

ORDINANCE 2014-006

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, AMENDING THE CITY CODE OF ORDINANCES CHAPTER 35 ENTITLED "CODE ENFORCEMENT"; TO PROVIDE FOR A SPECIAL MAGISTRATE SYSTEM FOR CODE ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE AND A TRANSITION PERIOD.

WHEREAS, Part I of Chapter 162, Florida Statutes, cited as the "Local Government Code Enforcement Boards Act," (hereinafter referred to as the "Act"), in order to promote, protect, and improve the health, safety, and welfare of the citizens of Florida municipalities, authorizes the creation of administrative boards with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing any codes and ordinances in force in municipalities, where a pending or repeated violation continues to exist; and

WHEREAS, the Act provides that a municipality may, by ordinance, adopt an alternate code enforcement system that gives special magistrates designated by the local governing body the authority to hold hearings and assess fines, and that such special magistrates shall have the same status as code enforcement boards under the Act; and

WHEREAS, Chapter 35 of the City Code of Ordinances, pursuant to Ordinance 89-012, provides for a code enforcement board to serve Fruitland Park in accordance with the Act.

WHEREAS, the City Commission of the City of Fruitland Park finds and determines that amending the Code of Ordinances to adopt a system giving one or more special magistrates the authority to have the status of a code enforcement board under the Act would provide more efficient and expeditious resolution of municipal code violations; and

WHEREAS, the City Commission of the City of Fruitland Park accordingly desires to amend City Code of Ordinances Chapter 35 to adopt a special magistrate system of code enforcement.

NOW THEREFORE, be it ordained by the City Commission of the City of Fruitland Park, Florida:

Section 1. RECITALS. The foregoing findings are incorporated herein by reference and made a part hereof.

Section 2. CODE ENFORCEMENT PROCEDURE. Chapter 35 of the City of Fruitland Park Code of Ordinances entitled "Code Enforcement" is hereby amended to read as follows:

Sec. 35.01. - Establishment.

There is hereby created a local government code enforcement system pursuant to F.S. Ch. 162, for the city, giving special magistrates designated by the city commission the authority to hold hearings and assess fines against violators of city codes and ordinances. Any special magistrate designated hereunder shall have the same status as an enforcement board under F.S. Ch. 162.

Sec. 35.02. - Appointment of Special Master.

A. Whenever the city commission desires to appoint one or more special magistrates, it shall solicit applications from persons willing to serve as special magistrate and shall interview and evaluate applicants. From said applicants the city shall appoint one or more special magistrates who thereafter shall have all of the powers and duties of a code enforcement board under F.S. Ch. 162.

- B. The term of appointment of any special magistrate shall be set by the City Commission by contract with the special magistrate and the special magistrate shall sit at the pleasure of the city commission.
- C. Every special magistrate appointed hereunder shall be a member of the Florida Bar in good standing, and shall have not less than five (5) years of experience as a practicing attorney, shall demonstrate satisfactory knowledge of municipal law and the general procedures for enforcement of municipal codes, and shall demonstrate a temperament suitable for the exercise of the quasi-judicial powers vested in each special magistrate.

Sec. 35.03. - Chapter 162, Florida Statutes, adopted.

The city commission hereby adopts chapter 162, Florida Statutes, as it may be amended or renumbered from time to time, and all binding judicial decisions thereunder, which shall govern the conduct of proceedings before the special magistrate as if the same were being conducted before a code enforcement board.

Sec. 35.04. - Officers; rules and regulations; legal counsel.

- (A) The special magistrate(s) may adopt rules and regulations of procedure not inconsistent with Florida law or existing ordinances or the charter of the city.
- (B) The city attorney shall serve as counsel to any code enforcement officer to assist in preparation and prosecution of cases.
- (C) The city commission may designate certain of its employees or agents as code enforcement officers whose duty it is to enforce codes and ordinances enacted by the city. The training and qualifications for such code enforcement officers shall be determined by the city. Employees or agents who may be designated as code enforcement officers may include, but are not limited to, code inspectors, law enforcement officers, animal control officers, or fire safety inspectors. Such code enforcement officers shall have the powers provided for by state law and city ordinances and act pursuant to state law.

Sec. 35.05. - Administrative charges; collection of fines; penalty.

The violation of any provision under Chapter 72, "Dangerous Intersection Safety" shall be deemed a noncriminal, nonmoving violation for which a civil penalty shall be assessed as follows:

- (A) *Administration charges.* In addition to the fees provided for in § 35.11 of the Code, administrative charges may be assessed in the event of an appeal or the necessity to institute collection procedures.
- (B) *Collection of fines.* The City of Fruitland Park may establish procedures for the collection of any penalty or charge imposed herein, and may enforce such penalty or charge by civil action in the nature of debt.
- (C) *Fees:* Fees for violation of this section are as follows:
 - (1) For first offense: \$125.00.
 - (2) For second offense: \$250.00.
 - (3) Each additional offense: \$500.00.

Section 3. SEVERABILITY. If any section or portion of a section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

Section 4. CONFLICTS. All ordinances in conflict with the provisions of this Ordinance are hereby repealed.

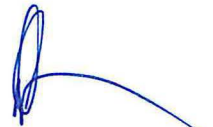
Section 5. INCLUSION IN THE CODE. The provisions of this Ordinance shall become and be made a part of the City of Fruitland Park Code of Ordinances and the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. EFFECTIVE DATE AND TRANSITION PERIOD. This Ordinance shall take effect immediately upon its adoption by the City Commission of the City of Fruitland Park, Florida. However, the existing Code Enforcement Board provisions shall remain in effect until the city commission retains a special magistrate.

PASSED AND ORDAINED this 24th day of April, 2014, by the City Commission of the City of Fruitland Park, Florida.


CHRISTOPHER J. BELL, MAYOR

Attest:



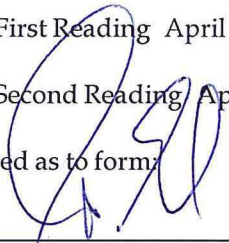
Esther Coulson, City Clerk

Vice Mayor Goldberg	<u> / </u> (Yes), <u> </u> (No), <u> </u> (Abstained), <u> </u> (Absent)
Commissioner Cheshire	<u> / </u> (Yes), <u> </u> (No), <u> </u> (Abstained), <u> </u> (Absent)
Commissioner Gunther	<u> / </u> (Yes), <u> </u> (No), <u> </u> (Abstained), <u> </u> (Absent)
Commissioner Kelly	<u> / </u> (Yes), <u> </u> (No), <u> </u> (Abstained), <u> </u> (Absent)
Mayor Bell	<u> / </u> (Yes), <u> </u> (No), <u> </u> (Abstained), <u> </u> (Absent)

Passed First Reading April 10, 2014

Passed Second Reading April 24, 2014

Approved as to form:



Scott A. Gerken, City Attorney