

ORDINANCE 2023-04

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, - CODE ENFORCEMENT, DIVISION 2; PROVIDING FOR THE CREATION OF A SPECIAL MAGISTRATE SYSTEM; PROVIDING FOR APPOINTMENT OF SPECIAL MAGISTRATE; PROVIDING FOR POWERS AND DUTIES; PROVIDING FOR RATIFICATION OF PRIOR ACTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the City Commission has previously appointed the City's Code Enforcement Board to hold hearings and assess fines for violations of the City Code and ordinances; and

Whereas, Section 162.03 Florida Statutes provides that municipalities may, by Ordinance, provide for an alternative code enforcement system with a Special Magistrate, who shall have the same status as a code enforcement board; and

Whereas, Section 162.03 Florida Statutes further provides that such Special Magistrate shall have the same status as a code enforcement board, including the authority to hold hearings and assess fines against violators of the City Code and ordinances; and

Whereas, the Chapter 2, Article V provides for code violations, a city code enforcement board, a code enforcement officer, enforcement and penalties in the City; and

Whereas, the City Commission finds that it is in the best interest of its citizens and the public to amend Chapter 2, Article V to provide for an alternate enforcement through a Special Magistrate; and

Whereas, the City Commission finds that it is in the best interest of public safety to amend Chapter 2, Article V regarding Code violations, as set forth below.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Bellevue as follows:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein, but need not be set forth in the City Code.

Section 2. Chapter 2, Article V, Division 2 of the City Code of Ordinances is hereby amended to read as follows:

“CHAPTER 2, ARTICLE V. - CODE ENFORCEMENT

DIVISION 2. – SPECIAL MAGISTRATES

Sec. 2-240. – Code enforcement by Special Magistrate.

(a) The City Commission may appoint one or more Special Magistrates to hear and decide Code Violations. It is the intent of this article to provide an alternate method which the City may use in lieu of a code enforcement board for hearing and deciding code violation matters, while preserving the option for the City to use a code enforcement board to hear and enforce such matters.

(b) All references to the code enforcement board in the Bellevue Code of Ordinances shall apply to the special magistrate.

Sec. 2-241. - Appointments; Qualifications; Authority; Term of service.

(a) Special Magistrates may be appointed by Resolution of the Commission. The Development Services administrative staff shall process all applications for appointment and make a recommendation to the City Commission.

(b) Eligible candidates for special magistrate shall be solicited through a request for proposals, or other competitive solicitation pursuant to the city's purchasing policy and procedures.

(c) The Special Magistrate shall be attorneys with at least five (5) years' experience, who is in good standing with the Florida Bar Association. The Special Magistrate must reside in or have a place of business within Marion County, Florida, and should possess an outstanding reputation for business and professional ability, civic pride and community development.

(d) Special Magistrates shall have the same authority to decide code enforcement matters as a code enforcement board.

(e) The City Commission may appoint alternate Special Magistrates to hear cases in which a Special Magistrate has a conflict or is unavailable for scheduled code enforcement hearings or for an emergency code enforcement hearing.

(f) Terms of appointment and compensation for the special magistrates shall be established pursuant to a contract approved by the city commission. The Special Magistrate will enter into an agreement with the City as an independent contractor and shall not be considered an employee of the City of Bellevue.

(g) The Development Services Department of the City of Bellevue shall provide clerical and administrative support to the magistrates as may be reasonably required for the proper performance of their duties.

Sec. 2-242. - Powers of the Special Magistrate.

(a) Special Magistrates shall have the power to:

- (1) Define the rules of order for hearings and read those rules into the record at the beginning of each hearing. Enforce rules for the conduct of hearings.
- (2) Subpoena alleged violators and witnesses to hearings. Subpoenas may be served by a Code Enforcement Officer or a Law Enforcement Officer of the City of Bellevue.
- (3) Subpoena evidence to hearings.
- (4) Take testimony under oath.
- (5) Issue orders. Special Magistrates may issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

- (6) Establish and levy fines and costs in accordance with section 2-234 of this Code.
- (b) The City Commission may, by ordinance and contract, specify that the special magistrate appointed under this section shall perform additional duties as a hearing officer conducting quasi-judicial hearings on other matters concerning the City Code of Ordinances.

Sec. 2-243. - Ratification of Code Enforcement Board Actions Prior to Effective Date.

- (a) All actions and orders of the City Code Enforcement Board prior to effective date including the imposition of any liens on personal and real property resulting from code violations, are hereby ratified and confirmed. The Special Magistrates are hereby granted all rights, powers and authority to enforce and amend such orders and liens, as previously held by the City of Bellevue Code Enforcement Board prior to effective date.

Sec. 2-244. – Miscellaneous

- (a) No legal counsel shall be appointed for hearings by the Special Magistrate.
- (b) Should a legal or ethical conflict of interest prevent the special magistrate and any alternate special magistrate from hearing a case, the City Administrator, notwithstanding the language of section 2-241(a) above, may contract with any current special magistrate of another Florida jurisdiction to hear the case.

Section 3. Conflicts. In the event that the provisions of this ordinance are in conflict with any other ordinance, then the provisions of this Ordinance shall prevail.

Section 4. Saving Clause. If any section, sentence, provision or phrase of this Ordinance is held to be Invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

BE IT FURTHER ORDAINED by the City Commission of the City of Bellevue, Florida that Sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article" or other appropriate designation.

BE IT FURTHER ORDAINED that this Ordinance shall become effective immediately upon adoption.

CERTIFICATE OF ADOPTION AND APPROVAL

The above and foregoing ordinance was duly read and approved upon First Reading by a _____ to _____ vote of the City Commission of the City of Belleview, Florida, at a Regular Meeting held on the 7th day of March, 2023. Said ordinance was duly read, passed, and adopted upon Final Reading by a _____ to _____ vote of the City Commission of the City of Belleview, Florida at a Public Hearing held on the 21st day of March, 2023.

CHRISTINE K. DOBKOWSKI
Mayor/Commissioner

Attest:

Mariah Moody
City Clerk

Approved As To Form And Legality:

FREDERICK E. LANDT, III
City Attorney

CERTIFICATE OF ADVERTISING

I HEREBY CERTIFY that foregoing Ordinance was advertised for a Public Hearing in the March 9, 2023 edition of the Voice of South Marion newspaper in accordance with Florida Statutes.

Mariah Moody
City Clerk