

Town of Ponce Inlet



Annual Board & Committee Training Packet

Town of Ponce Inlet
Board & Committee Annual Training Packet

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Disclaimer:

The information contained herein is provided as a **Guide**; it is not intended to be all-inclusive. Always refer to the appropriate State Statute or contact Town staff if ever a question arises.

Approval(s):

- 12/2014 & 1/2017– Contents reviewed and approved by Attorney Hand (Town Attorney)
- 09/2015 – Contents reviewed and approved by Ms. Witt, Town Manager

In order to conserve resources, only this title page is included with the original agenda packet; the complete training packet is included in the Board's meeting agenda packet.

/ph



Section I

Florida's Sunshine Law



FLORIDA'S SUNSHINE LAW



The Sunshine Law in a nutshell: The public's business must be conducted in public.

- Do not talk to each other in private about any matter that could foreseeably come before this Board.
- What is foreseeable? Any topic related to the Board's function and duties upon which it could conceivably make a recommendation or decision (vote). Such discussions between Board members must be held at meetings of the Board.
- Notice of the Board meetings must be published in advance, the meetings must be held in a place where the public can attend, and the proceedings must be recorded and made available to the public afterward.
- Assume a decision you've made in the past could come back to the Board for further decision.

What Board Members *Can* Do

- Talk with Town staff, members of other Boards, and the Town Council.

What Board Members *Cannot* Do

- No chat rooms, no blogging, no Facebook, no Twitter, no e-mails, no talking during breaks in Board meetings, no whispering or talking among yourselves at the dais, no talking in the parking lot at Town Hall, at the country club, or on the golf course!
- You can't use other people as a go-between (think of the game "Post Office").
- You cannot send e-mails to other Board members communicating your position on a particular matter which will come before the Board. Send your e-mails to the planning staff for dissemination in the Board agenda packet.

Penalties:

- Non-criminal infraction with a fine up to \$500.00 (Section 286.011, Fla. Statutes).
- A knowing violation is a second-degree misdemeanor subject to prison for up to 60 days and a fine of up to \$500.00 (Section 286.011, Fla. Statutes). If found guilty, the officials could be removed from office (Section 112.52, Fla. Statutes).
- If a Sunshine violation cannot be "cured," the action of the entire Board at a subsequent meeting is void.

RULE OF THUMB: When in Doubt, Don't.

FLORIDA SUNSHINE, PUBLIC RECORDS, AND CODE OF ETHICS LAWS

This presentation is intended to provide a general overview of Florida Sunshine and Public Records law and the Florida Code of Ethics. For specific guidance or a legal opinion, please contact the Attorney's office.

All boards or commissions of any state, county, municipal corporation or political subdivision have a legal obligation to comply with:

- The Sunshine Law, and
- The Public Records Law, and
- The Florida Code of Ethics.

THE LAWS

■ SUNSHINE LAW [FS §286.011 (“Sunshine Law”) and FL Constitution Art. I, Sec. 24]

Protects the public from “closed door” decision making and provides a right of access to governmental meetings.

■ PUBLIC RECORDS LAW [FS Chap. 119]

Creates a right of access to records made or received in connection with official business of a public body.

■ CODE OF ETHICS [FS 112, Part III, Code of Ethics for Public Officers and Employees and the FL Constitution Art. II, §8]

Protects against conflict of interest and establishes standards for the conduct of elected official and government employees in situations where conflicts may exist.

Committee type determines the applicability of these laws. There are two types of committees:

1. Decision Making Committees
2. Fact Finding/Focus Group Committees

1. Decision Making Committees - become part of the governing body’s decision making process and:

- Choose alternatives and direction; narrow or eliminate options for the governing body’s consideration.
- Make decision by voting.
- Make recommendations to the governing body directly or through staff.
- Create by-laws.

2. Fact Finding/Focus Groups - provide a source of community input and factual resources and:

- Have no characteristics of a Decision Making Committee.
- Do not need by-laws.
- Provide individual input, data and factual findings to staff, as part of staff’s development in its advisement to the governing body.
- Do not take votes.
- Maintain a brainstorming focus.

THE SUNSHINE LAW - gives the public access to meetings of “any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision” (“Governing Body”) AND

- Allows the public to observe each preliminary step leading to the final decision.
- Prevents the governing body from creating closed committees that narrow the governing body’s decisions.
- Applies to appointed committees.
- An AG opinion advises it also applies to an individual Board member, appointed to negotiate, narrow decisions, or make decisions for the full board.

MEETINGS SUBJECT TO THE SUNSHINE LAW - include formal or casual discussions about a matter on which the governing body may foreseeably take action, between:

- Two or more members of the governing body, or
- Two or more members of a Decision Making Committee.

Discussions may occur through telephone or e-mail communications, or exchanges during workshops, social events, football games and neighborhood barbeques.

■ **THE SUNSHINE LAW IMPOSES THREE OBLIGATIONS OF OPENNESS**

1. Reasonable notice of meetings subject to the Sunshine Law must be given; requires giving the public reasonable and timely notice so they can decide whether to attend.

What is “reasonable” or “timely” depends on the circumstances. Does not necessarily require a newspaper advertisement (contact the Attorney’s office for guidance).

2. Public must be allowed to attend meetings; however there is no obligation to allow the public to participate.
 - Meetings cannot be held at exclusive or inaccessible facilities.
 - No evasive actions are allowed, such as:
 - a. Circulating written reports to elicit responses or positions on issues.
 - b. Using staff, lobbyists, or other means to seek other members’ positions about issues.
3. Minutes of the meetings are required. Written minutes must be taken and made available promptly.
 - Sound recordings may also be used, in addition to written minutes.
 - Minutes may be a brief summary of meeting’s events.
 - Minutes are public records.
 - Minutes must record the votes.

■ **THE SUNSHINE LAW APPLIES WHEN:**

- Two or more members of a governing body discuss a matter that may foreseeably come before the governing body.
- A governing body moves any part of its decision making process to a committee or group, thereby appointing an “alter ego.”

According to an AG opinion, this may also include an individual Board or Committee member appointed formally or informally to negotiate, narrow or eliminate options or decisions for the full Board or Committee.

- **THE SUNSHINE LAW DOES NOT APPLY TO:**
 1. Committees or groups appointed to engage only in fact-finding activities.
 2. Created focus groups or other such committees that:
 - a. Only provide individual input, data and facts as part of staff's development in its advisement to the governing body.
 - b. Do not narrow options.

The Sunshine Law is *broadly* construed. ~ Exemptions are *narrowly* construed.

