The CEB shall have its own attorney who shall be responsible for providing the CEB with legal counsel.~~

~~• **Sec. 9-5. Appointment, terms, residency requirements, and compensation of the special magistrates.**~~

~~(a)~~

~~Each Special Magistrate is to be appointed by the mayor and approved by the city council for a term of three (3) years. Each member shall serve until appointment and qualification of a successor.~~

~~(b)~~

~~Appointments shall be made consistent with the Charter on the basis of demonstrated experience and interest in the fields of zoning, building control, or other relevant disciplines.~~

~~(c)~~

~~Special Magistrates shall be residents of the City at the time of appointment and throughout their terms in office. Any Special Magistrate who is no longer a resident of the city shall be automatically removed and that vacancy filled as provided in this chapter.~~

~~(d)~~

~~Special Magistrate may be re-appointed by the mayor with the approval of a majority of the entire membership of the city council.~~

~~(e)~~

~~Appointments to fill a vacant Special Magistrate position shall be for the remainder of the unexpired term of office.~~

~~(f)~~

~~Special Magistrates shall not be entitled to compensation; however, they shall receive reimbursement for parking in city garages and for mileage for any code enforcement related business, except travel to and from regularly scheduled and specially called hearings. Such reimbursement shall be consistent with city policy.~~

~~(g)~~

~~The local governing body attorney may represent the City of Tampa and its departments bringing cases before the Special Magistrates. The Special Magistrates may have their own attorney who shall be responsible for providing the Special Magistrates with legal counsel.~~

~~(h)~~

~~A violator whose case has been heard by a Special Magistrate and is found guilty shall be precluded from arguing the same case to the CEB.~~

~~• Sec. 9-6. Oath of office.~~

~~Each member of the CEB and each Special Magistrate, upon appointment, shall, before entering upon the discharge of his duties of office, take an oath of office as required by the City Charter.~~

~~(Ord. No. 2008-221, 5-9-12-18-08)~~

~~• Sec. 9-7. Procedural powers of the CEB and special magistrates.~~

~~(a)~~

~~The CEB and Special Magistrates shall have the power to:~~

~~(1)~~

~~Adopt rules for the conduct of its hearings which are consistent with this Code and F.S. Ch. 162, as they may be amended from time to time;~~

~~(2)~~

~~Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff's office or duly qualified private process servers at the expense of the requestor. Issuance and returns of service for CEB and Special Magistrate subpoena shall be governed by the rules enacted by the CEB or Special Magistrate, respectively, to conduct its hearings;~~

~~(3)~~

~~Subpoena evidence to its hearings;~~

~~(4)~~

~~Take testimony under oath;~~

(5)

~~Issue an order having the force of law commanding whatever steps are necessary to bring the violation in compliance. However, no order can direct action be taken that violates any provision of the City Code.~~

(b)

~~The CEB and Special Magistrates shall not have the power to award attorneys' fees or costs.~~

~~• Sec. 9-8. Code enforcement procedures.~~

(a)

~~It shall be the duty of the responsible City departments to initiate enforcement proceedings of the various codes and ordinances; no member of the CEB nor any Special Magistrate shall have the power to initiate such enforcement proceedings.~~

(b)

~~Except as provided in subsections (c), (d), and (e), if a violation of the City codes or ordinances is found, the inspector shall notify the alleged violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the inspector shall notify the CEB or appropriate Special Magistrate and request a hearing. The CEB or Special Magistrate through clerical staff, shall schedule a hearing, and written notice of such hearing shall be delivered to the alleged violator as provided by this chapter. Notice may additionally be served by publication or posting as provided by this chapter. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction, the case may be presented to the CEB or Special Magistrate even if the violation was corrected prior to the hearing and the notice shall so state.~~

(c)

~~If a repeat violation is found, the inspector shall notify the violator of the finding but is not required to give the violator a reasonable time to correct the repeated violation before scheduling a hearing before the CEB or a Special Magistrate. The inspector, upon notifying the violator of a repeat violation, shall notify the CEB or Special Magistrate and request a hearing. The CEB or Special Magistrate, through clerical staff, shall schedule a hearing and shall provide notice as provided by this chapter to the violator. The case may be presented to the CEB or Special Magistrate to determine and impose fines even if the repeat violation has been corrected prior to the hearing and the notice shall so state.~~

(d)

~~If the inspector has reason to believe a violation presents a serious threat to the public health, safety, and welfare, the inspector shall make a reasonable effort to notify the violator and may immediately notify the CEB or Special Magistrate and request a hearing. The case may be presented to the CEB or Special Magistrate to determine and impose fines and the payment of any costs expended by the City to~~



