

## Chapter 2

### ADMINISTRATION

#### ARTICLE I. IN GENERAL

Secs. 2-1 thru 2-30. Reserved.

#### ARTICLE II. CITY COUNCIL

##### **Division 1. Generally**

Secs. 2-31 thru 2-45. Reserved.

##### **Division 2. Meetings**

Sec. 2-46. Time, place of regular meetings.  
Sec. 2-47. Quorum; rules of procedure; records.  
Sec. 2-48. Emergency meetings.  
Sec. 2-49. Disruption of meetings.  
Secs. 2-50 thru 2-75. Reserved.

#### ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS

##### **Division 1. Generally**

Sec. 2-76. Communications w/members of quasi-judicial boards; reporting requirements; penalties for violation.  
Secs. 2-77 thru 2-90. Reserved.

##### **Division 2. Comprehensive Planning Advisory Board**

Sec. 2-91. Established.  
Sec. 2-92. Organization; members.  
Sec. 2-93. Term of office; vacancies.  
Sec. 2-94. Responsibilities.  
Sec. 2-95. Reports.  
Sec. 2-96. Coordination of activities.  
Secs. 2-97 thru 2-110. Reserved.

##### **Division 3. Library Board**

Sec. 2-111. Established.  
Sec. 2-112. Organization; members.  
Sec. 2-113. Term of office; vacancies.  
Sec. 2-114. Responsibilities.  
Secs. 2-115 thru 2-130. Reserved.

##### **Division 4. Recreation Board**

Sec. 2-131. Established.  
Sec. 2-132. Organization; members.  
Sec. 2-133. Term of office; vacancies.  
Sec. 2-134. Responsibilities.  
Sec. 2-135. Reserved.

**Division 5. Samsons Island Park Committee**

- Sec. 2-136. Established.
- Sec. 2-137. Organization; members.
- Sec. 2-138. Term of office; vacancies.
- Sec. 2-139. Mission statement and responsibilities.

**Division 6. Business Enhancement Committee**

- Sec. 2-140. Established.
- Sec. 2-141. Organization; members.
- Sec. 2-142. Term of office; vacancies.
- Sec. 2-143. Responsibilities.
- Secs. 2-144 thru 2-155. Reserved.

**ARTICLE IV. DEPARTMENTS**

- Sec. 2-156. Established.
- Secs. 2-157 thru 2-180. Reserved.

**ARTICLE V. INITIATIVES AND REFERENDA**

- Sec. 2-181. Power of initiative.
- Sec. 2-182. Power of referendum.
- Sec. 2-183. Form of petition; signatures; circulatory committee; affidavit by circulator.
- Sec. 2-184. Verification of validity of petitions; delivery of certified petition to council; notice of insufficiency.
- Sec. 2-185. Amending insufficient petitions.
- Sec. 2-186. Approval of electors required.
- Sec. 2-187. Public hearing; final vote upon referred petition.
- Sec. 2-188. Submission to electors upon adverse council action.
- Sec. 2-189. List of qualified electors furnished by city.
- Sec. 2-190. Majority vote favoring ordinances.
- Sec. 2-191. Publication of adopted or approved petitions.
- Secs. 2-192 thru 2-210. Reserved.

**ARTICLE VI. FINANCE**

**Division 1. Generally**

- Secs. 2-211 thru 2-225. Reserved.

**Division 2. Purchasing**

- Sec. 2-226. Competitive bidding; publication of notice.
- Sec. 2-227. Award of contract.
- Sec. 2-228. Modification of contract or specifications.
- Sec. 2-229. Waiver of bidding requirements.
- Sec. 2-230. Determination of lowest responsible bidder.
- Sec. 2-231. Report of city manager when lowest bidder not chosen.
- Sec. 2-232. Performance bond.
- Secs. 2-233 thru 2-250. Reserved.

**Division 3. Travel Expenses**

- Sec. 2-251. Definitions.
- Sec. 2-252. Procedure for securing travel authorization and expenses.
- Sec. 2-253. Computation of travel reimbursement.
- Sec. 2-254. Reimbursement of expenses for others.
- Secs. 2-255 thru 2-275. Reserved.

**ARTICLE VII. ELECTIONS**

- Sec. 2-276. Election code adopted.
- Sec. 2-277. Qualifying period for candidates.
- Secs. 2-278 thru 2-300. Reserved.

**ARTICLE VIII. CODE ENFORCEMENT**

**Division 1. Generally**

- Sec. 2-301. Definitions.
- Sec. 2-302. Intent.
- Secs. 2-303 thru 2-320. Reserved.

**Division 2. Code Enforcement Board**

- Sec. 2-321. Composition.
- Sec. 2-322. Qualifications.
- Sec. 2-323. Vacancies.
- Sec. 2-324. Removal.
- Sec. 2-325. Organization; quorum.
- Sec. 2-326. Meetings.
- Sec. 2-327. Rules and regulations.
- Sec. 2-328. Legal counsel.
- Sec. 2-329. Compensation.
- Sec. 2-330. Jurisdiction.
- Secs. 2-331 thru 2-345. Reserved.

**Division 3. Enforcement Procedures**

- Sec. 2-346. Initiation of proceedings; notice of violation.
- Sec. 2-347. Injunctive relief when violation presents threat to public.
- Sec. 2-348. Service of notice.
- Sec. 2-349. Initiation of hearings.
- Sec. 2-350. Setting of time, date for hearing; notice; filing of response.
- Sec. 2-351. Conduct of hearing.
- Sec. 2-352. Findings, conclusions; issuance of order.
- Sec. 2-353. Determination of fine.
- Sec. 2-354. Noncompliance with order, repeat violations; fine, costs may be imposed.
- Sec. 2-355. Fine constitutes lien; enforcement.
- Sec. 2-356. Foreclosure on lien.
- Sec. 2-357. Costs and attorney's fees.
- Sec. 2-358. Subpoena powers.
- Sec. 2-359. Recovery of prosecution costs.
- Sec. 2-360. Enforcement orders; appeals.
- Sec. 2-361. Reduction of accumulated fines.
- Secs. 2-362 thru 2-380. Reserved.

**ARTICLE IX. PLANNING**

**Division 1. Generally**

Secs. 2-381 thru 2-410. Reserved.

**Division 2. Comprehensive Plan**

Sec. 2-411. Adoption.

**ARTICLE I. IN GENERAL**

**Secs. 2-1 thru 2-30. Reserved.**

**ARTICLE II. CITY COUNCIL**

*State Law References: Code of ethics, F.S. §112.313 et seq.; public records, F.S. ch. 119; open meetings, F.S. §286.011.*

**Division 1. Generally**

**Secs. 2-31 thru 2-45. Reserved.**

**Division 2. Meetings**

*State Law Reference: Open meetings requirement, F.S. §286.011.*

**Sec. 2-46. Time, place of regular meetings.**

Meetings of the city council shall be held on the first and third Wednesday of each month in the council chambers of the civic center, or at such other places and dates as may be prescribed by the city council from time to time. Any meetings held by the city council on the first and third Wednesday of each month shall be considered to be regular meetings of the city council. However, in the event that one of the meetings cannot be held on the first or third Wednesday of any month, such meeting shall not be considered to be a regular meeting of the city council for purposes of section 2.08(6), Satellite Beach City Charter. In the event that the city council cannot hold a meeting on both the first and third Wednesday of any month, the city council shall designate one of the rescheduled meetings as a regular meeting. The time for any meeting shall be established by the city council by official motion from time to time. Any deviations from the requirements of this section shall be posted in the same manner as are meeting agendas. The local media shall also be notified.

