

Ordinance No. 2025-4821

An Ordinance of the City of Sanford, Florida relating to code enforcement hearings and other hearings; amending the provisions Section 26-36 and Section 26-103 of the *Code of Ordinances of the City of Sanford* relating to code enforcement hearing officer/special magistrate/selection/code enforcement processes and procedures; providing for implementing administrative actions; providing for a savings provision; providing for conflicts; providing for severability; providing for codification as well as the correction of scrivener's errors and providing for an effective date.

Whereas, the City Commission of the City of Sanford may act in accordance with the provisions of Article VIII, Section 2(b) of the *Constitution of the State of Florida*, which provides, in pertinent part, that “[m]unicipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law”; and

Whereas, the City Commission of the City of Sanford may act in accordance with the provisions of Section 166.021(1), *Florida Statutes*, which provides, in pertinent part, that “[a]s provided in S. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law”; and

Whereas, the City Commission of the City of Sanford may act in accordance with the provisions of Section 166.021(3), *Florida Statutes*, which provides, in pertinent part, that “[t]he Legislature recognizes that pursuant to the grant of power set forth in S. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power

to enact legislation concerning any subject matter upon which the state legislature may act” except for certain very limited matters; and

Whereas, controlling Florida law authorizes the City to engage in an array of code enforcement activities and the City has implemented an aggressive code enforcement action plan and process which are directed at attaining code compliance and a high quality of life and business operations for those residing in the City or conducting business within the City; and

Whereas, from time-to-time, it may be beneficial for the City, consistent with the provisions of controlling Florida law, to assign a hearing officer to a case to either provide a determination of a matter assigned for adjudication or to provide the City with findings of fact and conclusions of law in order that an adjudication can be better, more accurate and more administratively sound under controlling principals of administrative due process; and

Whereas, this Ordinance is enacted under the general home rule, land development regulatory and police powers of the City of Sanford; and

Whereas, the City has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

Whereas, the City Commission hereby determines that the adoption of this Ordinance is in the best interests of the health, safety and welfare of the citizens of the City of Sanford; and

Whereas, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

Now, Therefore, Be it enacted by the People of the City of Sanford:

Section 1. Amendment to Section 26-36, *City Code*, Code Enforcement Hearing Officers/Special Magistrates. Section 26-36 of Chapter 26 of the *Code of Ordinances of the City of Sanford* is amended to read as follows:

Sec. 26-36. - Code enforcement hearing officer/special magistrate/selection/code enforcement processes and procedures.

The City Attorney shall act as legal counsel to the code enforcement officer as he or she requires assistance for the development of ~~presents~~ cases to be presented to the hearing officer/special magistrate for adjudication ~~or shall present the case for the code enforcement officer.~~ Because only attorneys may hold the position of hearing officer/special magistrate, the City Commission shall not be required to retain an attorney to represent the hearing officer/special magistrate. Each case before the hearing officer/special magistrate shall be presented by the code enforcement officer ~~with the assistance of the City Attorney or by the City Attorney as the case may be.~~ All relevant evidence shall be admitted. When appropriate, the code enforcement officer ~~or City Attorney~~ may call as witnesses property owners within the community who are adversely affected by the alleged code violation. After the statutorily required time has run ~~three months~~ from the filing of any such lien which remains unpaid and after the hearing officer/special magistrate determined that to have occurred and approved the foreclosure, the Mayor and the City Commission may authorize the City Attorney to foreclose on the lien.

Section 2. Amendment to Section 26-103, City Code, Code Enforcement Hearing Officers/Special Magistrates. Section 26-103 of Chapter 26 of the *Code of Ordinances of the City of Sanford* is amended to read as follows:

Sec. 26-103. - Hearing officers.

(a). The City Commission ~~of the City of Sanford~~ hereby finds that from time-to-time it is beneficial and desirable for various matters, arising from the provisions of the City's Codes and ordinances, to be referred to hearing officers to make findings of facts and conclusions of law; to hear administrative appeals; to make recommendations, determinations, or decisions; or to hear other matters of a similar nature; or any combination thereof.

