ORDINANCE NO. 2026-02

AN ORDINANCE OF THE CITY OF FREEPORT, FLORIDA ADDING APPENDIX I CODE ENFORCEMENT TO THE CITY OF FREEPORT LAND DEVELOPMENT CODE; CREATING A SPECIAL MAGISTRATE TO PRESIDE OVER CODE ENFORCMENT PROCEEDINGSPROVIDING FOR AUTHORITY AND PURPOSE, CONFLICT SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Freeport, Florida, has determined that it is in the best interests of the City to amend the Freeport Land Development Code in order to establish a more effective and comprehensive approach to code enforcement; and

WHEREAS, the City Council has further determined that the engagement of a Special Magistrate to preside over code enforcement proceedings is appropriate and that the continued use of a code enforcement board would be inefficient and ineffective in meeting the City's needs and in safeguarding the rights of the public; and

WHEREAS the Freeport City Council desires to amend the Freeport Land Development Code to implement such code enforcement procedures, including the use of a Special Magistrate; and

WHEREAS, the Freeport City Council has determined that amendments to the existing Freeport Land Development Code code enforcement policies and procedures, including those governing the role of the Special Magistrate, are necessary to further promote and protect the public health, safety, and general welfare; and

WHEREAS all public notices required by applicable law with respect to the proposed amendments have been duly provided.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, FLORIDA:

Section 1. The foregoing whereas clauses are hereby adopted as legislative findings and statements of intent.

Section 2. the Freeport Land Development Code is hereby amended and the created Appendix I – Code Enforcement is to now read, in its entirety, as follows:

Appendix I - CODE ENFORCEMENT

ARTICLE I. ENFORCEMENT

Sec. 11-1. Purpose and Intent.

The City shall enforce provisions of this Code and other ordinances according to the procedures set forth below. These procedures are in addition and supplemental to other means provided by law for obtaining compliance with local codes, and nothing herein shall prohibit the City from enforcing its codes by means other than as prescribed in this section including, but not limited to, an action before the Special Magistrate, an action before the City Council, a stop work order, or demolition. This section shall not require action on behalf of the City but rather shall serve to set forth the policies and procedures to used when action is taken.

Sec. 11-2. Code Enforcement Officers.

(a) The City Manager may designate code enforcement officers who shall have the powers and authority to enforce the codes and ordinances of the city. All such designees shall possess sufficient training and qualifications to hold the position of Code Enforcement Officer, as established by the City Manager.

(b) Any law enforcement officer or code enforcement officer is hereby empowered to issue citations under the procedures set forth in this section to any person or entity when, based upon personal investigation, the officer has reasonable cause to believe that the person or entity has committed or is committing a violation of a duly enacted ordinance.

Sec 11-3. Investigation and Enforcement—Powers and Duties of Enforcement Officer.

There is hereby established by the city council the following provisions for the enforcement of this chapter by the enforcement officer designated by the city council:

(1) Right of Entry. The enforcement officer shall enforce the provisions of this chapter, and he, or his duly authorized representative, upon presentation of proper identification to

the owner, agent, or tenant in charge of such property, and upon reasonable belief or complaint that a violation of this chapter exists, may enter any building, structure, dwelling, apartment, apartment house, or premises, during all reasonable hours, except in cases of emergency where extreme hazards are known to exist, which may involve the potential loss of life or severe property damage, in which case the above limitations shall not apply.

(2) Inspections. The enforcement officer, upon reasonable belief or complaint that a violation of this chapter exists, shall make or cause to be made inspections to determine the condition of buildings, dwellings, dwelling units, rooming units, and premises, in the interest of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the enforcement officer, or his duly authorized representative, is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, buildings, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, building or rooming unit, or the person in charge thereof, shall give the enforcement officer free access to such dwelling, dwelling unit, building or rooming unit and its premises, at all reasonable times, for the purpose of such inspection, examination and survey.

Sec. 11-4. Complaints.

Code violation complaints may be initiated by any person in accordance with the following terms:

(a) All code enforcement inspections shall be complaint driven. Complaints will not be initiated by any member of the city department responsible for code enforcement. All code complaints must be initiated in writing, including the contact information of the complainant.

(b) The City shall accept complaints and shall process all complaints in a consistent and uniform manner. Complaints may be made by telephone, email, written correspondence, or in person; and complainants must include the name(s), mailing address, phone number and other valid contact information of the complainant.

(c) Receipt of a complaint shall be deemed to be the date upon which code enforcement commences. Upon receipt, the Code Enforcement Officer shall take immediate action in a timely manner as set forth herein or by other duly adopted policy of the City.

Sec. 11-5. Notices, Generally.

All notices required to be provided by this article to the alleged violator shall be made pursuant to Florida Statutes.

(a) Form of Notice. Whenever the enforcement officer has declared a building, a dwelling unit, a multifamily dwelling or premises as constituting a nuisance, or shall find any other violations of this chapter, he shall give notice to the owner or occupant of such. Such notice shall:

(1) Be in writing;

(2) Include a description of the real estate sufficient for identification, such as street address, as well as a description of the violation and/or conditions to be corrected;

(3) State the time within which occupants and/or owners must correct the conditions cited;

(4) Said notice shall further state that, if such removal, abatement or discontinuance of the cited nuisance or conditions are not voluntarily completed within the stated time as set forth in the notice, the city shall institute such legal proceedings charging the person or persons, firm or corporation, or agent with a violation of this chapter, and/or seek other remedies as are specified herein.