*(Code 1976, §2-1(a); Ord. 646, §1, 1-3-96)*

**Sec. 2-47. Quorum; rules of procedure; records.**

(a) Three members of the city council shall constitute a quorum, but a smaller number may adjourn from time to time and may require the attendance of absent members in such manner and under such penalties as the council may prescribe. No action of the council, except raising a quorum, shall be valid or binding unless adopted by the affirmative vote of at least three members of the council. Voting shall be by roll call, and ayes and nays shall be recorded in the council's journal.

(b) The city council shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings, which journal shall be a public record. The council may prescribe rules for expelling disorderly persons from its meetings.

*(Code 1976, §2-1(b), (c))*

**Sec. 2-48. Emergency meetings.**

An affirmative vote of at least three members of the city council shall be required at the beginning of the meeting to determine if an emergency exists.

*(Code 1976, §2-1.1)*

**Sec. 2-49. Disruption of meetings.**

(a) It shall be unlawful for any person to disturb, disrupt or interrupt, or attempt to do so, any meeting of the city council or any other commission, board or committee of the city. The use of obscene or profane language, physical violence or the threat thereof, or other behavior which the presiding officer or a

majority of the city council or any commission, board or committee shall determine is intended as a disturbance, disruption or interruption, and a failure to comply with any lawful decision or order of the presiding officer or of a majority of the city council or any commission, board or committee to cease such activities shall constitute a disruption.

(b) In addition to any other penalty which may be imposed for the violation of the provisions of this section, the presiding officer or a majority of the city council or any commission, board or committee may hold any person disturbing, disrupting or interrupting such meeting, or attempting to do so, in contempt thereof and cause the ejection or removal of such person from the premises where the meeting is in progress. In the event of such ejection or removal of the person, it shall be unlawful for the person to return to the premises where the meeting is in progress until the meeting has been adjourned.

*(Code 1976, §2-4(a), (b))*

**Secs. 2-50- thru 2-75. Reserved.**

### ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS

*State Law References: Code of ethics, F.S. §112.311 et seq.;  
procedure for removal of certain appointed board members, F.S. §112.501.*

#### Division 1. Generally

**Sec. 2-76. Communications with members of quasi-judicial boards; disclosure requirements; penalties for violation.**

- (a) *Definitions.* For purposes of this section:
  - (1) *Ex parte communication* shall mean any communication:
    - (a) Made or received by any member of a quasi-judicial board;
    - (b) Made by any applicant for a hearing before the board, any person with a direct or indirect interest in the proceeding, or any authorized representative of any such person;
    - (c) Made during the period extending from 60 days before required documents are filed to apply for a hearing on the matter through completion of the hearing;
    - (d) Which communication occurs outside the duly-noticed hearing; and
    - (e) Regarding the merits of any quasi-judicial matter pending before the board, or any threat or offer of reward regarding such matter.
  - (2) *Quasi-judicial boards* shall mean the board of adjustment and the code enforcement board, as well as the planning and zoning advisory board and the city council when they are performing quasi-judicial functions.

(b) *Prohibition.* No ex parte communication shall be permitted to be made or received by any quasi-judicial board member except the city council. However, members of the board of adjustment and the planning and zoning advisory board shall be permitted to visit the site of any quasi-judicial matter pending before their board and discuss with city staff the facts surrounding such matters.

(c) *Required disclosure.* Any member of any quasi-judicial board, including the city council, who conducts an investigation or site visit, receives any expert opinion, or makes or receives any ex parte

communication regarding a quasi-judicial matter pending before the board shall, during the hearing and before any vote on the matter, place into the record the substance or actual documentation of the investigation, site visit, expert opinion, and all written and oral communications made or received by the board member. In addition, members of the board of adjustment and the planning and zoning advisory board shall likewise place into the record the substance of any discussions with city staff regarding the matter.

(d) *Rebuttal.* Any person desiring to rebut any ex parte communication shall be allowed to do so, as long as the rebuttal is made prior to or at the hearing before any vote is taken on the matter. Otherwise, the right to rebut shall be waived.

(e) *Penalties.* Any member of a quasi-judicial board, except the city council, who fails to disclose an ex parte communication as provided herein shall be subject to any disciplinary action the city council deems appropriate, including, but not limited to, removal of the board member. Failure of a city council member to make the required disclosure, whether intentional or through simple or gross negligence, shall constitute a violation of Section 2.08(3) of the City Charter.

(Code 1976, §2-5; Ord. 627, §§1 thru 4, 7-5-95; Ord. 752, §§1, 2, 9-1-99)

**Secs. 2-77 thru 2-90. Reserved.**

### **Division 2. Comprehensive Planning Advisory Board**

*State Law References: Local Government Comprehensive Planning and Land Development Act, F.S. §163.3161 et seq.*

**Sec. 2-91. Established.**

A city local government comprehensive planning advisory board is hereby established to assist the city council in its obligation under the Local Government Comprehensive Planning and Land Development Act, F.S. §163.3161 et seq.

(Code 1976, §2-27)

**Sec. 2-92. Organization; members.**

The comprehensive planning advisory board shall consist of not more than ten and not less than six voting members, plus two alternate members, appointed by the council. The board shall adopt its own bylaws and elect its own officers. All members shall be qualified electors of the city and shall serve without compensation.

(Code 1976, §2-28; Ord. 983, §1, 2-20-08)

**Sec. 2-93. Term of office; vacancies.**

Each member of the comprehensive planning advisory board shall be appointed for a term of three years. Vacancies shall be filled for any unexpired term in the same manner as for initial appointments.

(Code 1976, §2-29)

**Sec. 2-94. Responsibilities.**

The comprehensive planning advisory board is charged to develop a comprehensive plan for the city in accordance with the intent of the Local Government Comprehensive Planning and Land Development Act. The board is further charged to examine and comment on the feasibility and implementation of programs submitted to it by the city council, to assist in the coordination of city plans with county, state and national planning and to assess the effect of higher authority plans on the city.

(Code 1976, §2-30)

**Sec. 2-95. Reports.**

A yearly status report from the comprehensive planning advisory board shall be submitted to the city council by July 1 of each year. Intermediate reports may be submitted at any time.  
(Code 1976, §2-31)

**Sec. 2-96. Coordination of activities.**

(a) The comprehensive planning advisory board shall coordinate its work with that of other city boards and the volunteer fire department to ensure full consideration of areas in which they are involved. Each board and the volunteer fire department shall designate their representative.

(b) The chairman of the board shall be responsible for notifying the designated representatives when matters involving their areas of responsibility are to be considered.

