



CODE ENFORCEMENT BOARD OF
THE CITY OF ST. PETERSBURG, FLORIDA

RULES OF PROCEDURE

I. NAME

The name of this Board shall be the "Code Enforcement Board of the City of St. Petersburg, Florida".

II. JURISDICTION

The Board has jurisdiction over City Codes of the City of St. Petersburg, Florida as provided in the City Code and Florida Statutes. When these Rules conflict with any provision of the City Code, Florida Statute or other law, the City Code, Florida Statute or other law shall prevail.

III. OFFICERS AND THEIR DUTIES

- A. The officers shall be a Chairperson and Vice-Chairperson. The City of St. Petersburg shall provide a Recording Secretary.
- B. The Chairperson shall preside at all meetings and hearings of the Board and shall have the duties normally conferred by parliamentary usage of such officers.
- C. The Chairperson shall be one of the members of the Board. To be eligible for the position of Chairperson, the member must have a minimum of one year's service on the Board. The Chairperson shall have the privilege of discussing all matters before the Board and shall have the same voting rights as all Board members.
- D. The Vice-Chairperson shall act in the absence of the Chairperson and a member selected from the Board may be designated in the absence of the Chairperson and Vice-Chairperson.

IV. ELECTION OF OFFICERS

- A. Nomination of officers shall be made from the regular members at the annual organizational meeting held in December of each year and the election shall be held immediately thereafter. If the election does not occur at the December meeting it shall be held as soon thereafter as is reasonably possible.

- B. A candidate receiving a majority of the votes cast shall be declared elected and shall serve a term of one (1) year or until a successor shall take office. The Chairperson may not serve more than two (2) consecutive terms as Chairperson.
- C. Vacancies in the office of Chairperson or Vice-Chairperson shall be filled as soon as possible for the remainder of the term by following the election procedure described above.

V. MEETINGS

A. Regular Meetings

Regular meetings shall be held at least once a month. The Board may set meetings more frequently if necessary. Regular meetings shall be held on the fourth Wednesday of each month at 8:30 a.m. in City Council Chambers, City Hall, 175 Fifth Street North (second floor), St. Petersburg, Florida unless otherwise scheduled.

B. Special Meetings

Special meetings may be called by the Chairperson or by written notification thereof of at least three (3) members of the Board to the Chairperson.

C. Notice

1. Notice of all meetings, both regular and special, shall be given to all Board members at least twenty-four (24) hours in advance of the meeting.
2. Notice of all meetings shall be provided to the City Administration for inclusion on the City's schedule of meetings and events.

D. Attendance

1. Members shall notify the Codes Compliance Director or the Director's designee if they cannot attend a meeting.
2. If any member of the Board fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the Chairperson, the Board shall declare the member's office vacant. The vacancy on the Board

shall be filled by appointment by the City Council. See Section 9-22, City Code, and Section 162.05 (3)(e), Florida Statutes (as subsequently amended).

E. Quorum

A quorum of the Board shall consist of four (4) or more members and an affirmative vote of a majority of those present and voting shall be necessary to pass any motion or adopt any order; provided, however, that at least four members of the Board must vote in order for the action to be official.

F. Voting

For motions which have the potential to adversely impact a property owner, such as motions which order compliance or lien certification, voting shall be by voice vote and shall be recorded by individual "yes" or "no". For motions which have a beneficial impact to a property owner, such as granting extensions or releasing liens, voting may be either by voice vote or by acclamation.

G. Participation by Alternate Members

1. There are two alternate members of the CEB. When present they may act as fully participating, voting members of the Board when:

- a) a regular Board member is absent for a CEB regular or special meeting, or portion thereof or
- b) a member abstains from voting due to a conflict.

In the event an alternate is participating for a regular member, the Chair should make the appropriate announcements for the record identifying which member is no longer participating and which alternate member is now participating as a voting member.

2. Alternate members may participate in questioning presenters and discussing the merits of a case. Alternate members may not make motions or vote unless they are participating in place of a regular member.

H. Abstention and Conflict of Interest

Board members should avoid conflicts of interest and the appearance of conflicts of interest. Board members shall conduct themselves in accordance with the

Code of Ethics for Public Officers as set forth in Chapter 112, Florida Statutes, as amended, and as that chapter is interpreted by the Commission on Ethics. Board members shall also be subject to restrictions of City Council Resolution 2004-374 (as subsequently amended). Board members may request the City Attorney's office to provide guidance in this area.

