ORDINANCE NO. 1137

AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE VIII, SATELLITE BEACH CITY CODE, AND THE CITY OF SATELLITE BEACH BOARDS HANDBOOK BY ELIMINATING THE CODE ENFORCEMENT BOARD; AMENDING ARTICLE VIII, CHAPTER 2, SATELLITE BEACH CITY CODE TO CREATE A POSITION FOR CODE ENFORCEMENT SPECIAL MAGISTRATE; ESTABLISHING QUALIFICATIONS, POWERS AND JURISDICTION FOR SPECIAL MAGISTRATE; SUBSTITUTING REFERENCES OF CODE ENFORCEMENT BOARD IN ARTICLE VIII TO CODE ENFORCEMENT SPECIAL MAGISTRATE; CREATING A NEW DIVISION 4, ARTICLE VIII, SATELLITE BEACH CITY CODE TO CREATE AND IMPLEMENT SUPPLEMENTAL CIVIL INFRACTION PROCEDURES FOR CODE AND ORDINANCE VIOLATIONS; DEFINING CODE ENFORCEMENT OFFICERS; ESTABLISHING CIVIL INFRACTION PROCEDURE AND HEARING PROCESS BEFORE SPECIAL MAGISTRATE; ESTABLISHING PENALTIES AND FINE SCHEDULE; PROVIDING JURISDICTION TO HEAR CIVIL INFRACTIONS; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council for the City of Satellite Beach, Florida, has determined it to be in the best interest of the health, safety and welfare of the residents of the City to eliminate the City’s Code Enforcement Board in favor of a code enforcement special magistrate; and

WHEREAS, the City Council has determined it to be in the best interest of the health, safety and welfare of the residents of the City to create and implement a supplemental civil infraction procedure for code and ordinance violations pursuant to its Home Rule Powers and as otherwise provided by law.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Chapter 2 - ADMINISTRATION, ARTICLE VIII. - CODE ENFORCEMENT, DIVISION 1. - GENERALLY, Sec. 2-301. - Definitions, Satellite Beach City Code, is amended to read as follows:

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 special magistrate proceedings.

Code enforcement special magistrate means a person authorized to hold hearings and assess fines and other noncriminal penalties against violators of City codes and ordinances. The term shall include the terms special magistrate and special master.
Code inspector means the code enforcement officer or any employee of the City designated by the City Manager, whose duties are to ensure strict compliance with and enforce City codes and ordinances.

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

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 creating the position of code enforcement special magistrate with the 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.

SECTION 2. A new DIVISION 2. – CODE ENFORCEMENT SPECIAL MAGISTRATE is created to establish the qualifications, powers, and jurisdiction of the special magistrate as follows:

DIVISION 2. – CODE ENFORCEMENT SPECIAL MAGISTRATE

Sec. 2-321. - Special Magistrate; establishment; qualifications.

(a) There is hereby established a code enforcement special magistrate of the City, appointed pursuant to ch.162, Florida Statutes, who shall be its special magistrate for code enforcement matters.

(b) In order to be eligible to serve as special magistrate, a person must:

(1) Be a member in good standing with the Florida Bar for a minimum of five years; and

(2) Be engaged in the practice of law in Brevard County, Florida. This latter requirement shall not obligate the special magistrate to maintain an office in Brevard County, Florida.

(c) Eligible candidates for code enforcement special magistrate shall be reviewed by a selection committee appointed by the City Council or City Manager/Assistant City Manager. The selection committee shall make recommendations to City Council for the appointment of code enforcement special magistrate(s).

(d) Code enforcement special magistrates shall be appointed by City Council. The City Council may appoint up to two alternate code enforcement special magistrates to serve in the event of legal conflicts of interests or in the absence of the code enforcement special magistrate.

(e) The code enforcement special magistrate, and any alternates, shall serve at the pleasure of City Council, and may be removed from service at any time by a majority of City Council, with or without cause.
(f) The code enforcement special magistrate shall be compensated at a rate to be
determined by City Council.

