

ORDINANCE NO. 2008-33

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, MAKING COMPREHENSIVE REVISIONS TO CHAPTER 23.5, SUPPLEMENTAL ENFORCEMENT PROCEDURES CODE, OF THE CITY OF TAMPA CODE OF ORDINANCES; AMENDING SECTION 23.5-3, DEFINITIONS; WORDS DEFINED; AMENDING SECTION 23.5-4, ENFORCEMENT PROCEDURES; ADDING SECTION 23.5-5, SCHEDULE OF VIOLATIONS AND PENALTIES; AMENDING SECTION 23.5-6, SUPPLEMENTAL ENFORCEMENT TOOL; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Chapter 162, Florida Statutes, provides different methods for municipalities to enforces its ordinances and city codes; and

**WHEREAS**, the City of Tampa presently utilizes two of the available methods: the Code Enforcement Board and the county criminal court system; and

**WHEREAS**, there are circumstances where neither the Code Enforcement Board nor county criminal court system are an effective means of enforcing the City's ordinances and city code; and

**WHEREAS**, Chapter 162, Florida Statutes, also provides a civil citation method of enforcing ordinances and city codes that would provide effective code enforcement in some of the circumstances that the present methods are ineffective; and

**WHEREAS**, it is the desire of the City Council of the City of Tampa to improve the enforcement of the City's ordinances and city code; and

**WHEREAS**, the City Council of the City of Tampa has determined that this Ordinance promotes and protects the general health, safety and welfare of the residents of the City of Tampa; and,

**WHEREAS**, duly noticed public hearings as required by law were held by the City Council of the City of Tampa, at which public hearings all residents and interested persons were given an opportunity to be heard.



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NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF TAMPA, FLORIDA:**

**Section 1.** That "**Section 23.5-3. Definitions; words defined.**", is hereby amended by adding the underlined language and deleting the stricken language as follows:

**"Sec. 23.5-3. Definitions; words defined.**

For the purpose of this chapter, unless given a different meaning under an article of this chapter, certain abbreviations, terms, phrases, words and their derivatives shall have the following meanings:

*Citation* means the notice issued by a code enforcement officer in a form prescribed by the city and shall contain:

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

*Code enforcement officer* means any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city and may include, but may not be limited to, code inspectors, law enforcement officers, animal control officers, or fire safety inspectors. Such employees or agents shall be trained and qualified to issue citations.

*Irreparable or irreversible violation* means a violation that causes harm, damage, injury or change that is incapable of correction, repair or return to an original condition.

*Person-* means Any natural person, firm, eo-partnership, association, or corporation. If other than a natural person, the citation shall be issued in the name of an individual who is an officer, director or partner of the firm, eo-partnership, association or corporation.

*Repeat violation.* A violation of a provision of a code or ordinance by a person who has received a citation and either (1) paid the fine for or (2) contested the citation and found guilty of violating the same provision of the code within three years prior to the violation, notwithstanding that the violations occurred at different locations.

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2           **Section 2.** That "**Section 23.5-4. Enforcement procedures.**", is hereby  
3 amended by adding the underlined language and deleting the stricken language as  
4 follows:  
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6           **"Sec. 23.5-4. Enforcement procedures.**

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8           (a) The county court shall have jurisdiction over all violations governed by this  
9 chapter.

10           (b) A code enforcement officer is authorized to issue a citation to a person when,  
11 based upon personal investigation, the officer has reasonable cause to believe that the  
12 person has committed ~~a civil infraction~~ an act in violation of a duly enacted city code  
13 or ordinance.

