

## ORDINANCE 1567

**AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 25 OF THE CITY'S CODE OF ORDINANCES RELATED TO CODE ENFORCEMENT; AMENDING THE QUALIFICATIONS FOR THE CITY'S HEARING OFFICERS, AMENDING THE PROCEDURE FOR ISSUANCE OF A CODE ENFORCEMENT NOTICE OF VIOLATION; AMENDING THE PROCEDURES FOR APPEALS TO THE HEARING OFFICER; PROVIDING FOR THE REPEAL OF THE SCHEDULE OF CIVIL PENALTIES AND REQUIRING FOR CIVIL PENALTIES TO BE SET BY RESOLUTION OF THE CITY COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.**

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. From and after the effective date of this ordinance Chapter 25, Article 1 of the Panama City Beach Code of Ordinances is amended to read as follows (new text **bold and underlined**, deleted text struck through):

Sec. 25-1. - Civil offenses and penalties; hearing officers.

The violation of any City ordinance ~~listed in Section 25 37 of this chapter~~ shall constitute a civil offense punishable by civil penalty in the amount prescribed ~~in Section 25 37 in a schedule of fees to be adopted by resolution of the City Council, and as modified by Section 25 31 of this chapter~~. Accordingly, there is hereby created and established a code enforcement position to be filled by Hearing Officers to enforce the ordinances ~~listed in Section 25 37 which are contained in and enacted pursuant to this Code~~.

SECTION 2. From and after the effective date of this ordinance, Chapter 25, Article II, of the Panama City Beach Code of Ordinances is amended to read as follows (new text **bold and underlined**, deleted text struck through):

Sec. 25-16. - Qualifications, appointment and removal of hearing officers; organization.

- (a) Hearing Officers shall be residents of the City of Panama City Beach **or within the unincorporated area of Bay County bounded by Phillips Inlet, the Intracoastal waterway and St. Andrews Bay who are current or former members of the Florida Bar in good standing and** possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability. Appointments shall be made by the City Manager of the City or his designee on

the basis of experience or interest in code enforcement. Such appointments shall be submitted to the City Clerk for ratification by the City Council.

- (b) The City Manager or his designee shall appoint as many Hearing Officers as are deemed necessary. Appointments shall be made for a term of one (1) year. A Hearing Officer will be reappointed automatically, unless the City Manager or the City Council elects not to renew an appointment; provided, however, that the election not to renew a Hearing Officer's appointment and notice thereof occurs thirty (30) days prior to the renewal of that Hearing Officer's term. There shall be no limit on the number of reappointments that may be given to any individual Hearing Officer. The City Manager or the City Council shall have authority to remove or suspend Hearing Officers for cause including, without limitation, those grounds specified by state law. Appointments to fill any vacancy shall be for the remainder of the unexpired term.
- (c) Hearing Officers shall not be City employees ~~and shall serve without compensation~~. Hearing Officers may **receive compensation at a rate set by Resolution of the City Council and** be reimbursed for such travel, mileage, and per diem expenses as authorized by the City Manager.
- (d) The City Attorney may serve as general counsel to the City. If an appeal to the Circuit Court is requested pursuant to Section 25-35, the City Attorney shall represent the City at such proceedings.

Sec. 25-17. - Code Enforcement Procedure.

- (a) For the purposes of this chapter, a "Code Inspector" is defined to be any agent or employee of the City whose duty it is to assure code compliance.
- (b) Code Inspectors shall have the authority to initiate enforcement proceedings as provided below. No Hearing Officer shall have the power to initiate such proceedings.
- (c) For the purposes of this chapter, "violators" shall be deemed to be those persons or entities creating or permitting a violation of the City ordinances ~~listed in Section 25-37~~, or those persons or entities owning or possessing land on which a violation of ordinances ~~listed in Section 25-37~~ is created or maintained. The City finds and determines that the owner of land has an obligation to know whether conditions created or maintained on that land violates any City ordinance and therefore is deemed to have actual or constructive knowledge of any such violation. The owner of land has a legal duty to determine whether conditions created or maintained on his or her land violate any City ordinance, and to correct such violations.
- (d) A Code Inspector who finds a violation of the ordinances of this Code ~~listed in Section 25-37~~ shall determine a reasonable time period within which the violator must correct the violation provided that such time period shall be no more than thirty (30) days. This determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed. A time for correction need not be specified if the violation is an uncorrectable violation.
- (e) A Code Inspector who finds such a violation shall issue a civil violation notice to the violator, pursuant to Section 25-18.
- (f) The civil violation notice shall include but not be limited to the following:
  - (1) Date and time of issuance.
  - (2) Name of Code Inspector and division or department issuing the notice.
  - (3) Name and address of the violator.
  - (4) Section number of the Code section that has been violated.
  - (5) Brief description of the nature of the violation, including location, date, and time of violation.
  - (6) Amount of the civil penalty for which the violator may be liable.