(b) Service of Notice. Service of notice shall be as follows:

(1) By delivery to the owner or occupant personally; or by leaving the notice at the usual place of abode of the owner or occupant with a person of suitable age and discretion; or

(2) By depositing the notice in the United States Post Office, addressed to the owner or occupant at his last known address, with postage prepaid thereon; or

(3) By posting and keeping posted for twenty-four (24) hours a copy of the notice, in placard form, in a conspicuous place on the premises.

(c) Removal of Placard or Notice. No person shall deface or remove the placard placed on the premises by the enforcement officer.

Sec. 11-6. Notice of Violation.

(a) Prior to issuing a citation, a Code Enforcement Officer shall provide, by hand delivery or certified mail (return receipt requested), a written notice to the person or entity who has committed or is committing the violation, or to the property owner of the property that is in violation or where a violation is occurring.

(b) The notice of violation shall set forth the nature of the violation and establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) calendar days. A Code Enforcement Officer, however, does not have to provide the violator with a reasonable time period to correct the violation prior to issuing a citation, and may immediately issue a citation provided in the following subpart, if the code enforcement officer has found a repeat violation or has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature.

(c) A Code Enforcement Officer or Law Enforcement Officer shall issue a notice of violation in a form prescribed by the City and shall contain the following:

i. The date and time of issuance;
ii. The name and address of the person to whom the notice is issued;
iii. The date and time the violation was committed;
iv. The facts constituting reasonable cause to believe the violation has been committed;
v. The number or section of the code or ordinance violated;
vi. The time period within which, and the specific date by which, the violation must be corrected;
vii. The name and authority of the code enforcement officer or law enforcement officer issuing the notice; and
viii. A statement advising the person that if the violation remains uncorrected by the date specified in the notice, a citation will be issued requiring the violator to pay a civil penalty of up to five hundred dollars ($500.00) per violation.

(d) Remedial actions which may be required in a notice of violation may include any steps deemed by the code enforcement officer to be reasonably necessary to accomplish the intent and purpose of this Code and to prevent or correct any significant adverse impacts from the violation. When there is an immediate threat to the public health, welfare, or safety, or when

there is a history of repeat violations, the Code Enforcement Officer shall issue an immediate citation and/or stop work order as appropriate.

Sec. 11-7. Issuance of Citation.

(a) If upon personal investigation, a Code Enforcement Officer finds that a person who has been served with a notice of violation has not corrected the violation within the time period specified in the notice, or if the violation found by a Code Enforcement Officer is a repeat violation or a violation which is reasonably believed to present a serious threat to the public health, safety or welfare, or to be irreparable or irreversible in nature, a Code Enforcement Officer may issue a citation to the person who has committed or is committing the violation, and/or to the property owner of the property that is in violation or where a violation is occurring.

(b) The citation shall be issued in a form prescribed by the city and shall contain the following:

i. The date and time of issuance;
ii. The name and address of the person to whom the citation is being issued;
iii. The date and time the violation was committed;
iv. The facts constituting reasonable cause to believe the violation was committed;
v. The number or section of the code of ordinance violated;
vi. The date of issuance of a notice of violation, or if no notice of violation was issued prior to the issuance of a citation, a statement reflecting the facts supporting a reasonable belief that the violation presents a serious threat to the public health, safety or welfare, or is irreparable or irreversible in nature;
vii. The name and authority of the Code Enforcement Officer or Law Enforcement Officer issuing the notice;
viii. A conspicuous statement advising the violator that failing to pay the civil penalty within the time allowed, or failing to appear before the Special Magistrate to contest the citation, the violator shall be deemed to have waived any right to contest the citation and that, in such case, judgement may be entered again the violator for an amount up to the maximum civil penalty; and
ix. A statement indicating the means of service of a copy of the citation upon the alleged violator.

(c) Any person who willfully refuses to sign and accept a citation issued by a Code Enforcement Officer or Law Enforcement Officer shall be guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes.

(d) A copy of the citation shall be provided to the alleged violator by either hand-delivery by the issuing officer, or delivery by certified mail (return receipt requested).

(e) After issuing the citation to an alleged violator, a code or law enforcement officer shall deposit the original citation and one (1) copy of the citation with the county court.

(f) Upon a finding of a violation at a contested hearing, or if an alleged violator fails to pay the civil fine within the time allowed, or fails to appear before the Special Magistrate to contest the citation at the scheduled date and time, the alleged violator shall be deemed to have waived any right to contest the citation and the special magistrate may enter an additional civil fine or a judgment against the alleged violator for an amount up to five hundred dollars ($500.00) per day per violation.

Sec. 11-8. Enforcement Procedure.

(a) It shall be the duty of the Code Enforcement Officer to initiate enforcement proceedings of the various codes and ordinances, and the Special Magistrate shall not have the power to initiate such enforcement proceedings.

(b) If a violation of the codes or ordinances is found the Code Enforcement Officer shall notify the violator and provide a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Enforcement Officer shall notify the Special Magistrate clerical staff to establish a hearing date. Written notice of such hearing shall be hand delivered, mailed, or posted as provided in section 11-3 to said violator.

