

ORDINANCE NO. C-18-26

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 11, ENTITLED "CODE ENFORCEMENT", OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA TO ESTABLISH AND REVISE PROCEDURES FOR REDRESSING CONTINUING, REPETITIVE OR CHRONIC VIOLATIONS OF THE CODE OF ORDINANCES AND REVISE CIVIL PENALTIES BY AMENDING SECTION 11-2 – "DEFINITIONS", SECTION 11-19 – "CIVIL PENALTIES, ADMINISTRATIVE HEARING; FAILURE TO PAY/CORRECT", SECTION 11-21 – "REPEAT VIOLATIONS", AND SECTION 11-25 – "CIVIL PENALTIES"; AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, a fundamental purpose of local government is to promote, protect, and improve the health, safety, and general welfare of its residents and visitors; and

WHEREAS, an important part of performing such purpose is enforcement of the codes and ordinances in force within a local government's jurisdiction; and

WHEREAS, the City of Fort Lauderdale system and procedures provided for by Chapter 162 are cumbersome and somewhat ineffective in encouraging compliance with the codes and ordinances in force in the City of Fort Lauderdale; and

WHEREAS, the citation process provided for in this amendment is designed to achieve faster compliance and address chronic violators; and

WHEREAS, the City Commission finds that the adoption of the code enforcement system and citations provided for in this amendment is in the public interest and will better serve to encourage compliance with the codes and ordinances in force in the City of Fort Lauderdale and promote, protect, and improve the health, safety, and general welfare of the residents and visitors of the City of Fort Lauderdale;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That an amendment to Article IV. – Citation Violation Notice Procedures of Chapter 11 of the Code of Ordinances of the City of Fort Lauderdale to establish criteria for defining chronic violations, provide a method for the daily accrual of civil citations when there is

a violation, and establish a mandatory hearing for chronic violations that affect the life, safety, and welfare of the community as follows:

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Sec. 11-2. Definitions.

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Chronic violation shall mean three violations of the same code section within a six-month period by the same violator or same property owner.

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ARTICLE IV. - CITATION VIOLATION NOTICE PROCEDURES

Sec. 11-19. Civil penalties; administrative hearing; failure to pay/correct.

(a) If the violation is continuing, repetitive or chronic, a single violation will occur each day beyond the time for correction set forth in the civil citation violation notice.

(b) For each day of a continued violation, an additional penalty in the same amount as that prescribed for in the original violation shall be added.

(c) Continuing violation penalties shall accrue from the date of correction given in the civil violation notice until the correction is made, and compliance is obtained. If the named violator requests an administrative hearing and loses his/her appeal, the special magistrate shall determine a reasonable time period within which correction of the violation must be made, based on the considerations set forth herein. If correction is not made within the time period set by the magistrate, continuing violation penalties shall begin to accrue after the time allowed for correction by the magistrate has run.

~~(a)~~(d) Civil penalties assessed pursuant to this article are due and payable to the clerk on or before the last day of the period allowed for the filing of an administrative hearing, or for the filing of an appeal from a special magistrate decision at an administrative hearing, or if proper appeal is made, when the appeal has been finally decided adversely to the violator.

~~(b)~~(e) A violator who has been served with a citation violation notice shall elect either to:

(1) Correct the violation and pay the civil penalty in the manner indicated on the citation violation notice; or

(2) Request an administrative hearing before a special magistrate to contest the citation violation notice.

~~(e)~~(f) A violator shall request an administrative hearing by filing a written request for such hearing with the clerk, or clerk's designee, no later than fifteen (15) days after the date of the citation violation notice. The request shall include the name and address of the violator and the citation violation notice number.

~~(e)~~(g) Failure of a violator to file a written request for an administrative hearing within fifteen (15) days after date of the citation violation notice shall constitute a waiver of the violator's right to an administrative hearing to contest the citation violation notice and is deemed an admission of the violation and civil penalties shall be assessed and costs may be assessed accordingly.

~~(e)~~(h) If a violator fails to correct the violation and/or pay the civil penalty by the specified time period as written on the citation violation notice or timely request an administrative hearing, the special magistrate shall be informed of such failure by an affidavit of non compliance executed by a code inspector. The clerk shall send to the violator a notice of a hearing for non compliance. Such notice of hearing shall be served as provided in section 11-16. At the date, time, and place set such hearing, the special magistrate shall order the fine be imposed as specified in the citation violation notice.

