

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2024 - __

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA; AMENDING ALACHUA COUNTY CODE OF ORDINANCES, CHAPTER 24 ON CODES ENFORCEMENT; EXPANDING JURISDICTION; AMENDING SECTION 24.14 ON CODE ENFORCEMENT CITATIONS PROCEDURES; AMENDING SECTION 24.24 REGARDING NOTICES; PROVIDING FOR MODIFICATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE ORDINANCE TO BE LIBERALLY CONSTRUCTED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with Chapter 162, Florida Statutes, each county may create by ordinance their own code enforcement systems; and

WHEREAS, pursuant to Section 162.21(5), Florida Statutes, a county may enact an ordinance establishing procedures for code enforcement; and

WHEREAS, to enforce the provision of the Alachua County Code, the Alachua County Board of County Commissioners (“Board”) uses methods of issuing citations and processing cases to be heard before a special magistrate against violators, as set forth in Alachua County Code Chapter 24; and

WHEREAS, amendments are desired to be made to Alachua County Code Chapter 24 to provide clarification and to be consistent with changes in Florida laws on code enforcement processes; and

WHEREAS, the County entered into an Interlocal Agreement with the City of Hawthorne, Florida, for certain code enforcement services within the limits of the municipality; and

WHEREAS, due to such Interlocal Agreement, it is necessary to expand the jurisdiction of special magistrate to include this municipality and to allow for further opportunity for the County to provide code enforcement services to other jurisdictions; and

WHEREAS, these amendments and updates to the Alachua County Code are warranted to assist with the enforcement of the Alachua County Code and the available code enforcement processes, and to otherwise benefit public health, safety and welfare.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The above foregoing recitals are correct and incorporated herein.

SECTION 2. Amendment. Alachua County Code, Part II, Title 2, Chapter 24 on Code Enforcement, Article II known as the “Alachua County Citation Ordinance”, specifically part Section 24.14 is amended as follows:

Sec. 24.14. - Code enforcement citation procedures.

(a) *Designation of code ~~enforcement~~ officer.* For the purpose of this article, the term “code officer”, who may also be referred to as a "code enforcement officer", shall mean any designated employee or agent of Alachua County or ~~the Alachua County Sheriff's Office~~ a law enforcement officer whose duty it is to enforce codes and ordinances enacted by the county, and who has received appropriate training ~~as determined by Alachua County or by the Alachua County Sheriff's Office~~. This shall include, but not be limited to, code inspectors and other code compliance personnel ~~(such as those for~~ building, zoning, solid waste management, and environmental ~~protection)~~, law enforcement officers, animal ~~control~~enforcement officers, and fire safety inspectors. Nothing in this article shall be deemed to amend, alter, or contravene the provisions of any state-administered retirement system or any state-supported retirement system established by general law. Designation of a code ~~enforcement~~ officer and appropriate training for such officer shall be determined by the director of the issuing department or office of Alachua County, ~~but shall include at a minimum at least a 40-hour minimum standards training course in the appropriate area of expertise. Examples of such training include, but are not limited to, the 40-hour Level I certification of the Florida Association of Codes Enforcement, and the 40-hour course curriculum approved by the Florida Animal Control Association.~~

(b) *Citation authorization; application.* Any code ~~enforcement~~ officer so designated by the county or by the Alachua County Sheriff's Office is hereby authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance of Alachua County and that the county court will hear the charge. An animal ~~control~~enforcement officer designated by the county as a code enforcement officer ~~shall~~will follow the requirements and procedures of ~~Ordinance No. 93-13~~, the Animal Control Ordinance (chapter 72 of this Code), as may be amended, for the issuance of citations pursuant to the animal ~~control~~ ordinance.

(c) *Notification prior to citation issuance; procedures.*

- (1) Prior to issuing a citation, a code ~~enforcement~~ officer shall provide notice to the person that the person has committed a violation of a county code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code ~~enforcement~~ officer finds that the person has not corrected the violation within the time period, the code ~~enforcement~~ officer may issue a citation to the person who has committed the violation. A code ~~enforcement~~ officer shall not be required to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the

code ~~enforcement~~ officer 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.