(g) If a legal conflict of interest prevents the code enforcement special magistrate and any
alternate from hearing a case, the City Manager may contract with any current code
enforcement special magistrate of another jurisdiction to hear the case.

Sec. 2-322. - Powers.

The code enforcement special magistrate shall have the power to:

(a) Adopt rules for the conduct of the hearings. All rules shall be in writing and distributed
with any notices of hearings.

(b) Subpoena alleged violators, witnesses and evidence to any hearings. Subpoenas may
be served as provided in this Division.

(c) Take all testimony under oath.

(d) Issue orders having the force of law to command whatever steps are necessary to bring
a violation into compliance.

Sec. 2-323. - Legal Counsel; presentation of case.

The City Attorney shall represent the City and code enforcement officer(s) before the
code enforcement special magistrate. Each case shall be presented by the City Attorney or by
a member of the administrative staff of the City.

Sec. 2-324. - Jurisdiction.

(a) The code enforcement special magistrate shall have jurisdiction and authority to hear
and decide alleged violations of all codes and ordinances in force in the City, including
any amendments to such codes and ordinances.

(b) Jurisdiction of the code enforcement special magistrate under this Division shall not be
exclusive, and shall be in addition to, and not in lieu of, any other procedures, remedies
or enforcement mechanisms available to the City to enforce its codes and ordinances. City
Council may appoint one or more special magistrates to hear any or all code or
ordinance violations.

SECTION 3. DIVISION 3. – ENFORCEMENT PROCEDURES, Sec. 2-346. - Initiation
of proceedings; notice of violation, Satellite Beach City Code, is amended to read as follows:

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

(a) The code inspector has the primary duty of enforcing the various codes and ordinances
and initiating enforcement proceedings before the code enforcement special magistrate.
The code enforcement special magistrate shall not have the power to initiate
enforcement proceedings.
(b) If a violation of a code or ordinance 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 clerk shall schedule a hearing before the code enforcement special magistrate and provide written notice to the alleged violator of the hearing. At the option of the code enforcement special magistrate, 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 special magistrate even if the violation has been corrected prior to the special magistrate 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 special magistrate 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 special magistrate even if the repeat violation has been corrected prior to the special magistrate meeting, and the notice shall so state.

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

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

Sec. 2-348. - Service of notice.

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

Sec. 2-349. - Initiation of hearings.

Upon request of the code inspector or at such other times as may be necessary, the code enforcement special magistrate may call code enforcement special magistrate hearings. The special magistrate may, at any hearing, set a future hearing date.

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

The time and date for the code enforcement special magistrate hearing shall be set and notice of the hearing to the alleged violator 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.

Sec. 2-351. - Conduct of hearing.

(a) The code enforcement special magistrate 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 special magistrate 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 before the code enforcement special magistrate shall be open to the public, and any person whose interests may be affected by the matter before the special magistrate shall be given an opportunity to be heard. Official minutes of all special magistrate 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 to order and procedure.

(d) All relevant evidence shall be admitted if, in the opinion of the code enforcement special magistrate, 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 objection in civil actions. The special magistrate may exclude irrelevant or unduly repetitious evidence.

(k) The special magistrate may, for good cause shown, postpone or continue a formal hearing.

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

At the time and place set for the hearing, the code enforcement special magistrate shall hear and consider all testimony offered and shall examine and consider all evidence presented. After the conclusion of the hearing, the special magistrate shall issue findings of fact and conclusions of law in a written order signed by the special magistrate affording the proper relief consistent with the powers herein. The order shall be announced orally at the hearing, shall be reduced to writing, and mailed to the violator within 15 days after the order is signed.

Sec. 2-353. - Determination of Fine.

(a) In determining the amount of the fine, the code enforcement special magistrate shall consider the following factors:

(1) The gravity of the violation.
(2) Any action taken by the violator to correct the violation.
(3) Any previous violations committed by the violator.

