

ORDINANCE 3175-20

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING ARTICLE III, CHAPTER 2 OF THE CITY CODE WITH RESPECT TO SUBSIDIARY CITY BOARD AND AD HOC COMMITTEE COMPOSITION, APPOINTMENT, MEMBERSHIP, REMOVAL, QUORUM, VACANCIES, ALTERNATE MEMBERS, TERMS OF OFFICE, REAPPOINTMENT, COMMISSION AND MAYOR AUTHORITY, BOARD AND COMMITTEE AUTHORITY, AND OTHER MATTERS RELATED TO THE CITY'S SUBSIDIARY BOARDS AND AD HOC COMMITTEE, INCLUDING BUT NOT LIMITED TO CHANGES NECESSITATED BY A RECENT CITY CHARTER AMENDMENT RELATED TO THE FOREGOING; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, at the general election of March 17, 2020, the electors of the City of Winter Park approved the adoption of Section 2.19 of the City Charter, which sets forth requirements for the size of and appointment of members to City subsidiary boards and ad hoc committees and other matters related to such boards and committees; and

WHEREAS, the foregoing amendment to the City Charter necessitates the amendment of the City Code to be consistent with such Charter amendment, as provided in this Ordinance; and

WHEREAS, this Ordinance constitutes the implementing ordinance referenced in and required by Section 2.19(d), City Charter.

NOW THEREFORE, BE IN ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA AS FOLLOWS:

**SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

**SECTION 2. City Code Amendment.** The City hereby amends Article III, Chapter 2 of the City of Winter Park Code of Ordinances as shown in the attached **Exhibit "A"** (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions and sentences not included are not being amended).

**SECTION 3. Codification.** The City Code amendments provided in Section 2 of this Ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

**SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional

by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**SECTION 5. Conflicts.** In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

**SECTION 6. Effective date.** This Ordinance shall become effective immediately upon adoption by the City Commission.

**FIRST READING:** April 27, 2020.

**SECOND READING:** May 11, 2020.

**ADOPTED** this 11th day of May 2020, by the City Commission of the City of Winter Park, Florida.

CITY COMMISSION  
CITY OF WINTER PARK

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Steve Leary, Mayor

ATTEST:

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Rene Cranis, City Clerk

# EXHIBIT "A"

## ARTICLE III. - SUBSIDIARY BOARDS OF THE CITY OF WINTER PARK<sup>3</sup>

Footnotes:

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**Editor's note**— Ord. No. 2843, § 2, adopted June 13, 2011, repealed Art. III except for § 2-81(b) (which shall be renumbered as 2-81) and §§ 2-90—2-100 and 2-104—2-120, and enacted a new Art. III with the exceptions as noted above. Further amendments were made to Art. III as per memo dated Feb. 22, 2012, from Usher L. Brown, city attorney and said changes have been noted accordingly. Former Art. III, §§ 2-46—2-52, 2-61—2-70, 2-81—2-93, 2-101—2-110, 2-121—2-124, pertained to boards and commissions. See the Code Comparative Table for a complete derivation.

### DIVISION 1. - ESTABLISHMENT OF CITY BOARDS

#### Sec. 2-46. - Establishment of city boards.

(a) There shall be established in this division all boards of the City of Winter Park. If a board is required to be in existence by Florida Statute or City Charter, the section providing for the board shall so provide, as well as any special requirements. If, by Florida Statute or Charter there is a requirement with respect to the board that is different than the general rules in this chapter and article, then the requirements of state statute and the Charter shall control.

(b) During the general election held on March 17, 2020, the electors approved the adoption of Section 2-19, City Charter, which sets forth requirements for the size of and appointment to city boards and ad hoc committees. The city commission, by a majority vote, may establish a transition plan providing for the transition of the membership of the city boards to be consistent with Section 2-19, City Charter. Such transition plan may provide for the timing of initial appointments by the mayor and city commissioners and initial terms of office different from those prescribed in this chapter and may provide for the early removal of board and committee members serving as of the adoption of this subsection. The city clerk may delete this subsection after the transition of membership of the city boards occurs in the manner approved by the city commission.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

#### Sec. 2-47. - List and size of boards established.

~~The following boards and number of members are established. The general requirements for boards are specified in division 2 herein and the board specific requirements are specified in division 3. Unless otherwise provided by the City Charter, state law, other ordinance or the city commission requires a different number of members than as specified in this article, each board shall have seven members, and one alternate member.~~ The following boards are established:

- (1) Board of adjustments;
- (2) Civil service board (also sits as the independent personnel review board);
- (3) Code compliance board (which also sits as the nuisance abatement board ~~and tree preservation board~~ and performs the functions of a code enforcement board pursuant to F.S. ch. 162);
- (4) Community redevelopment agency;

- (5) Community redevelopment advisory board;
- (6) Construction board of adjustments and appeals;
- (7) Economic development advisory board;
- (8) Historic preservation board;
- (9) Housing authority board;
- (10) Keep Winter Park beautiful and sustainable advisory board;
- (11) Lakes and waterways advisory board;
- (12) Parks and recreation advisory board;
- (13) Transportation advisory board;
- (14) Planning and zoning board;
- (15) Public art advisory board;
- (16) Utilities advisory board;
- (17) Winter Park Firefighters' pension board;
- (18) Winter Park Police Officers' pension board.
- (19) Golf course advisory board.
- (20) Tree Preservation Board

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. 2880-12, § 2, 8-13-12; Ord. No. [3035-16](#), § 2, 5-9-16; Ord. No. [3067-17](#), § 2, 2-27-17)

## DIVISION 2. - GENERALLY

Sec. 2-48. - General rules applicable to subsidiary boards and ad hoc committees of the City of Winter Park.

(a) ~~Date of~~ Appointment of members.

(i) With the exception of the civil service board and as otherwise provided by ordinance, including as may be set forth in this article, pursuant to Section 2.19(c), City Charter, the members of all boards of the city shall be appointed as described in Section 2-19(a), City Charter generally at the second regular city commission meeting occurring after the mayor or city commissioner responsible for making an appointment(s) is sworn in for a new term of office; however, this provision does not prevent the mayor or city commissioner from delaying a decision on appointments for which they have responsibility.

(ii) For boards and ad hoc committees appointed pursuant to Section 2-19(a), City Charter, each membership position on a city board and ad hoc committee will be assigned seat numbers 1 through 7. Seats number 1 through 4 will be those positions appointed by each of the city commissioners with the same corresponding seat number (e.g. city commissioner holding seat no. 1 will appoint seat no. 1 on each city board and ad hoc committee, etc.). Seats 5 through 7 will be those positions appointed by the Mayor.

(iii) When considering appointments, the mayor and city commissioners should take into consideration for applicable boards or ad hoc committees as set forth in this article, specialized knowledge or vocations required or desired for persons serving on boards or ad hoc committees.

(iv) The city commission may adopt rules governing the process for making nominations and appointments to board or ad hoc committee positions appointed by the city commission as a body to

~~the extent not inconsistent with general law, the Charter or any ordinance, by the mayor, subject to the approval of the city commission, at the first commission meeting in May of each year or as soon thereafter as possible and such members shall be seated at the first meeting following May 31. The members of the civil service board shall be appointed in December and be seated effective the third Tuesday in January.~~

