



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

March 23, 2023

Honorable J.K. "Jess" Irby, Esq.
Clerk of the Circuit Court
Alachua County
201 East University Avenue
Post Office Box 939
Gainesville, FL 32602

Attention: Steve Donahey

Dear Honorable J.K. "Jess" Irby,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of the Alachua County Ordinance No. 2023-03, which was filed in this office on March 23, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/mas

1 ALACHUA COUNTY
2 BOARD OF COUNTY COMMISSIONERS

3 **ORDINANCE NO. 2023 -03**

4 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
5 OF ALACHUA COUNTY, FLORIDA; AMENDING ALACHUA
6 COUNTY CODE CHAPTER 74 TO ADD DEFINITIONS AND A NEW
7 ARTICLE ENTITLED ‘NUISANCE OVERGROWTH’; AMENDING
8 AND UPDATING CHAPTER 24 ON CODES ENFORCEMENT,
9 INCLUDING REMOVING REFERENCES TO A CODE
10 ENFORCEMENT BOARD; ADDING A PENALTY AMOUNT FOR
11 NUISANCE OVERGROWTH TO EXHIBIT A. SCHEDULE IN
12 CHAPTER 24; AMENDING CHAPTER 332 HOUSING AND
13 MAINTENANCE CODE; PROVIDING FOR MODIFICATION AT
14 PUBLIC HEARING; PROVIDING FOR SEVERABILITY;
15 PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING
16 AN EFFECTIVE DATE.

17 **WHEREAS**, Chapter 162, Florida Statutes provides that each county may, adopt a code
18 enforcement system that gives special magistrates authority to hold hearings and assess fines
19 against violators of the county’s codes and ordinances; and

20 **WHEREAS**, Alachua County Board of County Commissioners (“Board”) has adopted
21 Alachua County Code, Chapter 24 establishing a code enforcement mechanism and setting out
22 enforcement procedures; and

23 **WHEREAS**, the Board desires to amend and update such code enforcement mechanisms
24 to be better consistent with Florida law, to clarify certain processes, and to remove references to a
25 codes enforcement board which now cease to exist; and

26 **WHEREAS**, Alachua County Code Administration follows the processes to direct
27 compliance with the Code, including, but not limited to, those concerning public nuisances and
28 hazardous lands; and

29 **WHEREAS**, the Board has found that certain unsanitary or unkept lands may amount to a
30 nuisance and/or be hazardous and can pose a risk to the health, safety, and welfare of the public or

1 neighboring properties; and

2 **WHEREAS**, to protect the public health, safety and welfare, and to protect the aesthetic
3 and property values of properties, the Board adopts this ordinance for the purpose of requiring
4 maintenance and to provide for abatement of nuisance overgrowth, as defined, on lands subject
5 to this ordinance; and

6 **WHEREAS**, by this ordinance, the Board does not sway away from its efforts to promote
7 intentional natural landscaping and the preservation of valuable natural and water resources; and

8 **WHEREAS**, the Board seeks to add clarity on the timing of a certain property maintenance
9 and housing standards related to screens as included in the International Property Maintenance
10 Code, as adopted by Alachua County; and

11 **WHEREAS**, the Board finds this ordinance and its provisions are in the best interests of
12 public health, safety, and welfare.

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

15 **SECTION 1.** Alachua County Code, Part II, Title 7, Chapter 74, Article I, Section 74.15
16 entitled “Definitions” shall be amended to amend and add new the following terms and definitions.
17 Unless referenced below, all other provisions of and terms in Section 74.15 remain unchanged by
18 this Ordinance.

19 ~~*Enforcing official or codes enforcement officer*~~ shall ~~mean any authorized agent or employee~~
20 ~~of the county whose duty it is to assure code compliance~~ be same as in section 24.18, Alachua
21 County Code.

22 *Improved property.* Any lot, parcel, tract, common area, buffer, or area of land that has been
23 deliberately altered from its natural condition through human action for an identifiable purpose
24 in support of a lawful use or activity including, but not limited to, residential or commercial
25 development, stormwater management, and recreation.

26 *Nuisance Overgrowth* means any unkept, dead or living plant life, including weeds, grasses,
27 shrubs, bushes, and underbrush, that is uncultivated or has been allowed to grow in an excessively
28 uncontrolled manner or accumulate over time without seasonal maintenance. The following types

1 of plant life are excluded from this definition: those cultivated for food or ornamental purposes
2 and those that are Florida native wildflowers or designed as a Florida-Friendly Landscape™.
3 Living heritage and specimen trees as identified in county land development regulations are also
4 excluded from this definition.

5 Rubbish shall mean waste material other than garbage, which material is usually attendant to
6 domestic households or housekeeping, and the premises upon which such household is located,
7 and shall include, but not be limited to, paper, sweepings, rags, bottles, cans, or other similar
8 waste material of any kind. combustibles and noncombustible waste materials, except garbage;
9 the term shall include the residue from burning of wood, coal, coke and other combustible
10 materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard
11 trimmings, tin cans, metals, mineral matter, glass, crockery and duties and other similar materials.

12 **SECTION 2.** Article VI entitled “Nuisance Overgrowth” is hereby added as a new provision
13 to Alachua County Code, Part II, Title 7, Chapter 74 to state as follows. Articles I, II, III, IV, and
14 V of Chapter 74 remain unchanged by this ordinance.

15 **CHAPTER 74. – NUISANCES**

16 ***

17 **ARTICLE VI. – NUISANCE OVERGROWTH**

18 **Sec. 74.35. - Findings.**

19 The Board of County Commissioners of Alachua County, Florida, hereby finds that unkept and
20 excessively overgrown vegetation on a property, including dead or non-viable trees which could
21 fall onto adjacent properties or roadways, can amount to a nuisance, hazard, or a danger, and can
22 pose a risk to the health, safety, and welfare of the citizens and surrounding properties. Such
23 conditions tend to be a breeding place for mosquitoes, vermin, or other pest that are capable of
24 transmitting diseases to humans, create fire hazards, or environmental hazards, or create potential
25 windstorm hazards, or tend to adversely affect and impair the economic welfare of adjacent
26 properties. Abatement of such conditions is hereby found and declared to be for a public purpose.

27 **Sec. 74.36. – Nuisance Overgrowth.**

28 (a) Prohibition. Nuisance Overgrowth in excess of eighteen (18) inches in height, measured
29 from the soil level, and excluding the height of seed heads, is prohibited on any Improved
30 Property, as defined, unless exempted as provided in this article. It is the responsibility of the
31 Owner of the Improved Property to mow, cut, and clear Nuisance Overgrowth.

32 (b) Exemptions from prohibitions. The following properties, lots, tracts, and parcels located
33 within the unincorporated Alachua County are exempt from this prohibition:

- 34 1. Lands with a Rural Agriculture land use designation;
- 35 2. Any property classified as agricultural by the Alachua County Property Appraiser
36 pursuant to Chapter 193, Florida Statutes;
- 37 3. Lands with conservation designation or within a conservation easement or preservation
38 easement;
- 39 4. Waterways, lakes, and designated wetland buffers;
- 40 5. Any rights-of-way of the county, a municipality, the state or federal government;
- 41 6. Any property owned by the county, a municipality, the state or federal government.

This section shall not be construed to allow the accumulation of junk, trash, or rubbish, or permit hazardous or dangerous structures on any property.

Sec. 74.37. – Enforcement and Penalty.

It is the duty of all Code Officers to enforce the provisions of this article. If found to be in violation of this article, the violator may be subject to penalties or the County may utilize the code enforcement mechanism, or any other remedy available at law or equity as provided in Section 10.08 of the Alachua County Code. If the County finds and determines that a public nuisance, as described in section 74.23, exists, the County may proceed with the abatement of the nuisance in accordance with chapter 74, article IV. A Code Officer shall be immune from all civil and criminal liability, for his or her reasonable, good faith entry upon real property while under the discharge of duties imposed by this article.

SECTION 3. Exhibit A entitled “Schedule of Codes And Ordinances With Brief Description Of Subject Matter of Violations and Penalties for Uncontested Violations”, referenced in Alachua County Code of Ordinances, Title 2, Chapter 24, Article II, Section 24.16 (“Schedule”), is amended to add the following. All other contents of the Schedule, not included herein, shall remain unchanged by this ordinance.

EXHIBIT A. SCHEDULE OF CODES AND ORDINANCES WITH BRIEF DESCRIPTION OF SUBJECT MATTER OF VIOLATIONS AND PENALTIES FOR UNCONTESTED VIOLATIONS

* * *

~~Department of Growth Management—Office of Codes Enforcement~~Code Administration

Code or Ordinance	Section	Section this Volume	Description	Class	Penalty
<u>2023-</u>	<u>2</u>	<u>74.36</u>	<u>Nuisance Overgrowth</u>	<u>III</u>	<u>\$125.00</u>

SECTION 4. Alachua County Code, Part II, Title 2, Chapter 24, entitled “Codes Enforcement”, specifically Article III of that Chapter on Special Magistrates to is retitled, amended, and updated to state as follows. Article I and Article II of Chapter 24 remain unchanged by this Ordinance.

1 **CHAPTER 24. – CODES ENFORCEMENT**

2 * * *

3 **ARTICLE III. – SPECIAL MAGISTRATES**

4 **Sec. 24.17. - Special magistrates.**

- 5 (a) *Creation.* There is hereby created the codes enforcement special magistrate to hear alleged
6 violations of the Alachua County Code of Ordinances.
- 7 (b) *Appointment.* The board of county commissioners may appoint one or more qualified
8 individuals to act as a special magistrate to hear alleged violations of the Alachua County
9 Code of Ordinances.
- 10 (c) *Candidate qualifications.* To be considered by the board of county commissioners for
11 appointment or reappointment, a candidate for special magistrate shall meet and maintain
12 during the terms~~have~~ the following minimum qualifications:
13 (1) Membership, in good standing, with the Florida Bar at the time of appointment or
14 reappointment and for the previous ~~five~~two years; and
15 (2) Residence or place of business within Alachua County, Florida; and
16 (3) Reputation in the community for integrity, responsibility and professional ability.
- 17 (d) *Term.* Special magistrates shall serve for a term of three years from the date of appointment
18 by the board of county commissioners. The board of county commissioners may reappoint
19 special magistrates. There shall be no limit on the number of terms a person may serve as a
20 special magistrate.
- 21 (e) *Compensation.* Special magistrates shall not be county employees, but shall be compensated
22 as established by contract.
- 23 (f) *Removal.* At any time during a term, the board of county commissioners shall have the
24 authority to remove a special magistrate, with or without cause, upon 10 calendar days'
25 written notice.
- 26 (g) *Public officer.* Special magistrates are public officers and are, therefore, subject to the Code
27 of Ethics for Public Officers and Employees found in F.S. Ch. 112, as amended from time to
28 time, ~~including financial disclosure requirements.~~
- 29 (h) *Clerical and administrative support.* ~~The Department of growth management, office of codes~~
30 ~~enforcement shall act as the clerk for the special magistrates and shall~~ Code Administration
31 will provide clerical and administrative support and designate a "clerk" to the special
32 magistrates, and as may be reasonably required for the special magistrates to properly
33 perform their duties in accordance with this Chapter and F.S. Ch. 162, as amended from time
34 to time. ~~The Clerk for the Special Magistrates shall maintain minutes of all meetings and~~
35 ~~hearings held by the Special Magistrates, and all meetings, hearings, and proceedings shall~~
36 ~~be open to the public.~~

37 **Sec. 24.18. - Definitions-Code Officers.**

38 ~~The terms of this chapter shall be defined pursuant to section 162.04, Florida Statutes, as~~
39 ~~amended.~~

40 A. "Code Officer" shall mean any employee or agent of Alachua County or law enforcement
41 officer whose duty it is to enforce codes and ordinances enacted by the county. This includes,
42 but is not limited to, enforcement officers, inspectors, animal resources officers,
43 environmental specialists, and other code compliance personnel such as those for or related
44 to building, zoning, solid waste, environmental protection, animal, and fire safety.

45 B. No Code Officer or other designed employee and agents of Alachua County whose duty it is
46 to enforce codes and ordinances enacted by the county shall render himself/herself personally
47 liable for any damage(s) that may accrue to persons or property as a result of any act required

1 or permitted in the discharge of his/her duties. Any Code Officer shall be immune from all
2 civil and criminal liability, for his or her reasonable, good faith entry upon real property
3 while under the discharge of duties imposed by this article.

4 **Sec. 24.19. - County legal counsel before special magistrates.**

5 A member of the county attorney's office shall represent the county by providing counsel to ~~eodes~~
6 ~~inspectors~~Code Officers ~~presenting cases before special magistrates~~ and may present codes
7 enforcement cases to special magistrates, question witnesses, present evidence, make legal
8 argument, and any other function necessary to support ~~eodes inspectors~~Code Officers in the
9 orderly and efficient presentation of their cases, as needed.

10 **Sec. 24.20. - Jurisdiction of special magistrates.**

11 Special magistrates shall have jurisdiction and authority to hear and decide any alleged violation
12 of the Alachua County Code of Ordinances. The jurisdiction of special magistrates shall be in
13 addition to, and not in lieu of, any other procedures or remedies available to the County to enforce
14 the Alachua County Code of Ordinances. Any alleged violation of any of the codes and
15 ordinances may be pursued by civil citation pursuant to Article II, or by appropriate remedy in
16 court at the option of the administering official whose responsibility it is to enforce that respective
17 code or ordinance. After final determination of the existence of a violation, a special magistrate
18 shall retain jurisdiction to adjust fines and penalties, to modify dates for compliance, to order
19 reasonable repairs and assess the cost of repairs, and to otherwise amend previously entered code
20 orders. Nothing contained in this Code shall prohibit the County from enforcing its codes and
21 ordinances by any other means.

22 **Sec. 24.21. - Enforcement procedure.**

23 Enforcement of the Alachua County Code of Ordinances and initiation of enforcement
24 procedures shall be in accordance with F.S. §Chapter 162.~~06~~, as amended from time to time, and
25 as provided in this Chapter 24, as stated below:

- 26 (a) ~~It shall be the duty of the eodes inspectors~~In accordance with Florida law, Code Officers will
27 ~~to~~ initiate enforcement proceedings of the various codes and ordinances. No Special
28 Magistrate shall have the power to initiate such enforcement proceedings.
- 29 (b) Except as provided in Subsection (c), below, if a violation of the codes or ordinances is found,
30 the ~~eodes inspector~~Code Officer shall first notify the violator and give ~~such person~~the
31 violator a reasonable time to correct the violation. Should the violation continue beyond the
32 time specified for correction, the ~~eodes inspector~~Code Officer shall ~~notify the special~~
33 ~~magistrate and request a hearing. The special magistrate, through its clerical staff, shall~~
34 schedule a hearing before the special magistrate, and written notice of such hearing shall be
35 provided to said violator in accordance with the provisions of Section 24.~~11~~24. If the
36 violation is corrected and then recurs, or if the violation is not corrected by the time specified
37 for correction by the ~~eodes inspector~~Code Officer, the case may be presented to the special
38 magistrate even if the violation has been corrected prior to the special magistrate hearing,
39 and the notice shall so state.
- 40 (c) The ~~eodes inspector~~Code Officer is not required to provide a reasonable time to correct the
41 violation if a repeat violation is found, or if the ~~inspector~~Officer has reason to believe the
42 violation presents a serious threat to the public health, safety, or welfare or is irreparable or
43 irreversible in nature. If a violation is found, a hearing will promptly be scheduled before the
44 special magistrate and the Officer will make a reasonable effort to notify the alleged violator.
45 The case may be presented to the special magistrate even if a repeat violation has been
46 corrected prior to the special magistrate hearing and the notice shall so state.

1 (d) If the owner of property which is subject to a proceeding before the special magistrate
2 transfers ownership of such property between the time the notice of violation was served and
3 the time of the hearing, such owner shall:

4 (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective
5 transferee.

6 (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other
7 materials relating to the code enforcement proceeding received by the transferor.

8 (3) Disclose, in writing, to the prospective transferee that the new owner will be
9 responsible for compliance with the applicable code and with orders issued in the
10 code enforcement proceeding.

11 (4) ~~File a notice with the code enforcement official~~ Notify Code Administration of the
12 transfer of the property, with the identity and address of the new owner and copies
13 of the disclosures made to the new owner, within five days after the date of the
14 transfer.

15 A failure to make the disclosures described in Subsections (d)(1), (2), and (3), above, before
16 the transfer creates a rebuttable presumption of fraud. If the property is transferred before the
17 hearing, the proceeding shall not be dismissed, but the new owner shall be provided a
18 reasonable period of time to correct the violation before the hearing is held.

19 **Sec. 24.22. - Conduct of hearing.**

20 (a) *Hearings schedule.* The county manager, or designee, may call for hearings on an as-needed
21 basis. When possible and necessary, multiple codes enforcement cases shall be scheduled for
22 each hearing called before a special magistrate. ~~The hearings shall be scheduled around the~~
23 ~~availability of the parties but no later than 90 calendar days after the date that the hearing is~~
24 ~~called.~~ Once the hearing is scheduled, the county shall properly notice any alleged violators
25 of the hearing date, time, and location.

26 (b) *Sunshine law.* Hearings before a special magistrate, ~~under this Article, are subject to the~~
27 ~~Sunshine Law and must comply with F.S. § 286.011, as amended from time to time. In~~
28 ~~addition to the requirements of the Sunshine Law, the clerk for the special magistrate shall~~
29 ~~prepare minutes and the record on appeal. All meetings, hearings, and proceedings~~ shall be
30 open to the public.

31 (c) *Burden of proof.* The county shall have the burden of proof to show by a preponderance of
32 the evidence that an alleged violation exists.

33 (d) *Evidence.* All testimony shall be under oath. The special magistrate and the clerk to the special
34 magistrate have power to administer oaths and affirmations. A special magistrate, the county
35 and the alleged violator may inquire of any witness. Formal rules of evidence do not apply,
36 but fundamental due process shall be observed and shall govern such proceedings.

37 (e) *Absence of alleged violator.* If the notice provisions of this article have been met, a hearing
38 may take place in the absence of an alleged violator.

39 (f) Order. At the conclusion of the hearing, if enforcement action is necessary, the special
40 magistrate will issue written findings of fact and conclusions of law in the form of an order.
41 Every order entered by a special magistrate will be filed with the clerk to the special
42 magistrate. The special magistrate may make an adjudication at the hearing or after the
43 hearing, but no later than 15 business days from the conclusion of the final hearing at which
44 the last of the evidence was received. The order may include a notice that it must be complied
45 with by a specified date and that a fine may be imposed if the order is not complied with by
46 said date. The order may also order payment of costs as provided in subsection (g)(2) below.
47 A certified copy of such order may be recorded in the public records of the county and shall
48 constitute notice, and the findings therein shall be binding upon the violator and any subsequent
49 purchasers and successors in interest. If an order is recorded in the public records and the order

1 is complied with by the date specified in the order, the special magistrate will issue an order
2 acknowledging compliance that will be recorded in the public records. A hearing is not required
3 to issue such an order acknowledging compliance.

4 (fg) *Fines, costs, and liens.*

5 (1) a. The special magistrate, upon notification by the ~~codes inspector~~Code Officer that an
6 order of the special magistrate has not been complied with by the set time in the order,
7 or upon finding that a repeat violation has been committed, may ordering the violator to
8 pay a fine ~~in an amount specified in this Section~~ for each day the violation continues past
9 the date set by the special magistrate for compliance, or, in the case of a repeat violation,
10 for each day the repeat violation continues, beginning with the date the repeat violation
11 is found to have occurred ~~by the code inspector~~. In addition, if the violation or the
12 condition causing the violation presents a serious threat to the public health, safety, or
13 welfare or if the violation is irreparable or irreversible in nature, the special magistrate
14 shall authorize the County to make all reasonable repairs required to bring the property
15 into compliance and shall charge the violator with the reasonable cost of the repairs along
16 with the fine imposed pursuant to this Section. Making such repairs does not create a
17 continuing obligation on the part of the County to make further repairs or to maintain the
18 property and does not create any liability against the County for any damages to the
19 property if such repairs were completed in good faith. If a finding of a violation or a
20 repeat violation has been made as provided for in this Chapter, a hearing shall not be
21 made necessary for issuance of the order imposing the fine.

22 b. A fine imposed pursuant to this Section shall not exceed \$1,000.00 per day for a first
23 violation, \$5,000.00 per day for a repeat violation, and \$15,000.00 per violation if the
24 special magistrate finds a violation to be irreparable or irreversible in nature. In
25 determining the amount of the fine, if any, the special magistrate shall consider the
26 following factors: (1) the gravity of the violation; (2) any actions taken by the violator to
27 correct the violation; and (3) any previous violations committed by the violator.