I. Procedure

Parliamentary procedure in Board meetings shall be governed by the Rules of Procedure contained herein and by Robert's Rules of Order, Newly Revised, except that Robert's Rules of Order shall be advisory and not mandatory. In the event of conflict between Robert's Rules and the Rules of Procedure contained herein, these Rules of Procedure shall govern."

VI. ORDER OF BUSINESS

- A. 1. Pledge of Allegiance.
2. Chairperson's Opening Statement.
3. Roll Call.
4. Public Hearings
5. Business other than Public Hearing.
6. Next Meeting Date.
7. Adjournment.
- B. The order of business may be suspended by the Chairperson or by a vote of the majority of those members present.

VII. INITIATION OF ACTIONS BEFORE THE BOARD

- A. All actions before the Board shall be initiated by a Codes Investigator serving a Statement of Violation and Notice of Hearing.
- B. If Respondent does not bring the property into compliance with City Code by the date set by the Code Enforcement Board, the Board may certify a lien as allowed by law.

VIII. HEARINGS

Proceedings of the Code Enforcement Board regarding any code violation which could result in the imposition of a lien are quasi-judicial. The following procedures should be used in Quasi-Judicial Proceedings.

- A. Swearing in of witnesses. Representatives of city administration, property owner/violator and members of the public (witnesses) who wish to testify at the hearing must declare that he or she will testify truthfully by taking an oath or affirmation in the following form:

“Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?”

The oath or affirmation will be administered prior to the presentation or testimony and will be administered enmasse to those who wish to testify. Persons who have not been previously sworn must be sworn prior to testifying.

- B. At any time during the proceeding, Board members may ask questions of witnesses, the property owner/violator and city administration.

- C. Procedures

1. City administration presentation.
2. Property owner/violator presentation and any cross examination or rebuttal of the city's presentation.
3. City administration cross examination and/or rebuttal.
4. Witnesses. Any person who has testimony which is relevant to the specific facts of the alleged violations before the Board.
5. The Board may entertain a motion and discussion of the motion.
6. The Board votes on the motion and the Board's decision is read by the Recording Secretary.
7. In the event of a tie in voting, another motion may be entertained by the Board until a motion receives a majority of votes.

- D. Executive Action by the Code Enforcement Board.

The purpose for establishing these procedures is to provide fundamental fairness to the parties at the hearing. Should the Board decide to grant any party additional time or other consideration, they should also provide the same amount

of time to the other parties. Failure to strictly adhere to these procedures shall not invalidate any action of the Board.

E. Advance Distribution of Materials to Code Enforcement Board

1. The agenda package for a regular meeting will normally be distributed to the Board by deposit in the mail, or otherwise, on Wednesday (seven calendar days) before the meeting date. Materials from the Codes Compliance Director, City Attorney, or City Administrator may be distributed on a different date when warranted by the circumstances.
2. A person wishing to distribute letters, memoranda, drawings, or other materials relevant to an item of business before the Board may have such materials distributed with the agenda package if such person:
 - a) Prepares eleven (11) complete copies of such materials, sorted and stapled or otherwise bound, with the property address and/or case number conspicuous on the top page. City employees shall have no duty to copy, sort, staple or bind materials not originating from the Codes Compliance office.
 - b) Delivers eleven (11) complete copies of such materials to the Codes Compliance office not later than Tuesday of the week before the Board meeting (that is, eight calendar days before the Board meeting).
 - c) Pays the City the additional postage for the extra weight for each copy of the agenda package mailed, if one complete copy of such materials is heavier than two (2) ounces.
3. A person who misses the deadline for distribution of materials with the agenda package may bring such materials to the Board hearing and present them to the Board during the hearing of the item of business.
4. No person who has any interest in any item of business before the Board shall make "ex parte" communication with any member of the Board. "Ex parte" communication includes but is not necessarily limited to delivering materials to one or more Board members prior to the commencement of the hearing, except as provided herein for the advance distribution of materials with the

agenda package. Board members shall not read materials delivered to them in violation of this rule. If a Board member does read materials delivered in violation of this rule, or is otherwise the recipient of an "ex parte" communication, the member shall disclose such fact to the Board at the commencement of the hearing and shall identify the substance of the communication and which materials the member read. Any materials read by one member shall be read aloud or distributed during the hearing to all the Board members in attendance. Any materials delivered to one or more Board members in violation of this rule which were not read by any Board member shall not be deemed part of the record but instead shall be delivered to the Legal Department.

5. At least one complete copy of an agenda package that is distributed, or ready for distribution, to the Board shall be open and available for public inspection in the Codes Compliance office.