(c) The other boards and the volunteer firefighters retain their autonomy and written reports of disagreement shall be submitted to the council.  
(Code 1976, §2-32)

**Secs. 2-97 thru 2-110. Reserved.**

**Division 3. Library Board**

**Sec. 2-111. Established.**

A library board is hereby established.  
(Code 1976, §10-5)

**Sec. 2-112. Organization; members.**

The library board shall consist of seven members, plus two alternate members, appointed by the city council. The board shall adopt its own bylaws and elect its own officers. At least five members shall be qualified electors of the city and at least one alternate shall be a qualified elector of the city; two members and one alternate may reside outside the city. Board members shall serve without compensation and may be removed at the discretion of the city council.  
(Code 1976, §10-6; Ord. 908, §1, 7-6-05)

**Sec. 2-113. Term of office; vacancies.**

Each member of the library board shall serve for a term of two years. Vacancies shall be filled for any unexpired term in the same manner as for initial appointments.  
(Code 1976, §10-7)

**Sec. 2-114. Responsibilities.**

The library board is charged to represent the public's interest and serve as an information resource in planning local library service programs for discussion and review by the county public library board.  
(Code 1976, §10-8)

**Secs. 2-115 thru 2-130. Reserved.**

**Division 4. Recreation Board**

**Sec. 2-131. Established.**

A recreation board is hereby established.  
(Code 1976, §17-6)

**Sec. 2-132. Organization; members.**

The recreation board shall consist of 7 members plus two alternate members, appointed by the city council. The board shall adopt its own bylaws and elect its own officers. All members shall be qualified electors of the city and shall serve without compensation.  
(Code 1976, §17-7; Ord. 1023, §1, 11-4-09)

**Sec. 2-133. Term of office; vacancies.**

Each member of the recreation board shall serve for a term of two years. Vacancies shall be filled for any unexpired term in the same manner as for initial appointments.  
(Code 1976, §17-8)

**Sec. 2-134. Responsibilities.**

The recreation board shall plan and propose to the city council such programs for the benefit of the residents of the city as shall seem desirable and feasible to the board (such programs to apply to all areas of the city), shall cooperate with and assist any private or public recreation programs conducted within the city, and shall promote public interest in the general improvement of the city recreation programs and the conduct of them.  
(Code 1976, §17-9)

**Sec. 2-135. Reserved.**

**Division 5. Samsons Island Park Development Committee**

**Sec. 2-136. Established.**

A committee is hereby established and shall be entitled "Samsons Island Park Committee".  
(Ord. 649, §1, 2-21-96; Ord. 852, §1, 2-19-03)

**Sec. 2-137. Organization; members.**

The Samsons Island Park Committee shall consist of seven regular members and two alternate members, appointed by the city council. The committee shall elect its own officers. All members shall be registered voters residing in the city and shall serve without compensation. Members of the board may be removed at the discretion of the city council.  
(Ord. 649, §1, 2-21-96; Ord. 852, §1, 2-19-03)

**Sec. 2-138. Term of office; vacancies.**

Each member of the Samsons Island Park Committee shall serve for a term of two years. Vacancies shall be filled for any unexpired term in the same manner as for initial appointments.  
(Ord. 649, §1, 2-21-96; Ord. 852, §1, 2-19-03)

**Sec. 2-139. Mission statement and responsibilities.**

The Samsons Island Park Committee mission statement is to plan and support the continued development and improvement of Samsons Island to maximize and ensure its potential as a combined nature refuge, passive recreation park and environmental education showcase. The goals of the Samsons Island Park Committee are 1) maintenance, 2) capital improvements, 3) education, 4) security, 5) recreation, and 6) community involvement. (*Ord. 649, §1, 2-21-96; Ord. 852, §1, 2-19-03*)

**Division 6. Business Enhancement Committee**

**Sec. 2-140. Established.**

A business enhancement committee is hereby established to promote community dialogue and action intended to improve the business climate of the city. (*Ord. 649, §2, 2-21-96*)

**Sec. 2-141. Organization; members.**

(a) The business enhancement committee shall consist of a maximum of nine members. The committee shall elect its own officers. Committee members shall serve without compensation and may be removed at the discretion of the city council. To the extent possible, the following shall comprise the membership of the committee:

- (1) Three individuals who are business people in the city (may or may not be city residents).
- (2) Two individuals who are commercial property owners (may or may not be city residents, may also be a business operator).
- (3) A member of the planning and zoning advisory board.
- (4) Two Satellite Beach residents.
- (5) A representative of the building and zoning department (appointed by the city manager).
- (6) Adjustments shall be made as necessary to insure that city residents comprise a majority of the committee.

(b) If it is not possible to appoint individuals to the committee as outlined in this section, the city council shall, in its discretion, appoint members which best serve the needs of the city and the committee. Membership may vary from six to nine members as determined by the council based on the needs of the committee.

(*Ord. 649, §2, 2-21-96*)

**Sec. 2-142. Term of office; vacancies.**

Each member of the business enhancement committee shall serve a three-year term. For initial appointments, the concluding date of terms shall be staggered in order to avoid all terms expiring on the same date. Vacancies shall be filled for any unexpired term in the same manner as initial appointments.

(*Ord. 649, §2, 2-21-96*)

**Sec. 2-143. Responsibilities.**

The business enhancement committee is an advisory committee to provide input on issues affecting

business within the city and to act as a conduit to foster effective communication between the business community and city. In fulfilling this role, the committee shall provide input/recommendations to the city council on issues affecting business including city codes, business enhancements, and aesthetic improvements consistent with the goal of maintaining the city's character of low density, single-family development. The committee shall be responsible for implementing, with the approval of the city council, special projects, consistent with the purpose and responsibilities as outlined herein. The committee shall be subject to all applicable Florida law relating to the conduct of a body appointed by a governing body.  
(Ord. 649, §2, 2-21-96)

**Secs. 2-144 thru 2-155. Reserved.**

#### ARTICLE IV. DEPARTMENTS

*State Law Reference: Code of ethics, F.S. §112.311 et seq.*

**Sec. 2-156. Established.**

The following city departments are hereby established:

- (a) Administration.
- (b) Building and zoning.
- (c) Fire.
- (d) Police.
- (e) Public works.
- (f) Recreation.

(Code 1976, §2-2)

**Secs. 2-157 thru 2-180. Reserved.**

#### ARTICLE V. INITIATIVES AND REFERENDA

**Sec. 2-181. Power of initiative.**

The electors shall have the power to propose any ordinance except an ordinance applying to the budget or any ordinance relating to the appropriation of money, to any levy of taxes, or to the salaries of city officers or employees, and to adopt or reject the same at the polls. Such power shall be known as the initiative. Any initiated ordinance may be submitted to the city council by a petition signed by the qualified electors of the city equal to at least 15 percent of the voters registered at the last regular municipal election; provided, however, that no initiative initiated ordinance on substantially the same subject matter shall be submitted more than once during any calendar year.

(Code 1976, §2-10)

**Sec. 2-182. Power of referendum.**

The electors shall have the power to approve or reject at the polls any ordinance passed by the city council, or submitted by the council by a vote of the electors, except as provided in section 2-181, such power being known as the referendum. Ordinances submitted to the council by initiative petition and passed by the

council without change shall be subject to the referendum in the same manner as other ordinances. Within 60 days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal to at least 15 percent of the voters registered at the last preceding regular municipal election may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

*(Code 1976, §2-11)*

**Sec. 2-183. Form of petition; signatures; circulatory committee; affidavit by circulator.**

(a) All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but on each petition there shall be a statement of the circulation thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or such other description sufficient to identify the place, and the date of his signature. There shall appear on each petition the names and addresses of the same five electors who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition.

(b) Included on each separate petition paper there shall be an affidavit of the circulator, who may or may not be one of the committee of five, that he, and he only, personally circulated the paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons that they purport to be.

*(Code 1976, §2-12)*

**Sec. 2-184. Verification of validity of petitions; delivery of certified petition to council; notice of insufficiency.**

All petitions comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one instrument within 60 days of the date of the first signature thereto. Within 20 days after a petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator, and whether the petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not include an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall forthwith certify the result thereof and deliver his certificate and the petition to the city council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings by registered or certified mail.