- (b) ~~Removal of members. Members of city boards and ad hoc committees are subject to removal, with or without cause, at any time. Members of city boards or ad hoc committees whose seats are appointed by the mayor shall serve at the mayor's pleasure. will of the city commission and shall be subject to removal at any time, with or without cause, by a majority vote of the city commission. Members of city boards or ad hoc committees whose seats are appointed by a city commissioner shall serve at the pleasure of the city commissioner holding the commission seat that appointed the member. Members of city boards or ad hoc committees whose seats are appointed by the city commission shall serve at the pleasure of the city commission.~~ This provision is intended to be supplemental to, and not in conflict with, the provisions of F.S. § 112.501 which concerns the procedure for removal or suspension of a member of a municipal board for cause. In instances when a member is removed for cause, the procedures in F.S. § 112.501 shall apply.
- (c) ~~Resignations. Members of all boards and ad hoc committees shall be entitled to resign at any time by delivery of written notice thereof to the city commission.~~
- (d) ~~Quorum. A quorum shall be established if at least a majority of the total board or ad hoc membership committee membership is physically in attendance at a meeting. A board or ad hoc committee member who has declared a voting conflict and abstains from voting shall count for establishing the quorum if that member is physically present at the meeting. For a motion to be approved, at least a majority of the members present at a board or ad hoc committee meeting in which a quorum has been established must vote in favor of such motion; except that the provisions of this sentence do not apply to boards requiring a different minimum vote requirement as set forth in other portions of this article or as otherwise required by law.~~
- (e) ~~Applicability of rules of ethics. No member shall take any action or vote if such vote or action is prohibited by a standard of conduct or voting conflict of interest as defined or prohibited in the code of ethics for public officers and employees stated in F.S. ch. 112 or if such action or vote is in violation of the Code of the City of Winter Park.~~
- (f) ~~Vacancies. When a vacancy in a board or ad hoc committee member seat occurs, the mayor, the city commissioner or the city commission as body who is responsible for appointing that member's seat or position shall promptly appoint a person to fill the vacancy. The mayor, subject to approval of the city commission, shall promptly fill all vacancies, including alternate members, occurring on city boards. A vacancy shall be filled for the unexpired term of the member whose term becomes vacant.~~
- ~~(g) Alternate members. An alternate member may always participate in board discussions subject to the rules adopted by each board for the conduct of meetings and member discussion at meetings. Unless a member of the board is absent, an alternate member may not make motions or cast a vote at a meeting. However, if a member of the board is absent, then at such meeting where the member is absent, an alternate may make motions and cast a vote in the stead of the absent member. In the event a regular member of a board is removed from office or vacates his or her office prior to the end of the appointed term, the alternate of said board, will automatically advance to the vacated position for the remainder of the regular term without additional action of the city commission. If there is no alternate, the mayor shall appoint subject to commission approval.~~
- ~~(h) Exception to automatic advancement. If a vacancy occurs in a board position within 60 days before the end of the term of the member, the position shall remain vacant until filled as part of the regular appointment process by which the mayor shall appoint the member, subject to the approval of the city commission, at the first commission meeting in May of each year.~~
- (ig) ~~Representation by member of third parties. No member of a board or ad hoc committee shall represent a third party in any proceeding before such board to which the member belongs.~~

(jh) *Role and responsibility of members of subsidiary boards of the City of Winter Park.* Members of subsidiary municipal boards shall have such authority as provided by law, including ordinances of the City of Winter Park and the City Charter. No member of a board shall exceed his or her delegated authority, and except to the extent Florida law or an ordinance or Charter provision expressly requires the board to perform an adjudicatory function as a quasi-judicial board, the function and duty of each subsidiary board and the members of those boards is limited to acting in an advisory capacity only, by which the members of the various city boards are authorized to receive and gather information, attend board meetings, and apply their best efforts to render advice and recommendations to the Commission of the City of Winter Park in the interest of the city and its residents. Although city boards may make recommendations concerning provisions of the City Code, no member of a city board shall, by virtue of such office, have the authority to represent the City of Winter Park in any action to enforce the City Code or any provision thereof.

(ki) *Term in office and reappointment.* Unless otherwise required by Florida Statutes, ~~or City Charter or~~ as otherwise provided by ordinance, each member of the city's boards shall have ~~an initial term that generally overlaps with the term of office of the mayor or city commissioner's seat that appoints such board seat, except that such board member's term shall start from the date of appointment and end upon the earlier of the following to occur: (i) when such board member's successor is appointed, or (ii) 75 days after the end of the term of office for the mayor or city commissioner that appoints the board seat. of three years in office~~ A person and may be reappointed to serve up to two one additional consecutive three-year terms on the same city board. Following a break in service of at least one year, a former member may be appointed again to the same board subject to the limitation expressed herein, ~~that the term shall be for three years with an opportunity to be reappointed for one three-year term immediately following the expiration of the initial three-year term. For good cause shown, the mayor may waive this term limitation, subject to approval by majority vote of the commission.~~ The serving of a partial term of office on a city board due to filling a vacancy shall not count towards the term limits set forth in this subsection.

(hj) *Attendance, participation by telephone, and procedures if there is lack of a quorum.* Each member of a city board or ad hoc committee shall be automatically terminated from the board if the member misses three consecutive meetings, or if the member is absent from more than 50 percent of the scheduled meetings of the board in any 12-month period. Should a board or committee member be terminated, the appointing Mayor/Commissioner shall be notified and reappoint promptly.

Each member of a city board may participate in a meeting by telephone if he or she gives good cause for the need to appear by telephone, and in such instances the appearance by telephone shall be counted as the member being present at the meeting. However, a member participating by telephone may only vote if a physical quorum is present at the meeting, and votes and other action may not be taken at a meeting unless a quorum of members is physically present at the meeting. Notwithstanding, if a quorum is not physically present, the members who are in attendance may vote to adjourn the meeting for lack of a quorum. And, so long as a meeting is properly noticed and is in compliance with the requirements of the Sunshine Law, less than a quorum of a board may meet for purposes of discussion so long as there is no action or vote taken at such meeting.

(mk) *Evaluation process.* Each city board shall make provision for an annual self-evaluation process by which it and the individual board members are evaluated, and the activity and accomplishments of each board shall thus be annually evaluated and reported to the commission. The city manager shall work with the presiding officer or designee of each city board to insure that the report concerning the evaluation of each board member and each board is presented to the city commissioner prior to the first day of April each year to insure that the information is available before the annual appointment of members at the first meeting in May of each year. The city manager shall develop a standard city form and format for evaluations that will be used for each subsidiary board of the city. The city manager shall recommend the evaluation instrument and format and the city commission shall approve the same with such revisions as the commission determines may be appropriate.

(nl) *Ad hoc committees ~~Task forces~~.* The city commission may, from time to time, establish by ordinance certain committees of an ad hoc nature to ~~a task force for the study of a particular issue. In accordance with section 2.19(c), City Charter, an ordinance creating an ad hoc committee may~~

specify the number of positions on such ad hoc committee and how appointments to such ad hoc committee are to be made in a manner that may differ from the provisions of this article. An ad hoc committee task force established by the city commission will have a limited scope of responsibility and will address only the issue or issues designated, and following the study of such matters shall report the findings of their work task force to the commission with recommendations. Unless otherwise established by the city commission or extended by action of the commission, no ad hoc committee task force shall continue in existence beyond 180 consecutive calendar days following the effective date of the decision, resolution or ordinance providing for the establishment of the ad hoc committee task force.