IX. LIEN CERTIFICATION

If a violator fails to comply with a Board order finding that one or more violations exist and ordering the violator to bring the property into compliance by a specified time, the case may be brought before the Board to consider imposing a fine and certifying a lien. In such cases, the Board is acting under authority of Section 162.09(1), F.S. and Chapter 9, City Code (as subsequently amended).

- A. A fine may be imposed for each day the violation continues past the date set for compliance. The order imposing a fine, when recorded in the public records of the County, imposes a lien to the extent authorized by Florida law.
- B. The violator will be given notice and an opportunity to be heard before a fine may be imposed.
- C. At this hearing, the relevant issues before the Board include:
 1. Whether the violation continued past the date set for compliance;
 2. If so, how long the violation continued;
 3. Whether there is any reason to reduce the *per diem* fine imposed in light of attempts by the violator to comply; and

4. In determining the amount of the fine, the Board shall consider the following factors:

- a) The gravity of the violation;
- b) Any actions taken by the violator to correct the violation; and
- c) Any previous violations committed by the violator.

D. At the time of this hearing, the Board will have already determined that one or more violations exist on the property. At the hearing on the issue of imposing a fine and certifying a lien, the core issue of whether a violation exists is no longer an issue for the Board to determine. The hearing may be limited to a consideration of only the issues enumerated in this Rule IX.

X. CONSIDERATION OF LIEN RELEASE BY THE CODE ENFORCEMENT BOARD

The Code Enforcement Board has the discretionary authority to reduce liens, pursuant to Florida Statutes Section 162.09(2)(c) (1997) and Chapter 9, City Code (as subsequently amended). An entity requesting a release of lien has no right to the release or reduction of a lien.

A. 1. The application deadline for lien release requests is the close of business on the Wednesday 2 weeks prior to the Board meeting date. Only the first twelve (12) requests received by the person officially designated shall be processed for each Board meeting.

2. Pursuant to Section 12-11(9) of the St. Petersburg City Code, a fee of \$50 will be charged for the second and all successive lien release requests made to the CEB by the same owner for the same property.

B. In evaluating requests for liens to be released or reduced, the Board will consider the following:

- 1. Whether the property for which the lien was placed has active code cases or current violations;
- 2. Whether the entity requesting the release owns other properties in the City which have active code cases, current violations or Code Enforcement Board liens;

3. Whether the entity requesting the release owned the property for which the lien was placed at the time the lien was placed;
 4. Whether the entity requesting the release took proactive action to correct the violations for which the lien was placed;
 5. Whether the violations have been corrected or will be corrected, with such assurances as the Board deems appropriate;
 6. Any other specific information which is available about the property or the entity requesting the release;
 7. Any other factors which may show a hardship on the entity requesting the release which may provide a reasonable basis for the relief requested.
- C. Lien release requests heard by the Board or Special Magistrate will not be re-heard for a 180-day period, unless the property ownership changes or unless there is sufficient documentation of new information not previously available to the Board.
- D. Entities requesting consideration of lien release by the Board who fail to appear to present their request will be rescheduled for the next available board meeting, if documentation of an extenuating circumstance which prevented their presence at the scheduled meeting is presented. Failing presentation of such documentation, the lien release request will not be accepted for 180 days from the scheduled meeting date.

XI. ENFORCEMENT OF ORDERS

- A. After an Order has been issued by the Board with a scheduled date for compliance, the Codes Investigator shall make an inspection to determine if the violation has been corrected.
- B. If the property is still in violation, a lien may be certified and filed against the land on which the violation exists and upon any other real or personal property owned by the violator.

XII. MISCELLANEOUS

- A. For state enabling legislation, see Florida Statutes, Chapter 162. For City Ordinance creating the Board, see Chapter 9 of the City Code.
- B. These Rules and Procedure may be altered, in a manner not inconsistent with the City Code during a regular meeting by the affirmative vote of at least four (4) members of the Board provided notice of the proposed change is given to the Board at a preceding regular meeting. These Rules of Procedure may be temporarily waived at any meeting by an affirmative vote of a majority of the members present and voting.
- C. The provisions of these Rules and Procedure shall be discussed by the Board annually at its regular organizational meeting.
- D. All meetings, regular or special, and all hearings shall be open to the public in accordance with the provisions of the Florida "Sunshine Law" (Chapter 286, Florida Statutes).
- E. All records of the Board shall be open to public examination, inspection and copying in accordance with the provisions of the Florida "Public Records Law" (Chapter 119, Florida Statute).

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