- **SUNSHINE LAW:**
Penalties for Noncompliance (also applies to Decision Making Committees)
A violation of the Sunshine Law by the governing body or a Decision Making Committee, can nullify governing body's decisions.
- **Criminal Penalties:**
 1. It is a second degree misdemeanor to knowingly violate the Sunshine Law.
 2. Is Punishable with a fine of up to \$500 and/or up to 60 days imprisonment.
- **Other Penalties Include:**
 1. Removal from position.
 2. Payment of attorney's fees incurred by the challenging party, as well as declaratory and injunctive relief.

SENTENCED TO JAIL FOR SUNSHINE LAW VIOLATIONS:

Suspended Escambia County Commissioner, W.D. Childers, was sentenced to 60 days in jail for discussing redistricting in a telephone conversation while fellow commissioner listened on a speaker phone, and pleaded no contest for talking with two fellow commissioners about county building projects in front of a staffer.

- **PUBLIC RECORDS LAW:**

Public Records Include: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with transaction of official business by the agency. (Fl. Stat. Chapter 119)

THE PUBLIC RECORDS LAW APPLIES TO:

- Records developed by the governing body, Board Appointed Committees, and employees;
- All types of records including written communications, letters, notes and e-mails. Numerous exemptions are identified in FS 119.07 and other statutes.

Public Records Requests can be made:

- Verbally or in writing,
- By any person.

THE GOVERNING BODY OR APPOINTED COMMITTEE:

- Has a "reasonable" time to respond.
- Can charge for the cost of retrieving records if the amount requested is voluminous.
- Can charge 15 cents/page.

THE PUBLIC RECORDS LAW DOES NOT REQUIRE:

- The retention of records (this is covered under the State's records retention policy).
- The creation of records or the provision of records in the format requested.
- And explanation of the records.

FLORIDA CODE OF ETHICS:

- **ADDRESSES:**
 - a. Standards of conduct
 - b. Voting Conflicts
 - c. Financial Disclosure
 - d. Prohibits certain action or conducts.
 - e. Requires certain disclosures be made to the public.

Standards of Conduct Prohibit Public Officials from:

- **Soliciting and Accepting Gifts** - May not solicit or accept anything of value that is based on an understanding that their vote, official action, or judgment would be influenced by such a gift.
- **Accepting Unauthorized Compensation** - May not accept any compensation, payment, or thing of value that is given to influence a vote or other official action.
- **Misusing his/her Public Position** - May not corruptly use their official position to obtain a special privilege for themselves or others.
- **Disclosing or Using Certain Information** - May not disclose or use information not available to the public and obtained by reason of their public positions for the personal benefit of themselves or others.
- **Doing business with their agency** - A public official's agency may not do business with a business entity in which the public official, or their spouse or child own more than 5% interest.
- **Engaging in Conflicting Employment or Contractual Relationships** - A public official may not be employed or contract with any business entity regulated by or doing business with his or her public agency.

THE GOVERNING BODY MAY WAIVE THE LAST TWO PROHIBITIONS, AS THEY RELATE TO APPOINTED COMMITTEES.

Voting Conflicts of Interest

- Requires no County, municipal, or other Local Public officer (including members of the appointed committees) shall vote in an official capacity upon any measure which would inure to the special private gain or loss of themselves, any principal or entity by whom they are retained, other than an agency as defined in the Fl. Stat. 112.312(2), or to any relative or business associate.
- Requires that public officers, including members of decision making committees:
 1. Must announce the nature of the conflict before the vote; abstain from voting; and file a memorandum of voting conflict
 2. May not participate in the discussion without first disclosing the nature of their interest in the matter (either in writing prior to the meeting, or orally as soon as they become aware that a conflict exists).

BECOMES AN ISSUE WHEN STAKEHOLDERS ARE APPOINTED TO DECISION-MAKING COMMITTEES

- **FINANCIAL DISCLOSURES**

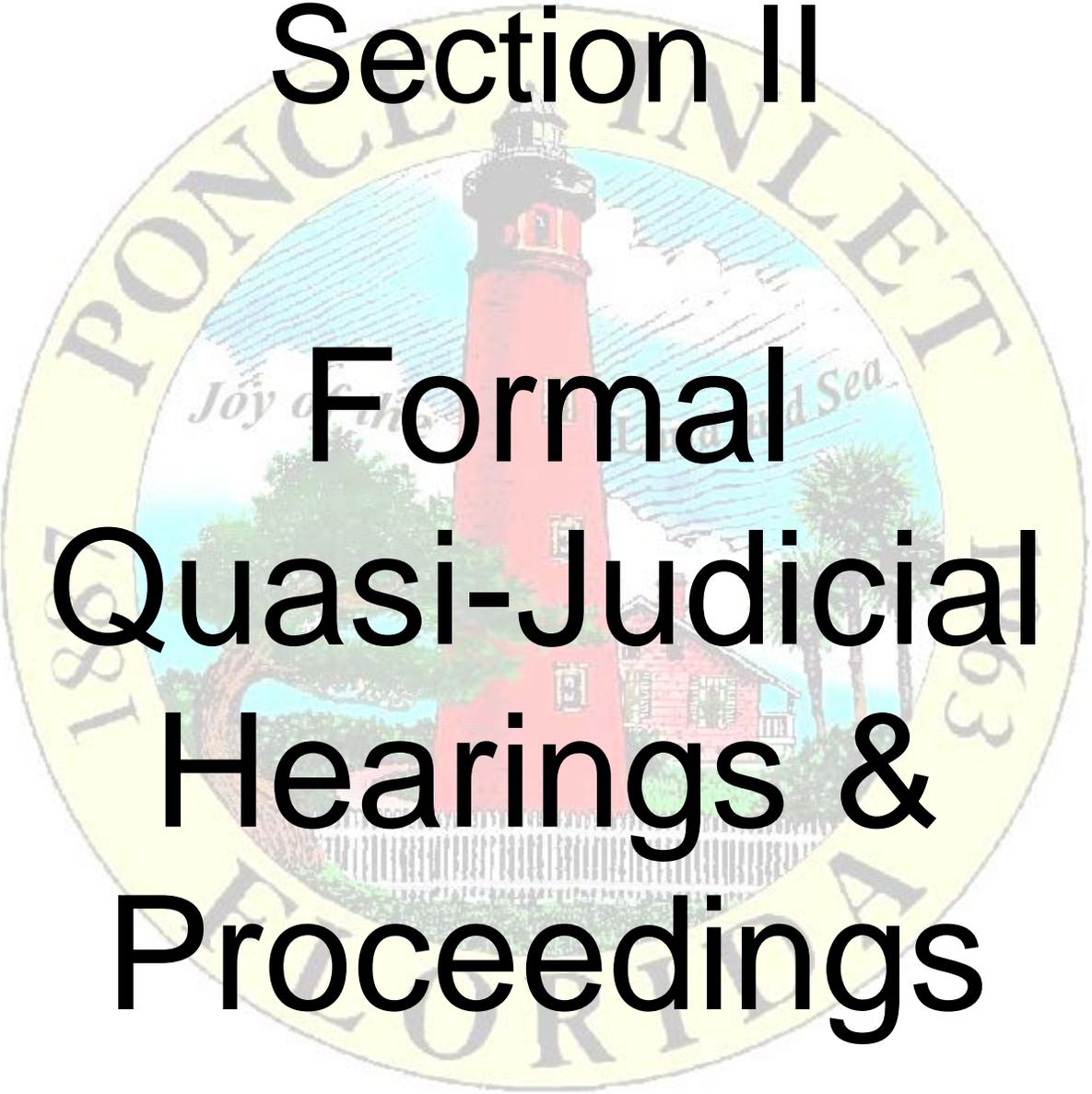
Appointed committee members with land-planning, zoning or natural resources responsibilities must file an annual financial statement.

