

**LEGISLATIVE #**

**090925A**



Legislative Item # 090925

# Strategic Initiative 6.1

# Background

- City Commission referral to discuss the Livability Court model used by Charleston, South Carolina.
- Item heard by the CDC on May 24, 2011.
- CDC direction to staff:
  - Provide projected cost of a Special Magistrate
  - Give a framework and possible division of labor
  - Efficiency and timeliness of enforcement of a Special Magistrate
  - Transparency related to LLP process
  - Level of penalties a Special Magistrate can issue

# Livability Court / Special Magistrate Overview

## Livability Court

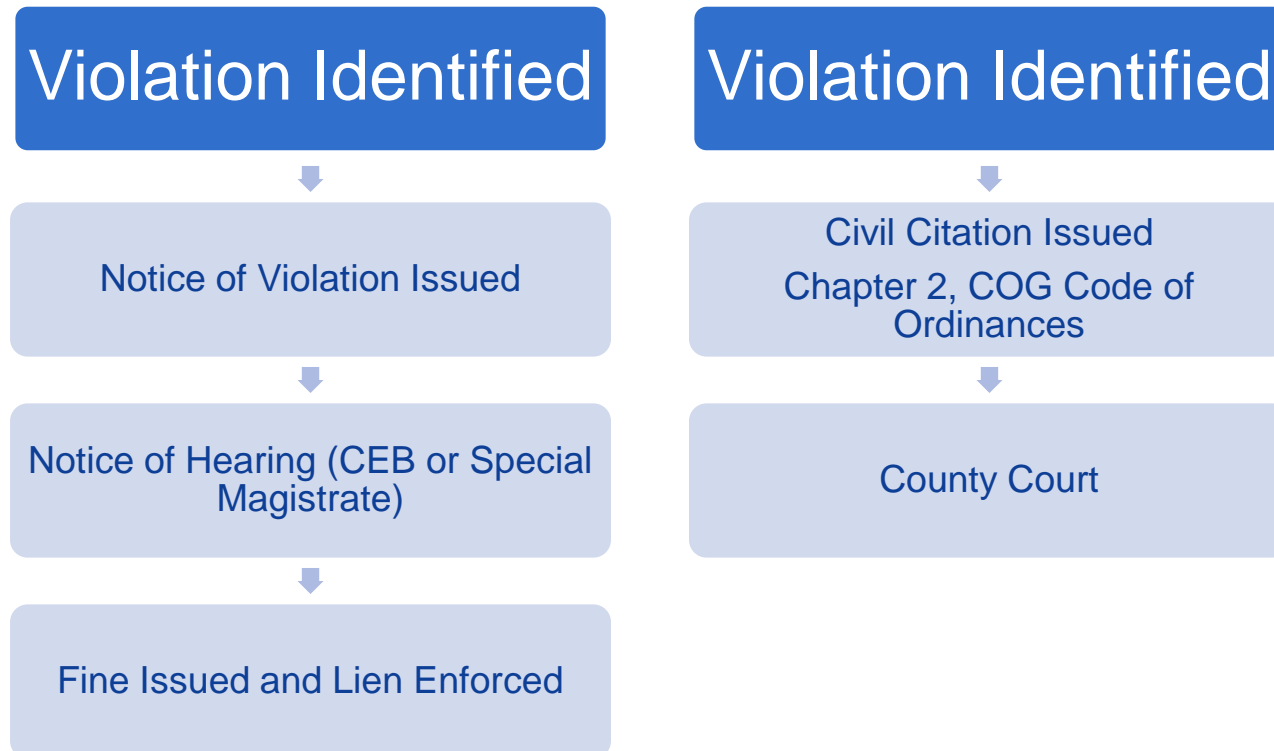
- Municipal Court
- Hearing with a judge
- Hears municipal ordinance violations
- Code officer issues a warning and notice to appear
- Penalties range from a fine to community service or time in jail

## Special Magistrate

- Quasi-judicial function
- Magistrate is an attorney
- Hears municipal ordinance violations
- Code officer issues a warning and notice to appear
- Penalty is limited to a fine

# Current Process

The current process is governed by  
Chapter 162, F.S.



# Timeliness of CEB / Special Magistrate Process

Day 1

- Violation identified and Notice of Violation issued.

15-120  
Days

- Given a reasonable time to comply and an extension granted (one as appropriate). Max time is 120 days.

15-30  
Days

- Violation continues to exist and a Notice of Hearing issued.

10-120  
Days

- Code Enforcement Board provides a new deadline for compliance.

Total 40-  
270 Days

- Violation remains and fines accrue resulting in a lien.

# Timeliness of Civil Citation Process

1-30 Days

- Violation identified and warning citation issued. In some cases no warning is required.

1-30 Days

- Violation continues and first civil citation issued.

1-30 Days

- Violation continues and second civil citation is issued with a fine twice the amount of the first citation.

Total 4-90  
Days

- Violation continues resulting in a mandatory County Court appearance.

Repeat  
violations

- This process may be used for violations that are brought into compliance but reoccur within a year of the citation issued.

# How to Improve the Process?

The following items are independent recommendations:

- Authorize a Special Magistrate in lieu of the Code Enforcement Board.
- Allow for an expedited Notice of Hearing process.
- Review Chapter 2, COG Code of Ordinances related to issuing Civil Citations.



# Special Magistrate

- Special Magistrate's and CEBs have the same authority under Chapter 162, F.S.
  - Adopt rules for the conduct of hearings
  - Subpoena alleged violators and witnesses
  - Take testimony under oath
  - Issue orders to bring violations into compliance
    - Orders include a deadline for compliance and a fine.
    - Continued violation may result in an increased fine and a lien placed on the subject property and others owned by the violator.

