

CHAPTER 13-1. CODE ENFORCEMENT AUTHORITY^[2]

Footnotes:

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Editor's note— Ord. No. 17-11, §§ 1—13, adopted September 8, 2011, repealed the former Ch. 13-1, §§ 13-1-1—13-1-12, and enacted a new Ch. 13-1 as set out herein. The former Ch. 13-1 pertained to code enforcement board and derived from Ord. No. 43-90, § 3, 9-13-90; Ord. No. 8-93, §§ 1—5, 4-8-93; Ord. No. 1-96, §§ 1—5, 1-11-96; Ord. No. 49-99, §§ 1—6, 11-18-99; Ord. No. 12-01, §§ 1—4, 3-22-01; Ord. No. 16-10, §§ 231—235, 9-9-10.

Sec. 13-1-1. - Code enforcement authority established.

There is hereby established by the city council a code enforcement authority pursuant to the provisions of F.S. Ch. 162. The authority shall be identified and known as the "Pensacola Code Enforcement Authority." The mission of the authority shall be to serve as the city's agency for the receipt, investigation, adjudication and other processing of instances of violations of code provisions pertaining to the appearance, use and condition of real property in the city, and other code violations as may be in the best enforcement interests of the city, and to provide for quasi-judicial hearings and enforcement measures to accomplish its mission. The authority shall be organized and staffed in a manner as determined by the mayor.

(Ord. No. 17-11, § 1, 9-8-11)

Sec. 13-1-2. - Definitions.

City shall mean the City of Pensacola, Florida.

Code enforcement officer shall mean those persons designated by the mayor whose duty it is to ensure compliance with the Code of the City of Pensacola, Florida. For purposes of this chapter and chapter 13-2 of the Code, code inspector, enforcement officer, and any other employee or agent so designated by the mayor under the provisions of this title of this Code shall have the same meaning.

Codes and ordinances shall mean the ~~Municipal~~ Code of the City of Pensacola, Florida, and all ordinances adopted by reference to any of the foregoing chapters, as now existing or as may be amended or created by ordinances from time to time.

Cost of repairs shall mean all costs inclusive of personnel costs incurred by the city in order to make all reasonable repairs required to bring property into code compliance and to initiate and prosecute code compliance process and procedures.

Governing body shall mean the City Council of the City of Pensacola.

Irreparable or *irreversible* shall mean incapable of being rectified, repaired, or corrected or not reasonably possible to reverse.

Itinerant or *transient* shall mean any act, activity or condition in violation of this Code which moves from place to place within the City of Pensacola, or is temporary in nature.

Nuisance shall mean those conditions defined as nuisances in Florida Statutes and in other provisions of the Code of Ordinances, as the code may be amended from time to time.

Person shall mean an individual, a group of two (2) or more individuals who are jointly responsible for a code violation or the correction of a code violation, and any entity or business, regardless of form,

which is responsible for a code violation, the correction of a code violation, or the ownership of real property upon which a code violation occurred or exists.

Repeat violation shall mean 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 judicial or quasi-judicial process, to have violated or who has admitted violating the same provision within five (5) years prior to the violation, notwithstanding whether the violations occur or may have occurred at different locations.

Responsible party shall mean the violator, the record owner of property, the officers and agents of a record owner, tenants or other persons in lawful possession with the consent of the record owner, and persons and entities holding a recorded security interest in property who have been provided with notice of the existence of one or more code violations on such property and information that the violation(s) have not been cured by an owner or person in possession.

Special master shall mean the hearing officer(s) designated by the city council as special magistrates having the authority to conduct quasi-judicial hearings and assess fines against code violators and such other authority as may be conferred by F.S. Ch. 162, or any other law. The city council may, by ordinance, confer additional authority and responsibility upon special masters, including the responsibility and authority to serve as hearing officers in proceedings not involving municipal code violations.

Violator shall mean the person responsible for the code violation.

(Ord. No. 17-11, § 2, 9-8-11)

Sec. 13-1-3. - Creation of code enforcement special master.