(c) If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the Code Enforcement Officer, the case may be presented to the Special Magistrate even if the violation has been corrected prior to the hearing, and the notice shall so state.

(d) If a repeat violation is found, the Code Enforcement Officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The Code

Enforcement Officer, upon notifying the violator of a repeat violation, shall notify the Special Magistrate clerical staff to establish a hearing date. A hearing date and time shall be scheduled, and notice shall be provided pursuant this ordinance. The clerical staff shall notify the violator of the scheduled date and time of the hearing. The case may be presented to the Special Magistrate even if the repeat violation has been corrected prior to the Special Magistrate Hearing and the notice shall so state.

(e) If the Code Enforcement Officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the Code Enforcement Officer shall make reasonable effort to notify the violator and may immediately notify the Special Magistrate clerical staff to establish a hearing date. The Special Magistrate clerical staff shall schedule a hearing and shall provide notice pursuant to section 11-3.

Sec. 11-9. Violation as a Civil Infraction; Maximum Civil Penalty(S).

(a) A code or ordinance violation, for which a citation may be issued pursuant to this article, shall be deemed to be a civil infraction.

(b) The maximum civil penalty for such a civil infraction shall not exceed five hundred dollars ($500.00) per violation plus all applicable costs of Special Magistrate Hearing, or subsequent prosecution and court costs.

(c) Each violation of a code or ordinance shall be a separate civil infraction. Each day such violation shall continue shall be deemed to constitute a separate civil infraction.

Sec. 11-10. Uniform Fine Schedule, Schedule of Civil Penalties.

The city shall adopt, by resolution, a uniform fine schedule and schedule of civil penalties, and the amounts of fines and penalties set forth herein shall be considered duly adopted and incorporated to this section by this reference and may be amended by the city at any time. The adoption of such a resolution, and subsequent amendments thereto, shall not necessitate the amendment of this article to be deemed effective.

Sec. 11-11. Contestation of Citation.

Any citation issued pursuant to this article may be contested by seeking a hearing before the special magistrate as provided for herein, or before the County Court of Walton County when Florida law provides for such a hearing.

Secs. 11-12 — 11-20. Reserved.

ARTICLE II. HEARING PROCEDURES, SPECIAL MAGISTRATE

Sec. 11-21. Purpose and Jurisdiction.

The purpose of this section is to create a code enforcement process and Special Magistrate with authority to impose administrative fines and other non-criminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing the codes and ordinances, where a pending or repeated violation continues to exist, including, but not limited to, local business tax receipts, business regulation, garbage and rubbish collection and disposal, health and sanitation, sewer and water, fire, building, unsafe building abatement, construction permits, planning and zoning, sign codes, white sands regulations, stormwater management and landscaping, which jurisdiction shall vest in the Special Magistrate.

Sec. 11-22. Establishment and Authority.

Pursuant to F.S. Ch. 162, the City Council establishes a position of one (1) or more Special Magistrate(s), to be appointed by the City Council, and said Special Magistrate(s) are hereby authorized to enforce the provisions of the City Code of Ordinances, Freeport Land Development Code or ordinances not yet codified.

Sec. 11-23. Definitions.

For the purpose of this section the following terms, phrases, words, abbreviations and their derivations shall have the following meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" be always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning, or for those so included, the meaning found in elsewhere in the Municipal Code.

To the extent that any definition or interpretation under this section shall be contradictory to, or otherwise inconsistent with, any other definition or interpretation elsewhere in the Municipal Code, these definitions shall be deemed controlling during any code enforcement proceeding or appeal therefrom, except where the definition or interpretation elsewhere in the Municipal Code is found to more specific and directly applicable to a specific matter of code enforcement.

City means the City of Freeport, Florida.

City Council means the governing body of the City of Freeport, Florida.

City Attorney means the legal counselor for the City of Freeport, Florida.

Code Inspector or Code Enforcement Officer means any authorized agent or employee of the City of Freeport whose duty is to assure code compliance. A code inspector shall not make physical arrests, bear arms or take any person into custody; and except for fire inspectors, shall be exempt from requirements relating to the special risk class of the Florida Retirement System, bonding, and the criminal justice standards and training commission, as defined and required by general law. This provision shall not be construed to limit the authority of any sworn law enforcement officers of the Walton County Sheriff's Office who possess independent legal authority to make arrests, bear arms, or otherwise take persons into custody.

Repeat violation(s) mean violation(s) of a provision of a code or ordinance by a person who the special magistrate has previously found to have violated the same provision within five (5) years prior to the violation(s) presently alleged.

Special Magistrate shall mean a person, appointed by the city, who is thereby authorized to conduct and preside over quasi-judicial hearings, and to assess fines against violators of the city Code of Ordinances, and such other authority as may be conferred by F.S. Ch. 162, or any other law, and shall also include any alternate special magistrate(s) appointed by the city.

Sec. 11-24. Role of Legal Counsel.

