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2 Alachua County  
3 Board of County Commissioners  
4

5 **Ordinance 2015-\_\_\_**  
6

7 **AN ORDINANCE OF THE BOARD OF COUNTY**  
8 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA;**  
9 **AMENDING CHAPTER 24 OF THE ALACHUA COUNTY CODE**  
10 **OF ORDINANCES RELATING TO CODE ENFORCEMENT AND**  
11 **THE MAILING OF ORDERS FROM THE CODES**  
12 **ENFORCEMENT BOARD; ADDING ARTICLE III OF CHAPTER**  
13 **24 OF THE ALACHUA COUNTY CODE; CREATING PUBLIC**  
14 **OFFICES OF CODES ENFORCEMENT SPECIAL MAGISTRATES**  
15 **IN ADDITION TO, AND AS AN ALTERNATIVE TO, THE**  
16 **EXISTING CODES ENFORCEMENT BOARD; PROVIDING**  
17 **MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR**  
18 **APPOINTMENT OF SPECIAL MAGISTRATES; ESTABLISHING**  
19 **ADMINISTRATIVE AND CLERICAL SUPPORT FOR SPECIAL**  
20 **MAGISTRATES; ESTABLISHING ENFORCEMENT**  
21 **PROCEDURES AND JURISDICTION FOR SPECIAL**  
22 **MAGISTRATES; PROVIDING STANDARDS FOR CONDUCT OF**  
23 **HEARINGS; ESTABLISHING POWERS OF SPECIAL**  
24 **MAGISTRATES; ESTABLISHING STANDARDS FOR NOTICES**  
25 **OF VIOLATIONS AND HEARINGS; PROVIDING PROCESS FOR**  
26 **APPEALING DECISIONS OF A SPECIAL MAGISTRATE;**  
27 **PROVIDING FOR SEVERABILITY; PROVIDING FOR**  
28 **INCLUSION IN THE CODE; ALLOWING FOR MODIFICATION**  
29 **OF THE LANGUAGE OF THE ORDINANCE DUE TO**  
30 **CONSIDERATIONS ARISING AT A PUBLIC HEARING;**  
31 **PROVIDING AN IMMEDIATE EFFECTIVE DATE.**  
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34 WHEREAS, section 162.03, Florida Statutes, provides that charter counties may  
35 adopt a code enforcement system utilizing both a codes enforcement board and special  
36 magistrate; and

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

39           WHEREAS, the positions of Special Magistrates are established for the purpose  
40 of providing a supplemental code enforcement process for Alachua County that does not  
41 eliminate the Codes Enforcement Board; and

42           WHEREAS, the Clerk for the Codes Enforcement Board shall have an equal  
43 number of days to mail Codes Enforcement Board orders to alleged violators as granted  
44 to the Clerk for the Codes Enforcement Special Magistrates; and

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

48           WHEREAS, the intent of this Ordinance is to promote, protect and improve the  
49 health, safety and welfare of the citizens of Alachua County by establishing Special  
50 Magistrates with the authority to impose administrative fines and other noncriminal  
51 penalties and to provide an equitable, expeditious, and effective method of enforcing the  
52 County's codes and ordinances.