In order to promote, protect and improve the health, safety, and welfare of the citizens of the city, the city council hereby creates the position of the Code Enforcement Special Master, who shall have the authority to hold hearings, command compliance and impose administrative fines and other non-criminal penalties and otherwise provide an equitable, expeditious, effective and cost-effective method of enforcing codes and ordinances. The special masters so appointed shall have all authority conferred upon special magistrates and code enforcement boards by Chapter 162, Florida Statutes, and such additional authority as may be created and placed upon them by law, including by ordinance of the city council.

(Ord. No. 17-11, § 3, 9-8-11)

Sec. 13-1-4. - Special master authority and qualifications.

- (a) The city council shall designate one (1) or more special masters who shall have the authority to hold hearings, command compliance, and assess fines against violators of the city codes and ordinances. Each special master shall have the authority to:
- (1) Subpoena alleged violators and witnesses to hearings through service by the chief of police if the person or entity being subpoenaed is located in the city limits, or through service by the Escambia County Sheriff;
 - (2) Subpoena evidence to hearings;
 - (3) Take testimony under oath or affirmation;
 - (4) Issue orders having the force of law to command whatever steps may be reasonably necessary to bring a violation into compliance; and
 - (5) Conduct hearings in an orderly manner, in accordance with the requirements of due process and all requirements of law.
 - (6) Impose fines upon violators and persons responsible, pursuant to law.

- (7) Upon entering a finding that a violation or repeat violation exists, a special master may simultaneously or at a later time direct the responsible party to take steps to cure the violation within a reasonable, specified period of time, and may further direct that in the event that the responsible party fails to cure the violation in the time specified, the city may enter upon the property and cure or remove the violation, either by doing so directly or by a third party contract. The order shall further provide that in the event the city cures or removes the violation itself or by third party contract, the reasonable cost to the city for its time, labor, and expenses or contract payment shall be borne by the responsible party and shall become a lien upon any and all real or personal property of the responsible party, wherever situate, enforceable according to law. Such lien and the debt, which it reflects, shall constitute a special assessment by the city upon the property which was the subject of the violation, for the improvement of such property. ~~Effective October 1, 2011, any, code enforcement lien shall be superior in dignity to all other taxes, liens, titles, encumbrances, and claims until paid, except as set forth in F.S. Ch. 197, or if in conflict with state or federal law. The priority of code enforcement liens versus mortgages, liens and encumbrances in existence prior to October 1, 2011, shall be determined upon the date of recording of the lien.~~

Commented [JM1]: Preempted by state statutes and Florida Supreme Court decisions.

- (b) No special master shall have the power to initiate enforcement proceedings.
- (c) Special masters shall be members of the Florida Bar in good standing, shall have no less than five (5) years' experience practicing law, which experience shall include courtroom and administrative hearing experience. Special masters shall not be employees of the city or hold any other office with the city government. Special masters appointed by the city council shall hold office until such time as they are removed with or without cause by the city council pursuant to the City Charter, and shall comply with the Code of Ethics of the State of Florida and the City of Pensacola.
- (d) The city council may, by ordinance, specify that the special masters appointed under this section shall perform additional duties as hearing officers conducting quasi-judicial hearings as council may, in its discretion, so designate.

(Ord. No. 17-11, § 4, 9-8-11)

Sec. 13-1-5. - Enforcement procedures.

Except in instances where a code inspector has reason to believe that a code violation presents an immediate and serious threat to public health, safety and welfare, or where an alternative code enforcement process has been initiated, the code enforcement procedure under this chapter shall be as follows:

- (1) The code inspector shall initiate enforcement proceedings with respect to the City Code, based upon complaints or information coming to the attention of the inspector from another individual, or based upon the inspector's own observation or investigation.
- (2) Where the code inspector finds or is made aware of an apparent code violation, the code inspector shall notify the suspected violator and such notice of violation shall provide the suspected violator with a reasonable period of time within which to correct the apparent violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the code enforcement authority staff and request that a hearing be scheduled before a special master. A hearing before the special master shall be scheduled and notice shall be provided to the violator as provided in section ~~13-1-10~~~~13-1-4~~. A case may be presented to the special master even if the violation has been corrected prior to the hearing, and the notice shall so state.
- (3) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the enforcement authority administrative staff and request that a hearing before a special master be scheduled. The code enforcement authority shall schedule a hearing before a special master and shall provide notice pursuant to F.S. §

162.12. The case may be presented to the special master even if the repeat violation has been corrected prior to the hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement authority retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the special master.