- (em) *Sunset of boards unless a board is required by statute or Charter.* Except for those boards that are required to be in existence pursuant to Florida Statute or City Charter, each city board shall sunset and terminate every five years following May 1, 2011, unless the board is renewed by a majority vote of the commission. This will allow the commission to evaluate the effectiveness and need for the particular board on a regular basis. Notwithstanding this provision, any advisory board may be terminated at any time by a majority vote of the city commission, unless such board is required by Florida Statute or Charter. The following quasi-judicial boards will not sunset: board of adjustments; planning and zoning; construction board of adjustments and appeals; code compliance; civil service; lakes and waterways advisory board (to the extent it hears stormwater fees appeals); historic preservation board (to the extent it acts in a quasi-judicial capacity with respect to recommendations for or against rezonings, demolitions, developments, lot splits, lot consolidations or conditional uses that could impact historic resources identified in the Florida Master Site File Survey of the City of Winter Park, reviews applications for certificates of review for designated landmarks, resources and property within designated districts, or approves variances appropriate for the preservation of historic resources in conjunction with applications for certificates of review); and the tree preservation board (to the extent it sits as a quasi-judicial board with respect to the consideration of applications for tree removal permits and appeals to the tree preservation board from any denial of an application or any of the conditions attached to the approval of a tree removal permit, or to the extent it sits as a quasi-judicial board with respect to the recommendation of modification of building plans or variances regarding the preservation of protected trees, or the waiver of up to a maximum of five parking spaces for the purposes of preserving existing protected trees). Additionally, without first complying or satisfying legally imposed conditions, the community redevelopment agency and the housing authority may not be abolished.
- (en) *Expenses and reimbursement.* No member of any board shall receive a salary or fee for service as a member. However, the city manager may authorize reimbursement of necessary expenses for travel, per diem or other expenses if the same are documented in advance and approved by the city manager in writing in advance of the member incurring such expense while on official business for the city, it being a requirement that no expense will be reimbursable unless it is reasonably related to city business performed by a member of a subsidiary board of the City of Winter Park.
- (eo) *Internal rules of conduct.* Each board shall adopt such rules as are necessary to the conduct of its business. Each board shall elect a chair and vice-chair from its membership on an annual basis. All meetings of the board shall be in accordance with the Sunshine Law, F.S. § 286.011, and the records thereof shall be public records as required by F.S. ch. 119 unless the record is specifically subject to a statutory exemption. The city manager, city attorney and/or a designated city staff member shall be reasonably available upon request to provide technical support and advice to assure each board that it is operating in conformance with the requirements of law. Each board shall be responsible to keep minutes of its proceedings as required by law, showing at a minimum the date, time and place of the meeting, members physically in attendance, appearing by telephone, and absent, and also showing each matter discussed, moved, and voted upon. The records of each matter voted upon shall show the vote of each member on each question, and those members absent or abstaining or otherwise failing to vote. All of such records shall be kept, and the minutes and records of official actions shall be public records and retained in the office of the city clerk.
- (ep) *Residency requirement.* Unless nonresidency in the City of Winter Park is a requirement of the City Charter, Florida Statutes or division 3 hereof, the city commission and its members ~~mayor~~ shall appoint ~~show preference to~~ residents of the City of Winter Park ~~for appointments~~ to city boards.

(~~eq~~) *Provision of legal and staff services.* To the extent not specifically mentioned in division 3 of this chapter and article, a subsidiary board of the City of Winter Park may request from the city manager that the city manager direct staff or the city attorney to provide technical and legal support to the board with respect to such matter or matters that may be identified by the board.

(~~fr~~) *Frequency of meetings.* Unless otherwise provided with respect to a specific board of the City of Winter Park, each board shall provide in its internal rules of procedure the frequency and schedule for its meetings. The board shall notify the city clerk and city manager in writing with respect to the schedule of meetings established by such board. Unless a board determines otherwise for good cause, it shall meet monthly. However, if it is not necessary to hold monthly meetings to conduct the business of the board, the board shall provide for an alternative schedule of meetings.

(~~us~~) All subsidiary boards shall allow for public comment in the manner required by Chapter 2013-227, Laws of Florida.

(~~vt~~) *Fundraising.* Each board shall have the role and function with respect to fundraising to explore opportunities and to give advice and make recommendations to the city commission, and in all instances the city commission shall be the responsible entity to enter specific fundraising programs in behalf of the City of Winter Park.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. 2944, § 2, 11-11-13; Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-49. - Divisions 1 and 2 apply to all city boards.

Except as otherwise expressly provided in division 3, with respect to a specific board, the Charter, or Florida Statutes, the requirements governing city boards stated in divisions 1 and 2 of this article shall apply to each city board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

### DIVISION 3. - DESCRIPTION, DUTIES AND PROCEDURES OF EACH CITY BOARD

Sec. 2-50. - Board of adjustments.

There is established within the City of Winter Park, pursuant to the provisions hereof, a board of adjustments, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof.
- (2) *Quasi-judicial proceedings.* The board of adjustments shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board of adjustments is in accordance with the requirements of Florida law.
- (3) *Authority.* The board of adjustments shall have the jurisdiction to hear appeals in specific cases where an owner or authorized owner's representative requests a variance from sections of the land development code. A request for variance shall be subject to the requirements of the public interest and the land development code, and may be appropriate where, because of special conditions, an interpretation of the provisions of the code relating to zoning or signs will result in an unnecessary hardship.
- (4) *Incorporation into land development code.* Subject to the provisions of this article, the requirements and procedures in chapter 58 of the City Code, including article III thereof for zoning, shall apply to the conduct of the business of the board of adjustments. The board of



adjustments shall comply with the city's land development code, including the provisions concerning notice and procedures at sections 58-91 and 58-92. By this reference this section is incorporated into the city's land development code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-51. - Civil service board.

There is established pursuant to the authority in Article 3, Section XIV of the Florida Constitution, and section 4.07 of the City Charter, a civil service board, subject to the following provisions:

- (1) *Membership.* Membership of the civil service board shall be as provided in section 74-52 of the City Code. The provisions of divisions 1 and 2 hereof shall apply to the extent those general provisions are not in conflict with section 74-52 of the City Code. In the event of any conflict between division 1 and section 74-52, the provisions of section 74-52 of the City Code shall control. The civil service board shall have seven members. Five members shall be appointed by a majority vote of the city commission in the manner provided in divisions 1 and 2 of this article, and such appointees shall be persons of different vocations residing in the city who are not employed by the city. The remaining two members shall be chosen, one by the members of the police department and one by the members of the fire department, according to election procedures set out in chapter 74, article III, section 74-51 et seq., of the City Code. The members of the civil service board shall be appointed in December and seated the next month in January. The chief of police and chief of the fire department shall be ex officio members of the civil service board and shall be permitted to address matters in any proceeding, but shall have no vote. The terms of all civilian members of the board will be three years and each term shall commence on the third Tuesday in January. The terms of the police and fire department members shall be for one year. The remaining details concerning membership are set out in section 74-52 of the City Code.
- (2) *Quasi-judicial proceedings.* The civil service board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the civil service board is in accordance with the requirements of Florida law.
- (3) *Authority.* The civil service board shall have such authority and responsibility as set out in chapter 74, article III, section 74-51 et seq., of the City Code, which concerns the civil service board, and shall abide by the procedural and substantive requirements set out in said sections in chapter 74 relating to the board. To the extent the general provisions in divisions 1 and 2 hereof are not in conflict with chapter 74, then the provisions in divisions 1 and 2 shall control. The civil service board (less the two employee members) shall also serve as the independent personnel review board as provided in section 2-61 of the City Code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-52. - Code compliance board.

There is established within the City of Winter Park pursuant to F.S. § 162.05, and by the authority of the city commission, a code compliance board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof. Members shall be residents of the city. In accordance with F.S. § 162.05(2), the membership of the code compliance board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (2) *Quasi-judicial proceedings.* The code compliance board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city

attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the code compliance board is in accordance with the requirements of Florida law.

- (3) *Authority.* The code compliance board shall have the authority, responsibility and jurisdiction of a code enforcement board pursuant to F.S. ch. 162 and any other matters set forth in the City Code conferring authority or quasi-judicial responsibility on the code compliance board, including without limitation false fire alarm appeals, pursuant to subsection 46-29(d) and those matters provided for in sections 2-104 through 2-110 of the City Code. The code compliance board shall also serve as the nuisance abatement board as provided in section 2-81 of the City Code and the tree preservation board as provided in section 2-68 of the City Code. In performing its function, the code compliance board shall be governed by the procedures set out in Florida law and section 2-101 et seq. of the City Code.