Which Laws Apply to Which Committees?

	Focus Group	Decision-making Committee
Florida Laws		
Sunshine law		X
Public Records Law	X	X
Code of Ethics		
Standards of Conduct	X	X
Voting Conflict		X
Financial Disclosure		X

*Includes discussions about a matter which may foreseeably come before the Committee;; between one or more Committee member(s), or involving subcommittees or an individual Committee member who has been formally or informally authorized to exercise any decision-making authority or to reduce options for the Committee’s consideration.

**Committees with land-planning, zoning, or natural resources responsibilities.

The seal of Ponce Inlet, Florida, is a circular emblem. It features a central red lighthouse with a black lantern room, set against a blue sky with white clouds. The lighthouse is surrounded by green trees and a white picket fence. The words "PONCE INLET" are written in a yellow arc at the top, and "FLORIDA" is written in a yellow arc at the bottom. The years "1867" and "1863" are on the left and right sides respectively. The phrase "Joy of the Sea" is written in a cursive font across the middle of the seal.

Section II

Formal Quasi-Judicial Hearings & Proceedings

Formal Quasi-Judicial Hearings

1. Introductions - The Chairman shall read the case style and nature of the issue.
2. Affected Party determination.
3. Ex parte communication - the Board members shall disclose any ex parte communications that may have occurred. The Petitioner and any affected party may ask questions to each Commissioner about these communications directed through the Chairman.
4. Swearing in - the Petitioner, staff, and all witnesses shall be collectively sworn.
5. Petitioner presents its case – the Petitioner may include a description of the nature of the Petition if there is additional information that has not been previously provided by the town staff. The Petitioner may introduce any documentary evidence and elicit testimony through witnesses.
6. Staff presentation (10 minute maximum) – Town staff shall present any staff, board, or other report on the matter. These reports and any other documentary evidence shall become a part of the record. Evidence will be presented through oral testimony of witnesses and documentary evidence.
7. Affected Party *for* the Petition – any affected person will present its case clearly indicating if they are in support of the Petition. The affected person may introduce any documentary evidence and elicit testimony through witnesses.
8. Affected Party *against* the Petition – any affected person will present its case clearly indicating if they are opposed to the Petition. The affected person may introduce any documentary evidence and elicit testimony through witnesses.
9. Any rebuttal by Petitioner.
10. Any rebuttal by staff.
11. Close of presentation by petitioner, staff, and affected parties.
12. Public Hearing.
13. Close Public Hearing; Deliberation and vote of the Board.

General rules as to Witnesses

*After each witness testifies, any member of the Board, the Petitioner, or any affected party is permitted to question the witness, unless the Chairman deems the question to be irrelevant or immaterial. The Chairman may defer to the Attorney to determine the scope of questioning. The questioning party is not permitted to make any statements, only to ask questions which are directly related to the testimony presented.

**The Board may, in its discretion, at any time during this hearing, continue the hearing, and may request further information from any party.

Instructions

Consideration of the Evidence – In Board deliberations, Board members must only consider the evidence - that is, the testimony of witnesses and the exhibits and all evidence admitted in the record.

The Board is not bound by strict rules of evidence, or limited to consideration of evidence which would be admissible in a court of law, but as you consider the evidence, both direct and circumstantial, you may make deductions and reach conclusions which reason and common sense lead you to make. The Board shall weigh all the competent, material and/or relevant evidence presented, giving each piece of evidence the weight he or she sees fit.

The Board may exclude evidence or testimony which is not relevant, material or competent, or testimony which is unduly repetitious.

The Board will determine the relevancy of evidence, and the Board may ask the Attorney for opinions on the relevancy of evidence. **Anything the lawyer's opinion is not evidence** in the case. It is your own recollection and interpretation of the evidence that controls.