- (7) Instructions and due date for paying the civil fine or filing for an administrative hearing before a Hearing Officer to appeal the civil fine.
  - (8) Time within which the violation must be corrected if applicable.
  - (9) Notice that each day of continued violation after the time period for correction has run shall be deemed a continuing violation subject to additional penalty in the same amount, without the need for additional notices of violation.
  - (10) Notice that the filing of a request for an administrative hearing will toll the accrual of continuing violation penalties.
  - (11) Notice that failure to request an administrative hearing within twenty (20) days, or within the specified time period listed for a violation of a specific section of the Code, after issuance of the civil violation notice shall constitute a waiver of the violator's right to an administrative hearing before the Hearing Officer, and that such waiver shall constitute an admission of violation.
  - (12) Notice that the violator may be liable for the reasonable costs of the administrative hearing should he be found guilty of the violation.
  - (13) Notice that if the violator fails to pay civil penalty in the time allowed or fails to appear before the Hearing Officer to contest the violation, the violator shall be deemed to have waived his right to contest the violation and that, in such case, judgment may be entered against the violator by the Hearing Officer for the amount of the maximum civil penalty.
- (g) After issuing a civil violation notice to an alleged violator, the Code Inspector shall promptly deposit the original civil violation notice and one (1) copy of the civil violation notice with the City Clerk or his or her designee.
- (h) A Code Inspector may not initiate an investigation of a potential violation by way of an anonymous complaint. A person who reports a potential violation of a code or an ordinance must provide his or her name and address to the City before an investigation occurs. This paragraph does not apply if the person designated as a code inspector has reason to believe that the violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.**
- (i) Prior to issuing a civil violation notice, a Code Inspector shall provide a warning notice to the violator that the violator has committed a violation of a code or ordinance and shall establish a reasonable time period within which the violator must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code inspector finds that the violator has not corrected the violation within the time period, the code inspector may issue a civil violation notice to the violator. A code inspector does not have to provide the violator with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is uncorrectable.**
- (j) After issuing a civil violation notice, a civil violation notice may only be dismissed by either the Hearing Officer or by the City Manager upon a finding that the City issued in the violation in error.**

Sec. 25-18. - Notices.

(4 **a**) All notices required by this part shall be provided to the alleged violator by:

- (1a)** Certified mail, return receipt requested, 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~~ **Bay County Property Appraiser's public database for tax notices**, and at any other address provided to the City by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2. and by first class mail directed to the addresses

provided to the City by such owner with a properly executed proof of mailing or affidavit confirming the first class mailing;

- (2 b) Hand delivery by the sheriff or other law enforcement officer, Code Inspector, or other person designated by the local governing body;
  - (3 e) 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 d) In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (2) In addition to providing notice as set forth in subsection (1), ~~at the option of the Hearing Officer,~~ notice may also be served by publication or posting, as follows:
- (a) 1. Such notice shall be published once during each week for four (4) consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes, for legal and official advertisements.
  - 2. Proof of publication shall be made as provided in Sections 50.0541 and 50.051, Florida Statutes.
  - (b) 1. In lieu of publication as described in paragraph (a), such notice may be posted at least ten (10) days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one of which shall be at the property upon which the violation is alleged to exist and the other of which shall be City Hall website .
  - 2. Proof of posting shall be by affidavit of the person posting the notice or by photographic evidence, which affidavit shall include a copy 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 required under subsection (1).

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), 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. 773, § 1, 1-23-03)

Secs. 25-19—25-30. - Reserved.