(b) The code enforcement special magistrate may reduce a fine imposed pursuant to this section as authorized by law.
Sec. 2-354. - Noncompliance with order; repeat violations; fine, costs may be imposed.

(a) The code enforcement special magistrate, upon notification by the code inspector that an order of the special magistrate 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 special magistrate 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 special magistrate 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 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 fine.

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Sec. 2-357. - Costs and Attorney's Fees.

(a) If the City prevails in prosecuting a case before the code enforcement special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate.

(b) In any action to foreclose on a lien provided in this chapter, the prevailing party shall be entitled to recover all costs, including a reasonable attorney's fee (including appellate costs and attorney's fees), 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.

Sec. 2-358. - Subpoena Powers.

The code inspector, code enforcement special magistrate 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 special magistrate 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.

Sec. 2-359. - Recovery of prosecution costs, Satellite Beach City Code, is repealed.

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

(a) An aggrieved party, including the City Council, may appeal a final administrative order of the code enforcement special magistrate to the circuit court as provided by law. An appeal shall be filed within 30 days of the filing of the order to be appealed with the clerk. 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 special magistrate.

(b) Every enforcement order of the code enforcement special magistrate shall have the force of law.
(c) A copy of the signed order shall be sent by regular mail, or where mailing would be of no effect, by hand delivery by the code inspector, to the violator.

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

(a) After an order of the code enforcement board or special magistrate has been issued and fines have accumulated pursuant to the order, the special magistrate may consider and reduce any accumulated fines in excess of $500.00 as long as a lien for such fines has not been recorded. The special magistrate shall not consider for reduction any accumulated fines totaling less than $500.00.

(b) The applicant for reduction must petition the special magistrate in writing requesting a reduction of any accumulated fine. Such request must specify the reasons why the applicant believes entitlement to such reduction is merited. The petition shall be delivered to the clerk who shall set a hearing for review of the request within 30 days of receipt of the petition.

(c) The code enforcement special magistrate shall review the petition for reduction in accumulated fines.

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

1. There has been an affidavit of compliance filed with the special magistrate 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 the basis for the code enforcement board or special magistrate to issue the order of noncompliance, and that there is no case pending before the special magistrate involving either the applicant or the property being considered for reduction.

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

(e) If the special magistrate determines that there is justification for reduction of the accumulated fines, the special magistrate may reduce the accumulated fines. However, in no case may the 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 or special magistrate, preparation and presentation of the violation to the board or special magistrate and in seeking enforcement of any order entered by the board or special magistrate (including attorney's fees), plus 20 percent of such amount.

SECTION 4. There is hereby created a new DIVISION 4. - CIVIL INFRACTION ENFORCEMENT, Satellite Beach City Code to read as follows:

DIVISION 4. - CIVIL INFRACTION ENFORCEMENT

Sec. 2-370. - Authority and purpose.
This division is created and adopted pursuant to the City's Home Rule Powers and as otherwise authorized by law, as a supplemental municipal code and ordinance enforcement procedure.

Sec. 2-371. - Code enforcement civil infraction procedures.

(a) *Code enforcement officer.* For purposes of this Division, the term "code enforcement officer" shall mean any designated employee or agent of the City of Satellite Beach whose duty it is to enforce codes and ordinances enacted by the City. This shall include, but not be limited to, code inspectors, including building inspectors, law enforcement officers and fire safety inspectors.

(b) *Violator* shall mean the person(s) or entity(ies) legally responsible for violations of the City's codes and ordinances.

(c) *Civil infraction procedure.*

(1) Any code enforcement officer is authorized to issue a civil infraction notice to a person when, based upon personal investigation, the officer has reasonable cause to believe that person has committed a civil infraction in violation of a duly enacted code or ordinance of the City of Satellite Beach and that the special magistrate will hear the charge.