# Special Magistrate

- **Replace Code Enforcement Board with a Special Magistrate**
  - Responsibilities and power granted by Ch. 162 F.S. is the same as the Code Enforcement Board.
  - Special Magistrate would be an attorney. The current CEB is comprised of seven citizen member with a variety of applicable professional backgrounds.
  - Hearing before an individual decision maker rather than a multi-member board.
  - May take on some responsibilities currently done by city staff (will be determined during RFP and contract negotiation process).
  - A Special Magistrate may be able to hold more frequent hearings as necessary without potential quorum issues associated with a multi-member board. Additional hearings may be used in the event of a large number of cases or cases involving significant public health/safety issues.

# Special Magistrate

## Municipalities

- City of Port St. Lucie
- City of South Daytona
- City of North Miami Beach \*
- City of Winter Haven
- City of Sanford
- City of Sunrise
- City of Deltona
- City of Deland
- City of Madeira Beach
- City of Gulfport
- City of Mount Dora
- City of West Palm Beach
- City of Oakland Park \*
- City of Tampa
- City of Parkland
- City of Davenport
- City of Key West
- City of Weston
- City of Hollywood
- City of Pompano Beach
- City of North Lauderdale \*
- City of Ocala
- City of Tamarac
- City of Palm Beach Gardens
- City of Jacksonville Beach
- City of Maitland
- City of Daytona Beach \*
- City of St Petersburg \*
- City of Wildwood
- City of St Pete Beach
- City of Ft Lauderdale
- City of Indian Rocks Beach
- City of Green Cove Springs
- Polk City

# Special Magistrate

- City of Lake Worth
- City of South Miami
- City of Hallandale Beach
- City of Wellington
- Cooper City
- City of Plantation \*
- City of Coral Springs
- City of Sarasota
- City of Lighthouse Point
- City of Sebastian
- City of Tavares
- City of Riviera Beach
- City of Eagle Lake
- City of Mascotte
- City of Alachua
- City of Palm Bay
- City of Neptune Beach
- City of Treasure Island \*
- City of Royal Palm Beach
- City of Lady Lake
- City of Belleair
- City of Longwood
- Haines City
- City of Fort Pierce
- City of Leesburg
- City of Wilton Manors
- City of Margate
- City of Jacksonville
- City of Atlantis
- City of Edgewood
- City of West Park
- City of Coconut Creek
- City of Flagler Beach
- City of Cocoa Beach
- City of Lakeland \*
- Panama City \*

# Special Magistrate

- City of Deerfield Beach
- City of Oak Hill
- City of Port St Joe
- City of Doral
- City of Pensacola
- City of Belle Glade
- City of Dania Beach
- City of Pembroke Pines \*
- City of Tallahassee \*
- City of Dundee

## Counties

- Manatee \*
- Collier \*
- Brevard
- Sarasota
- Escambia
- Orange \*
- Hillsborough \*
- Volusia \*
- Seminole
- Monroe
- Putman
- Okaloosa \*
- Polk
- St Johns
- Hernando

# Special Magistrate

- Issues to consider:
  - Cost – Initial estimate is \$20,000 / year
    - Flat Monthly Rate
    - Hourly Rate
      - Travel
      - Hearing
      - Paperwork
      - Preparation
  - Reserve Magistrate – contract with a primary and a reserve.

# Special Magistrate, Cont.

- Interest in CEB appointment
  - Each CEB member serves a three year term.
  - Member Tenure
    - One member serving a 12 year term.
    - Two members serving a 8 year term.
    - One member began serving a 7 year term.
    - One member serving a 4 year term.
    - Two members serving a 3 year term.
- Sunset the Code Enforcement Board
  - 8/2012 – 3 members
  - 8/2013 – 1 member
  - 8/2014 – 3 members

# Special Magistrate

- **Staff recommendation: 1) the CDC recommend amending the Code of Ordinances to allow for the use of a Special Magistrate in lieu of the Code Enforcement Board; and 2) recommend including a funding increment of up to \$20,000 in the FY2013/14 budget.**
- If approved, the City Commission will 1) direct staff to draft an RFP for a Code Enforcement Special Magistrate; and 2) recommend to the City Commission a process to sunset the Code Enforcement Board.



# Notice of Hearing Process

- Section 2-385 of the COG Code of Ordinances governs the enforcement process.
- Notice of Hearing before the CEB cannot be issued until the deadline set in the Notice of Violation (NOV) has passed.
- Amend Sec. 2-385 to allow staff to issue a Notice of Hearing concurrently with the Notice of Violation.
- Potential to reduce process by approximately 30 days.
- **Staff recommendation: the CDC recommend Sec. 2-385 be amended to allow for Notice of Hearing to be issued with NOV's.**

# Civil Citations

- Civil citations offer a more direct process and can result in faster compliance.
- Repeated failure to comply or violation of the same ordinance results in an appearance in County Court.
- **Staff recommends the CDC direct staff to review Sec. 2-339 COG Code of Ordinances to determine if amendments can be made to improve the current process. Return to the CDC with recommendation.**

# Landlord Points

- Landlord permit holders receive a point when certain ordinance violations occur.
- Six points within three years results in the revocation of the landlord permit.
- Currently there is a process to appeal the revocation that involves an administrative review and the use of a hearing officer.
- **Staff recommendation: amend the landlord permit revocation appeal process to assign the hearing officer's role to the Special Magistrate. This would be a public hearing and allow for greater transparency.**