SECTION 3. From and after the effective date of this ordinance, Article III, of the Panama City Beach Code of Ordinances is amended to read as follows (new text **bold and underlined**, deleted text struck through):

Sec. 25-31. - Civil penalties and related terms construed.

- (a) Penalties for violations of the ordinances to be enforced by this chapter shall be in the amount prescribed in the schedule of civil penalties ~~in Section 25-37~~ **adopted by resolution of the City Council**.
- (b) An "*uncorrectable violation*" is a violation which cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act of a transitory nature rather than an ongoing condition or constant circumstance. Each reoccurrence of an uncorrectable violation shall constitute a separate violation and shall subject the violator to an additional penalty in the same amount as that prescribed for the original violation. If, however, a violator has been once found guilty of an uncorrectable violation, and causes the same uncorrectable violation to occur a second time, each

reoccurrence of the uncorrectable violation by such violator shall constitute a "repeat violation" as provided in Section 25-31(d).

- (c) *"Continuing violations"* are those violations which remain uncorrected beyond the reasonable time period for correction contained in either the civil violation notice or the final order of the Hearing Officer, whichever is applicable. For each day of continued violation after the time for correction has run, an additional penalty in the same amount as that prescribed for the original violation shall be added. The maximum total fine for any one continuing violation shall not exceed twenty (20) times the original penalty amount.
- (d) A *"repeat violation"* is a recurring violation of an ordinance by a violator who has been found guilty of the same violation within five (5) years prior to the present violation, or who has admitted violating the same provision within five (5) years prior to the present violation, notwithstanding the violations occurred at different locations. In the case of correctable violations, a repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation, the amount of the civil penalty shall be double the amount of penalty prescribed for the original violation by Section 25-37. The amount of civil penalty due for each subsequent repeat violation shall be double the amount of penalty due for the first day of the immediately preceding violation, provided that the maximum penalty payable for the first day of any one (1) repeat violation shall be five hundred dollars (\$500.00). A repeat violation which remains uncorrected beyond the time prescribed for correction in the civil violation notice shall be treated as a continuing violation.
- (e) A *"correctable violation"* is a violation which is not an uncorrectable violation.
- (f) A civil penalty imposed pursuant to this Section shall not exceed the limitations set forth by this Code or any Resolution of the City Council, ~~two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.~~
- (g) If a request for administrative hearing is not timely filed continuing violation penalties shall accrue from the date of correction given in the civil violation notice until the correction is made and payment of fine is received. If the named violator requests an administrative hearing on a correctable violation and loses his appeal, the Hearing Officer shall determine a reasonable time period within which correction of the violation must be made, based on the considerations set forth in Section 25-17(d). If correction is not made within the period set by the Hearing Officer, continuing violation penalties shall begin after the time for correction has run. No continuing violation penalties shall accrue during the time period from the date of the civil violation notice until the date of the administrative hearing, if the named violator timely requests an administrative hearing to appeal the decision of the Code Inspector. Continuing violation penalties cannot be imposed by the Hearing Officer for uncorrectable violations.
- (h) Civil penalties assessed pursuant to this chapter are due and payable to the City Clerk or his or her designee, on the last day of the period allowed for the filing of an appeal to the Circuit Court from the Hearing Officer's decision, or, if proper appeal is made, when the appeal has been finally decided adversely to the named violator.
- (i) In addition, if the Code Inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, or if after attempts under this section to bring a repeat violation into compliance with a provision of a code or ordinance prove unsuccessful, the city may make all reasonable repairs which are required to bring the property into compliance and charge the owner 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 city to make further repairs or to maintain the property and does not create any liability against the city for any damages to the property.

Sec. 25-32. - Rights of violators; payment of fine; right to appeal and correction of violation; failure to pay and correct, or to appeal.

- (a) A violator who has been served with a civil violation notice shall elect either to:
  - (1) Pay the civil penalty in the manner indicated on the notice, and correct the violation within the time specified on the notice (if applicable); or

(2) Request an administrative hearing before a Hearing Officer to appeal the decision of the Code Inspector which resulted in the issuance of the civil violation notice.

