

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES, ENTITLED "ADMINISTRATION," ARTICLE VI ENTITLED "CODE COMPLIANCE," DIVISION 2 ENTITLED "SPECIAL MAGISTRATE PROCEDURE" BY AMENDING SECTION 2-631, DEFINITIONS, SECTION 2-632, FINDINGS AND PURPOSE, SECTION 2-634 SPECIAL MAGISTRATE, SECTION 2-636 SUPPORT STAFF AND LEGAL COUNSEL TO CODE COMPLIANCE, SECTION 2-637 ENFORCEMENT PROCEDURE, SECTION 2-639, PRESENTATION OF CITY'S CASE, SECTION 2-640, HEARING; TESTIMONY, SECTION 2-643 FINE FOR NONCOMPLIANCE OR REPEAT VIOLATION; COSTS OF REPAIR, SECTION 2-646, LIEN; ENFORCEMENT OF ORDER; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission finds that the term "Code Enforcement" best conveys the authority and responsibility bestowed upon this Department; and

WHEREAS, the City Commission recognizes as a matter of policy that the goal of code compliance is actually code enforcement by the citizens and property owners of Key West; and

WHEREAS, the City Commission recognizes that renaming the "Code Compliance" Department back to the "Code Enforcement" Department will help instill and inspire a more proactive (rather than reactive) approach to code-related issues and thereby enhance the well-being of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY  
WEST, FLORIDA:

Section 1: That Chapter 2 of the Code of Ordinances is  
hereby amended as follows:

**Sec. 2-631. - Definitions.**

The following words, terms and phrases, when used in this  
division, shall have the meanings ascribed to them in this  
section, except where the context clearly indicates a different  
meaning:

Code ~~inspector~~ enforcement officer means any authorized  
city agent or employee whose duty it is to ensure code  
~~compliance~~ enforcement.

Repeat violation means a violation of a provision of a code  
or ordinance by a person who has been previously found through a  
code ~~compliance~~ enforcement special magistrate or any other  
quasi-judicial or judicial process to have violated or who has  
admitted violating the same provision within five years prior to  
the violation, notwithstanding the violations occur at different  
locations.

**Sec. 2-632. - Findings and purpose.**

The city commission has determined that full enforcement of  
the city codes and ordinances is essential to ensuring the  
public health, safety and welfare. To accomplish this purpose,

the city commission creates the position of code ~~compliance~~  
enforcement special magistrate for the hearing of all code  
~~compliance~~ enforcement cases.

**Sec. 2-634. - Special magistrate.**

(a) The city commission shall appoint one or more special magistrates to hear code ~~compliance~~ enforcement cases. The city commission may appoint the number of special magistrates that the city commission determines is necessary. All special magistrates shall serve at the pleasure of the city commission and may be removed from the position with or without cause by a majority vote of the city commission. The terms and conditions of a special magistrate's appointment, including but not limited to fees and length of the term of appointment, shall be determined by resolution of the city commission. (b) All persons appointed as code ~~compliance~~ enforcement special magistrates must have been members of the state bar for five years and have experience either in a judicial or special magistrate capacity or in local government or land use law. A code ~~compliance~~ enforcement special magistrate may not hold any other appointive or elective office while serving as special magistrate. (c) The code ~~compliance~~ enforcement special magistrate is granted the same powers, duties and authority under F.S. ch. 162, including the authority to impose fines and liens and to order foreclosures of liens as that granted by statute or ordinance to

a code ~~compliance~~ enforcement board and its chairperson. (d) The special magistrate may also determine a repeat violation, as set forth in section 2-631, and impose fines accordingly where the original finding of violation was made by the code ~~compliance~~ enforcement special magistrate.

**Sec. 2-636. - Staff support and legal counsel to code compliance enforcement.**

(a) The city manager shall provide appropriate staff support to enable the special magistrate to fulfill his duties as provided in this division. (b) The city attorney's office shall provide legal counsel to city code ~~compliance~~ enforcement staff.

**Sec. 2-637. - Enforcement procedure.**

(a) It shall be the duty of the code ~~inspector~~ enforcement officer to initiate enforcement proceedings of the various codes. The special magistrate shall not have the power to initiate such enforcement proceedings. (b) Except as provided in subsections (c) and (d) of this section, if a violation of the codes is found, the code ~~inspector~~ enforcement officer shall notify the violator and give him/her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code ~~inspector~~ enforcement officer shall notify the special magistrate and request a hearing. The special magistrate, through clerical staff, shall

schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in section 2-638 to the violator. At the option of the special magistrate, notice may additionally be served by publication or posting as provided in section 2-638. 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~~ enforcement officer, the case may be presented to the special magistrate, even if the violation has been corrected prior to the hearing, and the notice shall so state. (c) If a repeat violation is found, the code ~~inspector~~ enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code ~~inspector~~, enforcement officer, upon notifying the violator of a repeat violation, shall notify the special magistrate and request a hearing. The special magistrate, through its clerical staff, shall schedule a hearing and shall provide notice pursuant to section 2-638. The case may be presented to the special magistrate even if the repeat violation has been corrected prior to the special magistrate hearing, and the notice shall so state. If the repeat violation has been corrected, the special magistrate 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 rights to this hearing and pay

the costs as determined by the special magistrate. (d) If the code ~~inspector~~ enforcement officer 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~~ enforcement officer shall make a reasonable effort to notify the violator and may immediately notify the special magistrate and request a hearing. (e) If the owner of property which is subject to an enforcement proceeding before the 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: (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee. (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code compliance enforcement proceeding received by the transferor. (3) 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 ~~compliance~~ enforcement proceeding. (4) File a notice with the code ~~compliance official~~ enforcement officer 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 five days after the date of the transfer. (f) A failure to make the disclosures

described in subsections (e)(1), (2), and (3) of this section 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.

**Sec. 2-639. - Presentation of city's case.**

Each case before the special magistrate may, at the option of the administrative staff, be presented by either the office of the city attorney or by a member of the city administrative staff. The attorney representing the city code ~~compliance~~ enforcement staff shall not serve both as legal advisor to the special magistrate and as presenter of cases before the special magistrate.

**Sec. 2-640. - Hearing; testimony.**

The special magistrate shall hear the cases on the agenda for that day. All testimony shall be under oath and minutes shall be taken pursuant to F.S. § 286.011(2). The special magistrate shall take testimony from the code ~~inspector~~ enforcement officer and the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings.

Sec. 2-643. - Fine for noncompliance or repeat violation; costs of repair.

The special magistrate, upon notification by the code ~~inspector~~ enforcement officer that a previous order 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 for each day the violation continues past the date set by the special magistrate 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~~ enforcement officer . In addition, if the violation is a violation described in section 2-637(d), the special magistrate shall notify the city commission, 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 division. Making such repairs does not create a continuing obligation on the part of the city commission to make further repairs or to maintain the property and does not create any liability against the city commission 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 article, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the special magistrate finds a



violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in section 2-644.

**Sec. 2-643. - Fine for noncompliance or repeat violation;  
costs of repair.**

The special magistrate, upon notification by the code ~~inspector~~ enforcement officer that a previous order 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 for each day the violation continues past the date set by the special magistrate 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~~ enforcement officer. In addition, if the violation is a violation described in section 2-637(d), the special magistrate shall notify the city commission, 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 division. Making such repairs does not create a continuing obligation on the part of the city commission to make further repairs or to maintain the property and does not create any liability against the city commission 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 article, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the special magistrate finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in section 2-644.

**Sec. 2-646. - Lien; enforcement of order.**

(a) A certified copy of an order imposing a fine pursuant to this division may be recorded in the public records and thereafter shall constitute a lien against the land on which the violator exists or, if the violator does not own the land, upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of the 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. (b) A fine imposed pursuant to this division shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. Payment of all fines and costs shall be made payable to the City of Key West within 30 days of issuance of the findings and order of the code ~~compliance~~ enforcement special magistrate unless a finding of good cause is made by the special magistrate to provide for a longer payment period not to

exceed 90 days. Upon expiration of 30 days after issuance of the findings and order by the special magistrate, city staff shall institute lien procedures in accordance with F.S. § 162.09.(c)A lien arising from a fine imposed pursuant to this division runs in favor of the city commission, and the city commission may execute a satisfaction or release of lien entered pursuant to this division.(d)After three months from the filing of any such lien which remains unpaid, the special magistrate may authorize the city 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 this division may be foreclosed on real property which is a homestead under article X, section 4 of the state constitution.

---

*\*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.*

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

INTENTIONALLY LEFT BLANK

Read and passed on first reading at a regular meeting held  
this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Read and passed on final reading at a regular meeting held  
this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Authenticated by the presiding officer and Clerk of the  
Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Filed with the Clerk \_\_\_\_\_, 2025.

Mayor Danise Henriquez \_\_\_\_\_

Vice Mayor Donald "Donie" Lee \_\_\_\_\_

Commissioner Lisette Carey \_\_\_\_\_

Commissioner Aaron Castillo \_\_\_\_\_

Commissioner Monica Haskell \_\_\_\_\_

Commissioner Mary Lou Hoover \_\_\_\_\_

Commissioner Sam Kaufman \_\_\_\_\_

\_\_\_\_\_  
DANISE HENRIQUEZ, MAYOR

ATTEST:

\_\_\_\_\_  
KERI O'BRIEN, CITY CLERK