53

54           BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
55 ALACHUA COUNTY, FLORIDA:

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

58           SECTION 2. Chapter 24 is renamed "Codes Enforcement."

59           SECTION 3. Chapter 24, Article I, section 24.07(i), of Alachua County Code is  
60 amended as follows:

61

62 **Article I. – Generally**

63 **Sec. 24.07. – Conduct of Hearing**

64 (i) At the conclusion of the hearing, the codes enforcement board shall issue  
65 findings of fact based on evidence in the record and conclusions of law, and  
66 shall issue an order affording the proper relief consistent with the powers  
67 granted by F.S. ch. 162, and by this chapter. The order shall be stated orally at  
68 the meeting and shall be reduced to writing and mailed to the alleged violator  
69 within ~~ten~~ 15 days after the hearing. The finding shall be by motion, approved  
70 by a majority of those present and voting; provided, however, that at least four  
71 members of the board must vote in order for the action to be official. The  
72 order may include a notice that it must be complied with by a specified date,  
73 and that a fine may be imposed if the order is not complied with by said date.  
74 A certified copy of such order may be recorded in the public records of the  
75 county and shall constitute a notice to any subsequent purchasers, successors  
76 in interest, or assigns, if the violation concerns real property, and the findings  
77 therein shall be binding upon the violator and, if the violation concerns real  
78 property, any subsequent purchasers, successors in interest, or assigns. If an  
79 order is recorded in the public records pursuant to this subsection and the  
80 order is complied with by the date specified in the order, the codes  
81 enforcement board shall issue an order acknowledging compliance that shall  
82 be recorded in the public records. A hearing is not required to issue such an  
83 order acknowledging compliance.

84 SECTION 4. Chapter 24, Article III, of Alachua County Code is created as  
85 follows:

86 **Article III. - Special Magistrates**

87 **Sec. 24.17. Special Magistrates.**

88 (a) Creation. There is hereby created the Codes Enforcement Special Magistrates  
89 to hear alleged violations of the Alachua County Code of Ordinances.

90  
91 (b) Appointment. The Board of County Commissioners may appoint one or more  
92 Special Magistrates to hear alleged violations of the Alachua County Code of  
93 Ordinances.

94  
95 (c) Candidate qualifications. To be considered by the Board of County  
96 Commissioners for appointment or reappointment, a candidate for Special  
97 Magistrate shall have the following minimum qualifications:

98 (1) Membership, in good standing, with the Florida Bar at the time of  
99 appointment or reappointment and for the previous 5 years.

100 (2) Residence or place of business within Alachua County, Florida.

101 (3) Reputation in the community for integrity, responsibility and  
102 professional ability.

103 (d) Term. Special Magistrates shall serve for a term of three years from the date  
104 of appointment by the Board of County Commissioners. The Board of County  
105 Commissioners may reappoint Special Magistrates. There shall be no limit on  
106 the number of terms a person may serve as a Special Magistrate.

107  
108 (e) Compensation. Special Magistrates shall not be County employees, but shall  
109 be compensated as established by contract.

110  
111 (f) Removal. At any time during a term, the Board of County Commissioners  
112 shall have the authority to remove a Special Magistrate, with or without cause,  
113 upon 10 calendar days' written notice.

114  
115 (g) Public officer. Special Magistrates are public officers and are, therefore,  
116 subject to the Code of Ethics for Public Officers and Employees found in  
117 chapter 112, Fla. Stat., as amended from time to time, including financial  
118 disclosure requirements.

119 (h) Clerical and administrative support. The Department of Growth Management,  
120 Office of Codes Enforcement shall act as the Clerk for the Special Magistrates  
121 and shall provide the same level of clerical and administrative support to the  
122 Special Magistrates as provided to the Codes Enforcement Board pursuant to

123 section 24.03 of this chapter, as amended from time to time, and as may be  
124 reasonably required for the Special Magistrates to properly perform their  
125 duties in accordance with chapter 162, Fla. Stat., as amended from time to  
126 time.

127 **Sec. 24.18. Definitions.** The definitions in section 24.01 of this chapter, as amended,  
128 apply to this article.

129 **Sec. 24.19. County Legal Counsel before the Special Magistrates.** A member of the  
130 County Attorney’s staff shall represent the County by providing counsel to codes  
131 inspectors presenting cases before the Special Magistrates and may present codes  
132 enforcement cases to the Special Magistrates, question witnesses, present evidence, make  
133 legal argument, and any other function necessary to support codes inspectors in the  
134 orderly and efficient presentation of their cases, as needed.

135 **Sec. 24.20. Jurisdiction of Special Magistrates.** Special Magistrates shall have  
136 jurisdiction and authority to hear and decide any alleged violation of the Alachua County  
137 Code of Ordinances. The jurisdiction of Special Magistrates shall be in addition to, and  
138 not in lieu of, any other procedures or remedies available to the County to enforce the  
139 Alachua County Code of Ordinances. After final determination of the existence of a  
140 violation, a Special Magistrate shall retain jurisdiction to adjust fines, order reasonable  
141 repairs and assess the cost of repairs.