The provisions in divisions 1 and 2 of this article shall apply to the conduct of the code compliance board except for any provision thereof that conflicts with a provision in sections 2-104 through 2-110 of the City Code, in which case the conflicting provision in sections 2-104 through 2-110 shall control.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

#### Sec. 2-53. - Community redevelopment agency.

There is established within the City of Winter Park pursuant to the provisions hereof, a community redevelopment agency, subject to the following provisions:

- (1) *Membership.* Pursuant to F.S. § 163.356, the term of office of the members of the community redevelopment agency shall be for four years, and the members are referred to as commissioners in said statute. The city commission shall serve as five commissioners on the community redevelopment agency, and the county shall have the right to appoint the sixth commissioner to the agency. The city commission may remove a commissioner of the community redevelopment agency for inefficiency, neglect of duty, or misconduct in office only after a hearing, and only if he or she has been given a copy of the charges at least ten days prior to such hearing and has had an opportunity to be heard in person or by counsel, as provided in F.S. § 163.356(4). Otherwise, the provisions in divisions 1 and 2 of this article shall govern the community redevelopment agency.
- (2) *Scope of authority.* The community redevelopment agency shall constitute a separate and distinct entity to the extent provided under Florida law, and shall have such powers as are provided to community redevelopment agencies as set out in F.S. ch. 163, pt. III, § 163.330 et seq., relating to community redevelopment.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

#### Sec. 2-54. - Community redevelopment advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a community redevelopment advisory board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article. Notwithstanding the general requirements stated in divisions 1 and 2 of this article, the membership of the community redevelopment advisory board shall include a minimum of 50 percent at least four members that are either residents and or business owners within the community redevelopment area subject to the jurisdiction of this board. Each of the four city commissioners shall appoint a resident or business owner within the community redevelopment area and the mayor shall appoint three members at large, which may or may not be residents or business owners within the community redevelopment area.

- (2) *Advisory board.* The community redevelopment advisory board is an advisory body and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission related to the Winter Park Community Redevelopment Area Plan, as amended. ~~concerning matters related to community redevelopment.~~ The community redevelopment advisory board shall have no adjudicatory or enforcement authority.
- (3) *Procedures.* The procedures and rules for operation of the community redevelopment advisory board shall be in accordance with the general requirements stated in division 2 hereof.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-55. - Construction board of adjustments and appeals.

- (a) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 hereof. The construction board of adjustments and appeals is a "local construction regulation board" as defined in F.S. § 489.1045(12), which means a board composed of not fewer than three residents of the city, appointed to maintain the proper standard of construction within the City of Winter Park. To the extent reasonably possible, the construction board of adjustments and appeals shall include as members a practicing architect, a structural engineer, two licensed construction contractors, a master electrician, a master plumber, or a mechanical contractor or mechanical engineer. By state statute, this board is required to have at least one member who is either a fire protection contractor, a fire protection design professional, a fire department operations professional, or a fire code enforcement professional, which shall be one of the mayor's appointments to the board. ~~The alternate member of this board shall also be licensed and employed or practicing in one of these trades.~~ A member of the board may be a nonresident when no qualified resident applies for the membership on the board.
- (b) *Quasi-judicial proceedings.* The construction board of adjustments and appeals shall comply with the requirements of Florida law in the conduct of quasi-judicial proceedings in all matters deemed quasi-judicial, including appeals from the enforcement of any provision of an applicable building code, and a request for a modification of an order of the building official. Upon request, the city attorney or city manager will provide technical support and advice to the construction board of adjustments and appeals for purposes of conducting quasi-judicial proceedings in accordance with the requirements of Florida law.
- (c) *Authority.* The construction board of adjustments and appeals shall have the power to hear appeals of decisions and interpretations of the building official of the Florida Building Code as modified by the City of Winter Park and interpretations of the fire code official (fire marshal) of the Florida Fire Prevention Code, and shall also have the authority to suspend or revoke the certificate of competency or certification to provide services within the City of Winter Park of any contractor, including any specialty contractor doing work in the city who is found by the construction board of adjustments and appeals to be guilty of one or more of the following acts or omissions:
  - (1) Fraud or deceit in obtaining a certificate of competency.
  - (2) Negligence, incompetence, or misconduct in the practice of contracting within the meaning of the City's Code, including its land development code.
  - (3) Willful and deliberate disregard of, or violation of the City's Code, including its building code, or of any state statute concerning contractor licenses.
- (d) *Incorporation into building code.* The requirements and procedures set out in the city's building code (chapter 22 of the City Code) shall apply to the conduct of the business of the construction board of adjustments and appeals. All activity of this board shall be as set out in the city's building code, subject to the requirements of this article. By this reference this section is incorporated into the city's building code.

- (e) *Building official and procedures for appealing decisions of the building official.* The position of the building official of the City of Winter Park, the scope of his authority on behalf of the city, and the procedures for filing an appeal from a decision of the building official are established in the city's building code, chapter 22 of the City Code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-56. - Economic development advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, an economic development advisory board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article. The Winter Park Chamber of Commerce President shall be requested to serve as one of the mayor's appointed a members of the economic development advisory board.
- (2) *Advisory board.* The economic development advisory board is an advisory board and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning economic development. ~~The economic development advisory board shall have the authority to establish other areas of interest that it deems relevant in the interest of the City of Winter Park and its residents with respect to quality and sustainable economic development consistent with the goals and objectives of the City of Winter Park and the Charter thereof.~~ The economic development advisory board shall have no adjudicatory or enforcement authority.
- (3) *Procedures.* The procedures and rules for operation of the economic development advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-57. - Reserved.

**Editor's note**— Ord. No. 2880-12, § 3, adopted Aug. 13, 2012, repealed § 2-57 in its entirety, which pertained to environmental review advisory board and derived from Ord. No. 2843-11, § 2, adopted June 13, 2011; Memo of Feb. 22, 2012(Att. A).

Sec. 2-58. - Reserved.

**Editor's note**— Ord. No. [3035-16](#), § 2, adopted May 9, 2016, repealed § 2-58 in its entirety. Former § 2-58 pertained to ethics advisory board and derived from Ord. No. 2843-11, § 2, adopted June 13, 2011; and Memo of Feb. 22, 2012(Att. A).

Sec. 2-59. - Historic preservation board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a historic preservation board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article and section 58-446 of the City Code.

- (2) *With exception this is an advisory board.* The historic preservation board is generally an advisory board with exceptions. With respect to its advisory role, after receiving information it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, the board shall give advice and recommendations to the city commission related to historic preservation. As an exception to the general rule that this is an advisory board, the city commission may, by ordinance or resolution, assign a quasi-judicial function to this board with respect to the approval of variances that are appropriate to the preservation of historic resources in conjunction with applications for certificates of review, and for other matters as determined by the city commission in ordinance or resolution.
- (3) *Quasi-judicial proceedings.* To the extent the city commission by ordinance or resolution shall provide, the board sits as a quasi-judicial body, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in the land development code (chapter 58) if applicable. The provisions hereof are deemed to be incorporated by reference into chapter 58 of the City Code relating to historic preservation.
- (4) *Functions, powers and duties of the historic preservation board.* The functions, powers and duties of the board shall be as set out in chapter 58, article VIII of the City Code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

#### Sec. 2-60. - Housing authority board.

There is established within the City of Winter Park pursuant to the provisions hereof, a housing authority board subject to the following provisions:

- (1) *Membership.* The provisions of division 1 of this chapter and article shall apply to the membership and means of appointment thereof, subject to the provisions in F.S. ch. 421, including § 421.05.
- (2) *Independent authority.* The housing authority board is an independent housing authority established pursuant to F.S. ch. 421.
- (3) *Declaration of need.* Pursuant to F.S. § 421.04, the city declares that there is a need for the establishment of the housing authority board pursuant to the requirements and provisions of F.S. ch. 421.
- (4) *Authority and scope of responsibility.* The housing authority board shall perform such duties and have such functions as are provided under Florida law for housing authorities, including those requirements specified in F.S. ch. 421 and rules promulgated by administrative agencies of the State of Florida pursuant to chapter 421.
- (5) *Incorporation of divisions 1 and 2 of this article.* The provisions of divisions 1 and 2 of this article are incorporated herein, and shall apply except to the extent of any conflict with state law, in which event any conflicting provision of state law shall control.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

#### Sec. 2-61. - Independent personnel review board.

There is established within the City of Winter Park, pursuant to the provisions hereof, an independent personnel review board pursuant to the requirements in section 4.05 of the City Charter and chapter 74, article II, section 74-26 et seq., of the City Code, subject to the following provisions:

- (1) *Membership.* The independent personnel review board shall consist of the five non-city employee members of the civil service board.
- (2) *Quasi-judicial proceedings.* The independent personnel review board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law and chapter 74, article II, section 74-26 et seq., of the City Code. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the independent personnel review board is in accordance with the requirements of Florida law.
- (3) *Authority and responsibility.* The duties and responsibility of the independent personnel review board are set out in chapter 74, article II, section 74-26 et seq., of the City Code and section 4.05 of the City Charter. These provisions in the Code and Charter are incorporated herein and shall control the operation of this independent personnel review board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-62. - Keep Winter Park Beautiful and Sustainable Advisory Board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, a Keep Winter Park Beautiful and Sustainable Advisory Board, subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provision in divisions 1 and 2 of this article, ~~except that the number of members shall be no greater than 15 and no less than seven. It is intent of the city commission for this board to eventually have seven members, and for such reduction to be achieved from attrition over time by not filling vacancies on the board until membership falls below seven members.~~
- (2) *Advisory board.* The Keep Winter Park Beautiful and Sustainable Advisory Board is an advisory board, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning matters related to the environmental, economic and social sustainable of the City of Winter Park. The Keep Winter Park Beautiful and Sustainable Advisory Board shall have no adjudicatory or enforcement authority.
- (3) *Procedures.* The procedures and rules for operation of the Keep Winter Park Beautiful and Sustainable Advisory Board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. 2880-12, § 4, 8-13-12; Ord. No. [3035-16](#), § 2, 5-9-16)

**Editor's note**— Ord. No. 2880-12, § 4, adopted Aug. 13, 2012, changed the title of § 2-62 from "Keep Winter Park Beautiful Advisory Board" to "Keep Winter Park Beautiful and Sustainable Advisory Board". This historical notation has been preserved for reference purposes.

Sec. 2-63. - Lakes and waterways advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park a lakes and waterways advisory board subject to the following provisions:

- (1) *Membership.* The number of members and the procedures for appointment thereof shall be in accordance with the provisions of divisions 1 and 2 of this article.
- (2) *With exception this is an advisory board.* The lakes and waterways advisory board is an advisory board with one exception, and shall, after receiving such information as it deems

appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission related to the protection and improvement of the city's lakes and waterways, with the goal of fostering, maintaining and improving the public stewardship, protection, long-range planning and careful oversight of the implementation of improvement projects for lake and stormwater management. The city acknowledges that the lakes and waterways within the city are a natural resource of great significance. As an exception to the general rule that this is an advisory board, the city commission may, by ordinance or resolution, assign a quasi-judicial function to this board with respect to appeals of decisions related to stormwater fees and concerning review and approval of proposed docks and boathouses under section 58-87.

- (3) *Quasi-judicial proceedings with respect to stormwater fees and appeals thereof.* To the extent the city commission by ordinance shall provide that this board will sit as a quasi-judicial body and consider appeals from decisions related to stormwater fees, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 102, sections 102-156 through 102-164, as these provisions may be amended by the city commission. The provisions hereof are deemed to be incorporated by reference into chapter 102 of the City Code, relating to stormwater fees and appeals from decisions related to stormwater fees.
- (4) *Quasi-judicial proceedings with respect to docks and boathouses.* To the extent the city commission by ordinance shall provide that the lakes and waterways advisory board will sit as a quasi-judicial body and consider approval of proposed docks and boathouses, then in such cases the board shall conduct the quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the lakes and waterways advisory board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 58, section 58-87, as these provisions may be amended by the city commission. Any substantially affected person or persons aggrieved by any decision of the lakes and waterways advisory board (including, without limitation, the city) concerning a dock or boathouse, may apply to the circuit court for Orange County, Florida, for judicial relief within 30 days after rendition of the decision by the lakes and waterways advisory board. Review in the circuit court shall be by petition for writ of certiorari.
- (5) *Procedures.* The procedures and rules for operation of the lakes and waterways advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article, and in accordance with the requirements under Florida law for quasi-judicial proceedings when the board hears appeals from stormwater fee decisions if such appeals are referred to the board pursuant to city ordinance or resolution.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-64. - Parks and recreation advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a parks and recreation board, subject to the following provisions:

- (1) *Membership.* The parks and recreation advisory board shall be established in accordance with the requirements in divisions 1 and 2 of this article.
- (2) *Advisory board.* The parks and recreation advisory board is strictly an advisory board and shall have no adjudicatory or enforcement authority. If any provision of the Code requires processing

of any matter through the parks and recreation advisory board, then the purpose of such requirement is for the parks and recreation advisory board to consider the request and to give advice to the city manager and the city commission (if the matter will reach the city commission). The purpose of such proceeding will not be quasi-judicial in nature.

- (3) *Purpose and duties.* The parks and recreation advisory board shall promote the parks and recreation programs of the city and will guide, advise and recommend to the city commission policies and actions regarding the promotion, planning, design, construction and utilization of city parks and recreation programs. The duties of the parks and recreation board will generally be to:
  - a. Advise and assist the city commission, the city manager and the various boards of the city in all matters involving or affecting parks and recreation.
  - b. The parks and recreation advisory board shall recommend policies for the improvement, creation, use and maintenance of city parks and recreation programs.
  - c. The parks and recreation advisory board shall recommend budgetary or special appropriations for parks and recreation programs.
  - d. The parks and recreation advisory board shall recommend plans for the future growth, development, use and beautification of city parks.
  - e. The parks and recreation advisory board shall periodically provide the city commission the public regarding the programs and facilities related to parks and recreation.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-65. - Transportation advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a transportation advisory board, subject to the following provisions:

- (1) *Membership.* The transportation advisory board shall be established pursuant to the provisions in divisions 1 and 2 of this article. To the extent reasonably possible, the membership shall include a transportation professional engineer with experience in developing construction plans and a professional planner with experience with projects involving transportation.
- (2) *Advisory board.* The transportation advisory board is an advisory board and shall have no enforcement or adjudicatory power or responsibility. The provisions of division 1 of this chapter and article shall apply with respect to the operations of the transportation advisory board.
- (3) *Function and responsibilities.* The transportation advisory board shall meet and provide for its internal governance procedures as provided in divisions 1 and 2 of this article. The responsibility of the transportation advisory board shall be the following:
  - a. To receive information and following deliberation, make recommendations and give advice to the city commission concerning opportunities for improvement, maintenance, construction and facilitation of transportation (pedestrian, bicycle, public transportation, automobiles, freight, etc.) methods, infrastructure and issues in the City of Winter Park.
  - b. The transportation advisory board, following receipt of information and deliberation, shall determine ways in which transportation methods may be improved, enhanced and made safer within the City of Winter Park.
  - c. Following the receipt of information and deliberation, the transportation advisory board shall recommend to the city commission ideas for promoting safe multi-modal transportation and complete streets in the City of Winter Park.
  - d. The transportation advisory board shall provide education to the public and the city commission concerning the current infrastructure for multi-modal transport and complete



streets in the City of Winter Park and the ways in which that infrastructure may be used safely for the enjoyment and benefit of the citizenry.

- e. The transportation advisory board shall serve the functions of the pedestrian and bicycle advisory board as set forth in policy 2-1.5 of the comprehensive plan and any implementing land development codes or regulations thereto.

(Ord. No. [3035-16](#), § 2, 5-9-16)

**Editor's note**— Ord. No. [3035-16](#), § 2, adopted May 9, 2016, amended § 2-65 in its entirety to read as set out herein. Former § 2-65 pertained to pedestrian and bicycle advisory board and derived from Ord. No. 2843-11, § 2, adopted June 13, 2011; and Memo of Feb. 22, 2012(Att. A).

Sec. 2-66. - Planning and zoning board.

There is established within the City of Winter Park, pursuant to F.S. § 163.3174 and section 58-3 of the City Code, a planning and zoning board, subject to the following provisions:

- (1) *Membership.* The membership of the planning and zoning board shall be appointed pursuant to the provisions in divisions 1 and 2 of this article. Notwithstanding the general requirements in divisions 1 and 2 of this article, consideration in the appointment process will be given such that if reasonably possible, the membership of the planning and zoning board shall include a Florida licensed architect, a Florida licensed landscape architect, or a Florida licensed civil engineer.
- (2) *Quasi-judicial proceedings.* The planning and zoning board shall conduct its quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that the quasi-judicial activity of the planning and zoning board is in accordance with the requirements of Florida law.
- (3) *Authority and responsibilities.* The planning and zoning board shall have such authority and responsibilities as are set out in the land development code, including the provisions in chapter 58 of the City Code, and section 58-88 et seq., of the Code. The procedures that the planning and zoning board shall abide by are those set out in the city's land development code, subject to the requirements of Florida law with respect to quasi-judicial proceedings involving land use decisions. By this reference, this section is incorporated into the city's land development code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-67. - Public art advisory board.