(b) Appeal by administrative hearing of the notice of violation before a Hearing Officer shall be accomplished by filing a request in writing to the address indicated on the notice, within the time limit stipulated in the specified Code section which is enforced pursuant to the provisions of this chapter, or no later than twenty (20) calendar days after the issuance of the notice, whichever is earlier. **A request for hearing must state with specificity the grounds for appeal. Failure of the named violator to serve a complete request for appeal within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the Hearing Officer.** Failure of the named violator to appeal the decision of the Code Inspector within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the Hearing Officer. A waiver of the right to administrative hearing shall be treated as an admission of the violation and penalties, including continuing violation penalties, shall be assessed by the Hearing Officer accordingly.

(c) If the named violator after notice fails to correct the violation within the time specified (if applicable) the Code Inspector shall notify the Hearing Officer and request the Hearing Officer to issue an order finding the violator guilty and imposing the civil penalty and, if applicable, continuing violation penalties. If the named violator pays the civil penalty for a correctable violation but does not correct that violation within the time specified, each day that the violation continues beyond such specified time shall constitute a continuing violation.

(d) If the named violator elects not to appeal the civil penalty but cannot correct the violation within the time specified for good cause shown to the Code Inspector, the City hereby authorizes the ~~Hearing Officer~~ **City Manager** to mitigate civil penalties with violators upon correction of the violation, provided that: i) evidence of good cause must be presented to the Code Inspector no later than twenty (20) days after issuance of the civil violation notice, and ii) the violation for which mitigation is requested is not a repeat or uncorrectable violation. Upon correction of the violation, the total amount of the civil penalty imposed may be reduced as stated in the schedule below:

Number of Days Correction Outstanding	Total Fine Mitigation (percent)
1—30	90
31—60	75
61—90	60
91—120	40
121—150	20
151—180	5

Any civil penalty which has been reduced in accordance with this section shall be paid within twenty (20) days from the date of correction. Failure of a violator to timely pay a reduced civil penalty shall constitute a waiver of the violator's right to pay the reduced amount of the civil penalty, and the original civil penalty amount will be reinstated together with any applicable continuing violation penalties.

Sec. 25-33. - Scheduling and conduct of hearing.

- (a) Upon receipt of a named violator's timely request for an administrative hearing, the City Clerk or his or her designee shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as possible or as mandated in the specified Code section which is enforced pursuant to this chapter.
- (b) The City Clerk or his or her designee shall provide a notice of hearing by certified mail to the named violator **in accordance with section 21-18(1)(a) at his last known address**. Alternatively, the notice may be delivered **as in any other manner** provided in Section 25-18. The notice of hearing shall include but not be limited to the following:
  - (1) Name of the Code Inspector who issued the notice.
  - (2) Factual description of alleged violation.
  - (3) Date of alleged violation.
  - (4) Section of the Code allegedly violated.
  - (5) Place, date and time of the hearing.
  - (6) Right of violator to be represented by a lawyer.
  - (7) Right of violator to present witnesses and evidence.
  - (8) Notice that failure of violator to attend hearing may result in civil penalty being assessed against him.
  - (9) Notice that requests for continuances will not be considered if not received by the Hearing Officer at least ten (10) calendar days prior to the date set for hearing.
  - (10) The stated grounds for appeal.**
- (c) The Hearing Officers shall call hearings on a monthly basis or upon the request of the City Clerk or his or her designee. No hearing shall be set sooner than twenty (20) calendar days from the date of issuance of the notice of violation.
- (d) A hearing date shall not be postponed or continued unless a request for continuance, showing good cause for such continuance is received in writing by the Hearing Officer at least ten (10) calendar days prior to the date set for the hearing.
- (e) All hearings of the Hearing Officer shall be open to the public. All testimony shall be under oath and shall be electronically recorded. Assuming proper notice, a hearing may proceed in the absence of the named violator.
- (f) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript. Minutes shall be kept of all hearings by each Hearing Officer.
- (g) The City Clerk or his/her designee shall provide clerical and administrative personnel, services, forms and facilities as may be reasonably required by each Hearing Officer for the proper performance of his duties, and shall collect all civil penalties, costs, and other sums due and payable hereunder.
- (h) Each case before a Hearing Officer shall be presented by the City Manager or his designee.
  - (i) The hearing need not be conducted in accordance with the formal rules relating to evidence and witnesses but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the Hearing Officer finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
  - (j) The Hearing Officer may take testimony from the Code Inspector and the alleged violator. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.

