

ARTICLE IV. PUBLIC NUISANCE¹

Sec. 74.23. Public nuisance abatement criteria.

This Article applies within the unincorporated area of Alachua County. Any property within unincorporated Alachua County that creates or contains an emergency threat to life, safety, and welfare of the general public or neighboring properties is hereby declared a public nuisance, even if the property has not been found in violation of the County Code by any code enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time to time, or other court of competent jurisdiction. Additionally, any property within unincorporated Alachua County that has an ongoing code violation of any section of the Alachua County Code and poses a risk to the health, safety, and welfare of the general public or neighboring properties, including the economic welfare of adjacent properties, is hereby declared a public nuisance. The County may utilize this Article to correct the violations on a property constituting a public nuisance and levy a non-ad valorem special assessment to recover the costs, as provided herein.

(Ord. No. 2019-24 , § 2(Exh. A), 11-12-19; Ord. No. 2020-22 , § 15, 10-13-20)

Sec. 74.24. Duty of the property owners of nuisance property.

It shall be the duty of every owner of any lot, tract, or parcel of land subject to this Article to reasonably avoid violations and mitigate existing violations described in Section 74.23 of the Alachua County Code.

(Ord. No. 2019-24 , § 2(Exh. A), 11-12-19)

Sec. 74.25. Public nuisance constituting an emergency threat.

For all public nuisances that pose an imminent threat to life, safety, or welfare, the County, its authorized representatives, and its contractors may enter onto the nuisance property to remedy the nuisance in a manner sufficient to address the emergency threat to life, safety, or welfare posed by the nuisance property. When considering whether there is an imminent threat, the County should consider whether the condition creates an attractive nuisance, whether there is a potential for the spread of disease, whether there is structural instability that threatens the safety of occupants or neighbors, and other relevant factors. Under this Section, the County, its authorized representatives, and its contractors may only enter the property with prior authorization of the County Manager and may remedy the condition of the property posing the emergency threat to the minimum extent necessary to abate the immediate threat to life, safety, or welfare. If unable to notify the property owner, or responsible person, prior to abating the nuisance posing a threat, the County should notice the record property owner in accordance with Section 74.27 of this Article as soon thereafter as practicable and may recover the full cost of the abatement from the owner or responsible party by sending an invoice to the property owner, responsible person(s), or both, if applicable. If the invoice remains unpaid 90 calendar days after receipt, the County may proceed with the process for levying a non-ad valorem special assessment on the property in

¹Ord. No. 2019-24 , § 2(Exh. A), adopted Nov. 12, 2019, amended former Art. IV, §§ 74.23—74.28, in its entirety to read as herein set out. Former Art. IV pertained to lot clearing and derived Ord. No. 93-16, § 2, 5-25-93; Ord. No. 2018-04 , § 1, 1-23-18.

accordance with this Article to recover the full costs already incurred by the County. After abating the emergency threat posed by the nuisance property, the County may follow the process for non-emergency public nuisance properties in Section 74.26 of this Article. The total costs incurred by the county in abating the public nuisance constituting an emergency threat to life, safety, or welfare may be recovered by the county after the emergency threat is abated. The County may take any action available at law or equity to collect the costs incurred under this Article, including the imposition and collection of non-ad valorem assessments levied pursuant to this Chapter and F.S. Ch. 197.

(Ord. No. 2019-24 , § 2(Exh. A), 11-12-19)

Sec. 74.26. Public nuisances not constituting an emergency threat.

For all public nuisances that do not pose an imminent threat to life, safety, or welfare, the County, its authorized representatives, and its contractors may enter onto the nuisance property to remedy the nuisance in a manner sufficient to address the threat to life, safety, or welfare posed by the condition of the subject property. Under this section, the County, its authorized representatives, and its contractors may only enter the property with prior authorization of the Alachua County Board of County Commissioners and may remedy the condition of the property creating the nuisance to the extent necessary to completely abate the nuisance. Prior to abating the public nuisance on the property under this Section, the County must notice the record property owner in accordance with Section 74.27 of this Article.

(Ord. No. 2019-24 , § 2(Exh. A), 11-12-19)

Sec. 74.27. Notice of public nuisance prohibited conditions.