(2) Prior to issuing a civil infraction notice, a code enforcement officer shall provide notice to the person that the person has committed a violation of a City code or ordinance, and shall establish a reasonable time period within which the person must correct the violation. The determination of time for correction shall be based upon the ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the nature of the violation and the reasonableness of time prescribed. However, such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds the person has not corrected the violation within the time period provided, the code enforcement officer may issue a civil infraction notice to the person who has committed the violation. A code enforcement officer shall not be required to provide the person a reasonable time period to correct the violation prior to issuing a civil infraction notice, and may immediately issue a civil infraction notice, (i) if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, (ii) if a repeat violation is found or (iii) if the violation is irreparable or irreversible. For purposes of this Division, irreparable or irreversible includes violations for work being done or which has been done without the required permit, or for which the activity giving rise to the violation is of such limited duration that written notice and opportunity to cure are impractical.

(3) In addition to the party who caused the violation, the current owner of the property and the person who has possession of the property are responsible for the violation, even if a prior owner or unknown third party caused the violation. The special magistrate may find the landlord, as well as the tenant, responsible for a violation. A condominium or homeowner's association shall be responsible for any violation affecting the common elements of the condominium or homeowner's association, in addition to any other party who actually caused the violation.
(4) A code enforcement officer who finds a violation shall issue a civil violation notice to the violator. Service shall be affected as provided in Sec. 2-348, Satellite Beach City Code.

(5) A civil infraction notice issued by a code enforcement officer shall be in a form prescribed by the City and shall contain:

(A) The date and time of issuance.
(B) The name and address of the person to whom the civil infraction is issued.
(C) The date and time the civil infraction was committed, observed to exist by the code enforcement officer or identified by the code enforcement officer, and the location of the violation.
(D) The facts constituting reasonable cause.
(E) The number or section of the code or ordinance violated.
(F) The name of the code enforcement officer.
(G) The procedure for the person to follow in order to pay the civil penalty or to contest the civil infraction notice.
(H) The applicable civil penalty.
(I) A conspicuous statement that, if the person fails to pay the civil penalty within the time allowed and correct the violation, or fails to timely appeal the civil infraction notice, the person shall be deemed to have waived the right to contest the civil infraction notice and that, in such case, such person shall be deemed to have admitted the violation and penalties may be assessed accordingly.

(d) Civil Penalties.

(1) A violation of any City code or ordinance cited, and enforced under the provisions of this Division, shall be deemed a civil infraction. Civil penalties for violations of codes and ordinances to be enforced by this Division shall be $50.00 for the first violation and $100.00 for each repeat violation. Civil penalties shall continue to accrue, as applicable, for each day the violation continues past the date set for compliance. The special magistrate may also order the violator to pay administrative costs, including investigative costs, in addition to any fines.

(2) Continuing violations are those violations that remain uncorrected beyond the prescribed time period for correction contained in the civil violation notice. For each day of continued violation after the time period for correction has run, an additional penalty in the same amount as for the original violation shall be added.

(3) Civil penalties assessed pursuant to this Division are due and payable to the City on or before the last day of the period allowed for filing a request for hearing before the special magistrate.

Sec. 2-372. - Right of violators; payment of fine; right to appeal; failure to pay and correct; appeal.

(a) A violator who has been served with a civil infraction notice shall elect to either:

(1) Pay the civil penalty in the manner indicated on the infraction notice, and correct the violation within the time specified on the notice; or
(2) Request a hearing before the special magistrate to appeal the determination of the
code enforcement officer that resulted in issuance of the civil infraction notice.

(b) An appeal for hearing before the special magistrate shall be accomplished by filing a
request in writing to the clerk at the address indicated on the civil infraction notice to set
the hearing, not later than 20 days after service of the notice.

(c) If the named violator, after notice, fails to pay the civil penalty and correct the violation
within the time specified, or to timely request a hearing before the special magistrate,
such failure shall constitute a waiver of the violator’s right to a hearing before the special
magistrate. A waiver of the right to a hearing shall be treated as an admission of the
violation and penalties may be assessed accordingly.

Sec. 2-373. - Schedule and conduct of special magistrate hearing.