*(Code 1976, §2-13)*

**Sec. 2-185. Amending insufficient petitions.**

An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in the case of the original petition. The city clerk shall, within ten days after the instrument is filed, make examination of the amended petition, and, if the petition is still insufficient, he shall file his certificate to that effect in his office and notify the committee of the petitioners of his findings and no further action shall be had on the insufficient petition. The findings of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

*(Code 1976, §2-14)*

**Sec. 2-186. Approval of electors required.**

When a referendum petition or amended petition as defined in section 2-185 has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it has gone into effect, until approved by the electors as provided in this article. *(Code 1976, §2-15)*

**Sec. 2-187. Public hearing; final vote upon referred petition.**

Whenever the city council receives a certified initiative or referendum petition from the city clerk, it shall proceed at once to consider the petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The city council shall take final action on the ordinance not later than 60 days after the date on which the ordinance was submitted to the city council by the city clerk. A referred petition shall be reconsidered by the city council and its final vote upon such reconsideration shall be upon the question "Shall the ordinance specified in the referendum petition be repealed?" *(Code 1976, §2-16)*

**Sec. 2-188. Submission to electors upon adverse council action.**

(a) If the city council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form which is in substance different from that set forth in a petition therefor, or if the city council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than 30 days nor more than 90 days from the date the city council takes its final vote thereon, and if the city council shall take no action on the ordinance within 60 days after the date on which such ordinance was submitted to the city council by the city clerk, the proposed or referred ordinance shall be submitted to the electors not less than 30 days nor more than 90 days after the 60 days which the council had to consider the ordinance. If no regular election is to be held within such period, the city council shall provide for a special election.

(b) Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of the ordinance shall be submitted by ballot title, which shall be prepared by the city attorney in all cases, or other principal legal advisor of the city. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of the ordinance. The ballot used in voting upon any ordinances, if a paper ballot, shall have below the ballot title the following propositions, one above the other, in the order indicated: "For the Ordinance" and "Against the Ordinance." Immediately at the left of each proposition there shall be a square in which by making a cross (X) the elector may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance. *(Code 1976, §§2-17, 2-18)*

**Sec. 2-189. List of qualified electors furnished by city.**

If any organization or group requests it for the purpose of circulating descriptive matter relating to the ordinance to be voted on, the city clerk or other office, department or agency of the city having the list of qualified electors shall either permit the organization or group to copy the names and addresses of the qualified electors or furnish it with a list thereof at cost. *(Code 1976, §2-19)*

**Sec. 2-190. Majority vote favoring ordinances.**

If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall

thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of the conflict. (Code 1976, §2-20)

**Sec. 2-191. Publication of adopted or approved petitions.**

Initiative and referendum petitions adopted or approved by the electors shall be published as provided by state law. (Code 1976, §2-21)

**Secs. 2-192 thru 2-210. Reserved.**

**ARTICLE VI. FINANCE**

*State Law References: Municipal finance and taxation, F.S. §166.101 et seq.*

**Division 1. Generally**

**Secs. 2-211 thru 2-225. Reserved.**

**Division 2. Purchasing**

**Sec. 2-226. Competitive bidding; publication of notice.**

No contracts shall be let by the city for any city improvement, nor shall any goods, supplies or materials be purchased by the city manager or his appointed purchasing agent for city purposes or use when the total amount to be paid therefor by the city shall exceed \$8,300.00 unless notice thereof has first been advertised for one time, at least two weeks prior to the bid opening in a newspaper published in the city, or if no newspaper is published in the city, then in a newspaper of general circulation within the city and published in the county, calling for bids upon the work to be performed or the goods, supplies or materials to be purchased by the city. (Code 1976, §2-33; Ord. 638, §1, 10-18-95; Ord. 913, §1, 9-7-05)

**Sec. 2-227. Award of contract.**

All contracts requiring bids shall be awarded to, and all such purchases shall be made from, the lowest responsible bidder as determined by the city council; provided, however, that the city manager, with the approval of the city council, shall have the power to reject any and all bids and to advertise again. (Code 1976, §2-34)

**Sec. 2-228. Modification of contract or specifications.**

Modification in any contract or in any specifications may be made when authorized by the city council upon the written recommendation of the city manager. (Code 1976, §2-35)

**Sec. 2-229. Waiver of bidding requirements.**

For improvements or purchases costing between \$8,300.00 and \$22,500.00 the city council, by a four-fifths vote, may provide for a sole source acquisition and waive the requirements for competitive bidding. (Code 1976, §2-36; Ord. 638, §2, 10-18-95; Ord. 913, §2, 9-7-05)

**Sec. 2-230. Determination of lowest responsible bidder.**

In determining the lowest responsible bidder, in addition to price, the city manager, council and purchasing agent shall consider:

- (1) The ability, capacity and skill of the bidder to perform the contract and provide the service required.
- (2) Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality of performance of previous contracts or services.
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to contract or service.
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- (7) The quality, availability and adaptability of the supplies, or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
- (9) The number and scope of conditions attached to the bid.

*(Code 1976, §2-37)*

**Sec. 2-231. Report of city manager when lowest bidder not chosen.**

When the award is not given to the lowest bidder, a full and complete statement of the reasons placing the order elsewhere shall be prepared by the city manager for approval by the city council prior to the award of the contract.

*(Code 1976, §2-38)*

**Sec. 2-232. Performance bond.**

The city manager shall have the authority to require a performance bond before entering a contract in such amounts as he shall find reasonably necessary to protect the best interests of the city.

*(Code 1976, §2-39)*

**Secs. 2-233 thru 2-250. Reserved.**

**Division 3. Travel Expenses**

*State Law References: Per diem and travel expenses, F.S. §112.061.*

**Sec. 2-251. Definitions.**

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

*Authorized person or individual* means a person who, pursuant to the provisions of this division, has been authorized to incur travel expenses necessarily incurred by him in the performance of a public purpose authorized by law to be performed and within the limitations prescribed in this division.

*Common carrier* means train, bus, commercial airline operating commercial flights or rental cars of an established rental car firm.  
(Code 1976, §2-23)

**Sec. 2-252. Procedure for securing travel authorization and expenses.**

(a) Travel is authorized and may be requested where budgeted. If the mayor, a member of the city council, person appointed by the council or the city manager finds that it is necessary to incur travel expenses which are in addition to the scope and the intent of the adopted budget, specific authorization must be secured from the city council. If an employee of the city, appointed by the city manager, finds that it is necessary to incur travel expenses which are beyond the scope and intent of the budget, a written request shall be filed for review by the city manager, including an explanation of the need for the expenditure and for approval by the city council.

(b) Specifically exempted from such reimbursement are: attendance at political rallies; events held for the specific purpose of promoting the candidacy of an individual for public office; expenses incurred by members of the public officials' or employees' families, except as authorized under section 2-254; and other expenditures not involving a public purpose, or not necessarily incurred in the performance of a public purpose authorized by law.

(c) In cases where money is budgeted for travel and is within the scope and intent of the adopted budget, authorization for travel for all city employees must be approved in advance by their department head; authorization for travel for department heads must be approved by the city manager; authorization for mayor or city council requires their personal written request. All other council appointees require council approval.

(d) Reserved.

(e) Any cash advances or requested reimbursement must be cleared or authorized by filing a travel expense report substantiating expenses incurred. This report must be submitted to the finance director within five working days after trip completion. A copy of the entire course outline, seminar, conference or other applicable document relating to the travel shall be attached.