- (4) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the alleged violator, and may immediately proceed to request a hearing before a special master.
- (5) If the owner of property which is subject to an enforcement proceeding before a special master or a court or which has an unsatisfied, recorded code enforcement lien upon the property transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:
 - (a) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
 - (b) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
 - (c) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
 - (d) File a notice with the code enforcement authority of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five (5) days after the date of transfer.
 - (e) A failure to make the disclosures described in subsections (a), (b) and (c) above, before the transfer, creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.
- (6) Whenever a person has been notified of an apparent code violation by any code inspector, he or she may, within ten (10) days of such notification, request a hearing before a special master. The code enforcement authority staff shall schedule a hearing and provide notice to the person requesting the hearing in the same manner as if the hearing had been requested by a code inspector.

(Ord. No. 17-11, § 5, 9-8-11)

Sec. 13-1-6. - Hearing procedures.

- (a) The code enforcement authority shall schedule hearings by a special master at such times as the necessity for such hearings or the responsibilities of the office shall require. If a hearing has previously been conducted before a special master involving a parcel of property or a violator, every reasonable effort shall be made to schedule subsequent hearings involving that property or violator before the same special master, unless circumstances warrant otherwise.
- (b) Minutes of proceedings shall be kept of all hearings held by special masters and all such hearings and proceedings shall be open to the public, however, special masters shall retain the quasi-judicial authority to sequester witnesses prior to their giving testimony.
- (c) Each case coming before a special master shall be presented by a code inspector or other member of the administrative staff of the code enforcement authority, or by the city attorney or his or her designee. If the city prevails in prosecuting a case before the special master or in a subsequent court

proceeding, it shall be entitled to recover all costs incurred in prosecuting the case and such costs may be included in a lien authorized herein.

- (d) All testimony before a special master shall be taken under oath and recorded in a manner appropriate for judicial certiorari review. All persons seeking a judicial review of the final orders of a special master shall do so by writ of certiorari to Circuit Court and shall be responsible for proper preparation of the record for such review. The special master may take testimony from a code inspector, the alleged violator, a person claiming to be aggrieved by the alleged code violation, or knowledge of the violation or circumstances pertaining to it. The special master shall not be bound by the formal rules of evidence; however, fundamental due process and the requirements of law shall be observed and shall govern each hearing.
- (e) The burden of proof shall be upon the city to show, by clear and convincing evidence, that a code violation exists or did exist.
- (f) Special masters may, at any hearing, set a future hearing date in order to continue a hearing, review the circumstances of an established violation in order to determine subsequent acts of compliance or impose or amend an appropriate penalty or remedy. However, when a code violation has been found to exist by a special master, no continuance or extension of time may be granted in excess of fourteen (14) days without the consent of the code enforcement authority, which consent shall appear in written form in the record of proceedings, and which may further be conditioned upon a commitment by the violator, property owner or other responsible party to take reasonable steps to effectuate compliance or satisfy a fine or lien. In cases where an uncorrected code violation has been found by a special master, and in cases involving repeat violations, no more than one continuance may be granted in the absence of exigent circumstances without the consent of the code enforcement authority.
- (g) At the conclusion of a hearing, the special master shall prepare and issue findings of fact, based upon the evidence of record, and conclusions of law, and shall issue an order affording the proper relief. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, pursuant to F.S. § 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by said date. A certified copy of the order may be recorded in public records of Escambia County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If the order is recorded in the public records pursuant to the subsection and the order is complied with by the date specified in the order, the special master shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

(Ord. No. 17-11, § 6, 9-8-11)

Sec. 13-1-7. - Administrative fines, costs of repair, liens and foreclosure.