~~abate the violation even if the violation has been corrected prior to the hearing and the notice shall so state.~~

~~(e)~~

~~If the inspector has reason to believe a violation is irreparable or irreversible in nature, the inspector shall make a reasonable effort to notify the violator and may immediately notify the CEB or Special Magistrate and request a hearing to determine and impose fines for the violation and the notice shall so state.~~

~~• Sec. 9-9. Conduct of CEB and special magistrate hearings.~~

~~(a)~~

~~The CEB (in one (1) or more panels) will meet at least once a month unless there are no pending cases, or at other times as may be necessary. The chair of the CEB may call hearings of the CEB at times other than the regularly scheduled sessions, upon the request of a department director or the city attorney's office. Hearings may also be called by written notice signed by at least three (3) members of the CEB.~~

~~(b)~~

~~Special Magistrates will meet three (3) times per month or as may be otherwise necessary.~~

~~(c)~~

~~Minutes of all CEB shall be kept by the City Clerk's office, including the vote of each member upon each question and the outcome of the case.~~

~~(d)~~

~~Minutes of all Special Magistrate hearings shall be kept by the City Clerk's office, including the determinations made by the Special Magistrate.~~

~~(e)~~

~~All hearings and proceedings shall be open to the public.~~

~~(f)~~

~~All testimony shall be under oath and mechanically recorded. An alleged violator or the city may cause the proceedings to be recorded by a certified court reporter at the requesting party's expense.~~

~~(g)~~

~~The city shall provide a hearing room and clerical and administrative personnel as may be reasonably required by the CEB or Special Magistrates to conduct hearings and perform their respective duties.~~

~~(h)~~

~~Each case before the CEB or Special Magistrate shall be presented by the administrative staff, including inspectors, of the city department which is charged with the responsibility for enforcement of those specific code sections alleged to have been violated. Additionally, the city attorney (or designated assistant city attorney) may present cases before the code enforcement board.~~

~~(i)~~

~~Formal rules of evidence shall not apply to CEB or Special Magistrate proceedings, but fundamental due process shall be observed and shall govern the proceedings. Relevant evidence shall be admissible if it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make such evidence inadmissible over objections in a civil action. The chair of the code enforcement board may exclude irrelevant or unduly repetitious evidence.~~

~~(j)~~

~~Each party to a CEB or Special Magistrate hearing shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach witnesses and rebut evidence. It shall be the responsibility of all alleged violator to create, at his/her own expense a certifiable record of the proceedings in case of appeal or administrative review.~~

~~(k)~~

~~The alleged violator has the right at his own expense to be represented by an attorney at any CEB or Special Magistrate hearing.~~

~~(l)~~

~~The burden of proof shall be with the city to show by the greater weight of the evidence that a code violation exists and that the alleged violator committed or was responsible for allowing or maintaining the violation. If the alleged violator raises one (1) or more defenses, then the alleged violator has the burden to prove those defenses by the greater weight of the evidence.~~

~~(m)~~

~~If notice to an alleged violator of the public hearing has been provided pursuant to this chapter, the hearing may be conducted and an order rendered in the absence of the violator.~~

~~(n)~~

~~At the conclusion of a CEB hearing, the CEB shall issue an order containing the findings of fact based on the evidence of record, and conclusions of law. The order shall be binding on the violator or violators and afford the proper relief or penalty consistent with the powers granted in this chapter. The findings shall be by a motion approved by a majority of those members present and voting, except that, at least four (4) members must vote in order for the action to be official. A tie vote constitutes no action and the matter remains pending before the CEB. If a tie occurs, the CEB shall continue to vote until there is a~~

~~majority approving the motion or the CEB may continue the matter to the next regular meeting of the CEB at which time those board members who were absent at the time of the original vote shall vote on the motion pending before the CEB. The board members absent at the original vote must review the evidence presented in the evidentiary hearing prior to casting their vote. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by that date. The CEB may also determine and include in its order the rate of the fine to be imposed if the violator fails to comply with the order in a timely fashion.~~

~~(e)~~

~~At the conclusion of a Special Magistrate hearing, the Special Magistrate shall issue an order containing the findings of fact based on the evidence of record, and conclusions of law. The order shall be binding on the violator or violators and afford the proper relief or penalty consistent with the powers granted in this chapter. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by that date. The Special Magistrate may also determine and include in its order the rate of the fine to be imposed if the violator fails to comply with the order in a timely fashion.~~