(Code 1976, §2-24; Ord. 875, §2, 3-17-04; Ord. 980, §1, 10-17-07)

**Sec. 2-253. Computation of travel reimbursement.**

(a) *Intent.* It is the intent of the city to specifically provide for reimbursement to those individuals authorized to travel or attend any convention, conference or meeting at city expense at a per diem rate greater than that provided by state law. No one shall be reimbursed for any meal or lodging included in a conference or registration fee paid by the city, or for which the attendee initially paid and is reimbursed by any other organization or governmental agency or subdivision. All non-employees traveling on behalf of the city, who provide travel documents (original receipts) for reimbursement shall be reimbursed for all travel related expenses at the same rates as employees.

(b) *Lodging.* Those persons who are authorized to travel at city expense are expected to select a hotel or motel at a reasonable rate for the community involved. Authorized persons will be reimbursed at a single-occupancy rate. Checkout hours shall be observed to avoid a charge for the day of departure. Hotel or motel expenses must be supported by original receipted bills.

(c) *Meals.* Meals will be paid on the following per diem basis:

- (1) Breakfast . . . . . \$ 8.00
- (2) Lunch . . . . . 10.00
- (3) Dinner . . . . . 18.00

A complimentary Continental breakfast is not considered a meal; therefore breakfast in lieu of a complimentary Continental breakfast shall be reimbursable.

For local travel (not overnight), reimbursements will be made when travel involves public purpose and occurs during normal mealtimes.

(d) *Tips and telephone.*

(1) Reimbursement for tips will be based on the following:

Meal service (pertaining to Sec. 2-254 only)	15% maximum of each bill
Taxi service	10%
Baggage handling	maximum of \$2.00 upon arrival and \$2.00 upon departure

(2) Necessary business telephone calls will be reimbursed. Whenever possible, calls to any city facilities (police department, fire department, etc.) should be made collect. No personal calls will be reimbursed.

(e) *Transportation.*

(1) All travel shall be in a convenient and mainly traveled route. If a person travels by an indirect route for his convenience, any extra costs shall be borne by the traveler and reimbursement for expenses shall be made accordingly. Air travel shall be by tourist class, except when tourist class is not available to maintain a convenient travel schedule. If a privately owned vehicle is used for travel, the vehicle owner shall be entitled the "standard mileage rate" as set annually by the Internal Revenue Service (IRS) per mile, plus tolls and parking fees. The city council, or persons appointed by the city council, shall not be entitled to mileage reimbursement for automobile travel within the corporate limits of the city. Notwithstanding the foregoing, each councilperson shall be entitled to a monthly allowance of \$50.00 to cover the cost of in-city travel. The mayor shall be entitled to a monthly allowance of \$100.00 to cover the cost of in-city travel. Employees appointed by the city manager shall be entitled to reimbursement for automobile travel incurred in the course of carrying out official duties, excluding meetings within the city, where a city vehicle is not available. If the travel is outside of the state, reimbursement shall be the lesser of the cost of a round-trip tourist airfare or the standard mileage rate. Related vehicle costs for tolls, storage fees and parking fees incurred for official travel shall be included.

(2) Rental automobiles may be used only when specifically authorized. Use of car rentals will be restricted to those conditions where other transportation is not available or when the total cost of the car rental is less than that of other transportation. Automobiles rented for city business should be limited to the compact category. The use of convertibles, sport coupes or sport sedans is not authorized. Charges for taxis are reimbursable where other means of transportation are not available or practical. Normally, limousines should be used in traveling to and from airports. There is no restriction on purchasing personal air travel insurance policies, such as those available at airports; this is a personal expense, however, and may not be included for reimbursement on the travel expense report.

(f) *Auditing.* Each approved travel expense report will be audited when received. Individuals requesting reimbursement are responsible for mathematical computation. Any report which is not approved or properly prepared, or is prepared in such a way as to be unauditably, will be returned for resubmission.

(g) *Receipts.* Original receipts must be attached to the expense report for the following items:

- (1) Transportation (except limousine service, taxi and private automobile).
- (2) Hotel or motel.

(h) *Other.* In the event the expense report reflects monies due the city, these monies are payable and shall be delivered directly to the finance director no later than five business days after the date the finance director verifies the amount due.

*(Code 1976, §2-25; Ord. 674, §1, 4-16-97; Ord. 853, §§1--3, 1-7-04; Ord. 875, §1, 3-17-04; Ord. 980, §2, 10-17-07)*

#### **Sec. 2-254. Reimbursement of expenses.**

An individual authorized to incur travel expenses may be reimbursed for meals and beverages in the following instances: recruitment of industry and potential city employees; hosting special visitors to the city; expenses incurred in the course of advocating state and federal legislation; hosting or attending committees, conferences, and meetings for organizations where the city or an individual is a member or where the City would benefit from such attendance. Such reimbursed expenses shall be those actual expenses reasonably and necessarily incurred by the individual in the performance of a public purpose authorized by law.

*(Code 1976, §2-26; Ord. 980, §3, 10-17-07)*

#### **Secs. 2-255 thru 2-275. Reserved.**

### **ARTICLE VII. ELECTIONS**

*State Law References: Florida election code, F.S. chs. 97 thru 106.*

#### **Sec. 2-276. Election code adopted.**

The Florida Election Code as set forth and designated by the Florida Statutes and all amendments which may be adopted are hereby adopted as the procedure for conducting municipal elections within the city. The duties, authority and responsibility of state and county officers, boards and bodies set forth in the Florida Election Code shall apply to the corresponding municipal entities in the conduct of municipal elections. As applied to municipal elections, public office shall include any municipal office.

*(Code 1976, §8-1)*

#### **Sec. 2-277. Qualifying period for candidates.**

(a) The qualifying period for candidates for the offices of mayor and city council shall be not less than seventy-six (76) days nor more than eighty-nine (89) days prior to the date of such election.

(b) In computing the qualification days, the election day is to be excluded, but all Sundays and holidays are to be included. Should the seventy-sixth day preceding an election fall on a Sunday, Saturday or holiday, the notice must be filed by 5:00 p.m. on the preceding business day.

*(Code 1976, §8-2; Ord. 814, §2, 8-15-01; Ord. 973, §1, 8-15-07; Ord. 994, §1, 7-2-08)*

#### **Secs. 2-278 thru 2-300. Reserved.**

**ARTICLE VIII. CODE ENFORCEMENT**

*State Law Reference: Code enforcement, F.S. ch. 162.*

**Division 1. Generally**

**Sec. 2-301. Definitions.**

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

*Clerk* means the administrative staff person of the city responsible for the preparation, development and coordination of all administrative and case management services necessary for the proper functioning of the code enforcement board.

*Code enforcement board* means the code enforcement board of the city.

*Code inspector* means the code enforcement officer or any employee or agent of the city designated by the city manager, whose duties are to ensure compliance with and enforce city codes or ordinances.

*Repeat violation* means a violation of a provision of a code or ordinance by a person whom the code enforcement board has previously found to have violated the same provision within five years prior to the violation.

*(Code 1976, §13-2)*

*State Law Reference: Definitions, F.S. §162.04.*

**Sec. 2-302. Intent.**

It is the intent of this article to promote, protect and improve the health, safety and welfare of the citizens of the city by the creation of an administrative board with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in the city, where a pending or repeated violation continues to exist.

*State Law Reference: Intent, F.S. §162.02.*

**Secs. 2-303 thru 2-320. Reserved.**

**Division 2. Code Enforcement Board**

*State Law References: Code enforcement board, procedure, F.S. §§162.01 thru 162.13.*

**Sec. 2-321. Composition.**

(a) There is hereby created a code enforcement board of the city which shall be composed of seven members appointed by the city council. Membership shall include, whenever possible, persons experienced in the following professions:

- (1) Architecture.
- (2) Business.
- (3) Engineering.
- (4) General contracting.
- (5) Subcontracting.