- (a) The special master, upon notification by the code inspector that an order of the special master has not been complied with by the time set or, upon finding that a repeat violation has been committed, may order the violator to pay a fine for each day the violation continues past the date set by the special master for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in subsection 13-1-5(4), the code enforcement authority, as the entity that notifies the mayor and city council so reasonable repairs may be made, shall notify the governing body, and may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the governing body to make further repairs or to maintain the property and does not create any liability against the governing body for any damages to the property if such repairs were completed in good faith.

- (b) A fine imposed pursuant to this section shall not exceed two hundred fifty (\$250.00) dollars per day for a first violation and shall not exceed five hundred (\$500.00) dollars per day for a repeat violation, and in addition, may include all costs of repairs pursuant to this section. However if the special master finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed five thousand (\$5,000.00) dollars per violation. If a finding of a violation or a repeat violation has been made as provided in this section, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the special master finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in this section.
- (c) In determining the amount of any fine, the special master shall consider the following factors:
 - i. The gravity of the violation;
 - ii. The actions taken by the violator to correct the violation; and
 - iii. Any previous violations committed by the violator.
- (d) The special master may reduce a fine imposed pursuant to this section, prior to the recording of a lien.
- (e) A certified copy of an order imposing a fine, or a fine plus repair costs may be recorded in the public records of Escambia County and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section.
- (f) After three (3) months from the filing of any such lien which remains unpaid, the code enforcement authority may request the city attorney's office to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest.

~~(g) Actions for money judgments under this chapter, filed pursuant to F.S. Ch. 162 may be pursued only on fines levied after October 1, 2000.~~

Commented [JM2]: No longer necessary. State law covers this.

(Ord. No. 17-11, § 7, 9-8-11)

Sec. 13-1-8. - Duration of lien.

No lien provided under this chapter shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced in a court of competent jurisdiction in an action to foreclose on a lien or for a money judgment. The prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(Ord. No. 17-11, § 8, 9-8-11)

Sec. 13-1-9. - Appeals.

Any aggrieved party, including the city, may appeal a final administrative order of a special master to the circuit court. Such appeal shall be by writ of certiorari and shall not be a de novo hearing but shall be limited to appellate review of the record created before the special master and shall be limited to determining whether the proceedings below are based upon competent and substantial evidence and

whether they conform to the essential requirements of law. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

(Ord. No. 17-11, § 9, 9-8-11)

Sec. 13-1-10. - Notices.

(a) All notices required to be provided by this chapter shall be by:

- (1) Certified mail, return receipt requested ~~in the manner provided by F.S. section 162.12; provided 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 local government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in F.S. § 162.12 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 or officer of the Pensacola Police Department, enforcement officer, code inspector, or other person designated by the city council;
 - (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 such 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, at the option of the special master, notice may also be served by publication or posting as provided in F.S. § 162.12, as may be amended.
- (c) Evidence that an attempt has been made to hand deliver or mail notice as provided above, together with proof of publication or posting as provided above, shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

(Ord. No. 17-11, § 10, 9-8-11)

Sec. 13-1-11. - Actions for money judgments.

Pursuant to the provisions of F.S. § 162.125, upon authorization by the mayor, the city attorney or his or her designee may pursue an action for a money judgment based upon code enforcement fines ~~levied after October 1, 2000;~~ when such an action is deemed to be in the best interests of the city by the mayor. With the concurrence of the mayor, the city attorney may enter into a contract to secure the pursuit of judgments and collections based upon such code enforcement fines and liens.

Commented [JM3]: No longer necessary.

(Ord. No. 17-11, § 11, 9-8-11)

Sec. 13-1-12. - Provisions of chapter supplemental and non-exclusive.

The provisions of this chapter are not exclusive and are additional or supplemental means of obtaining compliance with the Code of the City of Pensacola, Florida. Nothing contained herein shall prohibit the City of Pensacola from enforcing the Code of the City of Pensacola, Florida, by any other lawful means.

(Ord. No. 17-11, § 12, 9-8-11)

REPEAL SECTION 13-1-13.

Sec. 13-1-13. Transitional cases.