(a) Upon receipt of a named violator’s timely request for a hearing before the special
magistrate, the clerk shall set the matter for hearing as soon as reasonably possible
after receipt.

(b) The clerk shall send a notice of hearing by certified mail to the violator at the violator’s
last known address. The notice of hearing shall include, but not be limited to, (i) the
name of the code enforcement officer who issued the civil infraction notice; (ii) a factual
description and location of the alleged violation; (iii) the date of the alleged violation; (iv)
the section of code allegedly violated; (v) place, date and time of hearing before the
special magistrate; (vi) the right of violator to be represented by any attorney; (vii) the
right of violator to present witnesses and evidence; (viii) notice that failure of violator to
attend the hearing may result in civil penalty being assessed against the violator; and (ix)
notice that requests for continuances will not be considered if not received in writing by
the code enforcement officer at least 10 calendar days prior to the date set for the
hearing.

(c) The special magistrate shall conduct hearings as required or made necessary based
upon any appeals. All hearings before the special magistrate shall be open to the public.
All testimony shall be under oath. The hearing before the special magistrate may
proceed in the absence of the named violator if proper notice was given for the hearing.
The special magistrate shall have the same powers under this Division as set forth in
Sec. 2-322, Satellite Beach City Code.

(d) The hearing before the special magistrate shall be recorded electronically. In the event
any party desires to stenographically record the hearing, the cost of such stenographer,
as well as any transcription, shall be at the cost of that party.

(e) Each case before the special magistrate shall be presented by the code enforcement
officer or appropriate representative of department that issued the civil infraction notice,
or by the City Attorney or his/her designee. The hearing need not be conducted in
accordance with formal rules of evidence, and those relating to witnesses. Any relevant
evidence shall be admitted if the special magistrate finds it competent and reliable, and
shall be given such weight as the special magistrate deems appropriate. However,
hearsay shall not in and of itself be considered sufficient to support a finding or decision
unless the evidence would be admissible over objection in a civil action. Each party
shall have the right to call and examine witnesses, to introduce exhibits, to cross-
examine opposing witnesses on matters relevant to the issues even if not covered in
direct examination, to impeach any witness and to rebut evidence.

(f) The special magistrate shall make findings of fact based upon a preponderance of
evidence contained in the record alone, whether the violator was legally responsible for
the violation of the relevant section of the code or ordinance cited, and that a violation in
fact existed/exists. The fact-finding determination by the special magistrate shall be
limited to whether the alleged violation occurred and, if so, whether the person(s) named
in the civil violation notice is/are legally responsible for that violation. The special
magistrate shall either affirm or reverse the determination of the code enforcement
officer as to the responsibility of the named violator for the correction of the code or
ordinance violation. The special magistrate may modify the determination of the code
enforcement officer regarding the reasonableness of the time for correction contained in
the civil infraction notice as provided in subsection (g), below. If the special magistrate
affirms the code enforcement officer's determination of violation, the following elements
shall be considered/included in the special magistrate's order: (i) the amount of the civil
penalty, (ii) the administrative costs of the hearing and (iii) date by which the violation
must be corrected to prevent resumption of continuing violation penalties.

(g) The time prescribed for correction of the violation given to the named violator and
contained in the civil infraction notice shall be presumed to have been a reasonable time
for correction. If the named violator presents any relevant evidence that the time for
correction was not reasonable, the special magistrate may make a redetermination as to
the reasonableness of time for correction provided in the civil infraction notice. If the
special magistrate determines the time given for correction was insufficient, the penalty
for a continuing violation shall be calculated from the date determined by the special
magistrate to be the reasonable date for correction.

(h) If the special magistrate determines the named violator was/is in violation of the matters
contained in the civil infraction notice, the special magistrate may assess and hold the
named violator liable for the costs of the special magistrate hearing.