(6) Realty.

(b) Appointments to the board shall be in the sole discretion of the city council.

*(Code 1976, §13-3(a); Ord. 613, §1, 11-23-94)*

*State Law Reference: Similar provisions, F.S. §162.05(2).*

**Sec. 2-322. Qualifications.**

Members of the code enforcement board shall be residents of the city. Appointments shall be made in accordance with applicable law and ordinances on the basis of experience or interest in the subject matter jurisdiction of the code enforcement board, in the sole discretion of the city council.

*(Code 1976, §13-3(b))*

*State Law Reference: Similar provisions, F.S. §162.05(2).*

**Sec. 2-323. Vacancies.**

Appointments to fill any vacancy on the code enforcement board shall be for the remainder of the unexpired term of office.

*(Code 1976, §13-3(d))*

*State Law Reference: Similar provisions, F.S. §162.02(3).*

**Sec. 2-324. Removal.**

If any code enforcement board member fails to attend two out of three successive meetings without prior approval of the board chairperson, the board shall declare the member's office vacant and the city council shall promptly fill the vacancy. The members can be removed or suspended for cause by the city council. Any board member who becomes a candidate for public elective office must comply with F.S. § 99.012. A member of the board who becomes an employee of the city shall automatically forfeit board membership.

*(Code 1976, §13-3(e))*

*State Law Reference: Removal, F.S. §162.05(3)(e).*

**Sec. 2-325. Organization; quorum.**

(a) The code enforcement board shall consist of a chairperson, a vice-chairperson and such other officers as the board shall deem necessary after election to such position by the board members.

(b) Officers of the board shall be elected by a majority vote of the membership at the first annual meeting of the board.

(c) A member of the board may be elected to serve as an officer without restriction as to the number of terms served.

(d) A minimum of four members of the board shall constitute a quorum.

*(Code 1976, §13-4(a) thru (d))*

*State Law Reference: Similar provisions, F.S. §162.05(4).*

**Sec. 2-326. Meetings.**

(a) Regular meetings of the code enforcement board shall occur as required to conduct necessary business. Special meetings of the board may be convened by the chairperson upon giving notice thereof to each other member of the board. The notice of a special meeting shall be given at least 24 hours prior to the meeting.

(b) Minutes shall be maintained of all meetings and hearings held by the code enforcement board,

and all meetings, hearings and proceedings shall be open to the public.

*(Code 1976, §13-4(e), (f); Ord. 763, §1, 9-16-99)*

*State Law References: Hearings, F.S. §§162.06, 162.07.*

**Sec. 2-327. Rules and regulations.**

The code enforcement board may adopt such rules and regulations as are not inconsistent with the provisions of this article or the state law known as the Local Government Code Enforcement Boards Act, F.S. §§ 162.01--162.13, which rules and regulations the board finds necessary to carry out the provisions of this article, subject to approval by the city council.

*(Code 1976, §13-5)*

*State Law Reference: Power to adopt rules, F.S. §162.08(1).*

**Sec. 2-328. Legal counsel.**

The city attorney shall act as counsel for the code inspector of the city. The city council may appoint an attorney who is a practicing member of the Florida Bar, either residing or practicing in the county, to represent the code enforcement board when required. The attorney shall be compensated as provided by the city council.

*(Code 1976, §13-6)*

*State Law Reference: Similar provisions, F.S. §162.05(5).*

**Sec. 2-329. Compensation.**

Members of the code enforcement board shall serve without compensation, but may be reimbursed for such travel expenses, mileage expenses and other per diem expenses as may be authorized by the city council or by city ordinance.

*(Code 1976, §13-7)*

*State Law Reference: Similar provisions, F.S. §162.05(4).*

**Sec. 2-330. Jurisdiction.**

(a) The code enforcement board shall have jurisdiction to hear and decide alleged violations of any Code provision or ordinance in force in the city where a pending or repeated violation continues to exist.

(b) Jurisdiction of the board shall not be exclusive. Any remedies and enforcement mechanisms contained in this article are supplemental to, and in addition to, any other remedies and enforcement mechanisms available to the city by any other means.

*(Code 1976, §13-8)*

*State Law Reference: Jurisdiction, F.S. §162.02.*

**Secs. 2-331 thru 2-345. Reserved.**

**Division 3. Enforcement Procedures**

*State Law References: Enforcement procedures, F.S. §162.06 et seq.*

**Sec. 2-346. Initiation of proceedings; notice of violation.**

(a) The code inspector has the primary duty of enforcing the various codes and initiating enforcement proceedings before the code enforcement board. No board member shall have the power to initiate such proceedings.

(b) If a violation of a code is alleged to exist, the code inspector shall, unless subsection (c) or (d) of this section applies, provide written notice to the alleged violator of the violation and afford that person a reasonable time, in light of the violation, to correct it. In addition to the notice of violation, the code inspector

shall include a tentative hearing date on the violation. If the violation continues beyond the time specified in the notice for correction, the city clerk shall schedule a hearing before the board and provide written notice to the alleged violator of the hearing. At the option of the code enforcement board, notice may be additionally served by posting or publication as provided in section 2-348. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the code enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(c) If a repeat violation is alleged to exist, the code inspector shall notify the alleged violator of it, but need not give the alleged violator a reasonable time to correct the violation. Upon notifying the alleged violator of the repeat violation, the code inspector shall notify the code enforcement board and request a hearing. The clerk shall schedule a hearing pursuant to the notice requirements set forth in this section. The case may be presented to the board, even if the repeat violation has been corrected prior to the board meeting, and the notice shall so state.

(d) 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 is irreparable or irreversible in addition, the code inspector may proceed directly to a hearing without notifying the alleged violator; provided, however, where possible, the code inspector shall attempt to ensure that reasonable notice shall be given to the alleged violator.

*(Code 1976, §13-9(a)-(d); Ord. 613, §2, 11-23-94)*

*State Law Reference: Similar provisions, F.S. §162.06.*

**Sec. 2-347. Injunctive relief when violation presents threat to public.**

If the code enforcement board believes that a violation presents a serious threat to the public health, safety or welfare, the board may request the city attorney to seek appropriate injunctive relief in the name of the city in the appropriate court.

*(Code 1976, §13-10(f))*

**Sec. 2-348. Service of notice.**

(a) All notices required by this article shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer, code inspector or other person designated by the city council; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice.

(b) In addition to providing notice as set forth in subsection (a), at the option of the code enforcement board, notice may also be served by publication or posting, as follows:

- (1) Such notice shall be published once during each week for four consecutive weeks, four publications being sufficient, in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
- (2) In lieu of publication as described in subsection (b)(1), such notice may be posted for at least ten days in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the primary municipal government office. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
- (3) In lieu of publication described in subsection (b)(1), such notice may be posted for at least ten days in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the front door of city hall.
- (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 (a).

(d) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this article have been met, without regard to whether or not the alleged violator actually received the notice.

*(Code 1976, §13-9(e), (f); Ord. 613, §2, 11-23-94)*

*State Law Reference: Similar provisions, F.S. §162.12.*

### **Sec. 2-349. Initiation of hearings.**

Upon request of the code inspector or at such other times as may be necessary, the code enforcement board chairperson may call code enforcement board hearings. A hearing may also be called by written notice of at least three members of the board. The board may, at any hearing, set a future date.