14           (c) Prior to issuing a citation, a code enforcement officer shall provide notice to the  
15 person that the person has committed a violation of a city code or ordinance and shall  
16 establish a reasonable time period within which the person must correct the violation.  
17 Such time period shall be no more than ~~14~~ 21 days. If, upon personal investigation, a  
18 code enforcement officer finds that the person has not corrected the violation within the  
19 given time period, a code enforcement officer may issue a citation to the person who  
20 has committed the violation. ~~If, however, a code enforcement officer has reason to~~  
21 ~~believe that the violation presents a serious threat to the public health, safety, or~~  
22 ~~welfare, or if the violation is irreparable or irreversible, a code enforcement officer~~  
23 ~~does not have to provide the person with a reasonable time period to correct the~~  
24 ~~violation prior to issuing a citation and may immediately issue that citation.~~

25           (d) If, however, a code enforcement officer has reason to believe that the violation

26                         (1) is a repeat violation

27                         (2) presents a serious threat to the public health, safety, or welfare, or

28                         (3) if the violation is irreparable or irreversible

29           a code enforcement officer does not have to provide the person with a reasonable time  
30 period to correct the violation prior to issuing a citation and may immediately issue that  
31 citation.

32           ~~(d)(e) The alleged violator shall sign and accept the citation. Pursuant to F.S. §~~  
33 ~~162.21(6), any person who willfully refuses to sign and accept a citation issued by a~~  
34 ~~code enforcement officer shall be guilty of a misdemeanor of the second degree,~~  
35 ~~punishable as provided in F.S. §§ 775.082 or 775.083. After issuing a citation to an~~  
36 ~~alleged violator, a code enforcement officer shall deposit the original citation and one~~  
37 ~~copy of the citation with the county court.~~

38           ~~(e)(f) A violation of a city code or ordinance expressly declared by the city council to~~  
39 ~~be governed~~ enforced by the provisions of this chapter is a civil infraction punishable  
40 by a maximum civil penalty not to exceed five hundred dollars (\$500.00) or such  
41 amount as may hereafter be prescribed by law. ~~The schedule of penalties to be~~  
42 ~~assessed by code enforcement officers shall be established by the city council by~~  
43 ~~resolution.~~ The fines to be assessed by code enforcement officers shall be established  
44 by ordinance, including ordinances on special events that will use the civil citation  
45 process as a method of enforcement.

1 ~~(f)~~(g) Subject to paragraph (j) below, ~~The~~ alleged violator has the option of paying  
2 the penalty or contesting the citation in the county court. The procedures for contesting  
3 the citation shall be set forth in the citation.

4 ~~(g)~~(h) Subject to paragraph ~~(h)~~ (j) below, if a person who has committed the civil  
5 infraction does not contest the citation for the first two (2) violations, he or she shall  
6 pay to the clerk of the circuit court the corresponding penalty within the time frame set  
7 forth on the citation. ~~Subject to paragraph (h) below, if a person who has committed~~  
8 ~~the civil infraction does not contest the citation for a third or subsequent violation, a~~  
9 ~~civil penalty of less than the maximum civil penalty shall be imposed.~~ Payment of said  
10 penalty shall be made either by mail or in person to the clerk of the circuit court within  
11 the time frame specified on the citation.

12 ~~(h)~~(i) If a person fails to pay the penalty within the specified period or fails to appear  
13 in court to contest the citation, that person shall be deemed to have waived the right to  
14 contest the citation. A judgment may be entered against that person for an amount up to  
15 the maximum civil penalty.

16 ~~(i)~~(j) Mandatory court appearances are required for the third and subsequent  
17 violations of a code or ordinance. The citation shall clearly inform the person of the  
18 mandatory court appearance. A person required to appear in court does not have the  
19 option of paying the penalty instead of appearing in court.

20 ~~(j)~~ For violations of a city code or ordinance governed by this chapter, an  
21 administrative fee may be assessed, collected and deposited in such amount, manner,  
22 and fund as may be prescribed by an administrative order issued by the chief judge of  
23 the Thirteenth Judicial Circuit. In addition, court costs may be assessed by order to the  
24 county court judge. A two dollar (\$2.00) court clerk's fee shall also be assessed. These  
25 fees shall be assessed when the cited person pays the uncontested civil penalty or the  
26 person is found to have violated the city code or ordinance. No such fees shall be  
27 assessed when the cases are dismissed or when the person is found not to have violated  
28 the city code or ordinance.