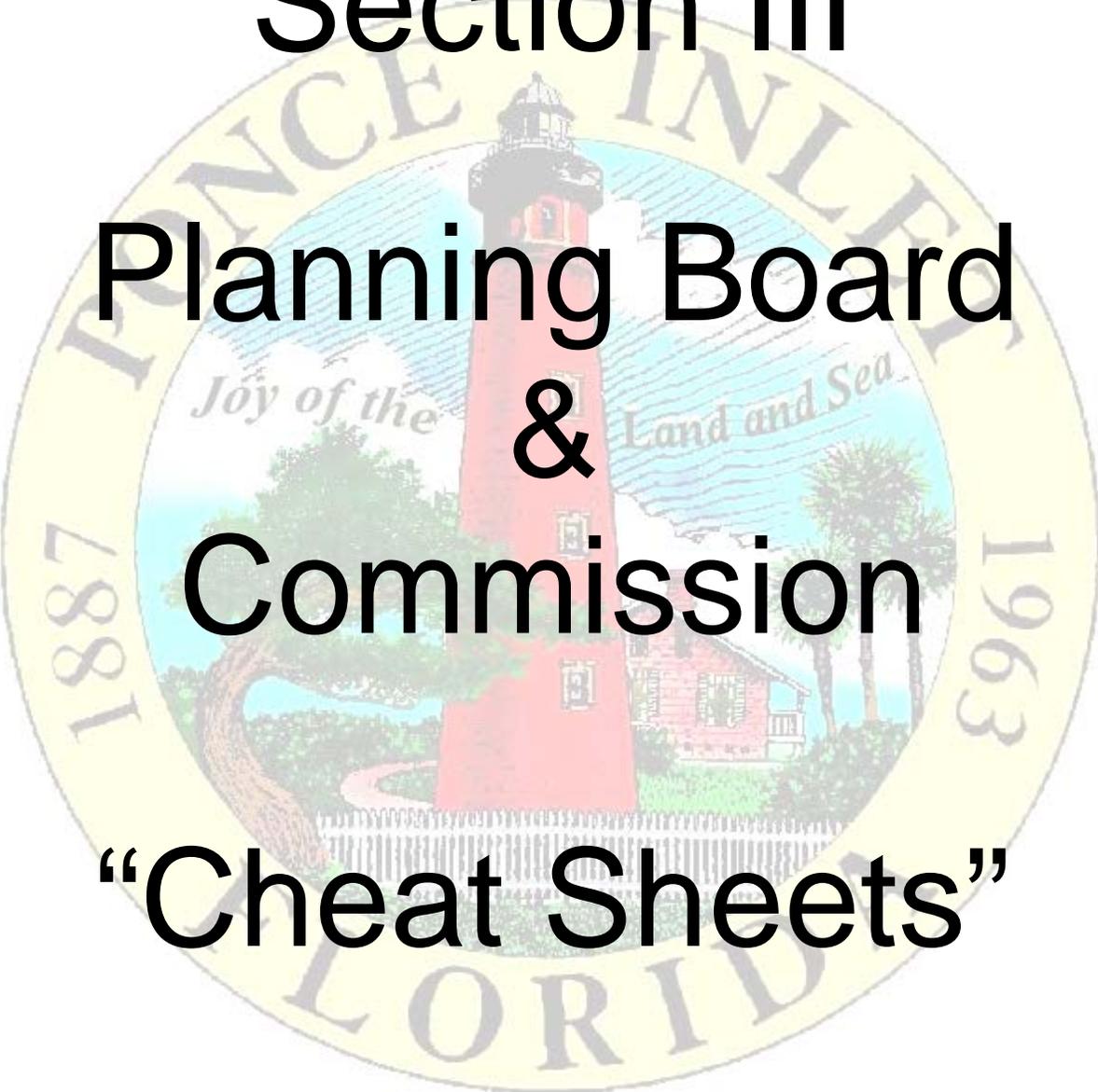
The public may provide input to the Board. The Board must not act merely because there is public sentiment for or against the petition. The Board must base its decision on the facts and the competent evidence presented at this hearing.

Credibility of Witness(es) – You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision, you may believe or disbelieve any witnesses; in whole or in part. Also the number of witnesses testifying concerning any particular dispute is not controlling. You may decide that the testimony of a smaller number of witnesses concerning any fact in dispute is more believable than the testimony of a larger number of witnesses to the contrary.

You should ask yourself whether there was evidence tending to prove that the witness testified falsely concerning some important fact; or, whether there was evidence that at some other time, the witness said or did something, or failed to say or do something, which was different from the testimony he or she gave before you during the hearing.

Expert Witness – When knowledge of a technical subject matter might be helpful, a person having special training or experience in that technical field, one who is called an expert witness, is permitted to state his or her opinion concerning those technical matters. Merely because an expert witness has expressed an opinion, however, does not mean that you must accept that opinion. The same as with any other witness, it is up to you to decide whether to rely upon it.

Copied & formatted from: <http://floridaldrs.com/tag/quasi-judicial-hearings/>

The seal of Ponce Inlet, Florida, is a circular emblem. It features a central red lighthouse with a black lantern room. To the left of the lighthouse is a large, leafy tree, and to the right is a palm tree. In the foreground, there is a white picket fence. The background shows a blue sky with white clouds and a body of water. The seal is surrounded by a yellow border containing the text "PONCE INLET" at the top, "1887" on the left, "1963" on the right, and "FLORIDA" at the bottom. The phrase "Joy of the Land and Sea" is written in a cursive font across the middle of the seal.

Section III

Planning Board & Commission

“Cheat Sheets”

Planning Commission Meeting Cheat Sheet

Planning Commission meetings will generally run in the following order:

- I. Call to Order
- II. Opening and Invocation
- III. Approval of Minutes
- IV. Hearing Items
- V. Old Business
- VI. New Business
- VII. Adjournment

Call to Order – The Chair will call the meeting to order and then lead those in attendance in reciting the Pledge of Allegiance.

Approval of Minutes – The Chair will ask if any of the minutes need to be amended from the previous meeting.

- a) If no member of the Commission suggest edits, then the Chair will ask for a motion to approve the minutes and a second. Then the Chair will ask for a vote. The Commission may vote by consensus.
- b) If edits are suggested, then the Chair will ask for a motion to amend the minutes and a second. Then the Chair will ask for a vote. The Commission may vote by consensus.

Hearing Items –

- a) Quasi-judicial – The Chair should follow the procedure designated in the “Formal Quasi-judicial Hearings” handout
- b) Non quasi-judicial – Generally staff will first proceed by introducing the item, providing relevant information, and then making a recommendation. Once staff has finished its presentation, the Chair will generally then ask for public comment. After the public has had the opportunity to comment, the Chair will bring the item back to the Commission for discussion and deliberation. The Commission will then discuss their viewpoints on the item. Once discussion and deliberation winds down, the Chair may ask for a motion. The Chair will then ask for a second. If the motion is seconded, the Chair will ask for a roll call vote. (A roll call vote is recommended to ensure clarity of the record.) ***

*** A NOTE ON MOTIONS AND VOTING:

Robert’s Rules provides an onerous procedure for running meetings. Nearly everything can be accomplished in a meeting by Main Motion and by Amending a Main Motion.

How a Main Motion is Brought:

Used when a member wants to propose action for the Commission.

- A member makes the motion: “I move that (or ‘to’)...

- Another member seconds the motion: "I second the motion" or "I second it" or "second"
- The chair restates the motion and puts it to roll call vote.
- If a quorum majority votes in favor for the motion, then the motion carries. If a quorum majority votes in opposition to the motion, then the motion fails. The Chair will state the results.

Amending a Main Motion:

A member may make a motion to amend a main motion. The Chair will then ask the member who made the main motion if they approve of the amendment. If the member who made the main motion agrees, then the Chair may deem the motion amended.