*(Code 1976, §13-12)*

*State Law Reference: Similar provisions, F.S. §162.07(1).*

### **Sec. 2-350. Setting of time, date for hearing; notice; filing of response.**

The time and date for the code enforcement board hearing shall be set and notice of the hearing to the alleged violator and the code inspector shall be as set forth in section 2-346. The violator may file a written reply to the charges contained in the notice of violation, which shall be known as the response. The response must contain the address and/or location of the violation and the alleged violator's relationship to the property (e.g., owner, tenant, etc.). The response shall be filed within 20 days of receipt of the notice of violation with the clerk.

*(Code 1976, §13-10(a))*

### **Sec. 2-351. Conduct of hearing.**

(a) The code enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The code enforcement board shall take testimony from the code inspector and the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(b) All hearings of the board shall be open to the public and any person whose interests may be affected by the matter before the board shall be given an opportunity to be heard. Official minutes of all board hearings shall be kept.

(c) Hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. They shall, however, be conducted in accordance with due regard given to order and procedure relative to motions, votes and decisions. Fundamental due process shall be observed and shall govern all hearings.

(d) All relevant evidence shall be admitted if, in the opinion of the chairperson, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule that might make such evidence inadmissible over objections in civil actions. The chairperson of the board may exclude irrelevant or unduly repetitious evidence.

(e) Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

(f) Each party to the hearing shall have the right to call and examine witnesses, introduce exhibits, cross examine opposing witnesses, impeach witnesses and rebut evidence.

(g) The alleged violator has the right to be represented by an attorney at any board hearing.

(h) The alleged violator or the city may cause the proceedings to be recorded by a certified court reporter.

(i) The burden of proof shall be with the code inspector to show by the greater weight of the evidence that a code violation exists and that the alleged violator committed, or was responsible for committing, permitting, allowing, authorizing or maintaining the violation.

(j) If written notice has been provided to an alleged violator of the formal hearing, a hearing may be conducted and an order rendered in the absence of the violator.

(k) The board may, for good cause shown, postpone or continue a formal hearing upon a majority vote of those members present and voting.

*(Code 1976, §13-11)*

*State Law Reference: Conduct of hearing, F.S. §162.07.*

**Sec. 2-352. Findings, conclusions; issuance of order.**

At the time and place set for the hearing the board shall hear and consider all testimony offered and shall examine and consider all the evidence presented. After the conclusion of the hearing, the board shall issue findings of fact and conclusions of law in a written order affording the proper relief consistent with the powers granted herein. Such order may command a violator to take whatever steps are necessary to bring a violation into compliance within a specified date, which specific date shall be announced at the meeting and subsequently placed in the order. The order may further provide that if it is not complied with by that date, a fine not to exceed \$250.00 per day for a first violation and \$500.00 per day for a repeat violation may commence on that date without further hearing. In addition, under the conditions set forth in section 2-354, the cost of repairs may be included along with the fine if not complied with by the date specified. The findings, conclusions and order shall be by motion approved by a majority of those present and voting, except that at least four members of the board must vote for the action to be official. The order shall be announced orally at the meeting, shall be reduced to writing, and mailed to the violator within 15 days after the order is signed.

*(Code 1976, §13-10(b); Ord. 613, §3, 11-23-94)*

*State Law Reference: Similar provisions, F.S. §162.07(4).*

**Sec. 2-353. Determination of fine.**

(a) In determining the amount of the fine, if any, the code enforcement board shall consider the following factors:

(1) The gravity of the violation.

(2) Any actions taken by the violator to correct the violation.

(3) Any previous violations committed by the violator.

(b) The code enforcement board may reduce a fine imposed pursuant to this section.

*(Code 1976, §13-10(c))*

*State Law References: Similar provisions, F.S. §162.09(2)(b), (c).*

**Sec. 2-354. Noncompliance with order, repeat violations; fine, costs may be imposed.**

(a) The board, upon notification by the code inspector that an order of the board has not been

complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine not to exceed \$250.00 per day for a first violation and not to exceed \$500.00 per day for a repeat violation for each day the violation continues past the date set by the board for compliance or, for a repeat violation, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, any fine imposed under this section may include all costs of repair for any violation described in section 2-346(d) where the board has advised the city council of such violation, all reasonable repairs have been made after authorization by the city council to bring the property into compliance and the violator is then charged with reasonable costs of such repairs. If a finding of 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.

(b) A certified copy of an order imposing a fine may be recorded in the public records 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, the lien may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes.

(c) The recording of the certified copy shall constitute notice to subsequent purchasers, successors in interest or assigns where 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 an order is recorded in the public records as provided in this section, and the order is complied with by the date specified in the order, the board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue an order acknowledging compliance. A fine imposed pursuant to this chapter shall continue to accrue until a violator comes into compliance or until judgment is rendered in a suit to foreclose a lien filed pursuant hereto, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city, through the city council, and the city council may execute a satisfaction or release of lien entered pursuant to this section.

*(Code 1976, §13-10(d); Ord No. 613, §3, 11-23-94)*

*State Law Reference: Similar provisions, F.S. §162.09(1).*

**Sec. 2-355. Fine constitutes lien; enforcement.**

A certified copy of an order imposing a fine may be recorded in the public records 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 may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. The recording of the certified copy shall constitute notice to subsequent purchasers, successors in interest or assigns where 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 an order is recorded in the public records as provided in this section, and the order is complied with by the date specified in the order, the board shall notify the city council. A hearing is not required to acknowledge compliance. A lien arising from a fine imposed pursuant to this section runs in favor of the city council and the city council may execute a satisfaction or release of lien entered pursuant to this section. A fine imposed pursuant to this article shall continue to accrue until a violator comes into compliance or until judgment is rendered in a suit to foreclose a lien filed pursuant hereto, whichever occurs first.

*(Code 1976, §13-10(d))*

*State Law Reference: Similar provisions, F.S. §162.09(3).*

**Sec. 2-356. Foreclosure on lien.**

After three months from the filing of any lien under this article which remains unpaid, the code enforcement board may authorize the city attorney to foreclose on the lien. No lien created pursuant to the provisions of this article may be foreclosed on real property which is a homestead under section 4, art. X of the

state constitution. No lien imposed under this article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded unless an action to the lien has been commenced to foreclose the lien in a court of competent jurisdiction.

(Code 1976, §13-10(e))

**Sec. 2-357. Costs and attorneys' fees.**

(a) If the city prevails in prosecuting a case before the board, it shall be entitled to recover all costs incurred in prosecuting the case before the board.

(b) In any action to foreclose on a lien provided within this chapter, the prevailing party shall be entitled to recover all costs, including a reasonable attorney's fee, that the prevailing party incurs in the foreclosure. The city shall also be entitled to collect all costs incurred in recording and satisfying a valid lien.

(Code 1976, §13-14; Ord. 613, §4, 11-23-94)

**Sec. 2-358. Subpoena powers.**

The code inspector, the code enforcement board or the alleged violator may request that witnesses and records and documents and other materials be subpoenaed to any formal hearings. Subpoenas may be served by officers of the police department of the city, police aides or other such persons authorized to deliver subpoenas. The chairperson of the board shall provide the clerk with sufficient signed and blank witness and document subpoenas to be provided to alleged violators and the code inspector for the purpose of having witnesses and records subpoenaed.

(Code 1976, §13-13)

*State Law References: Similar provisions, F.S. §162.08(2), (3).*

**Sec. 2-359. Recovery of prosecution costs.**

Each case before the code enforcement board shall be presented by the city attorney or by a member of the administrative staff of the city council. If the city council prevails in prosecuting a case before the code enforcement board, it shall be entitled to recover all costs incurred in prosecuting the case before the board.