29 (k) Any civil penalties collected by virtue of the operation of this chapter shall be  
30 paid, and deposited by the clerk of the circuit court, into such funds as the city council  
31 may designate.”

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33 **Section 3.** That “**Section 23.5-5. Schedule of Violations and Penalties.**” is  
34 hereby amended by adding the underlined language and deleting the stricken language as  
35 follows:

36  
37 **“Sec. 23.5-5. Schedule of Violations and Penalties.**

38  
39 (a) Violations of the following sections of the Tampa City Code are considered  
40 Class I violations and will carry a minimum fine of:

41  
42 \$ 75.00 for a first offense,

43 \$150.00 for a second offense

44 \$300.00 for a third offense

45 \$450.00 for a fourth or subsequent offense

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2 **City Code Section**  
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4 <u>19-46</u>	<u>19-231(6)</u>	<u>19-231(17)</u>	<u>19-238</u>
5 <u>19-47</u>	<u>19-231(9)</u>	<u>19-231(18)</u>	<u>27-129</u>
6 <u>19-49</u>	<u>19-231(10)</u>	<u>19-232</u>	<u>27-148</u>
7 <u>19-50</u>	<u>19-231(11)</u>	<u>19-233</u>	
8 <u>19-56</u>	<u>19-231(12)</u>	<u>19-235</u>	
9 <u>19-76</u>	<u>19-231(13)</u>	<u>19-236</u>	
10 <u>19-77</u>	<u>19-231(15)</u>	<u>19-237</u>	

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13 (b) Violations of the following sections of the Tampa City Code are considered  
14 Class II violations and will carry a minimum fine of:

- 15  
16 \$150.00 for a first offense,  
17 \$300.00 for a second offense  
18 \$450.00 for a third or subsequent offense  
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20 **City Code Section**  
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22 <u>19-52</u>	<u>19-231(4)</u>
23 <u>19-54(a)</u>	<u>19-231(5)</u>
24 <u>19-57</u>	<u>19-231(7)</u>
25 <u>19-79</u>	<u>19-231(8)</u>
26 <u>19-231(1)</u>	<u>19-231(16)</u>
27 <u>19-231(2)</u>	<u>26-97 including any subsequent emergency or other</u>
28 <u>19-231(3)</u>	<u>amending ordinances related to irrigation and other</u>
29	<u>outdoor water use</u>

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31 (c) Violations of the following sections of the Tampa City Code are considered  
32 Class III violations and will carry a minimum fine of:  
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- 34 \$300.00 for a first offense  
35 \$450.00 for a second or subsequent offense  
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37 **City Code Section**  
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39 19-54(b)  
40 19-55  
41 25-48(d)  
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43 (d) Violations of the following sections of the Tampa City Code are considered  
44 Class IV violations and will carry a minimum fine of \$450.00 each and  
45 every offense.

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2 **City Code Section**

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4 13-43

5 13-45

6 19-48

7 19-53

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9 **Section 4.** That “**Section 23.5-56. Supplemental enforcement tool.**”, is  
10 hereby amended by adding the underlined language and deleting the stricken language as  
11 follows:

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13 **“Sec. 23.5-56. Supplemental enforcement tool.”**

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15 The provisions of this chapter are additional and supplemental means of enforcing city  
16 codes or ordinances and may be used for the enforcement of any code or ordinance, or  
17 for the enforcement of all codes and ordinances. Nothing contained in this chapter shall  
18 prohibit the city from enforcing its codes or ordinances by any other means.”

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20 **Section 5.** That should a court of competent jurisdiction declare any part of  
21 this Ordinance invalid the remaining parts hereof shall not, in any way, be affected by  
22 such determination as to the invalid part.

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24 **Section 6.** That all ordinances, parts of ordinances, or resolutions in conflict  
25 herewith are hereby repealed to the extent of any conflict.

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27 **Section 7.** That this ordinance shall take effect immediately upon becoming a  
28 law.  
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