The City Attorney shall represent the city, when requested to do so, in matters before the Special Magistrate, and shall thereafter represent the city in any related appeals of rulings. This article is created with the intent that the Code Enforcement Officer shall act as the prosecutor in any contested proceeding, and the City Attorney shall not be required to act in such a capacity unless deemed necessary by the City but shall be available on request to provide counsel in such

matters to the city and its officers. Additionally, when certain matters are deemed to require legal action above and beyond standard code enforcement procedures outlined herein, the City Attorney shall be tasked with representing the City to obtain resolution of such matters.

Sec. 11-25. Special Magistrates.

(a) Proceedings. In lieu of having the code enforcement board hear and decide code violations, one (1) or more Special Magistrates shall be appointed to hear and dispose of such matters. Special Magistrates shall have the same status, jurisdiction and authority as any code enforcement board recognized by Florida law.

(b) Minimum Qualifications. The minimum qualifications to be eligible for service as a Special Magistrate are as stated below. In addition, the City Manager may specify further required qualifications in a solicitation for Special Magistrates.

i. Be an active member in good standing of the Florida Bar with a minimum of five (5) years recent experience practicing law, which experience shall include litigation and administrative hearing experience.

ii. Reside in Walton County, Florida.

iii. Not be an employee of the City or hold any office with the city government.

iv. Comply with the Code of Ethics of the State of Florida.

(c) Solicitation and Appointment. Eligible candidates for Special Magistrate shall be sought and the selection and appointment made by the City Manager. Terms of appointment and compensation for the Special Magistrates shall be established pursuant to a contract approved by the City Council. The City Manager may select and appoint up to two (2) alternate special magistrates to serve in the event of legal conflict of interests or in the absence of the special magistrate, with the terms of appointment and compensation for the alternate special magistrates established pursuant to a contract approved by the city council.

(d) Removal. The Special Magistrate and any alternate special magistrate shall serve at the pleasure of the City Manager and may be removed from service at any time, with or without cause, by the City Manager.

(e) Conflicts. In the event a legal conflict of interest prevents the Special Magistrate and any alternate special magistrate from hearing a case, the City Manager, notwithstanding any

provision herein, may contract with any current Special Magistrate of another Florida jurisdiction to hear that specific case.

Sec. 11-26. Jurisdiction.

Each Special Magistrate shall have jurisdiction to hear and decide alleged violations of the codes and ordinances in force in the City of Freeport, including amendments to such codes and ordinances. The jurisdiction of the Special Magistrate shall not be exclusive. Any alleged violation of any of the aforesaid codes and ordinances may be pursued by appropriate remedy in court at the option of the Administrative Official whose responsibility it is to enforce that respective code or ordinance.

Sec. 11-27. Conduct of hearings.

The Freeport City Council shall adopt, by resolution, procedural rules governing the conduct of hearings conducted under this section.

Sec. 11-28. Powers of Special Magistrate.

The special magistrate shall have the power to:

(1) Adopt rules for the conduct of its, his or her hearings.

(2) Subpoena alleged violators and witnesses to its, his or her hearings. Subpoenas may be served by the sheriff or any deputy sheriff of Walton County, by any police officer of the city, or by any licensed process server.

(3) Subpoena evidence.

(4) Take testimony under oath.

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

(6) Creation of a code enforcement lien.

(7) Reduction and / or release of a code enforcement fine or lien.

(8) Non-ad valorem assessments.

(Ord. No. 909, § 1, 7-13-2020)

Sec. 11-29. Appeals.

An aggrieved party, including the city council, may appeal the final administrative order of the special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate. An appeal shall

be filed within thirty (30) days of the execution of the order to be appealed. The preparation of the record for purposes of appeal shall be paid for by the appealing party.

(Ord. No. 909, § 1, 7-13-2020)

Sec. 11-30. Provisions of chapter supplemental.

It is the legislative intent of the city council in enacting this chapter to provide an additional or supplemental means of obtaining compliance with city codes and ordinances. Nothing contained in this chapter shall prohibit the City of Freeport from enforcing its codes and ordinances by any other means provided by law.

(Ord. No. 909, § 1, 7-13-2020)

Secs. 11-31 — 11-40. Reserved

ARTICLE III. CODE ENFORCEMENT LIENS

Sec. 11-41. Creation of lien

A certified copy of an order imposing a fine or a fine plus repair costs, and/or assessing the costs of prosecution, may be recorded in the public records and thereafter will constitute a lien against the land on which the violation exists and upon any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order will not be deemed to be a court judgment except for enforcement purposes. A fine imposed under this article will continue to accrue until (i) the violator has complied with the order rendered by the special magistrate or until (ii) a judgment is rendered in a suit to foreclose the lien, whichever occurs first. A lien arising from a fine imposed under this section runs in favor of the City of Freeport and the special magistrate may execute a satisfaction or release of lien entered in accordance with this section. The special magistrate and / or city manager may authorize the city attorney to foreclose on a lien which remains unpaid for a period of three or more months after filing thereof or sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created under this article may be foreclosed on real property which is a homestead under section 4, article X of the state constitution. The money judgment provisions of this section will not apply to real or personal property, which is covered under section 4(a), article X of the state constitution.

Sec. 11-42. Jurisdiction Over Lien.