*State Law References: Similar provisions, F.S. §162.07(2).*

**Sec. 2-360. Enforcement orders; appeals.**

(a) Every enforcement order of the code enforcement board shall be final, subject to the right of any aggrieved party, including the city council or the violator, to appeal a final administrative order of the code enforcement board to the circuit court of the 18th judicial circuit of Florida in and for the county. An appeal shall be filed within 30 days of the execution of the order to be appealed. Such appeal shall not be by a hearing de novo but shall be limited to appellate review of the record created before the code enforcement board.

(b) Every enforcement order of the board shall have the force of law and shall indicate the vote upon the order.

(c) Every code enforcement order shall be signed by the chairperson, or in the absence of the chairperson, the vice-chairperson, and shall be filed in the office of the city clerk. Such signing shall be deemed to be the date of execution as provided in subsection (a) of this section. A copy of the signed order shall be sent by regular mail, or where mailing would not be effective, by hand delivery by the code inspector, to the violator.

(Code 1976, §13-15)

*State Law Reference: Similar provisions, F.S. §162.11.*

**Sec. 2-361. Reduction of accumulated fines.**

(a) After an order of the code enforcement board has been issued and fines have accumulated pursuant to the order, the board may consider and reduce any accumulated fines in excess of \$500.00. The board shall not consider for reduction any accumulated fines totalling less than \$500.00.

(b) The respondent must petition the board in writing requesting a reduction of any accumulated fine. Such request must specify the reasons why the respondent feels an entitlement to such reduction. This petition shall be delivered to the secretary of the board who shall set a hearing for review of the request within 30 days of receipt of the petition.

(c) The board shall review the petition for reduction of accumulated fines.

(d) In considering whether to reduce any accumulated fines, the board shall take into consideration the following criteria and shall not consider a reduction of accumulated fines if the applicant fails to meet all the following criteria:

(1) There has been an affidavit of compliance filed with the board by the code inspector indicating that the property found in violation is now in compliance.

(2) There has not been any additional or repeated violation of the same or similar nature on the property subsequent to the events that served as a basis for the board to issue the order of noncompliance, and that there is not a case pending before the board involving either the respondent or the property being considered for a reduction.

(3) There has never been a reduction of accumulated fines authorized by the board for violation of the same or similar nature on the property being considered for reduction of accumulated fines.

(e) If the board determines that there is justification for a reduction of the accumulated fines, the board may reduce the accumulated fines. However, in no case may any accumulated fine be reduced below the greater of \$500.00 or the cost of staff time involved in pursuing the code violation prior to presentation to the board, preparation and presentation of the violation to the board and in seeking enforcement of any order entered by the board (including attorney's fees), plus 20 percent of such amount.

*(Code 1976, §13-16)*

*State Law Reference: Reduction of fine, authority, F.S. §162.09(1)(c).*

**Secs. 2-362 thru 2-380. Reserved.**

**ARTICLE IX. PLANNING**

**Division 1. Generally**

**Secs. 2-381 thru 2-410. Reserved.**

**Division 2. Comprehensive Plan**

**Sec. 2-411. Adoption.**

(a) *By reference.* The document entitled Amendment 98A to the Comprehensive Plan, City of Satellite Beach, Florida, which by this reference is incorporated in this section, is hereby adopted as the comprehensive plan of the city. Amendments to the "Goals, Objectives and Policies" shall be by ordinance. Amendments to the "Data and Analysis" provisions may be by resolution.

(b) *Availability.* At least one copy of the comprehensive plan shall be maintained at city hall and shall be available for inspection by the public during the normal business hours of the city. Copies of the comprehensive plan shall be available upon request to any member of the public upon payment of a reasonable fee for reproduction of such copies.

(c) *Inconsistencies.* If there are any inconsistencies within the comprehensive plan or any inconsistencies between the city's zoning ordinance and development regulations and the comprehensive plan during the period of which the zoning ordinance and the development regulations are being modified to comply with the comprehensive plan, such inconsistencies may be resolved by the city council. In such event, the determination of the city council with respect to any particular question shall, to the extent permitted by law, be resolved by the "fairly debatable" standard applied by the case decisions of the Florida state courts to zoning questions decided by municipal governing bodies. If any such decision by the city council can be shown to be fairly debatable within the meaning of such case decisions, the decision of the city council shall be final and binding.

(d) *Use.* After the effective date of the ordinance from which this section was derived, the city council shall use the goals, objectives and policies set forth in the comprehensive plan in the evaluation of any proposed change of land use, change of zoning or issuance of any development order. In addition to the goals, objectives and policies, the city council also reserves the right to utilize the following factors in any such evaluation:

- (1) The effect of the proposal on both the particular property with which such proposal is concerned and surrounding properties in general.
- (2) The amount of undeveloped land suitable for such proposal within the general area in question.
- (3) The amount of undeveloped land suitable for such proposal within the city.
- (4) Whether denial of the proposal would deny any property owner all beneficial economic use of his property.

(e) *Previously authorized development.* Nothing in this section or in the city's comprehensive plan adopted by this section shall limit or modify the rights of any person to complete any development that has been authorized by a final development order or other permit or license granted by the city prior to the date of adoption of this section. Any construction or development accomplished as authorized by such order, permit or license shall comply with all of the terms and provisions of all applicable ordinances of the city in effect as of the date of issuance of such order, permit or license. If a development order, permit or license expires, then all future development shall comply with all provisions of the comprehensive plan and development regulations in existence at the time a new development order, permit or license is issued.

(f) *Right to appeal.* Any property owner who believes that he has been deprived of all beneficial economic use of his property by either the issuance or denial of a final development order or permit shall have the right to take an administrative appeal to the city council if the grounds for such issuance or denial by the city are based upon the provisions of the comprehensive plan adopted by subsection (a) of this section. The procedure for such appeal shall be as follows:

- (1) The appellant shall deliver or cause to be delivered to the city a notice and request for the appeal proceedings set forth in this subsection within 30 days next after the date of the issuance or denial of the order or permit from which the appeal is taken. Such notice and request shall be in written form sufficient to advise the city as to the nature of the appeal and the identity of the order or permit which is the subject of the appeal. A letter to the city meeting the requirements of this

paragraph shall be deemed to be sufficient, provided that such letter is actually received by the city within the 30 day period specified in this paragraph.

- (2) The city council shall conduct a public hearing with respect to the appeal and shall receive at such public hearing testimony, evidence and comments from the appellant and all other persons having standing to contest development orders under F.S. ch. 163. Notice of the date and time of such public hearing shall be given to the appellant by certified mail, return receipt requested, and to the general public by publication of such notice in a newspaper of general circulation in the county. Such publication shall be made no later than ten days prior to the day on which such public hearing is scheduled to be held.
- (3) The appellant shall be required to pay to the city a filing fee for the appeal equal to the cost of publication of the notice described in the preceding paragraph of this section. Such filing fee shall be paid after the cost of such publication is determined, but in any event prior to the date of the public hearing on the appeal.
- (4) Upon consideration of the evidence, testimony and comments received at the public hearing, the city council shall have the power and authority to deny the relief sought by the appellant or to modify the issuance or denial of the order or permit which is the subject of the appeal in such manner as to cause the appellant to avoid the loss of all beneficial economic use of his property. Action taken by the city council with respect to any appeal made pursuant to this section shall be consistent with the comprehensive plan and provisions of subsections (b) through (e) of this section.

*(Code 1976, §16-21; Ord. 716, §3, 3-31-98)*