(b). A hearing officer means a person whom the City Commission authorizes to conduct appeals or other administrative hearings. Hearing officers must be members of The Florida Bar in good standing and have adequate experience or knowledge in the area of the matters over which they will preside. The employment, performance evaluation, compensation and benefits of a hearing officer shall not be directly or indirectly conditioned upon the amount of penalties or administrative costs upheld, awarded, imposed, or assessed by the hearing officer. Hearing officers shall have all powers necessary to conduct fair and impartial hearings including, but not limited to, the power to hold conferences for settlement or simplification of the issues; administer oaths and affirmations; hear testimony; rule upon motions, objections, and the admissibility of evidence; preserve and authenticate the record of the hearing and all exhibits and evidence introduced at a hearing; regulate the course of the hearing in accordance with this Chapter or other applicable law; issue orders which include

findings of fact and conclusions of law and make recommendations, determinations, decisions, or any combination thereof.

(c) The City Commission or City Manager may determine that matters will be referred to hearing officers for a determination, a decision, a recommendation, or findings of facts and conclusions of law, or any combination thereof, by providing for same in the provisions of an ordinance enacted or a resolution adopted by the City Commission or a letter of assignment by the City Manager.

(d) The rules of procedure relating to a matter referred to a hearing officer shall be set forth in the ordinance, resolution or letter of assignment providing for the involvement of hearing officers; provided, however, that in the absence of such rules of procedure, hearing officers shall conduct proceedings, after being advised by the City that all required fees have been paid, in accordance with the following:

(1) After considering all of the testimony and evidence submitted at the hearing, the hearing officer may immediately issue a verbal decision or may issue a written decision within ten working days of the hearing. The decision shall include any conditions pertaining to the matter as may be appropriate.

(2) If a verbal decision is issued at the hearing, a written decision shall be prepared by the hearing officer and mailed to the parties within ten working days.

(3) The effective date of the decision shall be the date that the written decision is filed in the office of the City Clerk.

(4). The case for the City shall be presented by the City staff person designated by the City Manager, or the City Attorney or designee as is legally appropriate under the circumstances of the case or as may be required by controlling law.

(5). The case for the respondent may be presented by the respondent or attorney for the respondent. An attorney shall present a written appearance form signed by the respondent under penalty of perjury indicating that such attorney is authorized to act and to bind the respondent to any orders entered by the hearing officer.

(6). The hearing officer shall conduct the hearings in an orderly manner and insist upon proper decorum by all persons present at the hearings. The intent of the hearings is to provide the City and the respondent a full and fair presentation of the issues.

(7). The strict laws of evidence shall not apply. Hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply, except that findings shall not be based solely on hearsay evidence. Other than responses to public records requests and the distribution of copies of citations, notices, orders, and inspection reports served on the responsible parties, or other similar materials as may be appropriate as part of the matter giving rise to the hearing, no pre-hearing discovery shall be permitted.

(8). Hearsay testimony may be admitted and relied upon by the hearing officer in making a determination.

- (9). Relevant documents may be received into evidence without formal proof of authenticity. The hearing officer shall determine the weight, if any, to be afforded documents received into evidence.
- (10). Either party may request that the proceedings be taken and transcribed by a certified court reporter.
- (11). All hearings shall be conducted on the date set for hearing; provided, however, that for good cause shown, a postponement may be granted in the discretion of the hearing officer, or the City staff or the office of the City Attorney may stipulate to a continuance. The purpose of hearings is to provide prompt resolution of matters and, accordingly, the request for and the grant of continuances shall be limited to the extent fairness permits.
- (12). The City bears the burden of proof at hearings unless a code, ordinance or resolution states otherwise.
- (13). The standard of proof to be used by hearing officers in deciding the issues at a hearing is the preponderance of the evidence unless a code, ordinance or resolution states otherwise.
- (14). Each party shall have the opportunity to cross-examine witnesses and present relevant evidence in support of that party's case.
- (15). The hearing officer shall issue orders, including final orders, in accordance with the controlling code, ordinance or resolution.
- (e). A hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a Florida court of law.