~~(p)~~

~~Under the conditions specified in section 9-11(g), the CEB or Special Magistrate may include any expenses incurred by the city in performing repairs or taking curative steps along with the fine if the order is not complied with in a timely fashion.~~

~~(q)~~

~~If the violation concerns real property, a copy of the order certified by the city clerk may be recorded in the public records of the Hillsborough County and shall constitute binding notice of the violations found therein to any subsequent purchasers, successors in interest or assigns.~~

~~(r)~~

~~If an order is recorded in the public records pursuant to this chapter and the order is complied with by the date specified in the order, the CEB or Special Magistrate shall issue an order acknowledging compliance or a release that shall be recorded in the public records. A hearing is not required for issuance of an order acknowledging compliance or release.~~

~~• **Sec. 9-10. Mandatory disclosures upon the transfer of property.**~~

~~(a)~~

~~If the owner of property that is the subject of an enforcement proceeding before the CEB or a Special Magistrate transfers ownership of that property between the time that the initial pleading (notice of violation) is served and the time that a hearing has been scheduled, such owner shall:~~

~~(1)~~

~~Disclose the existence and nature of the proceedings in writing to the prospective transferee; and~~

~~(2)~~

~~Deliver to the prospective transferee copies of any and all pleadings, including all notices of violation, affidavits of violation, and notices of any kind, including hearing notices received by the transferor prior to the transfer; and~~

~~(3)~~

~~Disclose in writing to the prospective transferee that the new owner will be responsible for compliance with the applicable code provisions and any order(s) issued in the CEB proceeding; and~~

~~(4)~~

~~File a notice with the Secretary of the transfer of the property, identifying the new owner by full name(s) and address and attaching copies of the disclosures made to the new owner no later than five (5) days from the date of transfer or closing.~~

~~(b)~~

~~Failure to make the disclosures required by this section before the transfer of the property shall create a rebuttable presumption of fraud.~~

~~(c)~~

~~If the property is transferred to a bona fide purchaser for value in an arms-length transaction before the hearing, the proceedings will not be dismissed but the new owner will be provided a reasonable time period to correct the violations previously cited before the hearing is held.~~

~~• Sec. 9-11. Administrative fines and costs of repair.~~

~~(a)~~

~~The CEB or Special Magistrate, may order a violator that has failed to comply with an order of the CEB or Special Magistrate, to pay a fine in an amount within the limits specified in this section for each day the violation continues past the date set by the CEB or Special Magistrate for compliance.~~

~~(b)~~

~~When the CEB or Special Magistrate has found a violation to be a repeat violation, the CEB or Special Magistrate may order the violator to pay a fine in an amount within the limits specified in this section for each day the repeat violation continues past the date notice of the repeat violation was provided to the violator.~~

~~(c)~~



~~Whenever the CEB or Special Magistrate orders a violator to effect repairs or otherwise correct a code or ordinance violation by a certain date, the inspector shall inspect the premises or otherwise investigate whether the order of the CEB or Special Magistrate has been complied with in a timely manner on the day following the deadline or as soon thereafter as reasonable. Upon a finding of non-compliance, the inspector shall file with the Secretary an inspection report setting forth the facts of such non-compliance. A copy of the inspection report shall be served on the violator by hand delivery or U.S. Mail.~~

~~(d)~~

~~A fine imposed pursuant to this section shall not exceed one thousand dollars (\$1,000.00) per day per violation for a first violation and shall not exceed five thousand dollars (\$5,000.00) per violation per day for a repeat violation.~~

~~(e)~~

~~If the CEB or Special Magistrate finds a violation to be irreparable or irreversible in nature, it may impose a fine not to exceed fifteen thousand dollars (\$15,000.00) per violation.~~

~~(f)~~

~~In determining the amount of any fine, the CEB or Special Magistrate should consider the gravity of the violation, any actions by a violator to correct the violation, any previous violations committed by the violator, the willfulness of the violation, and the alleged violator's ability to correct the violation within a reasonable time period.~~

~~(g)~~

~~If the CEB or Special Magistrate makes a finding that a violation presents a serious threat to the public health, safety and welfare, the CEB or Special Magistrate may direct the appropriate City department, to may make all reasonable repairs or take all reasonable action necessary to bring the property into compliance and charge the violator with the reasonable costs of the repairs or action along with the fine imposed pursuant to this section. Making such repairs or taking such action does not create a continuing obligation on the part of the City to make further repairs, take further action, or maintain the property and does not create any liability against the City for any damages to the property if such repairs were completed in good faith.~~