- (2) A citation issued by a code ~~enforcement~~ officer shall be in a form prescribed by the county and shall contain:
- a. The date and time of issuance.
 - b. The name and address of the person to whom the citation is issued.
 - c. The date and time the civil infraction was committed.
 - d. The facts constituting reasonable cause.
 - e. The number of the section of the code or ordinance violated.
 - f. The name and authority of the code ~~enforcement~~ officer.
 - g. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - h. The applicable civil penalty if the person elects to contest the citation.
 - i. The applicable civil penalty if the person elects not to contest the citation.
 - j. 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 or she shall be deemed to have waived his or her right to contest the citation and that, in such case, judgement may be entered against the person for an amount up to the maximum civil penalty.

(3) Whenever possible, a citation issued by a code officer will be hand-delivered to the violator (or the violator's representative having custodial responsibilities at the location of the violation). If the code is unable to hand deliver the citation, the citation will be provided to the violator in accordance with the provisions of Section 24.24.

(d) *Citations to be deposited with the county court.* After issuing a citation to an alleged violator, a code ~~enforcement~~ officer shall deposit the original and one copy of the citation with the county court, by filing same with the clerk of the court.

(e) *Penalties.*

- (1) A violation of a code or an ordinance cited and enforced under the provisions of this article shall be deemed a civil infraction.
- (2) The maximum civil penalty shall not exceed \$500.00.
- (3) A civil penalty of less than the maximum civil penalty shall be assessed if the person who has committed the civil infraction does not contest the citation. If the citation is contested and the violator found guilty of the violation, the court may impose a civil penalty not to exceed \$500.00.

(4) An alleged violator who contests the violation in county court, or is mandated to appear, shall be responsible for payment of all applicable court costs and appropriate legislative assessments in addition to the applicable civil penalty.

(f) *Reasonable cause.* For issuance of a citation, a code ~~enforcement~~ officer must have reasonable cause to believe that a person has committed an act in violation of a code or an ordinance.

(g) *Refusal to sign or accept citation.* Any person who willfully refuses to sign and accept a citation issued by a code ~~enforcement~~ officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

(h) *Judgment of court.* If a person fails to pay the civil penalty or request a hearing, fails to appear in court to contest the citation when a hearing has been requested, or fails to appear in court as may be required, the court may enter judgment for an amount not to exceed \$500.00 per infraction and/or may issue a rule to show cause upon the request of the issuing agency. The court rule shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such rule fails to appear in response to the court's directive, the person may be held in contempt of court. The county or its agent as an

additional remedy may refer cases of violations not paid and not contested within 30 days of issuance to a collection agency for processing, collection, and notification of failure of payment to the credit bureau. At any hearing pursuant to this article, the commission of a violation of a code or ordinance must be proved by a preponderance of the evidence. The Florida Rules of Civil Procedure and the Florida Evidence Code shall be applicable to any hearing.

(i) *Payment of penalties.* All civil penalties shall be paid to and collected by the clerk of the court. All penalties collected by the clerk shall be turned over to the finance and accounting department. A total of \$2.00 per citation collected shall be credited to the revenues of the issuing agency and earmarked for training purposes. The remaining funds shall be deposited in the general revenues of the Alachua County Board of Commissioners. An exception to the general revenues deposit requirement shall only be allowed when specifically designated otherwise by ordinance.

(j) *Provisions not applicable to certain building codes.* The provisions of this article shall not apply to the enforcement pursuant to F.S. §§ 553.79 and 553.80 of building codes adopted pursuant to F.S. § 553.73 as ~~they apply~~ applied to construction, provided that a building permit is either not required or has been issued by the county. ~~For the purpose of this article, "building codes" means only those codes adopted pursuant to F.S. § 553.73.~~

(k) *Provisions of article supplemental.* The provisions of this article are additional and supplemental means of enforcing county codes or ordinances and may be used for the enforcement of all codes and ordinances as designated by the board of county commissioners by ordinance adopting a schedule of violations and penalties. Nothing contained in this article shall prohibit Alachua County from enforcing its codes or ordinances by other means.

SECTION 3. Amendment. Alachua County Code, Part II, Chapter 24, Code Enforcement, Article II, Section 24.15 titled *Jurisdiction* in the Alachua County Citation Ordinance is amended to state as follows:

Sec. 24.15. - Jurisdiction.

The terms and provisions of this article shall apply to ~~all real property lying within~~(a) the unincorporated areas of Alachua County, and (b) ~~withint~~o incorporated areas of the county when specifically defined by ordinance ~~or pursuant to an interlocal agreement between the County and a municipality located in Alachua County for code enforcement services.~~ All civil infractions of applicable codes and/or ordinances, as determined by the board of county commissioners, may be enforced by this article by citation to the appropriate county court of Alachua County, except where prohibited by law or statute.