- (a) If the County finds and determines at any time that a public nuisance, as described in Section 74.23 of this Article, exists it shall notify the record owner of the property in writing and demand that the owner remedy the condition in accordance with the provisions of this Article. This notice should provide that if the property owner does not remedy the noticed conditions within 30 calendar days from the date thereof, county staff may request authorization from the Board of County Commissioners to enter onto the public nuisance property and completely abate the nuisance to address the threat to life, safety, and welfare posed by the property. The notice should also inform the record property owner that if the Board of County Commissioners authorizes County staff and contractors to abate the nuisance, the County may recover the cost thereof, including through a non-ad valorem special assessment on the property. This notice is not required prior to abatement of a public nuisance constituting an emergency threat pursuant to Section 74.25 of this Article.
- (b) The County shall mail the notice certified mail return receipt requested to the address listed in the Tax Collector's office for tax notices or to the address listed in the county property appraiser's database. The County may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within seven calendar days after the postmarked date of mailing, or if such notice is returned as undeliverable, notice may be provided by any of the following:
 - (1) Hand delivery to the occupant of the property or upon any agent of the owner thereof, by the Sheriff or other law enforcement officer, Codes Enforcement Officer, or other person designated by the County;
 - (2) Leaving the notice at the owner's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice;

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- (3) In the case of commercial premises, leaving the notice with the manager or other person in charge.
 - (4) Posting. Notice may be accomplished by physically posting the notice upon such property and the civil courthouse. The notice, when posted on the property, may not be less than eight inches by ten inches and must be sufficiently weatherproofed to withstand normal exposure to the elements. Proof of posting the property and the courthouse shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
 - (5) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail.

Evidence that an attempt has been made to hand deliver or mail notice, together with proof of publication or posting, shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

- (c) If the property owner fails to abate the nuisance by addressing the conditions described in the notice within the 30 calendar days provided, County staff shall send a separate notice to the property owners with the date and time at which the Board of County Commissioners will consider whether to authorize the County to abate the public nuisance. The process for notice of the Board of County Commissioner's meeting must be provided in accordance with the process for notice provided in this Section.

(Ord. No. 2019-24 , § 2(Exh. A), 11-12-19)

Sec. 74.28. Nuisance abatement on property by County—Authorized; assessment of costs; notice of non-ad valorem special assessment.

- (a) For all non-emergency public nuisances, if the nuisance condition has not been remedied within 30 calendar days of mailing, serving, or posting the notice required under this Article, whichever occurs last, the Board of County Commissioners, at a public meeting may authorize County staff, authorized representatives, and contractors to enter the property and cause the condition to be remedied at the expense of the property owner. At the public meeting, the Board should consider whether there is an ongoing code violation of any section of the Alachua County Code on the property and whether the condition of the property poses a risk to the health, safety, and welfare of the general public or neighboring properties, including the economic welfare of adjacent properties. At the County's option, nuisance abatement may be performed either by the County or by service contract for the County. Any articles of property removed by the County during the process of nuisance abatement may be destroyed or sold for salvage and the County may retain the salvage value, if any, of such article or articles, to be applied against the cost of removal and destruction thereof.
- (b) After causing a nuisance to be abated, the County shall certify to the Director of Finance and Accounting the expense incurred in remedying the condition, which should include any incidental expenses. Once certified, the County will provide an invoice to the property owner and any additional responsible person. The property owner and additional responsible person(s) will be permitted 90 calendar days to remit payment for the invoice to the County, after which the Board of County Commissioners, at a public meeting, may authorize the levying of a non-ad valorem special assessment on the property for the unpaid costs incurred by the County in abating the nuisance. Any non-ad valorem special assessment levied pursuant to this Article is equal in dignity with a lien for ad valorem taxes, provided, however, that no such non-ad valorem assessment may become effective until the procedure for levying non-ad valorem assessments, as provided in F.S. Ch. 197, is satisfied. If publication is necessary for individual properties, the cost of such publication may be added to the amount of such assessment.
- (c) The County must comply with the requirements of F.S. Ch. 197, and, as applicable, Chapter 37 of the Alachua County Code, to levy and collect a non-ad valorem assessment on the property, imposed under this Article.

(Ord. No. 2019-24 , § 2(Exh. A), 11-12-19)

Sec. 74.28.1. Collection.

The County may take any action available at law or equity to recover the total costs incurred to abate the nuisance, including actions necessary to collect any non-ad valorem assessment levied pursuant to this Article.

(Ord. No. 2019-24 , § 2(Exh. A), 11-12-19)