(i) If a violation has not been corrected by the date set for compliance in the special
magistrate's order, the code enforcement officer shall serve on the violator a copy of a
notice of intent to lien that shall include the following: (i) date of issuance; (ii) reference
to the order of the special magistrate; (iii) notice that failure to request a special
magistrate hearing within 20 days after the notice of continuing violation shall constitute
a waiver of the right to a hearing; (iv) notice that the hearing will be strictly limited to
whether and when the violator complied with the order of the special magistrate; (v)
notice that fines continue to accrue while the hearing is pending, and that if the violator is
not successful at the hearing, fines will be imposed retroactive to the deadline contained
in the original order; and (vi) notice that the violator shall be liable for administrative
costs if the violator is unsuccessful at the hearing. A violator may request inspections at
reasonable intervals to determine compliance with any order of the special magistrate.
After an inspection resulting in a finding of compliance, the violator may request a
hearing.

Sec. 2-374. - Recovery of unpaid civil penalties; unpaid civil penalties a lien; foreclosure.

A certified copy of an order imposing a civil penalty and/or requiring payment of
administrative and investigative costs may be recorded in the official records of Brevard County,
Florida, and shall thereafter constitute a lien against the land on which any violation
exists/existed and upon any other real or personal property owned by the violator. Any such lien may be enforced in the same manner as a court judgment by the sheriffs of this state, including by levy against personal property, but shall not be deemed to be a court judgment except for enforcement purposes. Any lien that remains unpaid three months after recording may be foreclosed or otherwise executed on by the City. In addition to the foregoing, the City shall have the right to institute proceedings in a court of competent jurisdiction to compel payment of any civil penalties.

Sec. 2-375. - Review of decision of special magistrate.

The named violator or any aggrieved party, including the City, may seek review of the final order of the special magistrate by petition for writ of certiorari to the circuit court in its appellate capacity and not de novo, pursuant to the time requirements and procedures provided by law. If the decision of the special magistrate is not quashed/reversed in any such review, the findings of the special magistrate shall be conclusive regarding all matters determined by the special magistrate, and such findings may be admissible in any proceeding to collect unpaid civil penalties and other costs the special magistrate determined the violator to be responsible for in the order.

Sec. 2-376. - Provisions cumulative.

The provisions of this Division are additional and supplemental means of enforcing City codes and ordinances and may be used for the enforcement of all codes and ordinances. Nothing contained in this Division shall prohibit the City from enforcing its codes and ordinances by other means.

Sec. 2-377. - Jurisdiction.

The terms and provisions of this Division shall apply to all real property and activities within the municipal boundaries of the City. All civil infractions of applicable codes and ordinances, as determined by the City Council, may be enforced by this Division by civil infraction notice to the special magistrate, except where specifically prohibited by law or statute.

SECTION 5. The Satellite Beach City Boards Handbook is amended as follows:

(a) Page 2-2 Special Removal Requirements, the second paragraph is repealed.

(b) Page 3-1 Financial Disclosure, the reference to Code Enforcement Board is deleted.

(c) Page 3-3 Quasi-Judicial Boards, the reference to Code Enforcement Board is deleted.

(d) Page 4-5 Entitled Code Enforcement Board is repealed in its entirety.

SECTION 6. This Ordinance shall take effect immediately upon its adoption, and shall terminate as provided herein.

SECTION 7. SEVERABILITY CLAUSE. In the event a court of competent jurisdiction shall hold or determine that any part of this Ordinance is invalid or unconstitutional, the remainder of the Ordinance shall not be affected thereby and it will be presumed that the City Council for the City of Satellite Beach did not intend to enact such invalid and unconstitutional provision. It shall further be assumed that the City Council would have enacted the remainder
of this Ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**SECTION 8. REPEAL OF INCONSISTENT PROVISIONS.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 9. EFFECTIVE DATE.** This Ordinance shall become effective March 3, 2017.

**SECTION 10.** This Ordinance was duly passed on first reading at a regular meeting of the City Council on the 1st day of February, 2017, and adopted on the second and final reading at a regular meeting of the City Council on the 15th day of February, 2017.

FRANK P. CATINO, MAYOR

LEONOR OLEXA, CMC, CITY CLERK