The Special Magistrate will retain jurisdiction over all cases in which a lien has been recorded until the lien has been released. Upon a showing of clear and convincing evidence by the violator, the Special Magistrate has the authority to reduce the lien amount for pay off purposes, in the following circumstances:

(a) The violator has come into compliance, but due to circumstances beyond his or her control resulting in extreme financial hardship, the violator cannot pay the full amount necessary to satisfy and release the lien; or

(b) The violator has not come into compliance, but has a contract to sell the property, contingent upon release of the lien, to a contract purchaser who intends to bring the property into compliance, provided, however, that the contract purchaser must first enter into an agreement with the city, indicating their intent to bring the property into compliance and a timetable for completing the work and establishing security for performance. The authority to reduce fines granted to the special magistrate will be applicable to all code enforcement cases in which a lien has been placed on the property and remains unsatisfied.

Sec. 11-43. Procedure to obtain reduction and/or release of a code enforcement fine or lien.

(a) Where a certified copy of an order imposing a penalty or fine for a code enforcement violation has been recorded in the public records and has become a lien against the land and/or property of the violator/property owner, such violator/property owner may apply for a release of such lien as follows:

(1) Upon full payment by the violator/property owner of the fine or penalty imposed as a result of a code enforcement action, the special magistrate or designee is hereby authorized to execute and record, at the property owner's expense, a release of lien.

(2) Upon request for a reduction or forgiveness of a fine or penalty that constitutes a lien resulting from a code enforcement action, the violator / property owner shall submit a written application to the Department of Planning. The application shall include the following:

i. A copy of the order imposing a lien upon the property;

ii. The code enforcement case number;

iii. The date upon which the violator/property owner brought the subject property into compliance with the requirements of the City Code;

iv. The factual basis upon which the violator/property owner believes the application for reduction or forgiveness of the lien should be granted;

v. The specific terms upon which the violator/property owner believes a satisfaction or release of lien should be granted;

vi. The reasons, if any, compliance was not accomplished by the violator/property owner prior to the time the order of lien was recorded; and

vii. The amount of the reduction in penalty or fine requested by the violator/property owner;

viii. Information concerning any outstanding mortgages on the property, including the date such mortgage or mortgages were recorded and whether the mortgage or mortgages are currently in default.

ix. All documents or other evidence that support the applicant's request for a reduction or forgiveness of the lien, which must be included with the application at the time of submittal.

x. The application shall be executed under oath and sworn to in the presence of a notary public and delivered to the town manager designee.

(3) The violator/property owner shall submit, at the time of application, an application fee in the amount of $200.00 to reimburse the City for its administrative costs associated with handling the application and recording the order imposing a penalty or fine and the requested release of lien. The application cost is non-refundable, without regard to the final disposition of the application for reduction, forgiveness and release of lien.

(4) Upon receipt of the application for release of lien and the payment provided above, the planning department staff, shall confirm that the violation which resulted in the order imposing the penalty or fine has been brought into full compliance.

(5) The planning department staff, shall then review and consider the status of the application for release of lien with respect to the following:

i. If a property owner acquired the property after the code enforcement lien was recorded, a waiver or reduction of lien may not be granted because the lien should have been identified and satisfied by the property owner at the time of purchase of the property.

ii. If a title insurance policy was issued at the time the property was purchased, and the title insurance policy failed to identify or consider the lien.

iii. A request for waiver or reduction in lien may not be granted if:

(1) The special magistrate has previously reduced the amount of the lien. This statement applies whether or not the request is received from the original applicant for reduction or from a subsequent applicant who acquired the property.

(2) Any lien resulting from a fine for a violation that was determined to be irreparable or irreversible, as outlined under Chapter 162, Florida Statutes.

(3) Any lien resulting from a fine in excess of the fine amount limits, as described in Florida Statute 162.09(2)(d).

(4) If a title insurance policy is issued upon the purchase of the property and the title insurance policy failed to identify or consider the lien. In such cases, the lien should have been discovered by the title insurer and providing a reduction or waiver would place the city in the position of indemnifying the title insurer against its losses, which losses are the result of negligent examination of title by the title insurer.

(5) Violations that are of the magnitude that they create community harm for an extended period of time.

(6) If the planning department staff determines that the request falls within any one of the above factual situations, the City shall issue a written denial of the request for reduction or forgiveness. If the applicant desires to appeal the planning department staff 's decision to the City Manager, the applicant may do so by filing a written appeal with the City Manager stating the reason(s) why the city should make an exception to its established guidelines and consider a reduction or forgiveness of

the lien. Upon filing of a proper appeal, the City Manager shall have the case presented at the special magistrate hearing's closest regular hearing, per section 11-27, for consideration and final determination.

(7) If the planning department staff determines that the request does not fall within any of the above factual situations and therefore qualifies for possible reduction or forgiveness, the planning department staff shall review the request further. The planning department staff in formulating a recommendation on the amount to reduce the amount of the lien, shall consider the following factors:

i. The gravity of the violation(s);

ii. The amount of time it took the violator / property owner to come into compliance;

iii. The accrued amount of the code enforcement lien as compared to the market value of the property;

iv. Whether there is a prior recorded mortgage on the property and, if so, whether such mortgage is in default and/or whether the principal amount of the mortgage is of such a magnitude that it would not be practical for the city to institute a lien foreclosure action;

v. Any previous code violation(s) of applicant / owner;

vi. Consideration for the future or proposed use of the property for public purpose; and

vii. The number and status of all other properties owned by the applicant / owner in the City of Freeport, Walton County, Florida.

