

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of Ordinances of the City of Plantation, Florida," and may be so cited.
(Code 1964, § 1-1)

Sec. 1-2. Definitions; rules of construction.

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

Charter. The word "Charter" shall mean the Charter of the City of Plantation, as printed in part I of this volume.

City. The words "the city" or "this city" shall be construed as if the words "of Plantation" followed them.

Computation of time. In computing any period of time prescribed or allowed by this Code the day of the act, event or default from which the designated period of time beginning to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

State Law References: Similar provisions, Florida Rules of Civil Procedure, § 1.090(a).

Council. Whenever the word "council" is used, it shall be construed to mean the city council of the City of Plantation.

County. The words "the county" or "this county" shall mean the County of Broward.

State Law References: Boundaries of Broward County, F.S. § 7.06.

F.S. The abbreviation F.S. shall mean the latest edition or supplement of the Florida Statutes.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or/a servant, agent or employee.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend to and be applied to several persons and things as well as to one (1) person and thing.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Or, and. The word "or" may be read "and," and the word "and" may be read "or" if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

Person. The word "person" is meant to include individual natural persons, partnerships, joint adventures, societies, associations, clubs, trustees, trusts, or corporations; and any officers, agents, employees, factors, or any kind of personal representatives of any thereof, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law.

Personal property includes every species of property except real property.

Property. The word "property" shall include real and personal property.

Real property shall include lands, tenements and hereditaments.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

State. The words "the state" or "this state" shall be construed to mean the State of Florida.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city.

Subordinates. The word "subordinates" shall mean deputies, superintendents, inspectors, and other subordinate officers and employees under the supervision and control of the city council or head of a department.

Tenant. The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease of or who occupies the whole or a part of such buildings or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past or present.
(Code 1964, § 1-2)

State Law References: Construction of Florida Statutes, F.S. § 1.01 et seq.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1964, § 1-3)

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Sec. 1-5. Code does not affect prior offenses, rights, etc.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

Sec. 1-6. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any ordinance promising or guaranteeing the payment of money by the city, or authorizing the issuance of any bonds of the city, or any evidence of the city's indebtedness, or any contract agreement, lease, deed or other instrument or obligation assumed by the city;
- (2) Any right or franchise permit, or other right granted by any ordinance;
- (3) Any personnel regulations or any agreement, plan or ordinance providing retirement or pension benefits;
- (4) Any ordinance establishing positions, classifying positions or setting salaries of city officers and employees;
- (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing or vacating any street, alley or other public way in the city;
- (6) Any ordinance establishing and prescribing the street grades in the city;
- (7) Any appropriation ordinance or any ordinance levying or imposing taxes;

- (8) Any ordinance providing for local improvements and assessing taxes therefor;
- (9) Any ordinance dedicating or accepting any plat or subdivision in the city;
- (10) Any ordinance establishing the official plat of the city; the zoning map or any amendments thereof;
- (11) Any land use, rezoning or zoning ordinance;
- (12) Any ordinance prescribing traffic and parking regulations for specific streets and locations;
- (13) Any ordinance annexing territory or excluding territory from the city;
- (14) Any temporary emergency or special ordinance;
- (15) Any provisions of the Charter, as amended by special law or otherwise, which have been converted to ordinances by F.S. § 166.021 and have not been superseded or repealed;

and all such ordinances are hereby recognized as continuing full force and effect to the same extent as if set out at length herein.

Sec. 1-7. Effect of repeal or amendment of ordinances.

The repeal or amendment of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed or amended took effect, nor the obligation of any contract entered into under the prior ordinance.

The repeal or amendment of an ordinance shall not affect any punishment or penalty incurred before the repeal or amendment took effect, nor any suit, prosecution or proceeding pending at the time of the repeal or amendment, for an offense committed or cause of action arising under the repealed or amended ordinance. (Code 1964, § 1-5)

State constitutional law reference--No bill of attainder, ex post facto law or law impairing the obligation of contracts shall ever be passed, Fla. Const. art. I, § 10.

Sec. 1-8. Amendments to Code; effect of new ordinances; amendatory language.

All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect the same may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the city council.

Amendments to any of the provisions of this Code may be made by amending such provisions by

specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of Ordinances of Plantation, Florida, is hereby amended to read as follows:" The new provisions should then be set out in full as desired.

If a new section not heretofore existing in the Code is to be added, the following language is suggested: "That the Code of Ordinances of Plantation, Florida, is hereby amended by adding a section, to be numbered _____, which section reads as follows:" The new section should then be set out in full as desired.

All sections, articles, chapters or provisions desired to be repealed should be specifically repealed by section, article or chapter number, as the case may be.

(Code 1964, § 1-4)

State Law References: Minimum procedural requirements for adoption of ordinances and resolutions, F.S. § 166.041.