SECTION 4. Amendment. Alachua County Code, Chapter 24, Article III, Section 24.20, titled *Jurisdiction of special magistrates*, is amended to state as follows.

Sec. 24.20. - Jurisdiction of special magistrates.

Special magistrates shall have jurisdiction and authority to hear and decide any alleged violation of the Alachua County Code of Ordinances, ~~as may be amended, including but not limited to the Alachua County Unified Land Development Code, as may be amended.~~ ~~Special magistrates shall also have the jurisdiction and authority to hear and decide alleged violations that occurred within corporate limits of a municipality when the County has entered into an interlocal agreement with~~

such municipality to provide code enforcement services, or as clearly authorized by the code ordinance. The jurisdiction of special magistrates shall be in addition to, and not in lieu of, any other procedures or remedies available to the County to enforce the Alachua County Code of Ordinances. Any alleged violation of any of the codes and ordinances may be pursued by civil citation pursuant to Article II, or by appropriate remedy in court at the option of the administering official whose responsibility it is to enforce that respective code or ordinance. After final determination of the existence of a violation, a special magistrate shall retain jurisdiction to adjust fines and penalties, to modify dates for compliance, to order reasonable repairs and assess the cost of repairs, and to otherwise amend previously entered code orders. Nothing contained in this Code shall prohibit the County from enforcing its codes and ordinances by any other means.

SECTION 5. Amendment. Alachua County Code, Chapter 24, Article III, Section 24.24, titled *Notices*, is amended to state as follows.

Sec. 24.24. - Notices.

- (a) All notices or citations required by this chapter shall be provided to the alleged violator by:
- (1) 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. An additional notice may be provided to any other address known by the County for the property owner or violator. For property owned by a business entity, notices may be provided by certified mail to the registered agent of the business. If any notice sent by certified mail is ~~unclaimed, refused, or returned~~ not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subsection (b); or
 - (2) Hand delivery by the sheriff, or other law enforcement officer, a code officer, or other person designated by the board of county commissioners; or
 - (3) Leaving the notice at the violator'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; or
 - (4) In the case of commercial premises, leaving the notice or citation with the manager or ~~other person in charge with any employee and informing the employee of the contents~~.
- (b) In addition to providing notice as set forth in subsection (a), notice may be served by either publication or posting, as follows:
- (1) Publication: Such notice shall be published in print in a newspaper or on a publicly accessible website as provided in s. 50.0311 for 4 consecutive weeks. If published in print, the notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper in Alachua County of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. Ch. 50 for legal and official advertisements. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
 - (2) Posting: In lieu of publication as described in subsection (1) above, such notice may be posted at least ten calendar days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property on which the violation is alleged to exist and the other of which shall be at the front door of the county courthouse or at the county administration building. Proof of posting 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.
 - (3) 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 as required under subsection (a)

above.

- (c) Evidence that an attempt has been made to hand-deliver or mail notice as provided in Subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this chapter have been met, without regard to whether or not the alleged violator actually received such notice.

SECTION 6. Amendment. Alachua County Code, Chapter 74 - Nuisances, Article I, Section 74.13

titled *Territorial jurisdiction* shall be amended as follows:

Sec. 74.13. - Territorial jurisdiction.

Unless otherwise provided herein, the terms and provisions of this Chapter shall apply within the (a) unincorporated areas of Alachua County and the (b) incorporated areas of the Town of LaCrosse and incorporated areas of the City of Hawthorne, and in the incorporated areas of any other municipality if and as agreed to by and between the county and that municipality pursuant to an interlocal agreement entered between the county and a municipality for code enforcement services.

SECTION 7. Modification. It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk to the Board.

SECTION 8. Inclusion in the Code. It is the intent of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Alachua County, Florida; that the section of this ordinance may be renumbered or re-lettered to accomplish such intent and that the word “ordinance” may be changed to “section”, “article”, or other appropriate designation.

SECTION 9. Ordinance to be Liberally Construed. This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

SECTION 10. Severability. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect

without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 11. Effective Date. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board within ten days after enactment by the Board and shall take effect upon filing with the Department of State.

DULY ADOPTED in regular session, this ___ day of _____, 2024.

**BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA**

ATTEST:

J.K. "Jess" Irby, Esq.
Clerk

By: _____
_____, Chair
Board of County Commissioners

APPROVED AS TO FORM

(SEAL)

Alachua County Attorney