- (k) The Hearing Officer shall make findings of fact based on evidence of record. In order to make a finding upholding the Code Inspector's decision, the Hearing Officer must find that a preponderance of the evidence indicates that the named violator was responsible for the violation of the relevant section of the Code as charged.
- (l) If the named violator is found guilty of the violation, he may be held liable for the reasonable costs of the administrative hearing as set forth by the City Clerk or his or her designee. If the City prevails in prosecuting a case before the Hearing Officer, the City shall be entitled to recover all costs incurred in prosecuting the case before the Hearing Officer and such costs will be included in the lien authorized under Code Section 25.34.
- (m) The fact-finding determination of the Hearing Officer shall be limited to whether the violation alleged did occur and, if so, whether the person named in the civil violation notice is responsible for that violation as provided in Section 25-17(c). Based upon this fact-finding determination, the Hearing Officer shall either reverse or affirm the decision of the Code Inspector as to the responsibility of the named violator for the Code violation, and shall issue an order affording the proper relief. If the Hearing Officer reverses the decision of the Code Inspector and finds the named violator not responsible for the Code violation alleged in the civil violation notice, the named violator shall not be liable for the payment of any civil penalty, absent reversal of the Hearing Officer's findings pursuant to Section 25-35. If the Hearing Officer affirms the decision of the Code Inspector, the Hearing Officer shall issue an order and shall determine a reasonable time period within which correction of the violation must be made. If the decision of the Hearing Officer is to affirm, then the following elements shall be included in the order:
- (1) Amount of civil penalty.
  - (2) Administrative costs of hearing **including but not limited to the cost of the Hearing Officer's attendance.**
  - (3) Date by which the violation must be corrected to prevent imposition of continuing violation penalties (if applicable) or assessment (in the case of uncorrected violations of Chapter 15).
- (n) The Hearing Officer shall have the power to:
- (1) Adopt procedures for the conduct of hearings.
  - (2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served by the Law Enforcement Officers.
  - (3) Subpoena evidence.
  - (4) Take testimony under oath.
  - (5) Assess and order the payment of civil penalties as provided herein; and
  - (6) In cases where the named violator is found guilty of a violation of Chapter 15, authorize the City's abatement following failure of the violator to correct the violation within the time ordered.
- (o) The named violator may timely file an administrative appeal.
- (1) A Hearing Officer shall postpone a hearing if the named violator, prior to the scheduled hearing date, files with a duly authorized City board of appropriate jurisdiction a timely administrative appeal concerning the interpretation or application of any technical provisions of the Code section allegedly violated. However, once an issue had been determined by a Hearing Officer in a specific case, that issue may not be further reviewed by a City board in that specific case. A named violator waives his right to administrative appeal to other City boards if the violator does not apply for such appeal prior to the violator's code enforcement hearing before the Hearing Officer.
  - (2) Upon exhaustion of a timely filed administrative appeal and finalization of the administrative order by such board, the Hearing Officer may exercise all powers given to him by this chapter. The Hearing Officer shall not, however, exercise any jurisdiction over such alleged Code violations until the time allowed for court appeal of the ruling of such board has lapsed or until such further appeal has been exhausted.



- (3) The Hearing Officer shall be bound by the interpretations and decisions of duly authorized City boards concerning the provisions of the codes within their respective City jurisdictions. In the event such a board decides that an alleged violation of the Code is not in accordance with such board's interpretation of the Code provision on which the violation is based, the Hearing Officers shall not be empowered to proceed with the enforcement of the violation.
- (p) If the owner of property which is subject to an enforcement action or proceeding transfers ownership of such property between the time the initial citation or citations were issued and the time of the hearing, such owner shall:
- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
  - (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
  - (3) 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.
  - (4) File a notice with the Hearing Officer 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.

A failure to make the disclosure described in subparagraphs (p)(1)(2)(3) 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 will be added as an additional party of record and thereafter shall be provided a reasonable period of time as determined by the Code Inspector to correct the violation before the hearing is held. Continuing violation penalties, if any, shall continue to accrue against the original party. No civil penalty or continuing violation penalties shall accrue against the new owner until and unless the new owner shall fail to correct the violation within the reasonable period provided to the new owner. All parties shall be jointly and severally liable for any penalties up to the amount common among them, and the amounts paid to the City shall be first applied to that common, joint and several amount.