Sec. 1-9. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by administration. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "the ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance

sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-10. Severability of parts of Code.

If any provision of this Code is for any reason found to be invalid or inoperative or shall be declared unconstitutional by a court, such ruling or invalidity shall not affect any of the remaining provisions of this Code.

(Code 1964, § 1-6)

Sec. 1-11. Altering Code.

It shall be an offense against the city for any person to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

(Code 1964, § 1-7)

State Law References: Falsifying a public record, F.S. § 831.01.

Sec. 1-12. Rendering of essential services.

Whenever the city council, the mayor or the police chief deems it appropriate to render an essential service for the health, safety and welfare of the city's population in apparent contravention of portions of the Charter or this Code, such essential services shall be so rendered and the same shall be exempted from compliance with the Charter or Code; however, as soon as it is practicable to cease the rendering of such essential services in violation of pertinent portion of the Charter or this Code, the same shall be made to conform to the standard criteria of the Charter and ordinances as soon as practicable.

(Ord. No. 1319, § 1, 5-8-85)

Sec. 1-13. General penalty; continuing violation.

Whenever in the Charter, this Code or in any ordinance of the city any act is prohibited (such as, for example, a violation of the city's zoning code) or is made or declared to be unlawful or an offense, or whenever in such Charter, Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor and where the violation is not currently pending before the city code enforcement board pursuant to chapter 6, the violation of any such provision of the Charter, this Code or any ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment. The trial court in its discretion may in any case (including cases when adjudication is withheld) also assess court costs, place a defendant on probation in accordance with chapter 948 of the Florida Statutes, order a defendant to pay restitution in accordance with Section 775.089 of the Florida Statutes, or order a defendant to complete community service hours in an amount not to exceed two hundred fifty (250) hours per violation, or both or to impose any other lawful condition, term or order. In lieu of such participation, the court may permit a defendant to pay ten dollars (\$10.00) to the city for each hour of community service work otherwise required. The judge adjudicating such violation shall also impose a continuing fine not to exceed five hundred dollars (\$500.00) for each day that such violation shall continue uncorrected following such adjudication so as to encourage the correction of such violation rather than a repetitive citing of same and adjudication of same by the court.

In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of the Charter, this Code or any ordinance shall be deemed a public nuisance and may be, by the city, abated as provided by law; and each day that such continues shall be regarded as a new and separate offense.

(Code 1964, § 1-8; Ord. No. 2186, § 1, 5-12-99)

State Law References: Fines and forfeitures in county court payable to municipality, F.S. § 34.191; punishment for misdemeanors, F.S. §§ 775.082, 775.083.

Sec. 1-14. Collection of attorneys' fees for violation of Code.

(a) Any violator of an ordinance of the city who receives notice defined in subsection (b) shall be deemed guilty of a wilful violation of the ordinance if such violator fails to commence to undertake to correct or abate the violation as provided for in the notice and shall then be deemed to be wilfully and continually violating the ordinance. Thereafter, should the city undertake litigation to prosecute such wilful violator and seek payment of a fine or imprisonment or both a fine and imprisonment therefor from the county court, or should the city undertake litigation of any nature to recover damages or other relief against such wilful violator or to have the violation corrected, the city shall be entitled to recovery of all reasonable attorney's fees and court costs incurred by the city against the violator's in those actions by virtue of the violators' continuing wilful disregard of the city's ordinance and notice and failure to correct same within the time specified on the notice.

(b) "Notice" to any violator of an ordinance of the city or its comprehensive zoning ordinance means being notified in writing of such violation, which notification shall either be hand delivered, posted upon the front door of such a violator's establishment or residence, or mailed certified mail, return receipt requested; and such notice shall afford the violator a reasonable period of time in which to correct or abate the violation.

(Code 1964, § 1-9; Ord. No. 2186, § 2, 5-12-99)

Sec. 1-15. Access to local public officials.

(a) *Purpose and intent.* This section is adopted in part pursuant to Ch. 95-352, Laws of Fla., and is also adopted pursuant to the city's constitutional and statutory Home Rule Powers. By enacting a disclosure ordinance which applies to certain advisory board members, the City does not intend to require such advisory bodies to follow full quasi-judicial procedures, or to imply that advisory review is quasi-judicial in nature. The purpose in applying the disclosure requirements to certain advisory boards is to avoid any possible appearance of impropriety which could result when undisclosed ex parte communications are made, and to enhance the public's ability to participate meaningfully in public advisory board deliberations.