~~(h)~~

~~Except for violations found to be irreparable or irreversible, the CEB or Special Magistrate may reduce a fine imposed pursuant to this section in such amounts and upon such conditions, including time deadlines, as it may deem appropriate up to the time that the order is referred to the local governing body attorney for enforcement. Subsequent thereto, requests for fine reductions and lien settlements shall be directed to and handled by the local governing body attorney who shall have the same discretion to negotiate these fines and liens as for matters in litigation.~~

~~• Sec. 9-12. Challenges to inspection report.~~

~~A violator who disputes an inspection report finding the violations are not in compliance by the deadline given by the CEB or Special Magistrate, may seek a hearing before the CEB or the Special Magistrate to challenge the report by filing a written motion with the Secretary and serving a copy on the city attorney's office no later than ten (10) days from the date of service of the inspection report. The motion will set forth with specificity the grounds for challenging the findings. The Secretary will schedule a hearing and notify the violator by U.S. Mail. If the CEB or Special Magistrate, after hearing the motion, upholds the finding(s) of the Inspector, all costs arising from the hearing may be assessed against the violator and included in the lien authorized by this chapter.~~

~~• Sec. 9-13. Liens.~~

~~(a)~~

~~A certified copy of an order imposing a fine or a fine plus costs may be recorded in the public records of Hillsborough County and shall thereafter 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 shall be enforceable in the same manner as a court judgment by the sheriffs of the state, including execution and levy against personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes.~~

~~(b)~~

~~A fine imposed pursuant to this chapter shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this chapter, whichever occurs first.~~

~~(c)~~

~~A lien arising from a fine imposed pursuant to this chapter runs in favor of the city and the city may execute a satisfaction or release of such a lien.~~

~~(d)~~

~~The CEB or Special Magistrate may authorize the city attorney's office to foreclose any unpaid lien or to sue to recover a money judgment for the amount of the lien plus accrued interest after three (3) months from the filing date of the lien. No lien created pursuant to the provisions of this chapter may be foreclosed on real property that is homestead under Section 4, Article X of the State Constitution. Actions for money judgments under this chapter may be pursued only on fines levied after October 1, 2000, and the money judgment provisions of this chapter shall not apply to personal or real property covered by § 4(1), Art. X, of the Florida Constitution.~~

~~(e)~~

~~No lien provided under this chapter shall continue for a period of longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to section 9-14 in a court of competent jurisdiction.~~

~~(f)~~

~~In an action to foreclose on a lien or for money damages the prevailing parties are entitled to recover all costs, including a reasonable attorney's fee, incurred in the action. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien.~~

~~(g)~~

~~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.~~

~~•— Sec. 9-14.— Appeal.~~

~~A party, including the city, may appeal a final administrative order of the CEB or Special Magistrate issued pursuant to sections 9-11, 9-12, and 9-17 hereof in the Circuit Court of the Thirteenth Judicial Circuit of Florida. An appeal shall be filed within thirty (30) days of the date of entry of the order to be reviewed. A copy of the notice shall be mailed to the Secretary and served upon the City Attorney's Office but an action must be filed with the circuit court following procedural rules applicable to such proceedings.~~

~~•— Sec. 9-15.— Rehearing.~~

~~A party who has been adversely affected by the result of a public hearing before the CEB or Special Magistrate may move for a new hearing on the matter upon the grounds enumerated below. A motion for rehearing must be served and filed within ten (10) days after the date of entry of the CEB or Special Magistrate order. The time cannot be extended. A motion that is served within the ten-day period may be amended to allege new grounds with leave of the CEB or Special Magistrate. On its own initiative, the CEB or Special Magistrate may order rehearing within ten (10) days after the entry of the order. After timely service of a motion, the time to file a notice of appeal runs from the date of rendition of the order on the motion, and not from any order that has been entered. If a notice of appeal is filed by the moving party before the motion for rehearing is heard, the motion for rehearing is waived. The ground of a motion for rehearing shall fall into one (1) or more of the following categories:~~

~~(1)~~

~~Factual errors on of the record;~~

~~(2)~~

~~Procedural errors committed during the public hearing;~~

(3)

Perjury committed by a person testifying at the hearing;

(4)

Newly discovered evidence.