Other motions:

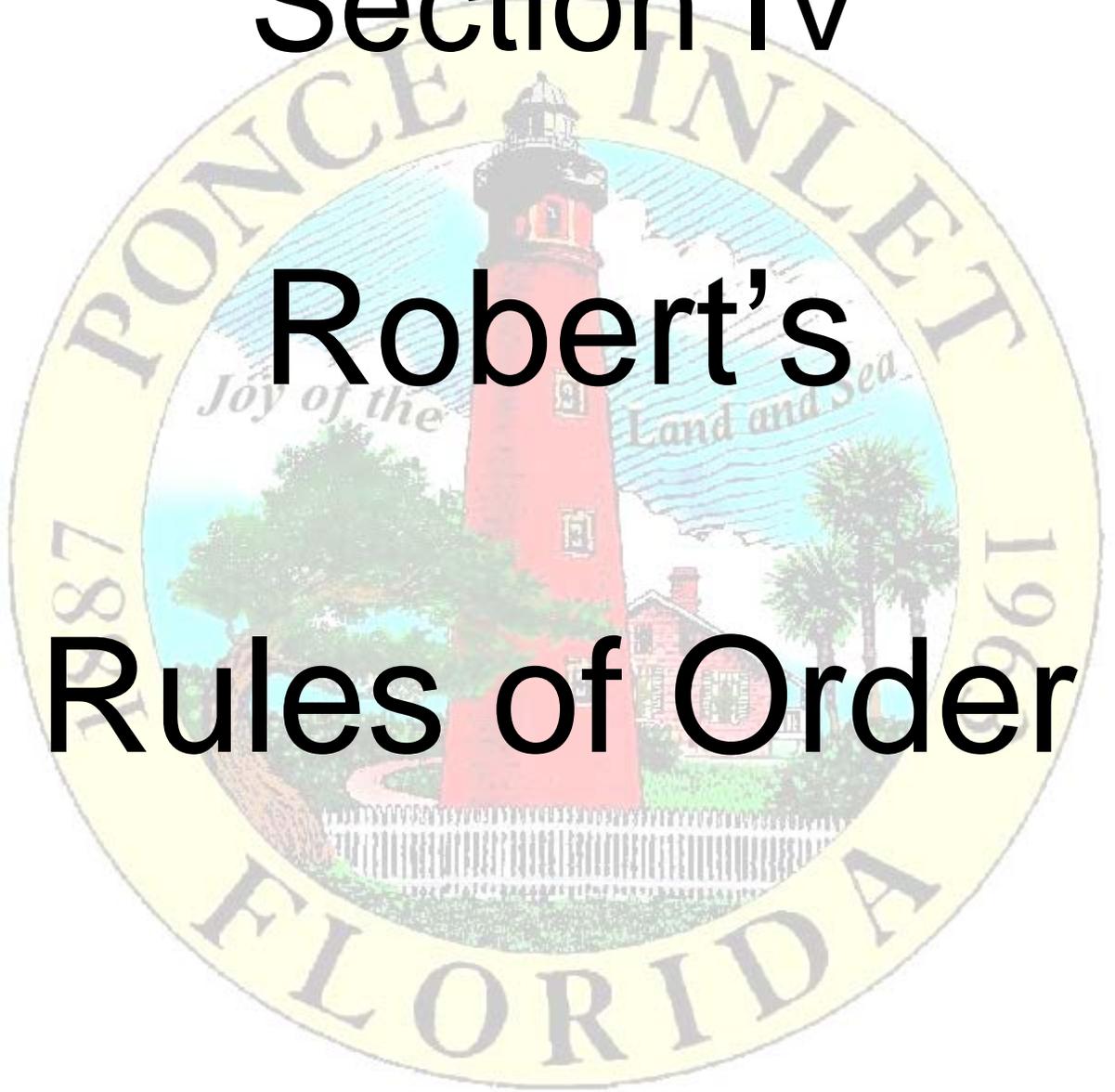
Other motions may be made such as a Motion for Rescission or Motion to Consider. These motions are rarely utilized and can be explained by the attorney present at the meeting if invoked.

Old Business – At this time the Chair will ask the Commission if there is any old business to discuss.

New Business – At this time the Chair will ask the Commission if there is any new business to discuss.

Adjournment – At this time the Chair will ask if there is a Motion to Adjourn. If such a motion is made, then the chair will ask for a second. If a second is made, then the Commission may vote to adjourn by consensus.

Section IV

The seal of Ponce Inlet, Florida, is a circular emblem. It features a central illustration of a red lighthouse with a white lantern room, situated on a grassy area. To the left of the lighthouse is a large green tree, and to the right are palm trees. In the background, a small red building is visible. The seal is surrounded by a yellow border containing the text "PONCE INLET" at the top, "1887" on the left, "1961" on the right, and "FLORIDA" at the bottom. The phrase "Joy of the Land and Sea" is written in a cursive font across the middle of the seal.

Robert's Rules of Order

Introduction to Robert's Rules of Order

1. What is Parliamentary Procedure?
2. Why is Parliamentary Procedure important?
3. Example of the Order of Business
4. Motions
5. Types of Motions
6. How are Motions presented?
7. Voting on a Motion

1. What is Parliamentary Procedure?

It is a set of rules for conduct at meetings that allows everyone to be heard and to make decisions without confusion.

2. Why is Parliamentary Procedure important?

Because it's a time-tested method used for conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Robert's Rules of Order is the basic handbook of operation for most clubs, organizations and other groups – so it's important to know the basic rules.

3. Organizations using parliamentary procedure usually follow a fixed order of business (Agenda), for example:

1. Call to order
2. Roll call & determination of quorum
3. Reading/approval of minutes of last meeting
4. Officer's/Staff's report
5. Committee report
6. Special orders
7. Unfinished/Old Business
8. New Business
9. Announcements/Board Discussion
10. Adjournment

4. The method used by members to express themselves is in the form of "moving motions". A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

1. Call to Order
2. Second motions
3. Debate motions
4. Vote on motions

5. There are four Basic Types of Motions:

1. *Main Motions*: the purpose of a main motion is to introduce items to the membership for consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.
2. *Subsidiary Motions*: the purpose of subsidiary motions is to change or affect how a main motion is handled, and is voted on before a main motion.
3. *Privileged Motions*: the purpose of a privileged motion is to bring up items that are urgent about special or important matter unrelated to pending business.
4. *Incidental Motions*: the purpose of an incidental motion is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

6. How are Motions presented?

1. Obtaining the floor
 - a. Wait until the last speaker has finished
 - b. Raise your hand and address the Chairman by saying, "Mr. Chairman"
 - c. Wait until the Chairman recognizes you before speaking
2. Make your motion
 - a. Speak in a clear and concise manner
 - b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...".
 - c. Avoid personalities and stay on topic/subject
3. Wait for someone to second your motion
4. Another member will second your motion or the Chairman will call for a second.
5. If there is no second to your motion, the motion "dies" for lack of a "second".
6. The Chairman re-states Your motion
 - a. the Chairman states, "it has been moved and seconded that we ...". Thus placing your motion before the members for consideration and action.
 - b. The membership then either debates your motion, or may move directly to a vote.
 - c. Once your motion is presented to the membership by the Chairman, it becomes "assembly property" and cannot be changed by you without the consent of the members.
7. Expanding on Your Motion
 - a. The time for you to speak in favor of your motion is at this time – not when you present it.
 - b. The mover is always allowed to speak first.
 - c. All comments and debate must be directed to the Chairman.
 - d. Keep to the time limit for speaking that has been established.

e. The mover may speak again only after other speakers are finished, unless called upon by the Chairman.