(8) The planning department staff shall place the application for reduction, satisfaction or release of lien upon the agenda of a regularly scheduled Special Magistrate Hearing. The Special Magistrate may take action based solely upon the sworn application, recommendation of the planning department staff and the applicant shall have opportunity to address the special magistrate as to the factors he or she believes warrant reduction or waiver of lien in considering the application for satisfaction or release of lien.

(9) The Special Magistrate may reduce the amount of the lien, waive the full amount of the lien or continue the lien in its full amount and may accept, modify or reject the recommendations of the city staff.

(10) Special Magistrate approval of a reduction in the amount of the lien shall be contingent upon payment in full of the reduced amount within thirty (30) days of the Special Magistrate approval date. If the reduced amount is not paid in full within the thirty (30) day period, the reduction shall be come null and void and the full amount of the lien shall be due and payable.

(11) When a lien is satisfied as a result of full payment, reduced payment or waiver as ordered by the Special Magistrate, the City shall record the satisfaction/release of lien in the Clerk of Courts of Walton County, Florida and provide a copy to the property owner.

Secs. 11-44 — 11-45. Reserved

ARTICLE IV. PROCEDURES FOR ABATEMENT

Sec. 11-46. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any terms herein not defined expressly shall be construed within the context of this section, the City Code, and common understanding, in that order of interpretation:

Actual cost means the actual cost to the City for terminating and abating a violation of this chapter on a lot, tract, or parcel, plus administrative fees, filing fees, costs of pictures taken of the property, the cost of serving notice(s) of the violation, postage, the cost of obtaining title information on the property, and all other identifiable costs including but not limited to attorneys' fees and costs incurred by the City in the terminating and abating of a violation of this chapter. In addition to the foregoing, if the City has entered into a contract for the termination or abating of a violation of this chapter, the actual cost shall include the contract amount plus interest, if any, as invoiced by an independent, private contractor for terminating and abating a violation of this chapter on a lot, tract, or parcel.

Deteriorated means the property, or parts thereof, rotting, crumbling, cracking, other evidence of physical condition or appearance of any characterized by holes, breaks, degenerating, peeling, rusting or decay, decomposition, decline, neglect or lack of maintenance.

Imminent public-health threat means the condition of a lot, tract, or parcel of land that, because of the accumulation of trash, junk, or debris, such as broken glass, rusted metal, automotive and appliance parts, some of which may contain chemicals, such as freon, oils, fluids, or the like, may cause injury or disease to humans or contaminate the environment, or the condition of a lot, tract or parcel that, because of the excessive growth of grass, weeds, or brush, or because of the presence of any other condition, can harbor a nuisance as vermin, or disease.

Unfit or unsafe dwelling or structure means any dwelling, structure or building, or portions thereof, including but not limited to any accessory building, which is structurally unsafe, unstable or unsanitary by reason of fire, age, decay, moisture intrusion, deterioration, structural defects, improper design, unstable foundation, termite infestation or by any other condition; is inadequately provided with exit facilities; constitutes a fire hazard; is unsuitable or improper for the use or occupancy for which it is used; constitutes a hazard or menace to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; is unfit for human habitation if so intended or used; is otherwise in violation of the housing, building, electrical, mechanical, plumbing, sanitation, health, safety and fire codes of the city, the county or the state; is so unsafe as to endanger life or property; or to render the use of public streets dangerous.

Sec. 11-47. Abatement of Certain Code Violations.

(a) Upon determination by the Code Enforcement Officer that a violation of the City Code exists and requires abatement, the Code Enforcement Officer shall provide the violator with written notice of the violation. Said notice shall afford the violator a reasonable period of time, not to exceed thirty (30) calendar days, to abate the violation.

(b) If the violator fails to abate the violation within the time period specified in the notice, the City shall notify the Special Magistrate and request a hearing in accordance with the procedures set forth in Section 11-27 of this Code. Written notice of the hearing shall be provided in accordance with the requirements of Section 11-5.

(c) Notwithstanding subsections (a) and (b), if the City determines that the violation constitutes an imminent and substantial threat to public health, safety, or welfare, or if the violation is

of an irreparable or irreversible nature, the City shall make a reasonable effort to notify the violator and may immediately schedule a hearing before the Special Magistrate to address and abate the violation in an expedited manner commensurate with the seriousness of the threat or harm.

(d) The hearing shall be conducted in accordance with the provisions of this section. If the Special Magistrate determines, based upon competent substantial evidence, that a violation of the Code exists and remains unabated, the Special Magistrate shall issue written findings of fact and conclusions of law. The Special Magistrate may impose a fine and issue an order directing the abatement of the violation by City personnel or by contractors retained or authorized by the City of Freeport. The order shall specify a reasonable timeframe for compliance. A copy of the order shall be mailed to the violator and to the property owner of record, as identified in the Official Records of Walton County, within ten (10) calendar days following the hearing. A copy of the order shall also be provided to the Code Enforcement Officer.