There is established within the City of Winter Park, pursuant to the provisions hereof, a public art advisory board, subject to the following provisions:

- (1) *Membership.* The public art advisory board shall be established in accordance with the requirements of divisions 1 and 2 of this article. The procedures set out in divisions 1 and 2 of this article shall control the operation of the public art advisory board, subject to the specific provisions hereinafter provided. If reasonably available, consideration shall be given to include in the membership of the public art advisory board an architect, including a landscape architect, an artist, a representative from a museum or art gallery, an experienced business person and a resident representative of the residential community.
- (2) *Advisory board.* The public art advisory board is an advisory board and shall have no adjudicatory or enforcement responsibilities or authority.
- (3) *Responsibilities and function of the public art advisory board.* The public art advisory board shall set out its rules for conducting business in accordance with the requirements of divisions 1

and 2 of this article, and following the receipt of information and deliberation, the public art advisory board shall have the following responsibilities and scope of service:

- a. Following the receipt of data from various sources and deliberation, the public art advisory board shall provide advice and recommendations to the city commission for the siting of public art, and in making these recommendations, the public art advisory board shall endeavor to perform visual inspections of sites to ascertain the physical, cultural and historical aspects of sites being recommended to the city commission.
- b. The public art advisory board shall develop and facilitate a composite map identifying signature opportunities within the city for public art.
- c. The public art advisory board shall interview and recommend public art projects and assist in the selection of artists for possible public art projects, but in such respect, the action shall be strictly as an advisory board for the purpose of making recommendations to the city commission.
- d. The public art advisory board shall develop a public arts action plan and recommend the same to the city manager and city commission for the implementation of educational and organizational opportunities related to and concerning public art.
- e. The public art advisory board shall establish and maintain liaison with other public and private agencies involved with public art.
- f. The public art advisory board shall advise the city commission and city manager in all matters involving or affecting public art.
- g. The public art advisory board shall periodically inform the city commission and the general public regarding programs involving public art within the City of Winter Park.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-68. - Tree preservation board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, a tree preservation board, subject to the following provisions:

(1) *Membership.* ~~The members of the code compliance board shall serve as the tree preservation board. The number of members and the procedures for appointment thereof shall be in accordance with the provisions of divisions 1 and 2 of this article.~~

(2) *With exception, this is an advisory board.* The tree preservation board is generally an advisory board with exceptions, and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission related to the protection and improvement of the city's trees, with the goal of fostering, maintaining and improving the public stewardship, protection, long range planning and careful oversight of the implementation of improvement projects for the maintenance, preservation, growth and enhancement of trees within the City of Winter Park. The city acknowledges that its trees and tree canopy are a natural resource of great significance.

a. Review and make recommendations on proposed code revisions and changes to the City of Winter Park Planting Guide and the City of Winter Park Urban Forestry Management Plan

b. Prioritize, review and make recommendations on tree management plans for large city facilities (parks and public buildings)

c. Review and make recommendations on habitat management plans for natural areas

d. Provide educational opportunities to engage the community in learning about the value and benefit of trees.

As an exception to the general rule that this is an advisory board, the city commission may, by ordinance or resolution, assign a quasi-judicial function to the tree preservation board. The provisions of this article concerning general procedures applicable to city boards and this section concerning the tree preservation board are incorporated by reference into section 58-283. These quasi-judicial functions include the assignment, in section 58-283 of the authority to hear and decide appeals from tree removal applications, appeals from conditions of approval for approved tree removal permits, appeals concerning a request for a waiver of parking spaces in multi-family residential and nonresidential parking lots, and cases involving the modification of building plans or variances relating to the preservation of trees.

- (3) *Quasi-judicial proceedings.* To the extent the city commission by ordinance provides that this board has quasi-judicial authority, the board shall conduct such quasi-judicial proceedings in conformance with the requirements of Florida law. The city manager and city attorney shall provide technical support and resources upon request to assure that this quasi-judicial activity of the board is in accordance with the requirements of Florida law. In such proceedings, the board shall be governed by the substantive and procedural requirements set out in the City Code, including those provisions set out in chapter 58, as these provisions may be amended by the city commission.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-69. - Utilities advisory board.

There is established within the City of Winter Park pursuant to the provisions hereof a utilities advisory board, subject to the following provisions:

- (1) *Membership.* The utilities advisory board shall be established pursuant to the procedures in divisions 1 and 2 of this article, ~~except that the board shall have no more than nine members and no less than seven members. It is the intent of the city commission for this board to eventually have seven members, and for such reduction to be achieved from attrition over time by not filling vacancies on the board until membership falls below seven members.~~ To the extent reasonably possible, the membership shall consist of licensed professionals without conflict of interest who have expertise in the utilities and infrastructure for provision of utility services, or the legal and business aspects of providing the subject utility services to the customers of the municipal utility systems within the City of Winter Park. One member shall be a nonresident customer of the water and sewer utility, which will be one of the mayor's appointments.
- (2) *Advisory board.* The utility advisory board is an advisory board and shall have no enforcement or adjudicatory authority or responsibility.
- (3) *Functions and responsibility.* The utility advisory board shall organize itself and develop rules for procedure in accordance with the requirements of divisions 1 and 2 of this article. Following the receipt of information and deliberation, the utility advisory board shall advise the city commission, city manager and the management of the various utility service departments and authorities servicing the City of Winter Park regarding the following matters:
  - a. The utilities advisory board shall make recommendations concerning opportunities for enhancement, expansion, maintenance, improvement and development of utility services within the City of Winter Park.
  - b. The utilities advisory board shall make recommendations regarding improvements to safety and procedures in the provision of utility services within the City of Winter Park.

- c. The utilities advisory board shall make recommendations concerning the improvement of fiscal responsibility in connection with the provision of utility services, and will explore opportunities to make utility services available at a reasonable rate to the customers and residents of the City of Winter Park.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-70. - Winter Park Firefighters' pension board.

There is established within the City of Winter Park a firefighters' pension board established pursuant to the requirements of section 74-153 et seq., of the City Code, subject to the following provisions:

- (1) *Membership.* The board of trustees of the firefighters' pension board shall consist of that number of members required by and be appointed pursuant to the provisions in section 74-153, City Code and section 175.041, Florida Statutes. Members appointed by the city commission shall be approved by a majority vote of the city commission.
- (2) *Responsibilities and function.* The firefighters' pension board shall operate in accordance with the requirements of Florida law and section 74-153 et seq., of the City Code as the code relates to the firefighters' pension board and the duties and responsibilities of that board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-71. - Winter Park Police Officers' pension board.

There is established within the City of Winter Park a police officers' pension board established pursuant to the requirements of section 74-203 et seq., of the City Code, subject to the following provisions:

- (1) *Membership.* The board of trustees of the police officers' pension board shall consist of that number of members required by and be appointed pursuant to the provisions in section 74-203, City Code and section 185.05, Florida Statutes. Members appointed by the city commission shall be approved by a majority vote of the city commission.
- (2) *Responsibilities and function.* The police officers' pension board shall operate in accordance with the requirements of Florida law and section 74-203 et seq., of the City Code as the code relates to the police officers' pension board and the duties and responsibilities of that board.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. A))

Sec. 2-72. - Golf course advisory board.

Pursuant to the authority of the city commission, there is established within the City of Winter Park, a golf course advisory board, subject to the following provisions:

- (1) *Membership.* ~~There shall be five members and one alternate~~ Membership and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article.
- (2) *Advisory board—functions and responsibility.* The golf course advisory board is an advisory board and shall, after receiving such information as it deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendations to the city commission concerning the Winter Park Golf Course. The board will provide advice on course and golf shop operations; program and events. Additionally, the board will promote the golf course and facilities to the Winter Park community. The golf course advisory board shall have no adjudicatory or enforcement authority.