28 (2) In addition to the fines identified in Subsection (1) above, the special magistrate may
29 ~~impose additional fines to cover all costs incurred by the County in enforcing its codes~~
30 ~~and in prosecuting a case before the special magistrate if the County prevails and requests~~
31 ~~that it recover its costs incurred, and shall award the County all costs of repairs pursuant~~
32 ~~to Subsection (1)a., above, order that the County recover from the violator the costs~~
33 ~~incurred by the County in enforcing the code and bringing a case before the special~~
34 ~~magistrate. If awarded, such costs will be considered an additional fine and included as~~
35 ~~a lien.~~

36 (3) The special magistrate may reduce a fine imposed pursuant to this Section and may
37 release a lien entered pursuant to this Section. Upon complying with the order of
38 enforcement, the violator may request a hearing to ask for a reduction of the fine/lien. A
39 hearing for the request for reduction will be scheduled only if the violation is in
40 compliance and costs have been paid. In addition to the factors contained in subsection
41 (g)(1)(b) above, the special magistrate may consider the following mitigating factors
42 when presented when a request for a reduction: (1) The transfer of the property to a new
43 owner who subsequently brings the property into compliance; (2) The ability of the
44 violator to bring the property into compliance; and (3) The amount of money and other
45 resources expended to bring the property into compliance.

46 (4) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded
47 in the public records of Alachua County, Florida, and shall constitute a lien against the
48 land on which the violation exists and upon any other real or personal property owned
49 by the violator. Liens shall have the duration and force as provided for in F.S. Ch. 162,
50 as amended from time to time. Upon petition to the circuit court, such order shall be
51 enforceable in the same manner as a court judgment by the sheriffs of the State of Florida,

1 including execution and levy against the personal property of the violator, but such order
2 shall not be deemed otherwise to be a judgment of a court except for enforcement
3 purposes. A fine imposed pursuant to this Chapter shall continue to accrue until the
4 violator comes into compliance or until judgment is rendered in a suit to foreclose on a
5 lien filed pursuant to this Section, whichever occurs first. If, after three months from the
6 filing of any such lien, the lien remains unpaid, the special magistrate may authorize the
7 County attorney to foreclose on the lien or sue to recover a money judgment for the
8 amount of the lien plus accrued interest. No lien created pursuant to the provisions of this
9 Chapter may be foreclosed on real property which is a homestead under Section 4, Article
10 X of the Florida Constitution. The money judgment provisions of this Section shall not
11 apply to real property or personal property which is covered under Section 4(~~da~~), Article
12 X of the Florida Constitution.

- 13 (5) No lien provided by this Chapter shall continue for a period longer than 20 years after the
14 certified copy of an order imposing a fine has been recorded unless, within that time, an
15 action to foreclose on the lien is commenced in a court of competent jurisdiction. In an
16 action to foreclose on a lien, the prevailing party is entitled to recover costs, including a
17 reasonable attorney's fee, incurred in the foreclosure. Alachua County shall be entitled
18 to collect all costs incurred in recording and satisfying a valid lien. The continuation of
19 the lien affected by the commencement of the action shall not be good against creditors
20 or subsequent purchasers for valuable consideration with notice, unless a notice of lis
21 pendens is recorded.

22 ~~(g) Orders. Every order entered by a special magistrate shall be in writing, and shall include findings~~
23 ~~of fact based on evidence in the record and conclusions of law. Every order entered by a special~~
24 ~~magistrate shall be filed with the clerk for the special magistrates. Special magistrates shall, in~~
25 ~~every proceeding, reach a decision without unreasonable or unnecessary delay. Special~~
26 ~~magistrates may make an adjudication on the alleged violation at the hearing at which the last of~~
27 ~~the evidence was received, or after the hearing. In all instances, a special magistrate shall issue~~
28 ~~an order within 15 calendar days from the conclusion of the final hearing at which the last of the~~
29 ~~evidence was received. The clerk for the special magistrates shall mail the order to the respondent~~
30 ~~within 15 calendar days from the date that the clerk receives the signed order from a special~~
31 ~~magistrate. A certified copy of such order may be recorded in the public records of Alachua~~
32 ~~County and shall constitute notice to any subsequent purchasers, successors in interest, or~~
33 ~~assigns.~~

- 34 (h) *Recusal.* At any point before, during or after a proceeding, special magistrates may recuse
35 themselves to assure a fair proceeding free from potential bias or prejudice. Special magistrates
36 shall not hear any case in which they have a conflict of interest. In the event of a conflict of
37 interests or if a respondent notifies Code Administration at least ten (10) calendar days before
38 the date of a hearing that such respondent objects to the special magistrate, and the County
39 Manager or designee will appoint a hearing officer to hear the case.