Section 3. Implementing Administrative Actions.

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance including, but not limited to, the promulgation and adoption of rules and forms.

Section 4. Savings; Effect Of Ordinance.

The prior actions of the City of Sanford in terms of the matters relating to the code enforcement program and activities of the City as well as any and all actions and activities of the City pertaining thereto or of an associated nature, are hereby ratified and affirmed.

Section 5. Codification; Scrivener's Errors.

(a). Sections 1 and 2 of this Ordinance shall be codified and all other sections shall not be codified.

(b). The sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.

(c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

Section 6. Conflicts.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 7. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 8. Effective Date.

This Ordinance shall take effect immediately upon enactment.

Passed and adopted this ___ day of _____, 2025.

Attest:

**City Commission of the City of
Sanford, Florida, Seminole County,
Florida.**

Traci Houchin, MMC, FCRM
City Clerk

Art Woodruff
Mayor

Approved as to form and
Legality:

William L. Colbert, Esquire
City Attorney



Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City's website by the time notice of the proposed ordinance is published.

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The City is of the view that the following exception(s) to the Business Impact Estimate requirement, that are checked off in a box below, apply to the above-referenced proposed ordinance. Although, the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
 - c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
 - d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare): *The proposed ordinance amends the provisions of Section 26-36 and Section 26-103 of the Code of Ordinances of the City of Sanford relating to code enforcement hearing officer/special magistrate/selection/code enforcement processes and procedures. Current City Code provisions set forth a requirement that the City Attorney assist code enforcement staff in presenting cases or solely present cases before the City's code enforcement special magistrate. Also, in the context of foreclosing code enforcement liens arising from the City's code enforcement processes, the proposed ordinance ensures that the requisite statutory action by the code enforcement special magistrate occurs to authorize such foreclosures upon the statutorily required time of 3 months from the filing of any such lien which remains unpaid having passed. (See, Section 162.09 (3), Florida Statutes). Thereafter, the Mayor and the City Commission may authorize the City Attorney to foreclose on the lien. This ordinance serves the public purpose and serves the public health, safety, morals, and welfare by ensuring that the City's efforts to maintain a high quality and safe environment, consistent with the codes and ordinances of the City, are maintained for the benefit of the public.*

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the City: *Prior to an order arising from a code enforcement proceeding becoming a lien (upon the recordation of an order imposing a penalty/lien); the code enforcement special magistrate is authorized under the statutes to reduce a fine. However, once an order imposes a penalty and is recorded, thereby becoming a lien, that lien is owned by the City and is subject to foreclosure as well as a decision to release or not release the lien or when to appropriately satisfy the lien. The costs of the proceeding may affect the City Commission's determination as to whether or not to foreclose on the lien or resolve the matter through settlement. At the inception of engagement of a special magistrate by the City in 2005, the City Attorney's office engaged the special magistrates at a fee of \$150 per hour. Over time that rate has been increases to \$250 per hour without an agreement. The City has never engaged in competitive procurement activities relating to the services. Such action has been recommended by the City Attorney. Providing that the City Attorney is not required to participate in code enforcement special magistrate hearings will reduce the overall costs of the proceeding in that the City would not be paying both the fee of the special magistrate and the fee of the City Attorney for being in attendance at hearings. Similar issues arise with regard to hearings before an appointed hearing officer.*

3. Estimate of direct compliance costs that businesses may reasonably incur: *The compliance costs of businesses depends upon whether code compliance is maintained and no disputes between the City and a business arise. As to the overall costs that could arise relative to businesses, see 2, above.*

4. Any new charge or fee imposed by the proposed ordinance: *None.*

5. Estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs: *As to the overall costs that could arise relative to businesses in the context of the City's code enforcement special magistrate processes and similar hearing processes, see 2, above.*

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: *The number of businesses likely to be impacted depends upon whether code compliance is maintained and no disputes between the City and a business arise..*

7. Additional information: *The public may find it beneficial to review the City Commission agenda memorandum relating to the proposed ordinance as well as other public records of the City to attain a full understanding of all matters pertaining to the issues arising relating to the proposed ordinance.*