- (3) *Procedures.* The procedures and rules for operation of the golf course advisory board shall be in accordance with the general requirements stated in divisions 1 and 2 of this article.

(Ord. No. [3067-17](#), § 2, 2-27-17)

Secs. 2-723—2-80. - Reserved.

#### DIVISION 4. - NUISANCE ABATEMENT BOARD<sup>(4)</sup>

##### Footnotes:

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**Editor's note**— At the direction of the city attorney, Usher L. Brown, per memo (Att. B) dated Feb. 22, 2012, Div. 3 was renumbered as Div. 4 and amended in its entirety to read as set out herein. Former Div. 3, §§ 2-81—2-93, pertained to similar subject matter. See the Code Comparative Table for a complete derivation.

Sec. 2-81. - Nuisance abatement board created; composition.

- (a) There is hereby created and established a subsidiary board of the City of Winter Park known and designated as the nuisance abatement board.
- (b) The members of the code compliance board established pursuant to section 2-47 and section 2-52 of the Municipal Code shall constitute the members of the nuisance abatement board and shall perform the duties and functions of the nuisance abatement board.
- (c) The nuisance abatement board shall perform such functions as required by law, including applicable provisions of this Code.

(Ord. No. 2843-11, § 2, 6-13-11; Memo of 2-22-12(Att. B); Ord. No. [3035-16](#), § 2, 5-9-16)

Sec. 2-82. - Complaint procedures.

- (a) The nuisance abatement board shall hear complaints alleging that any place or premises within the city constitutes a public nuisance, having been used:
  - (1) On more than two occasions within a six-month period, as the site of a violation of F.S. § 796.07;
  - (2) On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;
  - (3) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;
  - (4) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by F.S. § 874.03; or
  - (5) On more than two occasions within a six-month period, as the site of a violation of F.S. § 812.019 relating to dealing in stolen property.

- (b) Any employee, officer or resident of the city may bring a complaint before the board. Written notice of such complaint must be furnished to the owner of the place or premises, at his last known address, not less than three days prior to a scheduled hearing before the board.
- (c) The board shall conduct a hearing on the complaint, receiving evidence pertaining to the allegations of the complaint. The board may also consider evidence of the general reputation of the place or premises. The owner of the place or premises shall have an opportunity to present evidence in his defense.
- (d) At the conclusion of the hearing and based on the evidence received, the board may find and declare that the place or premises has been used as alleged in the complaint and that such place or premises thereby constitutes a public nuisance.
- (e) If the board declares a place or premises to be a public nuisance, the board may enter an order requiring the owner of such place or premises to adopt such procedures as may be appropriate under the circumstances to abate any such nuisance or it may enter an order immediately prohibiting:
  - (1) The maintaining of the nuisance;
  - (2) The operating or maintaining of the place or premises including the closure of the place or premises or any part thereof; or
  - (3) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.
- (f) An order entered under subsection (e), above, shall expire after one year or at such earlier time as is stated in the order.
- (g) An order entered under subsection (e), above, may be enforced pursuant to the procedures contained in F.S. § 120.69. This subsection does not subject the city, or the nuisance abatement board, to any other provision of F.S. ch. 120.
- (h) The board may bring a complaint, under F.S. § 60.05, seeking temporary and permanent injunctive relief against any nuisance described in subsection (a), above.
- (i) As used in this section, the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of F.S. § 817.563 or any imitation controlled substance defined in F.S. § 817.564.

(Memo of 2-22-12(Att. B))

Sec. 2-83. - Powers of board.

The nuisance abatement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings;
- (2) Subpoena alleged violators and witnesses to its hearing, which subpoenas shall be served by the police department or any person authorized by rules of procedure;
- (3) Subpoena records, surveys, plats and other documentary evidence, which subpoenas shall be served by the police department or any person authorized by rules of procedure;
- (4) Take testimony under oath;
- (5) Issue orders having the force and effect of law declaring that any place or premises constitutes a public nuisance, prohibiting any such nuisance, and commanding necessary steps to abate any such nuisance;
- (6) Establish and levy fines pursuant to section 2-92; and

- (7) Provide for continuing jurisdiction for a period of up to one year over any place or premises that has been or is declared to be a public nuisance.

(Memo of 2-22-12(Att. B))

Sec. 2-84. - Administrative fines; liens.

- (a) If the nuisance abatement board declares a place or premises to be a public nuisance, it may impose a fine not to exceed \$250.00 per day for each and every day the public nuisance occurred or continues. In addition, the nuisance abatement board may impose a fine not to exceed \$500.00 per day for recurring public nuisances. The total fines imposed by the nuisance abatement board pursuant to this section shall not exceed \$15,000.00.
- (b) In determining the amount of the fine, if any, the nuisance abatement board shall consider the following factors:
  - (1) The gravity of the public nuisance;
  - (2) The actions taken by the owner to correct or abate the public nuisance;
  - (3) Any previous public nuisances created, committed or permitted by the owner.
- (c) The nuisance abatement board may reduce a fine imposed pursuant to this section.
- (d) If the nuisance abatement board declares a place or premises to be a public nuisance, it may charge the owner with the reasonable costs, including reasonable attorneys' fees, associated with the investigation of and the hearing on the public nuisance, along with any fine imposed pursuant to this section.
- (e) A certified copy of any order imposing a fine, providing for the payment of reasonable costs, or both, may be recorded in the public records of Orange County, Florida, and thereafter shall constitute a lien against the real property that is the subject of the order. A fine imposed pursuant to this section shall continue to accrue each day until the owner comes into compliance with the order or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine or order imposing costs, or both, entered pursuant to this section runs in favor of the city and the city may execute a satisfaction or release of lien entered pursuant to this section. The nuisance abatement board or the city commission may authorize the city attorney to foreclose on any lien created pursuant to this section. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Florida Constitution Art. X, § 4. The city shall be entitled to collect and recover all costs, including reasonable attorneys' fees, associated with the recording of orders and foreclosure on a lien.
- (f) In any nuisance abatement action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner shall not be subject to a lien against his property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

(Memo of 2-22-12(Att. B))

Sec. 2-85. - Service of notices.

- (a) All notices required by this division shall be provided to the owner of the place or premises by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer, or other person designated by the city commission; or by leaving the notice at the owner'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.

- (b) In addition to providing notice as set forth in subsection (a), above, at the option of the nuisance abatement board, notice may also be served by publication, as follows:
  - (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.
  - (2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
- (c) In lieu of publication as described in subsection (b), above, such notice may be posted for at least ten days in at least two locations, one of which shall be the property upon which the public nuisance is alleged to exist and the other of which shall be at city hall in Winter Park, Florida. 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.
- (d) Notice by publication may run concurrently with or may follow an attempt to provide notice by hand delivery or by mail as required under subsection (a), above.
- (e) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), above, together with proof of publication as provided in subsection (b), above, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the owner actually receives such notice.

(Memo of 2-22-12(Att. B))

Secs. 2-86—2-100. - Reserved.

DIVISION 5. - CODE COMPLIANCE BOARD<sup>51</sup>

Footnotes:

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**Editor's note**— At the direction of the city attorney, Usher L. Brown, per memo (Att. C) dated Feb. 22, 2012, Div. 4 was renumbered as Div. 5 and amended in its entirety to read as set out herein. Former Div. 4, §§ 2-101—2-110, pertained to similar subject matter. See the Code Comparative Table for a complete derivation. Subsequently, Ord. No. [3035-16](#), § 2, adopted May 9, 2016, changed the title of Div. 5 from "Code enforcement board" to "Code compliance board".

Sec. 2-101. - 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:

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* means any authorized agent or employee of the city whose duty it is to ensure compliance with the codes and ordinances of the city.

*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 board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provisions within five years prior to the violation, notwithstanding the violations occur at different locations.