~~Effective October 1, 2011, all code enforcement cases pending hearing or compliance or enforcement review before the code enforcement board shall be assigned to a special master for hearing or further review or enforcement, and the provisions of this chapter as created or amended herein shall be applicable.~~

Commented [JM4]: No longer necessary.

~~(Ord. No. 17-11, § 13, 9-8-11)~~

CHAPTER 13-2. CODE ENFORCEMENT OFFICERS

Sec. 13-2-1. - Code enforcement officers designation.

- (a) The ~~mayor city manager~~ is authorized to designate employees or agents of the city as code enforcement officers. These employees or agents may include, but are not limited to, code inspectors, enforcement officers, enforcement specialists, law enforcement officers, animal control officers, or fire safety inspectors. For purposes of this chapter and Chapter 13-1 of this Code, code inspector and enforcement officer shall refer to any employee or agent as designated by the ~~mayor city manager~~.
- (b) A designated code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted provision of the Code of the City of Pensacola, Florida, and that the county court for Escambia County will hear the charge.

(Ord. No. 43-90, § 3, 9-13-90; Ord. No. 1-96, § 6, 1-11-96; Ord. No. 49-99, § 6, 11-18-99; Ord. No. 12-01, § 5, 3-22-01)

Sec. 13-2-2. - Authority to issue citations and citations procedure.

- (a) Prior to issuing a citation, a designated code enforcement officer shall provide notice to the person that the person has committed a violation of a code provision and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) days. If, upon personal investigation, a designated code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.
- (b) Any violation of the Code of the City of Pensacola, Florida, which is sought to be enforced by issuance of a citation by a code enforcement officer shall be deemed to be a civil infraction. The maximum civil penalty shall not exceed five hundred dollars (\$500.00), and a civil penalty of less than five hundred dollars (\$500.00) shall be imposed if the person who has committed the civil infraction does not contest the citation.
- (c) A citation issued by a designated code enforcement officer shall be in a form prescribed by the ~~mayor city manager~~ and shall contain:
 - (1) The date and time of issuance.
 - (2) The name and address of the person to whom the citation is issued.

- (3) The date and time the civil infraction was committed.
- (4) The facts constituting reasonable cause.
- (5) The number or section of the Code or ordinance violated.
- (6) The name and authority of the code enforcement officer.
- (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

~~“(11) — The citation will state if a court appearance is mandatory.”~~

Commented [JM5]: Not provided by Chapter 162.

- (d) After issuing a citation to a person, the code enforcement officer shall deposit the original citation and one (1) copy of the citation with the county court.
- (e) Once a code enforcement officer issues a citation, no code enforcement officer shall have the authority to void a citation but must deposit the citation with the county court as provided in this section.
- (f) Citations issued by a designated code enforcement officer may be contested in the county court for Escambia County.
- (g) Any person who willfully refuses to sign and accept a citation issued by a designated code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083.
- (h) The code enforcement officer may specify a mandatory court appearance should there be irreparable damage or irreversible damage or if there exists a serious threat to the health, safety, and welfare of the citizens of the city. The code enforcement officer shall specify a mandatory court appearance after a fourth offense if a violation of the same provision of the code is committed by the same violator.
- (i) For violations of any duly enacted code or ordinance of the city, the schedule of civil penalties for violations which are not contested shall be as follows:
 - 1st offense \$150.00
 - 2nd offense 225.00
 - 3rd offense 325.00
 - 4th offense 450.00
 - 5th or more offenses Mandatory court appearance
- (j) For violations of any duly enacted code or ordinance of the city, if the person elects to contest the citation and is found to be in violation by the court, the court shall assess a civil penalty that is greater than the amount the person would have been assessed if the person had not contested the citation for the same offense under subsection (i), except that the court assessment shall not exceed five hundred dollars (\$500.00) per infraction.
- (k) (1) Any person cited with a violation of this section may pay the civil penalty within fifteen (15) days of the date of receiving the citation.
- (2) If a person fails to pay the civil penalty within fifteen (15) days of receipt of the citation, the clerk of court shall issue a delinquent notice. An additional amount of ten dollars (\$10.00) shall be

assessed as a late fee for each penalty paid after the initial fifteen (15) days to be retained by the clerk of court to cover administrative costs.