**Sec. 25-34. - Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; foreclosure.**

- (a) The City of Panama City Beach may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties. In an action to compel payment of civil penalties, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurred in the action. The City shall be entitled to collect all costs incurred in recording and satisfying a valid lien.
- (b) A certified copy of an order imposing a civil penalty, or a penalty plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, 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. After three (3) months from the filing of any such lien which remains unpaid, the City of Panama City Beach may foreclose or otherwise execute on the lien.
- (c) If an order is recorded in the public records, and the order is complied with by the date specified in the order, the Hearing Officer 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.
- (d) Notwithstanding any provisions of this Code, no municipal officer, agent, employee or board shall approve, grant, or issue any operating permit, license, building permit, certificate of use and occupancy, occupational licenses, platting action or zoning action to any named violator with:
  - (i) unpaid civil penalties;
  - (ii) unpaid administrative costs of hearing;
  - (iii) unpaid investigative, enforcement, testing or monitoring costs; or

- (iv) unpaid liens, any or all of which are owed to the City pursuant to the provisions of the Code of the City of Panama City Beach.

**Sec. 25-35. - Appeals.**

- (a) The named violator or the City may appeal a final order of the Hearing Officer for all violations by filing a notice of appeal in the Circuit Court in and for Bay County, Florida. Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Hearing Officer. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.
- (b) Unless the findings of the Hearing Officer are overturned in a proceeding held pursuant to Section 25-35(a), all findings of the Hearing Officer shall be admissible in any proceeding to collect unpaid penalties.

**Sec. 25-36. - Provisions contained herein are supplemental.**

Nothing contained in this chapter shall prohibit the City from enforcing its Code by any other means. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of this Code.

~~Sec. 25-37. - Schedule of civil penalties.~~

~~The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter, and the dollar amount of civil penalty for the violation of these sections.~~

~~The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this Chapter 25, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.~~

<del>Code/Appendix Section</del>	<del>Description of Violation</del>	<del>Civil Penalty</del>
<del>Section 4.02.04, LDC</del>	<del>Failure to maintain performance standards within zoning district</del>	<del>\$250.00</del>
<del>Section 5.02.03, LDC</del>	<del>Construction or maintenance of fence or wall unauthorized location, height, condition</del>	<del>\$100.00</del>
<del>Section 5.02.02, LDC</del>	<del>Engagement in unauthorized accessory use.</del>	<del>\$100.00</del>
<del>Section 9.02.03, LDC</del>	<del>Expansion, enlargement or modification of building which furthers non-conformance</del>	<del>\$100.00</del>
<del>Section 9.02.02, LDC</del>	<del>Unauthorized expansion, enlargement or modification of non-conforming development</del>	<del>\$100.00</del>
<del>Section 4.05.02, LDC</del>	<del>Failure to provide required parking spaces</del>	<del>\$100.00</del>

Section 4.05.03, LDC	Unauthorized location, design or maintenance of parking spaces, parking lots or parking garage provision of parking spaces in public rights-of-way]	\$100.00
Section 4.02.02(D), LDC	Unauthorized projection of sills, belts, courses, ornamental features, eaves or canopies	\$100.00
Section 5.02.01, LDC	Impermissible Accessory Use, Building or Structure	\$100.00
Section 2.04.01, LDC	Erection of unauthorized dwelling on parcel	\$100.00
Sections 5.02.07 and 5.04.08, LDC	Storage of hazardous, toxic, incendiary, or noxious materials in unauthorized location	\$100.00
Section 2.03.02, LDC	Unpermitted use of trailer and mobile homes	\$100.00
Section 4.02.03(E), LDC	Failure to place utility feed underground—New construction, renovation or improvement	\$100.00
Section 4.02.03(D), LDC	Toilet visible in scenic corridor	\$100.00
Section 4.02.03(F), LDC	Failure to screen utility device in scenic corridor	\$100.00
Section 4.02.03(C), LDC	Metal wall visible in scenic corridor	\$100.00
Section 5.02.09(B), LDC	Unpermitted placement of a portable storage unit, per day	\$250.00
Section 2.03.02, LDC	Engaging in unpermitted use of land	\$250.00
Section 4.02.03(B), LDC	Failure to screen certain outside storage and activities in scenic corridors	\$250.00
Section 5.07.04, LDC	Erection, display, or maintenance of prohibited sign	\$100.00
Section 5.07.05, LDC	Erection, display, or permitting the existence of any sign which violates any Sign Standard	\$100.00
Section 5.07.02(B)	Erection, display, relocation, or alteration or repair of a non-exempt sign without obtaining a permit or paying permit fee	\$100.00
Section 5.07.09, LDC	Enlargement of an illegal sign or an expired Non-Conforming Sign	\$100.00