• ~~Sec. 9-16. Setting aside orders.~~

~~If within ninety (90) days after the expiration of a deadline to correct violations set by the CEB or Special Magistrate, the City has received notice that enforcement action could not be commenced or continued due to the application of statutory law, including but not limited to federal bankruptcy stays or protections available under the Soldier and Sailors Relief Act, then the City will move to have the CEB or Special Magistrate set aside the order and remand the case back to the applicable department for further action, as may be applicable.~~

• ~~Sec. 9-17. Loss of jurisdiction.~~

~~The jurisdiction of the CEB and Special Magistrates to entertain any action on a case will cease ninety (90) days after the expiration of a deadline to correct violations set by the CEB or Special Magistrates, unless the CEB or Special Magistrate specifically retains jurisdiction for an additional ninety (90) days. In no event will the CEB or Special Magistrates retain jurisdiction for more than one hundred eighty (180) days after the deadline.~~

• ~~Sec. 9-18. Notices.~~

(a)

All notices to an alleged violator required by this chapter shall be provided as follows:

(1)

~~By certified mail, return receipt requested, provided that if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the city by such owner, and is returned unclaimed or refused, notice may be provided by posting as described in subsection 9-18(b)(2) hereof and by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing;~~

(2)

~~Hand delivery by the sheriff's office, code inspector or any other person duly designated and authorized by the city;~~

(3)



~~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 that person of the contents of the notice; or~~

~~(4)~~

~~In the case of commercial premises, leaving the notice with the manager or other person in charge.~~

~~(b)~~

~~In addition to providing notice as set forth in subsection 9-19(a), at the option of the inspector as to notices of violation and the CEB as to notices of hearing, a notice may be served by publication or posting as follows:~~

~~(1)~~

~~By publishing the notice once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in Hillsborough County. 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. 55-50.041 and 50.051.~~

~~(2)~~

~~In lieu of publication, a notice may be posted at least ten (10) days prior to the hearing or to the expiration of any deadline contained in a notice, in at least two (2) locations, one (1) of which shall be on the property at which the violation is alleged to exist and the other of which shall be in the lobby of Tampa City Hall, 315 East Kennedy Boulevard, Tampa, Florida. Proof of posting shall be made by affidavit of the person(s) posting the notice(s) and shall include a copy (which may be in the form of a photograph) of the notice posted and the date and places of its posting.~~

~~(c)~~

~~Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as provided in paragraph (a) hereof.~~

~~(d)~~

~~Evidence that an attempt has been made to deliver or mail notice as provided in paragraph (a) hereof, together with proof of publication or posting as provided in paragraph (b)(1) and (2), shall be sufficient to show that the notice requirements of this Chapter have been met, without regard whether or not the alleged violator received actual notice.~~

~~• Sec. 9-19. Powers of the CEB and special magistrates to review orders entered by the director of the department of code enforcement and procedures therefor.~~

~~(a)~~

~~An Aggrieved Party may seek de novo review before the CEB or Special Magistrate of an order entered by the Director of the Department of Code Enforcement under Chapter 19-5(a).~~

~~(b)~~

~~A notice of violation directing a party to take corrective action as called for under section 9-8 of this chapter is not a reviewable final order for purposes of this section.~~

~~(c)~~

~~Proceedings under this section are not governed by the provisions of F.S. Ch. 162.~~

~~(d)~~

~~To initiate the review process, an Aggrieved Party must file a written notice with the Secretary and serve a copy thereof on the Director of the Department of Code Enforcement, no later than thirty (30) days from the date of the order being reviewed, which shall set forth the following:~~

~~(1)~~

~~The name, mailing address and telephone number of the Aggrieved Party. All further papers and notices shall be mailed to the address provided by the Aggrieved Party in the notice unless written notice of change of address is filed with the Secretary.~~

~~(2)~~

~~Identify the order being challenged. A copy of the challenged order must be attached to the notice.~~

~~(3)~~

~~The legal and factual grounds supporting the Aggrieved Party's claim for review.~~

~~(4)~~

~~The Aggrieved Party shall file, together with the notice, any documents and items that it wishes the CEB or Special Magistrate to consider at the review hearing.~~

~~(e)~~

~~Upon receipt of a timely notice, the Secretary will schedule a hearing on the challenge before the CEB or Special Magistrate. A notice of hearing will be mailed to the Aggrieved Party. The Secretary will compile the record which shall consist of the file and papers kept by the Department of Code Enforcement in connection with the challenged order and any documents filed by the Aggrieved Party.~~

~~(f)~~

~~At any hearing of the CEB or Special Magistrate reviewing an order entered by the Department of Code Enforcement, fundamental due process will be observed and the parties shall have the right to call or cross-examine witnesses.~~

~~(8)~~

~~The CEB or Special Magistrate may issue an order affirming or reversing the order of the Director of the Department of Code Enforcement under its review but in no event modify, condition, or change the terms of said order.~~

~~**Sec. 9-20. — Conflict of interest.**~~

~~Conflict of interest provisions shall apply to members of the CEB and Special Magistrates pursuant to F.S. §§ 112.3143 and 286.012.~~