(b) *Definitions.* As used in this section the following definitions apply:

(1) *Local public official.* For purposes of this section, "local public official" shall mean any elected or appointed official holding a municipal office, who makes recommendations concerning a quasi-judicial action or takes quasi-judicial action, as a member of a board or the city governing body. This definition is limited to the elected officials, and the members of the city board of adjustment, the city unsafe structures board, the city code enforcement board, the city planning and zoning board, the city nuisance abatement board, the city advisory board for the disabled, the city landscape planning and review board, and the city parks and recreation advisory board. This definition does not include any consultants or employees of the city who are sitting on the review committee.

- (2) *Ex parte communication.* Any written or oral communication to or from a local public official, or an investigation or inspection by a local public official of a site, which is the subject of a pending matter to be considered in a quasi-judicial hearing by such local public official (where such local public official takes quasi-judicial action), or which is the subject of a quasi-judicial development order upon which the local public official makes advisory recommendations, at any time other than the public hearing or meeting on the matter.
 - (3) *Pending.* A matter is "pending" for purposes of this section after an application is filed with the city for a quasi-judicial development order.
 - (4) *Independent boards.* An "independent board" is a board that acts in a final, quasi-judicial fashion which is not advisory to the city governing body. These boards presently include the code enforcement board, the board of adjustment, the unsafe structures board, and the nuisance abatement board.
- (b) *Access permitted.* Any person not otherwise prohibited by statute, charter provisions, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or City governing body, of which the local public official is a member.
- (c) *Ex parte communications.*
- (1) The substance of any ex parte communication with a local public official which relates to pending quasi-judicial action is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.
 - (2) A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action if such written communication is made a part of the record before final action on the matter.
 - (3) Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.
 - (4) Disclosure made pursuant to paragraphs (1), (2), and (3) must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication.
- (d) *Curative proceedings.*
- (1) In the event it is discovered that an ex parte communication was not disclosed by an advisory board member prior to the advisory board member's participation in the board deliberations, and

such discovery is made prior to the city governing body's vote to approve or deny the quasi-judicial development order, the city governing body shall announce that the advisory board's decision is voidable, and upon request of any person, shall strike from the proceeding's record all minutes, comment, advice, and deliberations of such advisory board, deem the advisory board review as voided, and not consider same in its deliberations. The city governing body may refer the matter back to the advisory board for a new deliberation after compliance with the disclosure requirements of this section, or it may waive such curative advisory board review and consider the requested quasi-judicial development order in light of the revised record.

- (2) In the event it is discovered that an undisclosed ex parte communication was made with an advisory board member who participated in the advisory deliberations on the matter, or was made with an elected official prior to such elected official's participation in the city governing body's deliberations on the matter, and if such discovery is made after the quasi-judicial development order is granted or denied by the city governing body, then notwithstanding any other municipal law to the contrary, the city governing body shall as soon as reasonably possible upon request, and after as full a disclosure as possible, determine whether to reconsider the city governing body's decision on the quasi-judicial development order, and in the event it chooses to reconsider same, shall hold a curative, duly advertised hearing on the quasi-judicial development order as soon as possible, at which, after as full a disclosure as possible, the city governing body will approve or deny the quasi-judicial development order. No such city governing body reconsideration shall be commenced if the request is made more than thirty (30) days after the date the quasi-judicial development order became effective, unless ordered by a court of competent jurisdiction.
- (3) In the event it is discovered that an undisclosed ex parte communication was made with a member of an independent board concerning a quasi-judicial matter pending before the board where such member participated in the independent board's deliberations of the matter, then notwithstanding any other municipal law to the contrary, the independent board shall as soon as reasonably possible after request, and after as full a disclosure as possible, determine whether to reconsider the decision, and in the event it chooses to reconsider same, shall hold a curative, duly advertised hearing on the matter as soon as possible, at which, after as full a disclosure as possible, the independent board will act on the matter. No such reconsideration shall be commenced if the request is made more than thirty (30) days after the date the independent board's decision became effective, unless ordered by a court of competent jurisdiction.
- (4) When deciding whether to reconsider independent board or city governing body decisions in view of an undisclosed ex parte communication under subsections (2) and (3) above, the independent board or governing body of the city (whichever the case may be) shall consider whether, as a result of improper ex parte communications, the independent board's or city governing body's decisionmaking process was irrevocably tainted so as to make the ultimate judgment of the independent board or city governing body unfair, either as to any innocent party or to the public. In making this determination, a number of considerations may be relevant: the gravity of the ex parte communications; whether the contacts may have influenced the independent board's or city governing body's ultimate decision; whether the party making the improper contacts benefitted from the independent board's or city governing body's ultimate decision; whether the contents of the communications were unknown to opposing parties or to

the public, who therefore has no opportunity to respond; and whether vacation of the independent board's or city governing body's decision and remand for new proceedings would serve a useful purpose.

(Ord. No. 2039, § 1, 8-30-95; Ord. No. 2222, § 1, 5-31-2000)