Section 5.04.01(G), LDC	Erection or display of an impermissible or unpermitted Sign on or at a Sexually Oriented or Adult Business	\$100.00
Section 5.04.01(H), LDC	Erection or display of an impermissible or unpermitted Sign on or at a Body Altering Business	\$100.00
Section 5.04.01(E), LDC	Establishment or operation of a Sexually Oriented Business at an improper location	\$500.00
Section 5.04.01(F), LDC	Establishment or operation of a Body Altering Business at an improper location	\$500.00
Code Section 5-2	Hunting, killing, maiming or trapping any birds or wild fowl within the City	\$100.00
Code Section 5-4	Allowing animal to run at large or off property without direct control	\$100.00
Code Section 5-4	Allowing animal to run or remain upon the property of another without consent	\$100.00
Code Section 5-4	Failure to confine a dog or cat in estrus	\$100.00
Code Section 5-5	Bringing or permitting animals to be brought onto the sand beach areas as defined in the Section, or into public parks where animals are prohibited	\$100.00
Code Section 5-6	Permitting animal to enter or remain in a food establishment	\$100.00
Code Section 5-7	Keeping any animal declared to be a nuisance as defined in this Section	\$100.00
Code Section 5-7	Keeping more animals at any one location than permitted	\$100.00
Code Section 5-9	Failure to remove waste	\$100.00
Code Section 5-31	Owning or keeping unlicensed dog, cat or pig	\$100.00
Code Section 5-32	Failure to show evidence of current vaccination of dog or cat after notice	\$100.00
Code Section 5-32	Keeping or transferring any animal which cannot be effectively vaccinated against rabies	\$100.00

Code Section 5-51	Failure to restrain a vicious animal, or when off the premises of the owner failure to either muzzle and have direct control of the animal or cage it	\$100.00
Code Section 5-51	Failure to post a "bad dog" or similar sign	\$100.00
Code Section 5-51	Failure to restrain a vicious animal as described by this Section	\$100.00
Code Section 5-52	Keeping, or permitting to be kept, a wild animal in a residential zone	\$100.00
Code Section 5-53	Keeping, or permitting to be kept, a wild animal in a non-residential zone	\$100.00
Code Sections 5-91 and 5-93	Any violation of these sections pertaining to cruelty to animals	\$100.00
Code Section 5-101	Owning or keeping more than one miniature Vietnamese potbellied pig per household	\$100.00
Code Section 5-101	Owning or keeping any swine or pig other than a purebred miniature Vietnamese potbellied pig	\$100.00
Code Section 7-112	Failure to comply with beachfront lighting requirements, per light in violation, per day	\$100.00
Code Section 8-372	The storing, depositing, transferring or use of unacceptable fill material on the beach	\$250.00
Code Section 8-75(a), § 104.1.1 Standard Building Code (1997)	Work without a permit (or twice the permit fee, whichever is greater)	\$100.00
Section 12-4	Unlawful deposit of garbage or use of receptacle	\$250.00
Section 12-5	Illegal use or possession of a visible refuse container	\$100.00
Section 12-6	Littering	\$250.00
Section 12-7	Requirement to keep property free of litter	\$250.00
Sections 15-18, 15-17(1)	Maintenance of public nuisance	\$250.00
Sections 15-18, 15-17(2)	Unlawful storage of junked automobiles	\$250.00