~~(f)~~(i) A certified copy of said order imposing the fine may be recorded in the public records of the county and once recorded, it shall constitute a lien against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator, and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court except for enforcement purposes.

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Sec. 11-21. ~~Repeat violations.~~Types of violations.

(a) Repeat violations. For the first repeat violation, the amount of the civil penalty shall be double the amount of the penalty prescribed for the original violation in section 11-25. The

amount of civil penalty due for each subsequent repeat violation shall be double the amount of the immediately preceding violation, provided that the maximum penalty payable for any repeat violation shall be five hundred dollars (\$500.00) for each day beyond the time for correction set forth in the civil citation violation notice.

(b) Chronic violation. Chronic violations that require a mandatory hearing as set forth in section 11-25. The hearing shall be as prescribed in section 11-16 and the maximum penalty payable for the chronic violation shall be five hundred dollars (\$500.00) for each day beyond the time for correction set forth in the civil citation violation notice.

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Sec. 11-25. Civil penalties.

Code Section	Description of Violation	Civil Penalty		<u>Mandatory Hearing Required?</u>
		Uncontested	Contested	
Florida Building Code, Sec. 105.1	Work Without Permits	\$200.00 <u>\$250.00</u>	\$275.00 <u>\$325.00</u>	<u>Yes</u>
Code of Broward County, Chapter 39	Broward County Zoning	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 3	Advertising	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 5	Alcoholic Beverages	\$150.00	\$225.00	<u>Yes</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 6 excluding Sec. 6-11	Animals	\$100.00	\$175.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances,	Animals	\$150.00	\$225.00	<u>No</u>

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

Chapter 6, Sec. 6-11				
City of Fort Lauderdale, Code of Ordinances, Chapter 8	Boats, Docks, Beaches and Waterways	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 9 excluding Sec. 9-276(a) and Sec. 9-328	Minimum Housing	\$150.00 <u>\$200.00</u>	\$225.00 <u>\$275.00</u>	<u>Yes</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 9, Sec. 9-276(a)	Unfit for Human Habitation	\$200.00 <u>\$250.00</u>	\$275.00 <u>\$325.00</u>	<u>Yes</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 9, Sec. 9-328	Vacant/Unsecured	\$200.00 <u>\$250.00</u>	\$275.00 <u>\$325.00</u>	<u>Yes</u>
Florida Fire Prevention Code	Fire Prevention and Protection	\$200.00	\$275.00	<u>Yes</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 15	Business Tax	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 17	Noise Control	\$200.00 <u>\$250.00</u>	\$275.00 <u>\$325.00</u>	<u>Yes</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 18	Nuisances	\$200.00 <u>\$250.00</u>	\$275.00 <u>\$325.00</u>	<u>Yes</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 23	Solicitors, Peddlers, Etc.	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 24 excluding Sec. 24-11 & 24-7	Solid Waste	\$150.00 <u>\$200.00</u>	\$225.00 <u>\$275.00</u>	<u>Yes</u>

City of Fort Lauderdale, Code of Ordinances, Chapter 24, Sec. 24-7	Littering Unlawful Accumulations	\$200.00	\$275.00	<u>Yes</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 24, Sec. 24-11	Construction Sites	\$200.00	\$275.00	<u>Yes</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 25	Streets and Sidewalks	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 26	Traffic	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 27	Vehicles for Hire	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 28 excluding Sec. 28-1	Water, Wastewater and Stormwater	\$150.00	\$225.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 28, Sec. 28-1	Water Restrictions	\$50.00	\$125.00	<u>No</u>
City of Fort Lauderdale, Code of Ordinances, Chapter 47	Unified Land Development Regulations	\$150.00	\$225.00	<u>No</u>

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That nothing in this ordinance shall be construed so as to affect any past or pending code enforcement action, notice of violation, or order of the board or special magistrate, or any past, pending, or existing liens, fines, costs, or other obligations arising from code enforcement, or otherwise, all of which shall continue in full force and effect as if this ordinance has not been adopted.

SECTION 5. That this Ordinance shall be in full force and effect ninety (90) days from the date of final passage.

PASSED FIRST READING this the 21st day of August, 2018.

PASSED SECOND READING this the ____ day of _____, 2018.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI