

Alachua County
Board of County Commissioners

ORDINANCE 2020-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA; REPEALING ARTICLE I OF CHAPTER 24 OF THE ALACHUA COUNTY CODE; CREATING SECTION 24.26-TRANSITION; AMENDING ARTICLE iii OF CHAPTER 24 OF THE ALACHUA COUNTY CODE TO INCORPORATE PREVIOUSLY CROSS-REFERENCED PROVISIONS IN ARTICLE I; AMENDING SECTIONS 71.02.07, 72.15, 72.41, 74.15, 74.17, 74.23, 75.501, 80.7, 101.14, 101.15, 110.06, 115.05, 263.19, 332.02, 335.07, 353.40, 355.14, 358.09, 362.03, 406.103, 407.127, 409.04 OF THE ALACHUA COUNTY CODE OF ORDINANCES TO REPLACE REFERENCES TO THE CODES ENFORCEMENT BOARD WITH REFERENCES TO CHAPTER 24 OR APPLICABLE LAW AND CORRECT INTERNAL REFERENCES; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES AND CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR MODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, at least 10 days' notice has been given by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a public hearing to be held before the Alachua County Board of County Commissioners; and

WHEREAS, section 162.03, Florida Statutes, provides that charter counties may adopt a code enforcement system utilizing a codes enforcement board or special magistrates; and

WHEREAS, Alachua County currently utilizes the Codes Enforcement Board to hear alleged violations of the County's code; and

WHEREAS, pursuant to section 162.03(1), Florida Statutes, the Alachua County Codes Enforcement Board shall cease to exist on November 1, 2020; and

WHEREAS, the positions of Special Magistrates are established for the purpose of providing a code enforcement process for Alachua County; and

1 WHEREAS, Special Magistrates are hereby vested with all powers now granted under
2 chapter 162, Florida Statutes, as amended, and the Alachua County Code, as amended from time
3 to time; and

4 WHEREAS, the intent of this Ordinance is to promote, protect and improve the health,
5 safety and welfare of the citizens of Alachua County by establishing Special Magistrates with the
6 authority to impose administrative fines and other noncriminal penalties and to provide an
7 equitable, expeditious, and effective method of enforcing the County's codes and ordinances;

8 WHEREAS, all references to the Codes Enforcement Board in the Alachua County Code
9 of Ordinances are hereby replaced with references to the Codes Enforcement Special Magistrates
10 or applicable law.

11 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
12 ALACHUA COUNTY, FLORIDA:

13 SECTION 1. The Board of County Commissioners finds and declares that all statements
14 in the preamble of the ordinance are true and correct.

15 SECTION 2. Chapter 24, Article I, is hereby repealed in its entirety.

16 SECTION 3. Chapter 24, Article III, section 24.17 of Alachua County Code is amended
17 as follows:

18 **Sec. 24.17. Special magistrates.**

19 (a) *Creation.* There is hereby created the codes enforcement special magistrate to
20 hear alleged violations of the Alachua County Code of Ordinances.

21 (b) *Appointment.* The board of county commissioners may appoint one or more
22 qualified individuals to act as a special magistrate to hear alleged violations of the Alachua
23 County Code of Ordinances.

24 (c) *Candidate qualifications.* To be considered by the board of county
25 commissioners for appointment or reappointment, a candidate for special magistrate shall have
26 the following minimum qualifications:

27 (1) Membership, in good standing, with the Florida Bar at the time of
28 appointment or reappointment and for the previous five years;

(2) Residence or place of business within Alachua County, Florida; and
(3) Reputation in the community for integrity, responsibility and professional ability.

(d) *Term.* Special magistrates shall serve for a term of three years from the date of appointment by the board of county commissioners. The board of county commissioners may reappoint special magistrates. ~~there~~There shall be no limit on the number of terms a person may serve as a special magistrate.

(e) *Compensation.* Special magistrates shall not be county employees, but shall be compensated as established by contract.

(f) *Removal.* At any time during a term, the board of county commissioners shall have the authority to remove a special magistrate, with or without cause, upon 10 calendar days' written notice.

(g) *Public officer.* Special magistrates are public officers and are, therefore, subject to the Code of Ethics for Public Officers and Employees found in ~~chapter~~Chapter 112, Florida Statutes, as amended from time to time, including financial disclosure requirements.

(h) *Clerical and administrative support.* The Department of growth management, office of codes enforcement shall act as the clerk for the special magistrates and shall provide ~~the same level of~~ clerical and administrative support to the special magistrates ~~as provided to the codes enforcement board pursuant to section 24.03 of this chapter, as amended,~~ and as may be reasonably required for the special magistrates to properly perform their duties in accordance with ~~chapter~~Chapter 162, Florida Statutes, as amended from time to time. The Clerk for the Special Magistrates shall maintain minutes of all meetings and hearings held by the Special Magistrates, and all meetings, hearings, and proceedings shall be open to the public.

SECTION 4. Chapter 24, Article III, section 24.20 of Alachua County Code is amended 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. 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, order reasonable repairs and assess the cost of repairs. Nothing contained in this Code shall prohibit the county from enforcing its codes and ordinances by any other means.

SECTION 5. Chapter 24, Article III, section 24.21 of Alachua County Code is amended as follows:

1 **Sec. 24.21. Enforcement procedure.**

2 Enforcement of the Alachua County Code of Ordinances and initiation of enforcement
3 procedures shall be in accordance with section 162.06, Florida Statutes, as amended from time to
4 time, and as stated below; ~~and section 24.06 of this chapter, as amended. The county manager,~~
5 ~~or designee, shall review, in consultation with staff, potential cases and, at his or her sole~~
6 ~~discretion, determine whether alleged violations will be heard by a special magistrate or codes~~
7 ~~enforcement board.~~

8 (a) It shall be the duty of the codes inspector to initiate enforcement proceedings of
9 the various codes and ordinances. No Special Magistrate shall have the power to initiate such
10 enforcement proceedings.

11 (b) Except as provided in subsection (c), below, if a violation of the codes or
12 ordinances is found, the codes inspector shall first notify the violator and give such person a
13 reasonable time to correct the violation. Should the violation continue beyond the time specified
14 for correction, the codes inspector shall notify the special magistrate and request a hearing. The
15 special magistrate, through its clerical staff, shall schedule a hearing, and written notice of such
16 hearing shall be provided to said violator in accordance with the provisions of section 24.11. If
17 the violation is corrected and then recurs, or if the violation is not corrected by the time specified
18 for correction by the code inspector, the case may be presented to the special magistrate even if
19 the violation has been corrected prior to the special magistrate hearing, and the notice shall so
20 state.