<del>Sections 15-18, 15-17(3)</del>	<del>Detrimental conditions or uses of property</del>	<del>\$250.00</del>
<del>Sections 15-18, 15-17(4)</del>	<del>Unfit or unsafe dwelling or structure</del>	<del>\$250.00</del>
<del>Sections 15-18, 15-17(5)</del>	<del>Accumulation of lumber, junk, trash, abandoned materials, equipment or undergrowth.</del>	<del>\$100.00</del>
<del>Sections 15-18, 15-17(6)</del>	<del>Excessive Grass or vegetation</del>	<del>\$100.00</del>
<del>Sections 15-18, 15-17(7)</del>	<del>Stockpiling construction material</del>	<del>\$250.00</del>
<del>Sections 15-18, 15-17(8)</del>	<del>Maintenance of attractive nuisance</del>	<del>\$250.00</del>
<del>Section 15-18, 15-17(9)</del>	<del>Physical or unsanitary conditions</del>	<del>\$250.00</del>
<del>Section 15-18, 15-17(11)</del>	<del>Conditions contributing to or causing contamination of air, food or drink</del>	<del>\$250.00</del>
<del>Section 15-18, 15-17(12)</del>	<del>Fire Hazards.</del>	<del>\$250.00</del>
<del>Sections 4.05.03(L) and 4.06.04, LDC</del>	<del>Failure to landscape a vehicle use area as required</del>	<del>\$100.00</del>
<del>Sections 4.06.05(A) and (D), LDC</del>	<del>Placement of prohibited species</del>	<del>\$100.00</del>
<del>Section 4.06.01(D), LDC</del>	<del>Failure to provide an appropriate irrigation system</del>	<del>\$100.00</del>
<del>Section 4.06.01(C), LDC</del>	<del>Failure to properly maintain landscape areas or failure to remove and replace a dead or damaged plant</del>	<del>\$100.00</del>
<del>Section 4.06.01(E), LDC</del>	<del>Commencing development or redevelopment without an approved landscaping plan if required</del>	<del>\$100.00</del>
<del>Section 4.06.00, LDC</del>	<del>Failure to comply with the landscape ordinance in any particular, each failure</del>	<del>\$100.00</del>
<del>Section 4.04.03, LDC</del>	<del>Failure to construct a sidewalk</del>	<del>\$100.00</del>
<del>Section 3.05.07, LDC</del>	<del>Obstruction of drainage ways</del>	<del>\$100.00</del>
<del>Section 3.05.08, LDC</del>	<del>Discharge of undirected or uncontrolled stormwater runoff across any property line</del>	<del>\$100.00</del>

Section 3.05.011, LDC	Failure to maintain or control stormwater and erosion control plan	\$100.00
Section 3.05.14, LDC	Failure to maintain or control adequate drainage of a stormwater management system which causes any flooding, pollution, erosion or siltration	\$250.00
Section 19-152	Unpermitted placement or maintenance of facilities in a public right-of-way, per occurrence, per site, per mile, per day	\$250.00
Section 4.02.02(A), LDC	Failure to maintain minimum habitable square footage	\$100.00
Section 4.02.02 (D), LDC	Unpermitted height or placement of structure in setback	\$100.00
Section 4.04.02, LDC	Obstruction of visibility at intersection, per day	\$250.00
Section 5.04.28, LDC	Unpermitted storage or use of mini-warehouse or self-storage facilities	\$100.00
Section 5.03.01, LDC	Unpermitted or impermissible Temporary Use or Structure, per day	\$250.00
Section 10.01.02, LDC	Development or Use of land without Local Development Order or Building Permit	\$100.00
Section 4.08.01, LDC	Prohibited or unpermitted Land Clearing	\$100.00

SECTION 4. SEVERABILITY. If any clause or portion of this Ordinance is held invalid or unenforceable, the remainder of this Ordinance shall continue in full force and effect.

SECTION 5. CODIFICATION. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and



official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage.

**THIS ORDINANCE** shall be effective immediately upon passage.

**PASSED** in regular session this 28<sup>th</sup> day of October, 2021.

**CITY OF PANAMA CITY BEACH**

By:   
Mark Sheldon, Mayor

**ATTEST:**

  
Lynne Fasone, City Clerk

EXAMINED AND APPROVED by me this 28<sup>th</sup> day of October, 2021.

  
MAYOR

Published in the News Herald on the 4<sup>th</sup> day of October, 2021.

Posted on pcbfl.gov on the 23<sup>rd</sup> day of September, 2021.