8. Putting the Question (Motion) to the Membership

- a. The Chairman asks, “Are you ready to vote on the question/motion?”
- b. If there is no more discussion, a vote is taken.
- c. On a motion to move the previous question may be adapted.

7. **Voting on a Motion:**

The method of vote on any motion depends on the situation and the by-laws of the Board. There are five methods used to vote by most organizations:

1. By Voice – the Chairman asks those in favor to say, “aye”, those opposed to say “no”. Any member may move for an exact count.
2. By Roll Call – the member answers “yes” or “no” as his/her name is called. This method is used when a record of each person’s vote is required or desired.
3. By General Consent – when a motion is not likely to be opposed, the Chairman says, “if there is no objection ... “ The membership shows agreement by their silence, however if one member says, “I object,” the item must be put to a vote.
4. By Division – this is a slight verification of a voice vote. It does not require a count unless the Chairman so desires – members raise their hands or stand.
5. By Ballot – members write their vote on a slip of paper; this method is used when secrecy is desired.*

There are two other motions that are commonly used relating to voting:

1. Motion to Table – this motion is often used in the attempt to “kill” a motion. The option is always present, however, to “take from the table”, for reconsideration by the membership.
2. Motion to Postpone Indefinitely – this is often used as a means of parliamentary strategy and allows opponents of the motion to test their strength without an actual vote being taken. Also, debate is once again open on the main motion.

Parliamentary Procedure is the best way to get things done at your meetings:

1. Allow motions that are in order;
2. Have members obtain the floor properly;
3. Speak clearly and concisely;
4. Obey the rules of debate; and most importantly ...
5. Be courteous.

Information courtesy of: <http://www.robertsrules.org>

Addendum

FS Chapter 162

County or Municipal Code Enforcement

Entire Statute - 2015

CHAPTER 162
COUNTY OR MUNICIPAL CODE ENFORCEMENT

PART I
LOCAL GOVERNMENT CODE ENFORCEMENT BOARDS
(ss. 162.01-162.13)

PART II
SUPPLEMENTAL COUNTY OR MUNICIPAL CODE OR ORDINANCE ENFORCEMENT
PROCEDURES
(ss. 162.21-162.30)

PART I
LOCAL GOVERNMENT CODE
ENFORCEMENT BOARDS

- 162.01 Short title.
- 162.02 Intent.
- 162.03 Applicability.
- 162.04 Definitions.
- 162.05 Local government code enforcement boards; organization.
- 162.06 Enforcement procedure.
- 162.07 Conduct of hearing.
- 162.08 Powers of enforcement boards.
- 162.09 Administrative fines; costs of repair; liens.
- 162.10 Duration of lien.
- 162.11 Appeals.
- 162.12 Notices.
- 162.125 Actions for money judgments under this chapter; limitation.
- 162.13 Provisions of act supplemental.

162.01 Short title.—Sections 162.01-162.13 may be cited as the “Local Government Code Enforcement Boards Act.”

History.—s. 1, ch. 80-300; s. 72, ch. 81-259; s. 1, ch. 82-37.

Note.—Former s. 166.051.

162.02 Intent.—It is the intent of this part to promote, protect, and improve the health, safety, and welfare of the citizens of the counties and municipalities of this state by authorizing the creation of administrative boards 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 counties and municipalities, where a pending or repeated violation continues to exist.

History.—s. 1, ch. 80-300; s. 2, ch. 82-37; s. 1, ch. 85-150; s. 1, ch. 86-201; s. 1, ch. 89-268.

Note.—Former s. 166.052.

162.03 Applicability.—

(1) Each county or municipality may, at its option, create or abolish by ordinance local government code enforcement boards as provided herein.

(2) A charter county, a noncharter county, or a municipality may, by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances. A special magistrate shall have the same status as an enforcement board under this chapter. References in this chapter to an enforcement board, except in s. 162.05, shall include a special magistrate if the context permits.

History.—ss. 1, 2, ch. 80-300; s. 3, ch. 82-37; s. 2, ch. 86-201; s. 1, ch. 87-129; s. 2, ch. 89-268; s. 2, ch. 99-360; s. 63, ch. 2004-11.

Note.—Former s. 166.053.

162.04 Definitions.—As used in ss. 162.01-162.13, the term:

(1) “Local governing body” means the governing body of the county or municipality, however designated.

(2) “Code inspector” means any authorized agent or employee of the county or municipality whose duty it is to assure code compliance.

(3) “Local governing body attorney” means the legal counselor for the county or municipality.

(4) “Enforcement board” means a local government code enforcement board.

(5) “Repeat violation” means a violation of a provision of a code or ordinance by a person who has been previously found through a code enforcement board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provision within 5 years prior to the violation, notwithstanding the violations occur at different locations.

History.—s. 1, ch. 80-300; s. 4, ch. 82-37; s. 10, ch. 83-216; s. 3, ch. 86-201; s. 3, ch. 89-268; s. 3, ch. 99-360; s. 22, ch. 2001-60.

Note.—Former s. 166.054.

162.05 Local government code enforcement boards; organization.—

(1) The local governing body may appoint one or more code enforcement boards and legal counsel for the enforcement boards. The local governing body of a county or a municipality that has a population of less than 5,000 persons may appoint five-member or seven-member code

enforcement boards. The local governing body of a county or a municipality that has a population equal to or greater than 5,000 persons must appoint seven-member code enforcement boards. The local governing body may appoint up to two alternate members for each code enforcement board to serve on the board in the absence of board members.

(2) Members of the enforcement boards shall be residents of the municipality, in the case of municipal enforcement boards, or residents of the county, in the case of county enforcement boards. 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 respective code enforcement board, in the sole discretion of the local governing body. The membership of each enforcement board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.

(3)(a) The initial appointments to a seven-member code enforcement board shall be as follows:

1. Two members appointed for a term of 1 year each.
2. Three members appointed for a term of 2 years each.
3. Two members appointed for a term of 3 years each.

(b) The initial appointments to a five-member code enforcement board shall be as follows:

1. One member appointed for a term of 1 year.
2. Two members appointed for a term of 2 years each.
3. Two members appointed for a term of 3 years each.

Thereafter, any appointment shall be made for a term of 3 years.

(c) The local governing body of a county or a municipality that has a population of less than 5,000 persons may reduce a seven-member code enforcement board to five members upon the simultaneous expiration of the terms of office of two members of the board.

(d) A member may be reappointed upon approval of the local governing body.

(e) An appointment to fill any vacancy on an enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two of three successive meetings without cause and without prior approval of the chair, the enforcement board shall declare the member's office vacant, and the local governing body shall promptly fill such vacancy.

(f) The members shall serve in accordance with ordinances of the local governing body and may be suspended and removed for cause as provided in such ordinances for removal of members of boards.

(4) The members of an enforcement board shall elect a chair, who shall be a voting member, from among the members of the board. The presence of four or more members shall constitute a quorum of any seven-member enforcement board, and the presence of three or more members shall constitute a quorum of any five-member enforcement board. Members shall serve without

compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as are otherwise provided by law.

(5) The local governing body attorney shall either be counsel to an enforcement board or shall represent the municipality or county by presenting cases before the enforcement board, but in no case shall the local governing body attorney serve in both capacities.

History.—s. 1, ch. 80-300; s. 5, ch. 82-37; s. 4, ch. 86-201; s. 2, ch. 87-129; s. 4, ch. 89-268; s. 1, ch. 94-291; s. 1441, ch. 95-147.

Note.—Former s. 166.055.

162.06 Enforcement procedure.—

(1) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; however, no member of a board shall have the power to initiate such enforcement proceedings.

(2) Except as provided in subsections (3) and (4), if a violation of the codes is found, the code inspector shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify an enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in s. 162.12 to said violator. At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in s. 162.12. 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 enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(3) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify an enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing and shall provide notice pursuant to s. 162.12. The case may be presented to the enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement board retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the code enforcement board.

(4) 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, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

(5) If the owner of property that is subject to an enforcement proceeding before an enforcement board, special magistrate, or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:

(a) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

(b) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.

(c) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(d) File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.

A failure to make the disclosures described in paragraphs (a), (b), and (c) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

History.—s. 1, ch. 80-300; s. 5, ch. 86-201; s. 1, ch. 87-391; s. 5, ch. 89-268; s. 2, ch. 94-291; s. 1442, ch. 95-147; s. 2, ch. 96-385; s. 4, ch. 99-360; s. 64, ch. 2004-11.

Note.—Former s. 166.056.

162.07 Conduct of hearing.—

(1) Upon request of the code inspector, or at such other times as may be necessary, the chair of an enforcement board may call a hearing of an enforcement board; a hearing also may be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board. Minutes shall be kept of all hearings by each enforcement board, and all hearings and proceedings shall be open to the public. The local governing body shall provide clerical and administrative personnel as may be reasonably required by each enforcement board for the proper performance of its duties.

(2) Each case before an enforcement board shall be presented by the local governing body attorney or by a member of the administrative staff of the local governing body. If the local governing body prevails in prosecuting a case before the enforcement board, it shall be entitled to recover all costs incurred in prosecuting the case before the board and such costs may be included in the lien authorized under s. 162.09(3).

(3) An 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 enforcement board shall take testimony

from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(4) At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein. The finding shall be by motion approved by a majority of those members present and voting, except that at least four members of a seven-member enforcement board, or three members of a five-member enforcement board, must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in s. 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if 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 pursuant to this subsection and the order is complied with by the date specified in the order, the enforcement board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

History.—s. 1, ch. 80-300; s. 6, ch. 82-37; s. 44, ch. 83-217; s. 6, ch. 86-201; s. 6, ch. 89-268; s. 3, ch. 94-291; s. 1443, ch. 95-147; s. 2, ch. 95-297.

Note.—Former s. 166.057.

162.08 Powers of enforcement boards.—Each enforcement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county or police department of the municipality.
- (3) Subpoena evidence to its hearings.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

History.—s. 1, ch. 80-300; s. 7, ch. 82-37; s. 7, ch. 86-201; s. 7, ch. 89-268.

Note.—Former s. 166.058.

162.09 Administrative fines; costs of repair; liens.—

- (1) An enforcement board, upon notification by the code inspector that an order of the enforcement 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 in an amount specified in this section for each day the violation continues past the date set by the enforcement board for

compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in s. 162.06(4), the enforcement board shall notify the local governing body, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (2)(a).

(2)(a) A fine imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (1). However, if a code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000 per violation.

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

1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator.

(c) An enforcement board may reduce a fine imposed pursuant to this section.

(d) A county or a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the county or municipality, an ordinance that gives code enforcement boards or special magistrates, or both, authority to impose fines in excess of the limits set forth in paragraph (a). Such fines shall not exceed \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature. In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs pursuant to subsection (1). Any ordinance imposing such fines shall include criteria to be considered by the code enforcement board or special magistrate in determining the amount of the fines, including, but not limited to, those factors set forth in paragraph (b).

(3) A certified copy of an order imposing a fine, or a fine plus repair costs, 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 shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section. After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under s. 4(a), Art. X of the State Constitution.

History.—s. 1, ch. 80-300; s. 8, ch. 82-37; s. 2, ch. 85-150; s. 8, ch. 86-201; s. 2, ch. 87-391; s. 8, ch. 89-268; s. 4, ch. 94-291; s. 1, ch. 95-297; s. 5, ch. 99-360; s. 1, ch. 2000-125; s. 65, ch. 2004-11.

Note.—Former s. 166.059.

162.10 Duration of lien.—No lien provided under the Local Government Code Enforcement Boards Act shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to s. 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

History.—s. 9, ch. 82-37; s. 9, ch. 86-201; s. 9, ch. 89-268; s. 5, ch. 94-291; s. 2, ch. 2000-125.

162.11 Appeals.—An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

History.—s. 1, ch. 80-300; s. 10, ch. 82-37; s. 3, ch. 85-150; s. 10, ch. 86-201.

Note.—Former s. 166.061.

162.12 Notices.—

(1) All notices required by this part must be provided to the alleged violator by:

(a) Certified mail, and at the option of the local government return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. The local government may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2.;

(b) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;

(c) 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; or

(d) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board or the local government, notice may be served by publication or posting, as follows:

(a)1. Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.

2. Proof of publication shall be made as provided in ss. 50.041 and 50.051.

(b)1. In lieu of publication as described in paragraph (a), such notice may be posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, 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, in the case of municipalities, at the primary municipal government office, and in the case of counties, at the front door of the courthouse or the main county governmental center in said county.

2. 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.

(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 (1).

(3) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), shall be

sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

History.—s. 1, ch. 80-300; s. 11, ch. 86-201; s. 3, ch. 87-391; s. 10, ch. 89-268; s. 6, ch. 94-291; s. 6, ch. 99-360; s. 3, ch. 2000-125; s. 1, ch. 2012-13; s. 2, ch. 2013-193; s. 1, ch. 2014-154.

Note.—Former s. 166.062.

162.125 Actions for money judgments under this chapter; limitation.—Actions for money judgments under this chapter may be pursued only on fines levied after October 1, 2000.

History.—s. 4, ch. 2000-125.

162.13 Provisions of act supplemental.—It is the legislative intent of ss. 162.01-162.12 to provide an additional or supplemental means of obtaining compliance with local codes. Nothing contained in ss. 162.01-162.12 shall prohibit a local governing body from enforcing its codes by any other means.

History.—s. 11, ch. 82-37.

PART II

SUPPLEMENTAL COUNTY OR MUNICIPAL CODE OR ORDINANCE ENFORCEMENT PROCEDURES

162.21 Enforcement of county or municipal codes or ordinances; penalties.

162.22 Designation of enforcement methods and penalties for violation of municipal ordinances.

162.23 Notice to appear.

162.30 Civil actions to enforce county and municipal ordinances.

162.21 Enforcement of county or municipal codes or ordinances; penalties.—

(1) As used in this section, “code enforcement officer” means any designated employee or agent of a county or municipality whose duty it is to enforce codes and ordinances enacted by the county or municipality.

(2) A county or a municipality may designate certain of its employees or agents as code enforcement officers. The training and qualifications of the employees or agents for such designation shall be determined by the county or the municipality. Employees or agents who may be designated as code enforcement officers may include, but are not limited to, code inspectors, law enforcement officers, animal control officers, or firesafety inspectors. Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of ss. 943.085-943.255. Nothing in this section amends, alters, or contravenes the provisions of any state-administered retirement system or any state-supported retirement system established by general law.

(3)(a) A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a

civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.

(b) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(c) A citation issued by a code enforcement officer shall be in a form prescribed by the county or the municipality and shall contain:

1. The date and time of issuance.
2. The name and address of the person to whom the citation is issued.
3. The date and time the civil infraction was committed.
4. The facts constituting reasonable cause.
5. The number or section of the code or ordinance violated.
6. The name and authority of the code enforcement officer.
7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
8. The applicable civil penalty if the person elects to contest the citation.
9. The applicable civil penalty if the person elects not to contest the citation.
10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(4) After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court.

(5) A county or a municipality is authorized to enforce codes and ordinances under the provisions of this section and may enact an ordinance establishing procedures for the implementation of such provisions, including a schedule of violations and penalties to be assessed by code enforcement officers. If a county or municipality chooses to enforce codes or ordinances under the provisions of this section, each code or ordinance or the ordinance enacted by the county or municipality establishing procedures for implementation of this section shall provide:

- (a) That a violation of a code or an ordinance is a civil infraction.
- (b) A maximum civil penalty not to exceed \$500.
- (c) A civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation.
- (d) For the issuance of a citation by a code enforcement officer who has reasonable cause to believe that a person has committed an act in violation of a code or an ordinance.
- (e) For the contesting of a citation in county court.
- (f) Such procedures and provisions as are necessary to provide for the enforcement of a code or an ordinance under the provisions of this section.
- (6) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (7) The provisions of this part shall not apply to the enforcement pursuant to ss. 553.79 and 553.80 of the Florida Building Code adopted pursuant to s. 553.73 as applied to construction, provided that a building permit is either not required or has been issued by the county or the municipality.
- (8) The provisions of this section are additional and supplemental means of enforcing county or municipal codes or ordinances and may be used for the enforcement of any code or ordinance, or for the enforcement of all codes and ordinances. Nothing contained in this section shall prohibit a county or municipality from enforcing its codes or ordinances by any other means.

History.—s. 11, ch. 89-268; s. 7, ch. 94-291; s. 1444, ch. 95-147; s. 3, ch. 96-385; s. 4, ch. 98-287; s. 115, ch. 2000-141; s. 35, ch. 2001-186; s. 4, ch. 2001-372.

162.22 Designation of enforcement methods and penalties for violation of municipal ordinances.—The governing body of a municipality may designate the enforcement methods and penalties to be imposed for the violation of ordinances adopted by the municipality. These enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear in county court or arrest for violation of municipal ordinances as provided for in chapter 901. Unless otherwise specifically authorized and provided for by law, a person convicted of violating a municipal ordinance may be sentenced to pay a fine, not to exceed \$500, and may be sentenced to a definite term of imprisonment, not to exceed 60 days, in a municipal detention facility or other facility as authorized by law.

History.—s. 1, ch. 94-255.

162.23 Notice to appear.—

- (1) Notwithstanding s. 34.07, a code enforcement officer, designated pursuant to s. 162.21(1) and (2), may issue a notice to appear at any hearing conducted by a county court if the officer, based upon personal investigation, has reasonable cause to believe that the person has violated a

code or ordinance. A notice to appear means a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. If a person issued a notice to appear under this section refuses to sign such notice, the code enforcement officer has no authority to arrest such person.

(2) Prior to issuing a notice to appear, a code enforcement officer shall provide written notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no fewer than 5 days and no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the prescribed time period, a code enforcement officer may issue a notice to appear to the person who has committed the violation. A code enforcement officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a notice to appear and may immediately issue a notice to appear if a repeat violation is found, or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare or that the violator is engaged in violations of an itinerant or transient nature, as defined by local code or ordinance within the jurisdiction, or if the violation is irreparable or irreversible.

History.—s. 1, ch. 96-385; s. 7, ch. 99-360.

162.30 Civil actions to enforce county and municipal ordinances.—In addition to other provisions of law authorizing the enforcement of county and municipal codes and ordinances, a county or municipality may enforce any violation of a county or municipal code or ordinance by filing a civil action in the same manner as instituting a civil action. The action shall be brought in county or circuit court, whichever is appropriate depending upon the relief sought. Counties and municipalities are authorized and required to pay any counsel appointed by the court to represent a private party in such action if the provision of counsel at public expense is required by the Constitution of the United States or the Constitution of the State of Florida and if the party is indigent as established pursuant to s. 27.52. The county or municipality shall bear all court fees and costs of any such action, and may, if it prevails, recover the court fees and costs and expense of the court-appointed counsel as part of its judgment. The state shall bear no expense of actions brought under this section except those that it would bear in an ordinary civil action between private parties in county court.

History.—s. 87, ch. 2003-402.