- 40 (i) *Ex parte communication.* Special magistrates should avoid ex parte communication concerning
41 alleged violations which may come before them. If a special magistrate receives ex parte
42 communication, the special magistrate shall reveal the source and nature of the ex parte
43 communication on an alleged violation before hearing that alleged violation and consider any
44 motion for recusal by a party, including the county.

45 **Sec. 24.23. - Powers.**

46 ~~The special magistrate shall have all powers granted by statute, ordinance or by law. The special~~
47 ~~magistrates shall have all of the powers granted to a codes enforcement board under F.S. Ch. 162, as~~
48 ~~amended from time to time.~~ The special magistrate shall further have the power to:

- 49 (1) Adopt rules for the conduct of ~~it~~the hearings.

- 1 (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the
- 2 Alachua County Sheriff.
- 3 (3) Subpoena evidence to its hearings, which subpoenas may be served by the Alachua County
- 4 Sheriff.
- 5 (4) Take testimony under oath.
- 6 (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation
- 7 into compliance.

8 **Sec. 24.24. - Notices.**

9 ~~Notices required by this Article shall be provided to the alleged violator in accordance with F.S.~~
10 ~~Ch. 162, as amended from time to time.~~

- 11 (a) All notices required by this Chapter shall be provided to the alleged violator by:
- 12 (1) Certified mail, return receipt requested, to the address listed in the tax collector's office
 - 13 for tax notices or to the address listed in the county property appraiser's database. An
 - 14 additional notice may be provided to any other address for the property owner. For
 - 15 property owned by a ~~corporation~~business entity, notices may be provided by certified
 - 16 mail to the registered agent of the ~~corporation~~business. If any notice sent by certified
 - 17 mail is unclaimed, refused, or returned not signed ~~as received within 30 days after the~~
 - 18 ~~postmarked date of mailing~~, notice may be provided by posting as described in
 - 19 Subsection (b); or
 - 20 (2) Hand delivery by the sheriff, or other law enforcement officer, ~~the codes inspector~~ Code
 - 21 Officer, or other person designated by the Board of County Commissioners; or
 - 22 (3) Leaving the notice at the violator's usual place of residence with any person residing
 - 23 therein who is above 15 years of age and informing such person of the contents of the
 - 24 notice; or
 - 25 (4) In the case of commercial premises, leaving the notice with the manager or other person
 - 26 in charge.
- 27 (b) In addition to providing notice as set forth in Subsection (a), notice may be served by either
- 28 publication or posting, as follows:
- 29 (1) Publication: Such notice shall be published once during each week for four consecutive
 - 30 weeks (four publications being sufficient) in a newspaper of general circulation in the
 - 31 County. The newspaper shall meet such requirements as are prescribed under F.S. Ch.
 - 32 50 for legal and official advertisements. Proof of publication shall be made as provided
 - 33 in F.S. §§ 50.041 and 50.051.
 - 34 (2) Posting: In lieu of publication as described in Subsection (1) above, such notice may be
 - 35 posted at least ten days prior to the hearing, or prior to the expiration of any deadline
 - 36 contained in the notice, in at least two locations, one of which shall be the property on
 - 37 which the violation is alleged to exist and the other of which shall be at the front door of
 - 38 the County courthouse or at the main government center in the County Administration
 - 39 Building. Proof of posting shall be by affidavit of the person posting the notice, which
 - 40 affidavit shall include a copy of the notice posted and the date and places of its posting.
 - 41 (3) Notice by publication or posting may run concurrently with, or may follow, an attempt or
 - 42 attempts to provide notice by hand delivery or by mail as required under Subsection (a)
 - 43 above.
- 44 (c) Evidence that an attempt has been made to hand-deliver or mail notice as provided in
- 45 Subsection (a), together with proof of publication or posting as provided in Subsection (b), shall
- 46 be sufficient to show that the notice requirements of this Chapter have been met, without regard
- 47 to whether or not the alleged violator actually received such notice.