- (3) If a person fails to respond to the above delinquent notice, the court may enter a judgment against the person cited for the sum of the civil penalty plus delinquent fee, and any costs assessed by the court.
- (l) In addition to any civil penalty imposed under this section, the court may assess costs. The Clerk of the Court of Escambia County shall collect and distribute the civil penalties, late fees, and any costs assessed by the court under this section. All civil penalties received by the clerk of the court, excluding costs imposed by the court under this section, shall be paid monthly to the City of Pensacola. The clerk of court is authorized to retain five dollars (\$5.00) of each civil penalty collected to cover administrative costs.
- (m) If a person fails to pay the civil penalty or request a hearing, fails to appear in court to contest the citation when a hearing has been requested, or fails to appear as may be required by paragraph (h), the court may issue an order to show cause upon the request of the City of Pensacola. This order shall require such person to appear before the court to explain why actions on the citation have not been taken. If any person who is issued such an order fails to appear in response to the court's directive, that person may be held in contempt of court. In addition to any of the foregoing, the court may also enter judgment for an amount greater than the civil penalty provided for in subsection (i), but not to exceed five hundred dollars (\$500.00) per infraction.
- (n) The terms and provisions of this chapter shall apply to and include all violations of the City of Pensacola's duly enacted codes or ordinances, as may be adopted, and as any may be amended or replaced, for which enforcement is pursued under this chapter.
- ~~(o) The provisions of this chapter shall not apply to the enforcement pursuant to F.S. §§ 553.79 and 553.80, of building codes adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the City of Pensacola, Florida. For purposes of this subsection, "building code" means only those codes adopted pursuant to F.S. § 553.73.~~
- ~~(op) Effective July 1, 2001, [t]he provisions of this chapter shall not apply to the enforcement pursuant to F.S. § 553.79 and § 553.80, of the Florida Building Code, adopted pursuant to F.S. § 553.73 as applied to construction, provided that a building permit is either not required or has been issued by the county or the municipality.~~

Commented [JM6]: Covered by subsection (p).

(Ord. No. 12-01, § 6, 3-22-01; Ord. No. 15-08, § 1, 2-13-08; Ord. No. 14-11, § 1, 7-21-11)

Sec. 13-2-3. - Notice to appear.

- (a) Notwithstanding F.S. § 34.07, a designated code enforcement officer, is authorized to issue a notice to appear at any hearing conducted by a county court if the officer, based upon personal investigation, has reasonable cause to believe that the person has violated a code or ordinance. A notice to appear means a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court at a specified date and time.
- (b) Prior to issuing a notice to appear, a code enforcement officer shall provide written notice to the person that the person has committed a violation of the code or ordinance and shall establish a reasonable time period within which the person must correct the violation, except as provided in subsection (c) below. Such time period shall be no fewer than five (5) days and no more than thirty (30) days. If, upon personal investigation, the code enforcement officer finds that the person has not corrected the violation within the prescribed time period, the code enforcement officer may issue a notice to appear to the person who has committed the violation.
- (c) Notwithstanding subsection (b) above, the code enforcement officer is not required to provide the person with a reasonable time to correct the violation prior to issuing a notice to appear and may

immediately issue a notice to appear if a repeat violation is found, if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or that the violator is engaged in conduct or activities of an itinerant or transient nature as defined in Chapter 13-1 of this Code of the City of Pensacola, or if the violation is irreparable or irreversible.

(Ord. No. 12-01, § 7, 3-22-01)

Sec. 13-2-4. - Provisions of chapter supplemental.

The provisions of this chapter are an additional and supplemental means of enforcing the codes or ordinances of the City of Pensacola, Florida, and may be used for the enforcement of any code provision, or for the enforcement of all code provisions. Nothing contained in this chapter shall prohibit the city from enforcing the provisions of its code by any other lawful means.

(Ord. No. 12-01, § 8, 3-22-01)