(e) All reasonable costs incurred by the City in effectuating the abatement of the violation, including but not limited to labor, equipment, materials, and administrative expenses, shall be included in the order of the Special Magistrate and shall be in addition to any fines imposed. Such costs shall constitute a lien upon the real property where the violation occurred, as well as upon any other real or personal property of the violator, pursuant to Florida Statutes § 162.09.

(f) Following the imposition of a lien, the City may assess the reasonable costs of abatement as a non-ad valorem special assessment against the subject property pursuant to the Uniform Assessment Collection Act and Florida Statutes § 170 – Special Assessments. In the event such an assessment is adopted, the portion of the lien representing the cost of abatement shall be deemed satisfied and released.

(g) Any person aggrieved by an order of the Special Magistrate issued under this section may appeal such order in accordance with the applicable appellate procedures set forth in this Code. The filing of an appeal shall not stay the enforcement of any abatement order issued by the Special Magistrate.

(h) The Code Enforcement Office and the City Manager, or the City Manager's designee, shall convene annually to review all abatements undertaken in the preceding calendar year and to establish, with the input of the City Council, policy direction and priorities for abatement enforcement for the upcoming year.

Sec. 11-48. Other Methods of Enforcement.

All other methods of enforcement herein that do not directly conflict with this section, or that may otherwise lawfully be available to the city are reserved and may be implemented at the discretion of the city council.

Secs. 11-49 — 11-50. Reserved

ARTICLE IV. PROCEDURES FOR NON-AD VALOREM

Sec. 11-51. Definitions.

When used in this article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

Assessed property means all parcels of real property in the city through an ownership or leasehold interest, thus making it subject to the assessment.

Assessment means a non-ad valorem special assessment imposed by the city.

Assessment resolution means the resolution described in this article.

City means the City of Freeport, Florida

Council means the governing body of the City of Freeport, Florida.

Comptroller means the Walton County Comptroller, ex officio clerk to the council, or other such person as may be duly authorized to act on such person's behalf.

County means Walton County, Florida.

Fiscal year means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the county.

Property appraiser means the Walton County Property Appraiser

No non-ad valorem assessment means a special assessment that is not based upon millage and that can become a lien against property as authorized by Florida law.

Tax collector means the Walton County Tax Collector.

Tax roll means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes

Sec. 11-52. Establishment of Special Assessment District

The entire incorporated area of the City of Freeport, Florida, as its municipal boundaries exist on the effective date of this Article and as they may be amended from time to time through lawful annexation or contraction, is hereby designated and declared to constitute a special assessment district. This designation is made for the purpose of enabling the City to recover the actual costs incurred in the abatement and remediation of violations of this Code. Accordingly, individual properties located within the City's jurisdiction, as it may exist from time to time, may be assessed for the reasonable costs expended by the City in remedying violations pursuant to this Article.

Sec. 11-53. Levy of non-ad valorem assessments.

There is hereby imposed, and the City Council is authorized to impose from time to time, a non-ad valorem assessment against each parcel of real property located within the municipal boundaries of the City of Freeport under the following conditions:

(1) A violation of the City Code has occurred or is occurring on the subject property;

(2) The City has undertaken, or is required to undertake, action to abate and/or remedy the violation in accordance with applicable provisions of the City Code, thereby incurring actual costs associated with such abatement or remediation; and

(3) The owner of the subject property has failed or refused to remit payment to the City for the actual costs incurred as a result of the abatement or remedial action.

Such non-ad valorem assessments shall be imposed in accordance with the Uniform Assessment Collection Act, Florida Statutes § 197.3632, et seq., and other applicable laws and regulations governing the collection of special assessments.

Sec. 11-54. Collection of Non-Ad valorem Assessments.

The City Council of the City of Freeport hereby elects to utilize the uniform method for the imposition and collection of non-ad valorem assessments, as authorized by Section 197.3632, Florida Statutes, as may be amended from time to time. Such non-ad valorem assessments may be levied against properties within the City upon which violations of this Code have occurred or are occurring, and for which City funds have been expended to abate or remedy such violations.

The non-ad valorem assessments authorized herein shall be included on the combined notice of ad valorem taxes and non-ad valorem assessments issued pursuant to Section 197.3635, Florida Statutes, as may be amended from time to time. The collection of such assessments shall be subject to all applicable provisions of Florida Statutes, including but not limited to provisions for early payment discounts, installment payment methods, deferred payment options, penalties for delinquent payments, and the issuance and sale of tax certificates and tax deeds for nonpayment, as set forth in Section 197.3632, Florida Statutes.

Sec. 11-55. Agreement to reimburse the property appraiser and the tax collector.

In order to utilize the uniform method for the levy, collection, and enforcement of non-ad valorem assessments as authorized by Section 197.3632, Florida Statutes, the City of Freeport is hereby authorized to enter into a written agreement with the Walton County Property Appraiser and the Walton County Tax Collector. Such agreement shall provide for the reimbursement of any costs reasonably incurred by the Property Appraiser and Tax Collector in the administration and collection of the non-ad valorem assessments imposed pursuant to this section.

Sec. 11-56. Adoption of a Resolution.

The city council will adopt a resolution at prior to _____, in accordance with F.S. § 197.3632(3)(a).

Sec. 11-57. Non-ad valorem assessment roll.