48 **Sec. 24.25. - Appeals.**

1 An aggrieved party may appeal in accordance with chapter 162, Florida Statutes, as amended.

2 **Sec. 24.26. - ~~Transition Reserved.~~**

3 ~~The Alachua County Codes Enforcement Board shall continue to function as an Alachua County~~
4 ~~code enforcement mechanism until November 1, 2020. Until that date, the Codes Enforcement~~
5 ~~Board shall operate pursuant to, and with the powers granted by, F.S. Ch. 162, as amended from~~
6 ~~time to time. Prior to November 1, 2020, the County Manager, in consultation with staff, shall~~
7 ~~assign individual codes enforcement cases to either the Codes Enforcement Board or, when~~
8 ~~available, a Codes Enforcement Special Magistrate. On November 1, 2020, the Codes~~
9 ~~Enforcement Board shall cease to exist and shall have no authority to take official actions.~~

10 **SECTION 5.** Alachua County Code, Part III, Title 33, Chapter 332, entitled “Housing”,
11 specifically a portion of Article I, is hereby amended and retitled as follows:

12 **CHAPTER 332. – HOUSING**

13 **ARTICLE I. – ~~STANDARD~~ HOUSING AND MAINTENANCE CODE**

14 **Sec. 332.01. – Adoption.**

- 15 (a) The following code is hereby adopted, as the County’s housing and maintenance code for
16 structures and premises, incorporated as fully as if set out in length herein, with the exception
17 of the exclusions and amendments made in subsection (b) below: International Property
18 Maintenance Code, 2021 edition.
- 19 (b) The 2021 International Property Maintenance Code (IPMC) is adopted by the County, except
20 for the following which are amended or excluded:
- 21 (1) Sections ~~101.1~~, 102.1, 102.3 and 102.8, ~~103~~ of the IPMC are excluded and are not
22 adopted by the County.
- 23 (2) Sections 105.3 *Right of entry*, 105.7.1 *Legal Defense*, 107 *Appeal*, 108 *Board of appeals*,
24 109 *Violations*, 301.3 *Vacant structures and land*, 302.4 *Weeds*, 302.8 *Motor vehicles*,
25 303.2 *Enclosures*, 308 *Rubbish and Garbage*, 603.3 *Clearances*, 603.4 *Safety controls*,
26 603.5 *Combustion air*, 603.6 *Energy conservation devices* and 606 *Elevators, Escalators*
27 *and Dumbwaiters* are excluded and are not adopted by the County.
- 28 (3) Section 602 is excluded from adoption, however a supply of heat, available year-round,
29 is required.
- 30 (4) The Florida Fire Prevention Code, as amended, provided for Section 633.202, Florida
31 Statutes, has been adopted by the County in Chapter 362, Alachua County Code. Chapter
32 7 of the IPMC *Fire Safety Requirements* is excluded and is not adopted by the County.
33 Any reference to an International Fire Code is substituted for the Florida Fire Prevention
34 Code. It shall be a violation for failure to (a) install and maintain smoke alarms on the
35 ceiling or walls outside of each separate sleeping area in the immediate vicinity of
36 bedrooms, in each room use for sleeping purposes, and in each story within a dwelling
37 unit, and (b) if applicable, install and maintain a carbon monoxide alarm in a dwelling
38 unit. In the event a provision of the IPMC conflicts with the Florida Fire Prevention
39 Code, the Florida Fire Prevention Code will prevail and apply.
- 40 (5) Appendix A and Appendix B of the IPMC are excluded and are not adopted by the
41 County.
- 42 (6) Wherever the term "code official" appears in the IPMC, that term is considered the same
43 as a “code inspector” or “code enforcement officer”.
- 44 (7) In the event any provision of the IPMC conflicts with the Florida Building Code, the
45 provisions of the Florida Building Code, as adopted by the County and as amended, will

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DULY ADOPTED in regular session, this 14th day of March, 2023.

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

ATTEST:



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

BY: 

Anna Prizzia, Chair
Board of County Commissioners

APPROVED AS TO FORM



County Attorney

(SEAL)

Item #11, 23-0531, 03142023

Final Audit Report

2023-03-21

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