21 (c) The codes inspector is not required to provide a reasonable time to correct the
22 violation if a repeat violation is found, or if the inspector has reason to believe the violation
23 presents a serious threat to the public health, safety, or welfare or is irreparable or irreversible in
24 nature. The case may be presented to the special magistrate even if a repeat violation has been
25 corrected prior to the special magistrate hearing and the notice shall so state.

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

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

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

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

36 (4) File a notice with the code enforcement official of the transfer of the
37 property, with the identity and address of the new owner and copies of the disclosures made to
38 the new owner, within five days after the date of the transfer.

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

SECTION 6. Chapter 24, Article III, section 24.22 of Alachua County Code is amended

as follows:

Sec. 24.22. Conduct of hearing.

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

(b) *Sunshine law.* Hearings before a special magistrate, under this article, are subject to the Sunshine Law and must comply with section 286.011, Florida Statutes, as amended from time to time. In addition to the requirements of the Sunshine Law, the clerk for the special magistrate shall prepare minutes and the record on appeal. All meetings, hearings, and proceedings shall be open to the public.

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

(d) *Evidence.* All testimony shall be under oath. A special magistrate, the county and the alleged violator may inquire of any witness. Formal rules of evidence do not apply, but fundamental due process shall be observed and shall govern such proceedings.

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

(f) *Fines, costs, and liens.* ~~Special magistrates may impose fines, cost of repairs, costs of prosecution and liens consistent with section 24.09 of this chapter, as amended. Liens shall have the duration and force as provided for in chapter 162, Florida Statutes, as amended. Special magistrates may reduce a fine imposed pursuant to this article and may release a lien entered pursuant to this article.~~

(1) a. The special magistrate, upon notification by the codes inspector that an order of the special magistrate has not been complied with by the set time, or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the special magistrate for compliance, or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation or the condition causing the violation presents a serious threat to the public health, safety, or welfare or if the violation is irreparable or irreversible in nature, the special magistrate shall authorize the county to make all reasonable repairs required to bring the property into compliance and shall charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing

1 obligation on the part of the county to make further repairs or to
2 maintain the property and does not create any liability against the
3 county for any damages to the property if such repairs were
4 completed in good faith. If a finding of a violation or a repeat
5 violation has been made as provided for in this chapter, a hearing
6 shall not be made necessary for issuance of the order imposing the
7 fine.

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

16 (2) In addition to the fines identified in subsection (i) above, the special
17 magistrate may impose additional fines to cover all costs incurred by the county in enforcing its
18 codes and in prosecuting a case before the special magistrate if the county prevails and requests
19 that it recover its costs incurred, and shall award the county all costs of repairs pursuant to
20 subsection (i)(a), above.

21 (3) The special magistrate may reduce a fine imposed pursuant to this section
22 and may release a lien entered pursuant to this section.

23 (4) A certified copy of an order imposing a fine, or a fine plus repair costs,
24 may be recorded in the public records of Alachua County, Florida, and shall constitute a lien
25 against the land on which the violation exists and upon any other real or personal property owned
26 by the violator. Liens shall have the duration and force as provided for in Chapter 162, Florida
27 Statutes, as amended from time to time. Upon petition to the circuit court, such order shall be
28 enforceable in the same manner as a court judgment by the sheriffs of the State of Florida,
29 including execution and levy against the personal property of the violator, but such order shall
30 not be deemed otherwise to be a judgment of a court except for enforcement purposes. A fine
31 imposed pursuant to this chapter shall continue to accrue until the violator comes into
32 compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this
33 section, whichever occurs first. If, after three months from the filing of any such lien, the lien
34 remains unpaid, the special magistrate may authorize the county attorney to foreclose on the lien
35 or sue to recover a money judgment for the amount of the lien plus accrued interest. No lien
36 created pursuant to the provisions of this chapter may be foreclosed on real property which is a
37 homestead under section 4, article X of the Florida Constitution. The money judgment provisions
38 of this section shall not apply to real property or personal property which is covered under
39 Section 4(d), Article X of the Florida Constitution.

40 (5) No lien provided by this chapter shall continue for a period longer than 20
41 years after the certified copy of an order imposing a fine has been recorded unless, within that
42 time, an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an
43 action to foreclose on a lien, the prevailing party is entitled to recover costs, including a
44 reasonable attorney's fee, incurred in the foreclosure. Alachua County shall be entitled to collect

1 all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by
2 the commencement of the action shall not be good against creditors or subsequent purchasers for
3 valuable consideration with notice, unless a notice of lis pendens is recorded.

4 (g) *Orders.* Every order entered by a special magistrate shall be in writing, and shall
5 include findings of fact based on evidence in the record and conclusions of law. Every order
6 entered by a special magistrate shall be filed with the clerk for the special magistrates. Special
7 magistrates shall, in every proceeding, reach a decision without unreasonable or unnecessary
8 delay. Special magistrates may make an adjudication on the alleged violation at the hearing at
9 which the last of the evidence was received, or after the hearing. In all instances, a special
10 magistrate shall issue an order within 15 calendar days from the conclusion of the final hearing at
11 which the last of the evidence was received. The clerk for the special magistrates shall mail the
12 order to the respondent within 15 calendar days from the date that the clerk receives the signed
13 order from a special magistrate. A certified copy of such order may be recorded in the public
14 records of Alachua County and shall constitute notice to any subsequent purchasers, successors
15 in interest, or assigns.

16 (h) *Recusal.* At any point before, during or after a proceeding, special magistrates
17 may recuse themselves to assure a fair proceeding free from potential bias or prejudice. Special
18 magistrates shall not hear any case in which they have a conflict of interest.

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

24 SECTION 7. Chapter 24, Article III, section 24.23 of Alachua County Code is amended
25 as follows:

26 **Sec. 24.23. - Powers.**

27 The Special magistrates shall have all of the powers granted to ~~the~~ codes enforcement
28 board under ~~chapter~~ Chapter 162, Florida Statutes, as amended from time to time, and section
29 24.08 of this Chapter, as amended. The special magistrate shall further have the power to:

30 (1) Adopt rules for the conduct of its hearings.

31 (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be
32 served by the Alachua County Sheriff.

33 (3) Subpoena evidence to its hearings, which subpoenas may be served by the
34 Alachua County Sheriff.

35 (4) Take testimony under oath.

36 (5) Issue orders having the force of law to command whatever steps are necessary to
37 bring a violation into compliance.

SECTION 8. Chapter 24, Article III, section 24.24 of Alachua County Code is amended
as follows:

Sec. 24.24. - Notices.

Notices required by this article shall be provided to the alleged violator in accordance with ~~chapter~~Chapter 162, Florida Statutes, as amended from time to time, and ~~section 24.11 of this Chapter, as amended.~~

(a) All notices 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 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 30 days after the postmarked date of mailing, notice may be provided by posting as described in subsection (b);

(2) Hand delivery by the sheriff, or other law enforcement officer, the codes inspector, or other person designated by the board of county commissioners;

(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 with the manager or other person in charge.

(b) In addition to providing notice as set forth in subsection (a), notice may be served by either publication or posting, as follows:

(1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper 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) In lieu of publication as described in subsection (1) above, such notice may be posted at least 10 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 the main government center in the county. 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

1 subsection (b), shall be sufficient to show that the notice requirements of this chapter have been
2 met, without regard to whether or not the alleged violator actually received such notice.

3 SECTION 9. Chapter 24, Article III, section 24.26 of Alachua County Code is created as
4 follows:

5 **Sec. 24.26. Transition.**

6 The Alachua County Codes Enforcement Board shall continue to function as an Alachua
7 County code enforcement mechanism until November 1, 2020. Until that date, the Codes
8 Enforcement Board shall operate pursuant to, and with the powers granted by, chapter 162, Fla.
9 Stat., as amended from time to time. Prior to November 1, 2020, the County Manager, in
10 consultation with staff, shall assign individual codes enforcement cases to either the Codes
11 Enforcement Board or, when available, a Codes Enforcement Special Magistrate. On November
12 1, 2020, the Codes Enforcement Board shall cease to exist and shall have no authority to take
13 official actions.

14 SECTION 10. Chapter 71, Article II, Section 71.02.07, of Alachua County Code is
15 amended as follows:

16 **Sec. 71.02.07. - Enforcement.**

17 This article will be enforced by the offices of code enforcement, waste collection, animal
18 services, and the sheriff's office, pursuant to Chapter 24 of the Alachua County Code of
19 Ordinances, as amended from time to time, and the County Code Enforcement System, pursuant
20 to Chapter 24 of the Alachua County Code and Chapter 162, Florida Statutes, by proceedings
21 before the code enforcement board as amended from time to time, or by any other means
22 available to the county, including injunctive relief. Violations are punishable by fine (not to
23 exceed \$500.00 per offense), imprisonment (not to exceed 60 days per offense) or both.

24 SECTION 11. Chapter 72, Section 72.15(a), of Alachua County Code is amended as
25 follows:

26 **Sec. 72.15. - Hearing procedure.**

27 (a) On or before the following dates, an owner may file a written request for
28 hearing with Animal Services. The County Manager shall designate an individual or any code
29 enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from
30 time to time, the Codes Enforcement Board to act as a Hearing Officer to hold a hearing on or
31 before:

32 (1) The seventh calendar day after the date of service of written notification
33 of an initial determination of a sufficient cause finding under Section 72.14 of this Code; or

34 (2) The tenth calendar day after the date of service of written notification
35 that an aggressive dog was confiscated under Section 72.16 of this Code; or

36 (b) No less than five calendar days and no more than 21 calendar days after the
37 date of receipt of the written request, the County shall provide for the requested hearing.

1 (c) Hearing procedures.

2 (1) Each party shall have the following rights:

- 3 a. To be represented by counsel;
- 4 b. To compel the attendance of witnesses;
- 5 c. To examine witnesses;
- 6 d. To introduce exhibits;
- 7 e. To examine opposing witnesses on any relevant matter, even
- 8 though the matter was not covered under direct examination;
- 9 f. To impeach any witness regardless of which party first called
- 10 the witness to testify.

11 (2) Any interested party or person may make application and, upon good

12 cause shown, may be allowed within the discretion of the Hearing Officer to intervene or

13 appear in a proceeding pending before the Hearing Officer.

14 (d) Subpoenas.

15 (1) The Hearing Officer has the power to issue subpoenas to compel the

16 attendance of witnesses at a hearing upon the written request of any party or upon the Hearing

17 Officer's own motion.

18 (2) A subpoena may be served by any person authorized by law to serve

19 process. Service shall be made as provided by law.

20 (3) Any person subject to a subpoena may, before compliance and on

21 timely petition, request the Hearing Officer having jurisdiction of the dispute to invalidate the

22 subpoena.

23 (4) A party may seek enforcement of a subpoena issued under the authority

24 of this chapter by filing a petition for enforcement in the county court. Failure to comply with

25 an order of the court shall result in a finding of contempt of court. However, no person shall be

26 in contempt while a subpoena is being challenged under subsection (d)(3).

27 (5) If a party willfully fails to testify when duly subpoenaed, the Hearing

28 Officer may:

- 29 a. Order that the matters regarding which the questions were asked
- 30 or any other designated facts shall be taken to be established for
- 31 the purposes of the action in accordance with the claim of the
- 32 party obtaining the order;
- 33 b. Render a judgment by default against the disobedient party.

34 (6) Witness fees shall be paid as provided by law.

35 (e) Evidence.

36 (1) All hearings shall be conducted, insofar as practicable, in accordance

37 with the Florida Evidence Code. However, the general nature of the hearing shall be

38 conducted in an informal manner.

1 (2) In any hearing before the Hearing Officer, irrelevant, immaterial, or
2 unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied
3 upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether
4 such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence
5 may be received in written form, and all testimony of parties and witnesses shall be made
6 under oath. Hearsay evidence may be used for the purpose of supplementing or explaining
7 other evidence, but it shall not be sufficient in itself to support a finding unless it would be
8 admissible over objection in civil actions.

9 (3) Documentary evidence may be received in the form of a copy or excerpt
10 if the original is not readily available. Upon request, parties shall be given an opportunity to
11 compare the copy with the original.

12 (4) A party shall be permitted to conduct cross-examination when
13 testimony is taken or documents are made a part of the record.

14 (5) The rules of privilege shall be effective to the same extent that they are
15 now or hereafter may be recognized in civil actions.

16 (6) The Hearing Officer shall work with the County to ensure that an audio
17 and documentary record of the hearing is preserved, which record shall be public and open to
18 inspection and transcription or copying by any person.

19 (f) Written determinations of the Hearing Officer.

20 (1) After due public hearing, the Hearing Officer shall issue a
21 determination based upon the preponderance of the evidence. The Division shall bear the
22 burden of establishing the dangerousness or aggressiveness of the dog, or that a violent dog
23 attack occurred; and the owner shall bear the burden of establishing any legal defenses.

24 (2) All determinations of the Hearing Officer shall be in writing, signed and
25 dated by the Hearing Officer, shall contain findings of fact and conclusions of law, and shall
26 be served upon the owner by certified or registered mail, certified hand delivery, or service in
27 conformance with Chapter 48, Florida Statutes. If the Hearing Officer upholds the initial
28 determination of dangerousness, the owner shall comply with the provisions of Section
29 72.17.5 within fourteen (14) calendar days of the Hearing Officer's determination; or in the
30 event of any appeal of said determination to a court of competent jurisdiction, within fourteen
31 (14) calendar days of a decision adverse to the owner. If the Hearing Officer upholds the
32 initial determination of aggressiveness, the owner shall comply with the provisions of
33 subsection 72.16 within fourteen (14) calendar days of the Hearing Officer's determination; or
34 in the event of any appeal of said determination to a court of competent jurisdiction, within
35 fourteen (14) calendar days of a decision adverse to the owner.

36 (3) On or before the tenth business day after the date of service of a final
37 decision, the owner may appeal to the proper court the decision regarding any aggressive,
38 dangerous or violent dog. The appeal shall be a review of the record, not de novo.

39 (g) Payment of the Hearing Officer. The cost of the Hearing Officer shall be paid
40 by the losing party. If more than one item is in dispute, and if there are mixed results, a party
41 shall only be responsible for the cost of the Hearing Officer's time that was applied to the
42 losing item or items, which percentage of time shall be determined by the Hearing Officer. As
43 a condition precedent to holding the hearing authorized under this Chapter, the owner of the

dog(s) must pay a deposit to Alachua County, equal to the cost of one hour of the hearing officer's in-hearing time. If the Hearing Officer issues a final order in favor of the owner of the dog(s), then the County shall refund the entire deposit to the owner of the dog(s). If the Hearing Officer issues a final order in favor of Alachua County, then the deposit is forfeited to Alachua County and will be applied to the total cost of the Hearing Officer's time.

SECTION 12. Chapter 72, Section 72.41(c), of Alachua County Code is amended as follows:

Sec. 72.41. - Waiver of fees.

(a) The director may waive a required fee or charge, except a fee or charge for licensing, anytime the owner's animal has been impounded as a direct result of a crime committed against the owner and the owner has been referred to Animal Services by the Alachua County Office of Victim Services, Peaceful Paths, the Alachua County Sheriff's Office, or any other law enforcement office or victim assistance program.

(b) In the event that ~~the a~~ Codes Enforcement Board Special Magistrate is designated as a Hearing Officer and if an owner consents to a hearing extension under Subsection 72.15 so as to avoid the necessity of scheduling a special hearing of the ~~e~~Codes Enforcement Board Special Magistrate, the director shall waive all boarding fees and charges that accrue from the twenty-first day after the date of receipt of the owner's written request through the date of the hearing.

SECTION 13. Chapter 74, Article II, Section 74.15, of Alachua County Code is amended as follows:

Sec. 74.15. - Definitions.

For the purposes of this Chapter the following words, terms, and phrases shall have the meanings ascribed to them as follows, except where the context clearly indicates a different meaning:

Abandoned property shall mean wrecked or derelict property having no value other than nominal salvage value, if any, which has been left abandoned and unprotected from the elements, and shall include wrecked, inoperative, or partially dismantled motor vehicles, trailers, boats, machinery, plumbing fixtures, furniture, and other similar articles which have no value other than nominal salvage value, if any, and which have been left abandoned and unprotected from the elements.

Construction and demolition debris shall mean nonhazardous material generally considered not to be water soluble, including, but not limited to, steel, concrete, glass, brick, asphalt roofing material, or lumber from a construction or demolition project. Contamination of construction and demolition debris with any amount of other types of solid waste will cause it to be classified as other than construction and demolition debris.

Dangerous structure shall mean any dwelling or dwelling unit which has any of the following defects:

- 1 (1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested
2 that it creates a serious hazard to the health or safety of the occupants or the public.
- 3 (2) One which lacks illumination, ventilation, or sanitation facilities adequate to protect
4 the health or safety of the occupants or the public.
- 5 (3) All buildings or structures which have any or all of the following defects shall also be
6 considered dangerous structures:
 - 7 a. Those whose interior walls or other structural members list, lean, or buckle, or
8 the support for which has become damaged or deteriorated, to such an extent
9 that there is a reasonable likelihood that such walls or other structural members
10 may fall or give way;
 - 11 b. Those which have improperly distributed loads upon the floors or roofs or in
12 which the same are overloaded or which have insufficient strength to be
13 reasonably safe for the purpose used;
 - 14 c. Those which have been damaged by fire, wind or other causes so as to have
15 become dangerous to life, safety, or the general health and welfare of the
16 occupants or the people of Alachua County;
 - 17 d. Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or
18 which so utterly fail to provide the amenities essential to decent living that they
19 are unfit for human habitation, or are likely to cause sickness or disease, so as
20 to work injury to the health, safety, or general welfare of those living therein;
 - 21 e. Those having light, air and sanitation facilities which are inadequate to protect
22 the health, safety, or general welfare of human beings who live or may work
23 therein;
 - 24 f. Those having inadequate facilities for egress in case of fire or panic, or those
25 having insufficient stairways, elevators, fire escapes, or other means of egress,
26 according to the standards in effect when the building was constructed;
 - 27 g. Those which have parts thereof which are so attached that there is a reasonable
28 likelihood they may fall and injure members of the public or property in
29 general;
 - 30 h. Those which, because of their condition, are unsafe and are unsanitary or
31 dangerous to a degree that constitutes a hazard to the health, safety, or general
32 welfare of the people in Alachua County;
 - 33 i. Those which are vacant and not sufficiently secured to prevent easy access to
34 trespassers, loiterers and vagrants;
 - 35 j. Those which are untended or unkept to the extent that they pose a health or
36 safety hazard.

37 *Emergency public nuisance* shall mean any property that creates or contains an emergency
38 threat to life, safety, and welfare of the general public or neighboring properties, (as
39 determined by the County Manager) even if the property has not been found in violation of the
40 County Code by a code enforcement mechanism pursuant to Chapter 24 of Alachua County

1 ~~Code, as amended from time to time, by the Codes Enforcement Board, Special Magistrate, or~~
2 ~~other court of competent jurisdiction.~~

3 *Enforcing official* or *codes enforcement officer* shall mean any authorized agent or employee
4 of the county whose duty it is to assure code compliance.

5 *Hazardous lands* shall mean lands unoccupied as well as occupied upon which there exists a
6 condition or conditions which are dangerous to the health, welfare, or safety of the public
7 generally, or of the occupants of surrounding properties, or of the occupants of such lands,
8 including, but not limited to, lands upon which there exists a fire hazard, unsanitary
9 conditions, or a dangerous nuisance attractive to children; lands upon which there exist or are
10 maintained dangerous chemicals, explosives, or other hazardous substances without sufficient
11 protection or control of same; lands from which there emanate noxious odors or harmful
12 fumes or particulates; lands upon which there exist trash, junk, and debris of such nature and
13 quantity as to pose a danger to the health or safety of persons upon such lands, and lands
14 which serve as breeding or nesting place for mosquitos, rats, mice, poisonous snakes,
15 dangerous wild animals, or insect vermin in such manner and to such extent as to pose an
16 immediate danger to the public health and safety.

17 *Junk* shall mean any litter, debris, waste materials of any kind, dead or decaying vegetation or
18 vegetative refuse, dead animals, used or unserviceable automobile and machinery parts, used
19 and nonfunctional furniture and appliances, and used and nonfunctional tools, equipment, and
20 implements, but shall not include compost piles for normal, personal noncommercial use.

21 *Law enforcement officer* shall mean any officer of the Florida Highway Patrol, county sheriff's
22 office, municipal law enforcement departments, or the Florida Game and Fresh Water Fish
23 Commission.

24 *Litter* shall mean any garbage, rubbish, trash, refuse, can, bottle, container, paper, tobacco
25 product, tire, appliance, mechanical equipment or part, building or construction material, tool,
26 machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or
27 equipment, sludge from a waste treatment facility, water supply treatment plant, or air
28 pollution control facility, or substance in any form resulting from domestic, industrial,
29 commercial, mining, agricultural, or governmental operations.

30 *Owner* or *tenant* shall mean any owner, lessee or person in possession of any lot, tract, or
31 other parcel of land.

32 *Person* shall mean any individual, firm, sole proprietorship, partnership, corporation, or
33 unincorporated association.

34 *Private property* shall mean property owned by any person as defined herein, including, but
35 not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage
36 areas, any body of water, vacant land, and recreation facilities.

37 *Public property* shall mean any area that is used or held out for use by the public, whether
38 owned or operated by public or private interests, including, but not limited to, highways,
39 streets, alleys, parks, recreation areas, sidewalks, medians, lakes, rivers, streams, ponds, or
40 other bodies of water.

41 *Rubbish* shall mean waste material other than garbage, which material is usually attendant to
42 domestic households or housekeeping, and the premises upon which such household is

located, and shall include, but not be limited to, paper, sweepings, rags, bottles, cans, or other similar waste material of any kind.

Trash shall mean debris such as paper, cardboard, cloth, glass, vehicle tires, and other similar matter.

Unserviceable vehicle shall mean any vehicle required to be licensed by the state if used on public streets which remains for a period of 30 calendar days in such condition that it cannot be started or moved under its own power, or in its normal and usual manner, without repair or the addition of parts, and/or which is unlicensed for a period of 30 calendar days, or does not have a valid tag displayed in plain view, but does not include any licensed automobile which is more than 20 years old which is undergoing active repair or restoration for display, use, or sale as an antique.

Vehicle shall mean every device capable of being moved upon a public highway or public waterway and in, upon, or by which any person or property may be transported or drawn upon a public highway or public waterway, including any watercraft, boat, ship, vessel, barge, or other floating craft, or which is used exclusively upon stationary rails or tracks, or which is used exclusively for agricultural purposes and not licensed pursuant to state law and is not operated on any public highway for purposes other than crossing such public highway or along such highway between two tracts.

White goods shall mean inoperative or discarded refrigerators, ranges, washers, water heaters, and other similar domestic and commercial appliances.

SECTION 14. Chapter 74, Article II, Section 74.17, of Alachua County Code is amended as follows:

Sec. 74.17. - Enforcement.

It shall be the duty of all law enforcement officers as defined in section 74.15 to enforce the provisions of this article. Violations of this article may be referred to ~~the Alachua County Codes Enforcement Board~~ any code enforcement mechanism pursuant to chapter 24 of the Alachua County Code, as amended from time to time.

SECTION 15. Chapter 74, Article III, Section 74.23, of Alachua County Code is amended as follows:

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 ~~the Codes Enforcement Board, Special Magistrate,~~ 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.

SECTION 16. Chapter 75, Article V, Section 75.501, of Alachua County Code is amended as follows:

Sec. 75.501. - Penalties and fines.

Persons cited for a violation of this chapter shall, upon conviction, be punished as provided in section 10.08 of the Alachua County Code. A violation of this chapter may be enforced pursuant to chapter 24 of the Alachua County Code as may be amended from time to time. Violations include, for example, and not by way of limitation, persons failing to source separate recyclable material as provided in this chapter. Penalties and fines imposed by ~~the code enforcement board~~ any code enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time to time shall accrue to the division of waste management.

SECTION 17. Chapter 80, Section 80.7, of Alachua County Code is amended as follows:

Sec. 80.7. - Enforcement.

The provisions of this chapter may be enforced using ~~the any code enforcement board mechanism allowed by process of F.S. ch. Chapter 162, pt. Part I, Florida Statutes,~~ or the civil citation process of Chapter 162, Part II, Florida Statutes, F.S. ch. 162, pt. II and Chapter 24, Alachua County Code. In addressing residential violations county staff shall provide an educational approach that emphasizes environmental awareness in order to achieve compliance prior to initiating enforcement action with the use of the provisions of Chapter 24.

SECTION 18. Chapter 101, Section 101.14(a), of Alachua County Code is amended as follows:

Sec. 101.14. - Revocation of certificate or identification card.

(a) The county manager, or his or her designee, following notice and a hearing, shall have the authority to suspend or revoke a certificate of competency or an identification card issued pursuant to this chapter where:

(1) The certificate or card holder has violated or failed to comply with the provisions of this chapter.

(2) The certificate or card holder has been convicted of violating state or federal laws or regulations governing the trade or activity engaged in by the certificate or card holder.

(3) ~~The A code enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time to time, Alachua County Codes Enforcement Board~~ has determined that the certificate or card holder has violated or failed to comply with the provisions of this chapter or the provisions of the Alachua County Code related to solid waste and solid waste disposal in sections 75.100 through 75.502 and sections 36.01 through 36.12 of the Alachua County Code.

SECTION 19. Chapter 101, Section 101.15, of Alachua County Code is amended as follows:

Sec. 101.15. - Enforcement.

Violations of this chapter may be referred to any code enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time to time, the Alachua County Codes Enforcement Board for enforcement in accordance with sections 24.01 through 24.11 of the Chapter 24, Alachua County Code, as amended from time to time, which relates to ~~the codes enforcement board~~, and in accordance with the provisions of F.S. § section 489.127, Florida Statutes, and Laws of Fla., ch. 88-156.

SECTION 20. Chapter 110, Section 110.06, of Alachua County Code is amended as follows:

Sec. 110.06. - Penalties.

Any person or persons, firm or corporation, or any agent thereof who violates any of the provisions of this chapter shall upon conviction be guilty of a second degree misdemeanor offense punishable as provided for under F.S. §§ 775.082 and 775.083. Violations of this chapter may also be processed in accordance with F.S. ch. Chapter 162, Florida Statutes, as amended from time to time, and any other remedy available by law, including but not limited to appearance before the Alachua Codes Enforcement Board.

SECTION 21. Chapter 115, Section 115.05, of Alachua County Code is amended as follows:

Sec. 115.05. - Enforcement by codes enforcement board.

This chapter may be enforced ~~through the Alachua County Codes Enforcement Board in accordance with Chapter 162, Florida Statutes, as amended from time to time, and Chapter 24, Alachua County Code, as amended from time to time.~~

SECTION 22. Chapter 263, Section 263.19(a), of Alachua County Code is amended as follows:

Sec. 263.19. - Violations and enforcement.

(a) Upon Alachua County receiving local air pollution control program approval from FDEP, the provisions of this chapter may be enforced using the authority and procedures authorized by Chapter 162, Florida Statutes, as amended from time to time, pertaining to county or municipal code enforcement. Violations of this code may be referred to any code enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time to time, the Alachua County Codes Enforcement Board for enforcement in accordance with Chapter 162, Florida Statutes, as amended from time to time, and Chapter 24 of the Alachua County Code of Ordinances, as amended from time to time, pertaining to the codes enforcement board.

SECTION 23. Chapter 332, Article I, Section 332.02, of Alachua County Code is amended as follows:

1 **Sec. 332.02. - Penalty.**

2 Any person violating the provisions of this article and the codes adopted hereunder shall
3 be punished as provided by general law. Violations of this article may be referred to the any code
4 enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time
5 to time, the codes enforcement board.

6 SECTION 24. Chapter 335, Section 335.07, of Alachua County Code is amended as follows:

7 **Sec. 335.07. - Enforcement.**

8 The County may enforce the provisions of this chapter using the authority and procedures
9 authorized by F.S. ch. Chapter 162, Florida Statutes, as amended from time to time, and Chapter
10 24, Alachua County Code, as amended from time to time. These include both the civil citation
11 procedure and the codes enforcement board procedure.

12 SECTION 25. Chapter 353, Article II, Section 353.40, of Alachua County Code is amended
13 as follows:

14 **Sec. 353.40. - Violations; enforcement; remedies.**

15 Violations of this chapter of the code may be referred by the department to ~~the county's~~
16 ~~codes enforcement board or other~~ any enforcement mechanism in accordance with F.S. ch.
17 Chapter 162, Florida Statutes, as amended from time to time, and chapter 24 of the Alachua
18 County Unified Land Development Code, as amended from time to time, relating to the eCounty
19 ~~codes enforcement board and citation ordinance.~~ Remedies may include the following:

20 (a) *Judicial remedies.*

21 (1) The county may institute a civil action in a court of competent jurisdiction
22 to establish liability and to recover damages to property including animal, plant, and aquatic life,
23 caused by any violation.

24 (2) The county may institute a civil action in a court of competent jurisdiction
25 to impose and to recover a civil penalty for each violation in an amount of not more than ten-
26 thousand-dollars (\$10,000.00) for each offense. However, the court may receive evidence in
27 mitigation. Each day during any portion of which such violation occurs constitutes a separate
28 offense.

29 (3) It shall not be a defense to, or ground for dismissal of, these judicial
30 remedies for damages and civil penalties that the county has failed to exhaust its administrative
31 remedies, or has failed to hold an administrative hearing prior to the institution of a civil action.

32 (b) *Injunctive relief.* It is hereby found and declared that a violation of the provisions
33 of this code constitutes an irreparable injury to the citizens of the county. The county may
34 institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce
35 compliance with this code or order; to enjoin any violation of this code; and to seek injunctive
36 relief to prevent injury to the soils, air, and water, including animal, plant, and aquatic life, in the
37 county and to protect human health, safety, and welfare caused or threatened by any violation.

1 (c) *Administrative appeals.*

2 (1) Decisions to approve, deny, suspend, or revoke a license or plan pursuant
3 to this code may be appealed to a hearing officer. Such an appeal shall provide an administrative
4 mechanism to address alleged error in the application of a specific provision of this code. An
5 appeal may be filed by the applicant, license holder or a substantially affected person. The
6 adverse interest may be shared in common with the other members of the community at large.

7 (2) No person may apply to a court for relief from a decision of the
8 department unless he or she has first exhausted the remedies provided herein.

9 (3) A person requesting an appeal shall file this request in writing along with
10 the appropriate fee for such petition to the department within 15 days of the final decision made
11 by the department.

12 (4) The written request for appeal shall include a sworn statement of the
13 particular facts and the basis for the appeal, the specific code provision alleged to be applied in
14 error, the different result which would occur if the appropriate provisions were correctly applied,
15 and the particular relief sought.

16 (5) The department shall schedule the appeal before the hearing officer, and
17 shall provide to the hearing officer a staff report on the actions taken by the department.

18 (6) The hearing officer shall consider the record, testimony by the applicant,
19 members of the department, any substantially affected persons, and any other appropriate
20 witness, and the error alleged. Based on this information the hearing officer shall either sustain
21 or reverse the decision appealed by giving a written explanation for his or her decision.

22 SECTION 26. Chapter 355, Section 355.14, of Alachua County Code is amended as follows:

23 **Sec. 355.14. - Violations; enforcement; remedies.**

24 Violations of this chapter may be referred by the department to ~~the county's codes~~
25 ~~enforcement board or other~~ any enforcement mechanism in accordance with ~~F.S. ch. Chapter~~
26 162, Florida Statutes, as amended from time to time, and chapter 24 of the Alachua County
27 ~~Unified Land Development Code, as amended from time to time~~. Remedies may include the
28 following:

29 (1) *Judicial remedies.*

30 a. The county may institute a civil action in a court of competent jurisdiction
31 to establish liability and to recover damages for any injury to the water, or
32 property of the county, including animal, plant, and aquatic life, caused by
33 any violation.

34 b. The county may institute a civil action in a court of competent jurisdiction
35 to impose and to recover a civil penalty for each violation in an amount of
36 not more than \$10,000.00 for each offense. However, the court may
37 receive evidence in mitigation. Each day during any portion of which such
38 violation occurs constitutes a separate offense.

39 c. It shall not be a defense to, or ground for dismissal of, these judicial
40 remedies for damages and civil penalties that the county has failed to

1 exhaust its administrative remedies, or has failed to hold an administrative
2 hearing prior to the institution of a civil action.

3 (2) *Injunctive relief.* It is hereby found and declared that a violation of the provisions
4 of this chapter constitutes an irreparable injury to the citizens of Alachua County. The county
5 may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce
6 compliance with this chapter or order; to enjoin any violation of this chapter, and to seek
7 injunctive relief to prevent injury to the water and property of the county, including animal,
8 plant, and aquatic life, and to protect human health, safety, and welfare caused or threatened by
9 any violation.

10 (3) *Administrative appeals.*

11 (4) a. _____ Decisions to approve, deny, suspend, or revoke a license or plan pursuant
12 to this chapter may be appealed to a hearing officer. Such an appeal will
13 provide an administrative mechanism to address alleged error in the
14 application of a specific provision of this chapter. An appeal may be filed
15 by the applicant, license holder or a substantially affected person. The
16 adverse interest may be shared in common with the other members of the
17 community at large.

18 (2) b. _____ No person may apply to a court for relief from a decision of the
19 department unless they have first exhausted the remedies provided in this
20 chapter.

21 (3) c. _____ A person requesting an appeal shall file this request in writing along with
22 the appropriate fee for such petition to the department within 15 days of
23 the final decision made by the department.

24 (4) d. _____ The written request for appeal shall include a sworn statement of the
25 particular facts and the basis for the appeal, the specific provision alleged
26 to be applied in error, the different result which would occur if the
27 appropriate provisions were correctly applied, and the particular relief
28 sought.

29 (5) e. _____ The department shall schedule the appeal before the hearing officer, and
30 shall provide to the hearing officer a staff report on the actions taken by
31 the department.

32 (6) f. _____ The hearing officer shall consider the record, testimony by the applicant,
33 members of the department, any substantially affected persons, any other
34 appropriate witness, and the error alleged. Based on this information, the
35 hearing officer shall either sustain or reverse the decision appealed and
36 give a written explanation for his or her decision.

37 SECTION 27. Chapter 358, Section 358.09, of Alachua County Code is amended as follows:

38 **Sec. 358.09. - Enforcement.**

39 Alachua County shall notify the FDER of any violations of this chapter. If, within 30
40 days of notice by the county of the violation, the FDER fails to initiate enforcement action to
41 bring the violator into compliance, Alachua County may enforce this chapter using the authority

1 and procedures authorized by ~~F.S. chs. Chapters~~ 125 and 162, Florida Statutes, as amended from
2 time to time, unless the violation presents a serious threat to the public health, safety, or welfare,
3 or if the violation is irreparable or irreversible, in which case the county may enforce this chapter
4 immediately. Violations of this chapter may be referred to ~~the Alachua County Codes~~
5 ~~Enforcement Board~~ any code enforcement mechanism pursuant to Chapter 24 of Alachua County
6 Code, as amended from time to time, for enforcement in accordance with ~~F.S. ch. Chapter~~ 162,
7 Florida Statutes, as amended from time to time, and ~~eChapter~~ Chapter 24 of the Alachua County Code of
8 Ordinances, as amended from time to time, which relate to ~~the codes enforcement board~~. In the
9 event Alachua County has initiated enforcement proceedings and the FDER notifies Alachua
10 County that it intends to pursue its own agency enforcement action against the violator which, if
11 successful, will correct the violation(s) of this chapter as well, then Alachua County shall
12 suspend its enforcement action pending the outcome of the FDER enforcement action.

13 SECTION 28. Chapter 362, Article I, Section 362.03, of Alachua County Code is amended
14 as follows:

15 **Sec. 362.03. - Penalty.**

16 Apart from any civil penalty that might be imposed by the ~~eCounty codes enforcement~~
17 ~~board as allowed by law~~, any person who shall violate or fail to comply with any provision
18 contained in the NFPA codes as adopted in this article, or who shall violate or fail to comply
19 with any order made pursuant to the codes adopted herein, or who shall build in violation of any
20 detailed statement of specifications or plans submitted pursuant to such codes, or any certificate
21 or permit issued pursuant to such codes, shall be subject to a fine of not more than \$500.00 or
22 imprisoned for not more than 30 days, or both.

23 SECTION 29. Chapter 406, Article XVII, Section 406.103(b), of Alachua County Code is
24 amended as follows:

25 **Sec. 406.103. - Permanent protection.**

26 Conservation management areas shall be permanently protected as follows:

27 (a) *Dedication.* All areas protected under this section shall be restricted from further
28 subdivision, and protected in perpetuity using a legal instrument that runs with the land, in a
29 form acceptable to the county and duly recorded in the public record which assures the
30 preservation and continued maintenance of the conservation management area.

31 (1) The preferred legal instrument shall be a conservation easement in accordance
32 with F.S. 704.06, to be recorded in the public records of Alachua County, which shall restrict the
33 use of the land in perpetuity to non-development uses and be expressly enforceable by the
34 county.

35 (2) Other forms of dedication may be considered by the county if comparable
36 protection is demonstrated which assures the preservation and continued maintenance of the
37 conservation management area.

38 (3) For building permits on undeveloped lands that contain regulated natural or
39 historic resources, or other administrative approvals as described in section 402.48 that impact

1 regulated natural or historic resources, unless exempt under subsection 400.04(d), a notification
2 that the property contains such resources signed by the owner shall be recorded in the public
3 record in a form approved by the Environmental Protection Department. This notice shall not be
4 considered an encumbrance upon the property. A permanent protection instrument may be
5 required if the application is associated with enforcement or mitigation.

6 (4) The county may issue development approval subject to the recording of the
7 approved legal instrument. Issuance of construction and building permits shall be withheld until
8 proof of recordation is provided to the county.

9 (b) *Plat notations.* The boundaries of designated conservation management areas,
10 including any required buffers, and the building area limitation as required by section 406.03(b)
11 for lots located within the conservation management areas shall be clearly delineated on
12 development plans, plats, and deed restrictions, and a legal description of the boundaries shall be
13 included. A plat shall identify express prohibitions preceded by the following statement:

14 "The activities/acts/uses identified below are prohibited in designated
15 'conservation management area(s)' unless part of an approved management plan
16 without express written permission from the Alachua County Environmental
17 Protection Department. Violation of any one of these provisions without such
18 written permission shall be considered a discrete violation of a Development
19 Order issued by the Alachua County Board of County Commissioners.
20 Development Order terms are enforceable ~~by the Alachua County Codes~~
21 ~~Enforcement Board~~ by any means available at law, including in accordance with
22 Chapter 162, Florida Statutes, as amended from time to time, and Chapter 24,
23 Alachua County Code of Ordinances, as amended from time to time. Violations
24 may result in monetary penalties of up to \$15,000 and/or order to restore
25 conservation area(s) to preexisting conditions at the expense of the owner(s).
26 Failure to comply with an order of an Alachua County Codes Enforcement Board
27 ~~orders code enforcement mechanism pursuant to Chapter 24 of Alachua County~~
28 Code, as amended from time to time, may result in liens against the property.

29 Prohibited activities/acts/uses in 'conservation management area(s)':

- 30 i. Construction or placing of buildings, roads, signs, billboards or other
31 advertising, utilities, or other structures on or above the ground.
- 32 ii. Dumping or placing of soil or other substance or material as landfill or
33 dumping or placing of trash, waste, or unsightly or offensive materials.
- 34 iii. Removal or destruction of native trees, shrubs, or other vegetation.
- 35 iv. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other
36 material substance in such manner as to affect the surface.
- 37 v. Surface use except for purposes that permit the land or water area to
38 remain predominantly in its natural condition.
- 39 vi. Activities detrimental to drainage, flood control, water conservation,
40 erosion control, soil conservation, or fish and wildlife habitat preservation.
- 41 vii. Acts or uses detrimental to such retention of land or water areas.

1 viii. Acts or uses detrimental to the preservation of the structural integrity or
2 physical appearance of sites or properties of historical, architectural,
3 archaeological, or cultural significance."

4 SECTION 30. Chapter 407, Article XII, Section 407.127, of Alachua County Code is
5 amended as follows:

6 **Sec. 407.127. - Enforcement.**

7 A violation of this chapter shall be a misdemeanor punishable according to law; however,
8 in addition to or in lieu of any criminal prosecution, Alachua County shall have the power to sue
9 in civil court to enforce the provisions of this chapter. Violations of this Chapter may also be
10 referred to ~~the~~ any Alachua County code enforcement mechanism pursuant to Chapter 24 of
11 Alachua County Code, as amended from time to time, Codes Enforcement Board for
12 enforcement in accordance with F.S. ch. Chapter 162, Florida Statutes, as amended from time to
13 time, and Chapter 24 of the Alachua County Code of Ordinances, as amended from time to time,
14 which relate to the codes enforcement board.

15 SECTION 31. Chapter 409, Article II, Section 409.04(a), of Alachua County Code is
16 amended as follows:

17 **Sec. 409.04. - Remedies and enforcement powers.**

18 The county may use any of the following remedies and enforcement powers:

19 (a) *Referral to a ~~eCodes eEnforcement board~~ Enforcement Mechanism.* Violations of
20 this ULDC may be referred to ~~the~~ an Alachua County Codes Enforcement Board code
21 enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time
22 to time, for enforcement in accordance with F.S. ch. Chapter 162, Florida Statutes, as amended
23 from time to time, and chapter 24 of the Alachua County Code of Ordinances, as amended from
24 time to time.

25 SECTION 32. Repealing Clause. All ordinances or portions thereof in conflict herewith
26 are, to the extent of such conflict, hereby repealed.

27 SECTION 33. Severability. If any word, phrase, clause, paragraph, section or provision
28 of this ordinance or the application hereof to any person or circumstance is held invalid or
29 unconstitutional, such finding shall not affect the other provisions or applications of the
30 ordinance which can be given effect without the invalid or unconstitutional provisions or
31 application, and to this end the provisions of this ordinance are declared severable.

SECTION 34. Inclusion in the Code, Scrivener's Error. It is the intention 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. The correction of typographical errors that do not affect the intent of the ordinance may be authorized by the County Manager or designee, without public hearing, by filing a corrected or re-codified copy of the same with the Clerk of the Circuit Court.", "article", or other appropriate designation.

SECTION 35. 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 36. Effective Date. This ordinance shall take effect immediately upon final adoption.

DULY ADOPTED in regular session, this 13th day of October, 2020.

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

ATTEST:

BY: _____
Robert Hutchinson, Chair
Board of County Commissioners

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

APPROVED AS TO FORM

County Attorney

(SEAL)