*Violation of an itinerant or transient nature* means a violation of a provision of a code or ordinance which occurs at one location and then moves to another location, or occurs temporarily or which is transitory or passes away with time.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**State Law reference**— Similar provisions, F.S. § 162.04.

Sec. 2-102. - Board created; composition; terms; removal; organization.

There is created a subsidiary board of the City of Winter Park known as the code compliance board, established pursuant to sections 2-47 and 2-52 of this Code. The provisions of divisions 1 and 2, sections 2-46 through 2-49 shall apply except as expressly required otherwise by a specific provision in this division 5.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

**State Law reference**— Authority to create code compliance board, F.S. § 162.03(3); composition, removal and organization of board, F.S. § 162.05.

Sec. 2-103. - Jurisdiction.

- (a) In its efforts to promote, protect and improve the health, safety and welfare of the citizens of the city, the code compliance board shall have the jurisdiction to hear and decide alleged violations of any codes and ordinances of the city.
- (b) It is the legislative intent of the city commission to provide for the establishment of the code compliance board as an additional or supplemental means of obtaining compliance with such codes and ordinances. Nothing shall prohibit the city commission from enforcing its codes and ordinances by any other means.
- (c) It is the further intent of the city commission that the code compliance board shall be established pursuant to the provisions of F.S. ch. 162 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 the city where a pending or repeated violation continues to exist. The code compliance board shall have all of the powers and authority of a code enforcement board pursuant to F.S. ch. 162.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

**State Law reference**— Code enforcement board to be supplemental procedure, F.S. § 162.13.

Sec. 2-104. - Enforcement procedures.

- (a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes and ordinances. No member of the code compliance board shall 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 or ordinances is found, the code inspector shall first notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the

code inspector shall notify the code compliance board and request a hearing. The code compliance board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be mailed or hand delivered to the violator as provided in this division. At the option of the code compliance board, notice may additionally be served by publication as provided in this division. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the code compliance board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

- (c) 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 board and request a hearing.
- (d) 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 the code compliance board and request a hearing. The code compliance board, through its clerical staff, shall schedule a hearing and shall provide notice as provided in this division. The case may be presented to the code compliance 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 compliance 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 compliance board.
- (e) If the owner of property which is subject to an enforcement proceeding before the code compliance board transfers ownership of such property between the time of service of the notice of hearing before the code compliance board 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 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 enforcement proceeding.
  - (4) 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 five days after the date of the transfer.

A failure to make the disclosures described in subparagraphs (1), (2) and (3) 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.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

**State Law reference**— Similar provisions, F.S. § 162.06.

Sec. 2-105. - Conduct of hearing.

- (a) Upon request of the code inspector or at such other times as may be necessary, the chairperson of the code compliance board may call hearings of the board, and hearings may also be called by written notice signed by at least three members of the board. The board at any hearing may set a future hearing date.

- (b) Upon scheduling a hearing, the board shall cause notice thereof to be furnished to the alleged violator as provided in this division. The notice of hearing shall contain the date, time and place of the hearing and shall state the nature of the violation and refer to the appropriate code or ordinance.
- (c) At the hearing, the burden of proof shall be upon the code inspector to show, by a preponderance of the evidence, that a violation does exist.
- (d) Assuming proper notice of the hearing has been provided to the alleged violator as provided in subsection (b) of this section, a hearing may proceed in the absence of the alleged violator.
- (e) All testimony shall be under oath and shall be recorded. The board shall take testimony from the code inspector and alleged violator and from such other witnesses as may be called by the respective sides.
- (f) Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.
- (g) Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of the state.
- (h) Any member of the board or an attorney appointed to represent the board may inquire of any witness before the board. The alleged violator or his attorney and the attorney or staff person representing the city shall be permitted to inquire of any witness before the board and shall be permitted to present brief opening and closing statements.
- (i) If the city prevails in prosecuting a case before the code compliance board, the city 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 subsection 2-108(e).
- (j) At the conclusion of the hearing, the code compliance 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 the powers granted by state law and by this division. The finding shall be by motion approved by a majority of those members present and voting; provided, however, that at least four members of the board must vote in order for the action to be official. The order shall be stated orally at the meeting and shall be reduced to writing and mailed or hand delivered to the alleged violator either at or within a reasonable time after the hearing. 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 section 2-108(a), the cost of repairs may be included along with the fine if the order is not complied with by such 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 code compliance 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.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

**State Law reference**— Similar provisions, F.S. § 162.07.

Sec. 2-106. - Powers of board.

The code compliance board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.

- (2) Subpoena alleged violators and witnesses to its hearings, which subpoenas shall be served by the police department.
- (3) Subpoena records, surveys, plats and other documentary evidence, which subpoenas shall be served by the police department.
- (4) Take testimony under oath.
- (5) Issue orders having the force and effect of law commanding whatever steps are necessary to bring a violation into compliance.
- (6) Establish and levy fines pursuant to section 2-108.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

**State Law reference**— Similar provisions, F.S. § 162.08.

Sec. 2-107. - Administrative fines; costs of repair; liens.

- (a) The code compliance board, upon notification by the code inspector that a previous order of the 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 code compliance 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 subsection 2-105(c), the code compliance board shall notify the city, 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 city to make further repairs or to maintain the property and does not create any liability against the city 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, the code compliance board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b).
- (b) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a). However, if the code compliance board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.
- (c) In determining the amount of the fine, if any, the code compliance 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.
- (d) The code compliance board may reduce a fine imposed pursuant to this section.
- (e) 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 the state, including execution and levy against the personal property of the violator, but such order shall not be deemed otherwise to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section 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. A lien

arising from a fine imposed pursuant to this section runs in favor of the city, and the city may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, the code compliance board 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. Actions for money judgments may be pursued only on fines levied after October 1, 2000. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Fla. Const. art. X, § 4. The money judgment provisions of this section shall not apply to real property or personal property which is covered under Fla. Const. art. X, § 4.

- (f) No lien provided by this chapter 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 F.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 the party incurs in the action. The city 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.

(Memo of 2-22-12(Att. C); Ord. No. 2933-13, § 1, 8-12-13; Ord. No. [3035-16](#), § 2, 5-9-16)

**State Law reference**— Similar provisions, F.S. §§ 162.09, 162.10.

Sec. 2-108. - Appeals.

- (a) An aggrieved party, including the city commission, may appeal a final administrative order of the code compliance board to the circuit court. Any such appeal shall be filed within 30 days of the execution of the order to be appealed.
- (b) The scope of review shall be limited to the record made before the code compliance board and shall not be a trial de novo.
- (c) The city commission shall, by rule, establish reasonable charges for the preparation of the record to be paid by the appealing party.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

**State Law reference**— Appeals, F.S. § 162.11.

Sec. 2-109. - Notices.

- (a) All notices required by this division shall be provided to the alleged violator by:
  - (1) Certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the city by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (b)(1) and (2) and by first-class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first-class mailing;
  - (2) Hand delivery by the sheriff or other law enforcement officer, code inspector or other person designated by the city commission;
  - (3) 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
  - (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.

- (b) In addition to providing notice as set forth in subsection (a) of this section, at the option of the code compliance board, notice may also be served by publication, as follows:
  - (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.
  - (2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
- (c) In lieu of publication as described in subsection (b), such notice may be posted at least ten 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 at city hall in Winter Park, Florida. 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.
- (d) Notice by publication may run concurrently with or may follow an attempt to provide notice by hand delivery or by mail as required under subsection (a) of this section.
- (e) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this section, together with proof of publication as provided in subsection (b) of this section, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator actually received such notice.

(Memo of 2-22-12(Att. C); Ord. No. [3035-16](#), § 2, 5-9-16)

**State Law reference**— Similar provisions, F.S. § 162.12.

Secs. 2-110—2-120. - Reserved.

DIVISION 6. - RESERVED<sup>6</sup>

Footnotes:

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**Editor's note**— Ord. No. 2843-11, § 3.b.D., adopted Feb. 22, 2012, repealed Div. 6 in its entirety. Former Div. 6, §§ 2-121—2-124 pertained to public advisory board. See the Code Comparative Table for a complete derivation.

Secs. 2-121—2-130. - Reserved.