The City shall prepare, or cause to be prepared, the non-ad valorem assessment roll, which shall include the following information:

1. A summary description of each parcel of property subject to the assessment, consistent with the description contained in the Tax Roll;
2. The name of the record owner of each such parcel, as reflected in the Tax Roll; and
3. The applicable assessment rate and the corresponding amount of the assessment to be levied against each assessed property, as determined pursuant to the assessment resolution.

The non-ad valorem assessment roll shall be maintained by the City and shall be made available for public inspection. Nothing herein shall be construed to require that the assessment roll be maintained in printed form, provided that the amount of the assessment for each assessed property can be determined through a publicly accessible computer terminal.

Sec. 11-58. Notice by Publication.

Upon completion of the non-ad valorem assessment roll, the City shall cause a notice to be published once in a newspaper of general circulation within the County. The notice shall state that, at a meeting of the City Council to be held on a specified date and time—such date being not less than twenty (20) calendar days following the date of publication—the Council will consider approval of the non-ad valorem assessment roll and will hear objections from all interested persons. The meeting may be a regular, adjourned, or special meeting of the Council.

The published notice shall include the following information:

1. The assessment rate to be imposed;
2. The procedure by which affected persons may object to the assessment rate;
3. The method by which the assessment will be collected; and
4. A statement advising that the non-ad valorem assessment roll is available for public inspection.

Sec. 11-59. Notice by Mail.

In addition to the published notice required by this section, but only for the first fiscal year in which an assessment is imposed by the city against assessed properties, the city shall provide notice of the proposed assessment by first class mail to the assessed properties. Such notice shall include:

(1) The purpose of the assessment;

(2) The assessment rate to be levied against each assessed property;

(3) The unit of measurement applied to determine the assessment;

(4) The total revenue to be collected by the county from the assessment;

(5) A statement that failure to pay the assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property;

(6) A statement that all affected and/or interested parties have a right to appear at the hearing and to file written objections with the council within 20 days of the notice; and

(7) The date, time, and place of the hearing.

Notice shall be mailed at least 20 calendar days prior to the hearing to each assessed property at such address as is shown on the assessment roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The city may provide proof of such notice by affidavit. Failure of the assessed property to receive such notice, due to mistake or inadvertence, shall not affect the validity of the assessment roll or release or discharge any obligation for payment of the assessment imposed by the council pursuant to this chapter.

Sec. 11-60. Adoption of assessment resolution and non-ad valorem assessment roll.

At the time named in the notice, the council shall receive and consider any written objections of interested persons. All objections to the assessment resolution and non-ad valorem assessment roll shall be made in writing and filed with the county at or before the time or adjourned time of such hearing. At the date and time named in the notice, the council may adopt the assessment resolution and non-ad valorem assessment roll which shall:

(1) Set the rate of the assessment to be imposed;

(2) Approve the non-ad valorem assessment roll, with such amendments as it deems just and right; and

(3) Affirm the method of collection.

Sec. 11-61. Annual final assessment resolution.

The council may revise the non-ad valorem assessment roll during the fiscal year to modify the assessment rate. If so, the council and/or its agent(s) must adopt an annual final assessment resolution during the fiscal year to memorialize the final rate applicable for the fiscal year. Such adoption requires notice.

Sec. 11-62. Effect of annual final assessment resolution.

The adoption of the assessment resolution, or, where applicable, the annual final assessment resolution, shall be the final adjudication of the issues presented (including, but not limited to, the method of apportionment and assessment, the assessment rate, the initial rate of assessment, the non-ad valorem assessment roll, and the levy and lien of the assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of council action on the annual final assessment resolution. The non-ad valorem assessment roll shall be delivered to the tax collector or such other official as the council by resolution shall designate.

Sec. 11-63. Method of collection.

The amount of the assessment is to be collected pursuant to the alternative method, as specified in the assessment resolution.

Sec. 11-64. Refunds.

If, at the end of the fiscal year, additional amounts remain in the local provider participation fund, the city and its agent(s) is hereby authorized to make refund to assessed properties in proportion to amounts paid in during the fiscal year for all or a portion of the unutilized local provider participation fund.

Sec. 11-65. Responsibility for enforcement.

The city and its agent(s), if any, shall maintain the duty to enforce the prompt collection of the assessment by the means provided herein. The duties related to collection of assessments may be enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

Sec. 11-66. Correction of errors and omissions.

No act of error or omission on the part of the comptroller, property appraiser, tax collector, council, or their deputies or employees shall operate to release or discharge any obligation for payment of the assessment imposed by the council under the provision of this chapter.

Secs. 11-67 — 11-70. Reserved

Section 3. The adoption of this Ordinance shall repeal and supersede any and all prior conflicting provisions of City law or policy, including those made by prior motion of the City Council, Resolution of the City Council, or Ordinance, whether specifically named herein or not.

Section 4. Any provisions of this Ordinance that is deemed to be unlawful shall be deemed severed upon such determination with all remaining provisions continuing in full force and effect.

Section 5. This Ordinance shall become effective immediately upon adoption, as provided by law.

Passed and duly adopted in the regular session by the City Council of the City of Freeport, Florida, this 13th day of January 2026.

Mayor Russ Barley

ATTEST:

CITY OF FREEPORT CORPORATE SEAL FLORIDA

Rebecca McLendon, City Clerk


CORPORATE
SEAL