142  
143 **Sec. 24.21. Enforcement Procedure.** Enforcement of the Alachua County Code of  
144 Ordinances and initiation of enforcement procedures shall be in accordance with section  
145 162.06, Fla. Stat., as amended from time to time, and section 24.06 of this chapter, as  
146 amended from time to time. The County Manager, or designee, shall review, in  
147 consultation with staff, potential cases and, at his or her sole discretion, determine  
148 whether alleged violations will be heard by a Special Magistrate or Codes Enforcement  
149 Board.

150 **Sec. 24.22. Conduct of Hearing.**

151 (a) Hearings schedule. The County Manager or designee may call for hearings on  
152 an as-needed basis. The hearings shall be scheduled around the availability of  
153 the parties but no later than 90 calendar days after the date that the hearing is  
154 called. Once the hearing is scheduled, the County shall properly notice any  
155 alleged violators of the hearing date, time, and location.

156  
157 (b) Sunshine Law. Hearings before a Special Magistrate, under this article, are  
158 subject to the Sunshine Law and must comply with section 286.011, Fla. Stat.,  
159 as amended from time to time. In addition to the requirements of the Sunshine  
160 Law, the Clerk shall record Special Magistrate hearings to assist in preparing  
161 minutes and the record on appeal.

162

- 163 (c) Burden of proof. The County shall have the burden of proof to show by a  
164 preponderance of the evidence that an alleged violation exists.  
165
- 166 (d) Evidence. All testimony shall be under oath. A Special Magistrate, the  
167 County and the alleged violator may inquire of any witness. Formal rules of  
168 evidence do not apply, but fundamental due process shall be observed and  
169 shall govern such proceedings.  
170
- 171 (e) Absence of alleged violator. If the notice provisions of this article have been  
172 met, a hearing may take place in the absence of an alleged violator.  
173
- 174 (f) Fines, costs, and liens. Special Magistrates may impose fines, cost of repairs,  
175 costs of prosecution and liens consistent with section 24.09 of this chapter, as  
176 amended from time to time. Liens entered pursuant to this section shall have  
177 the same duration and force as provided for in chapter 162, Fla. Stat., as  
178 amended from time to time. Special Magistrates may reduce a fine imposed  
179 pursuant to this section and may release a lien entered pursuant to this section.  
180
- 181 (g) Orders. Every order entered by a Special Magistrate shall be in writing, and  
182 shall include findings of fact based on evidence in the record and conclusions  
183 of law. Every order entered by a Special Magistrate shall be filed with the  
184 Clerk for the Special Magistrates. Special Magistrates shall, in every  
185 proceeding, reach a decision without unreasonable or unnecessary delay, and  
186 shall, in all instances, issue an order within 15 calendar days from the  
187 conclusion of the final hearing at which the last of the evidence was received.  
188 The Clerk for the Special Magistrates shall mail the order to the violator  
189 within 15 calendar days from the date that the Clerk receives the order from a  
190 Special Magistrate.  
191
- 192 (h) Recusal. At any point before, during or after a proceeding, Special  
193 Magistrates may recuse themselves to assure a fair proceeding free from  
194 potential bias or prejudice. Special Magistrates shall not hear any case in  
195 which they have a conflict of interest.  
196
- 197 (i) Ex parte communication. Special Magistrates should avoid ex parte  
198 communication concerning alleged violations which may come before them.  
199 If a Special Magistrate receives ex parte communication, the Special  
200 Magistrate shall reveal the nature of the ex parte communication on an alleged  
201 violation before hearing that alleged violation and consider any motion for  
202 recusal by a party, including the County.

203 **Sec. 24.23. Powers.** The Special Magistrates shall have all of the powers granted to the  
204 Codes Enforcement Board under chapter 162, Fla. Stat., as amended, and section 24.08 of  
205 this chapter, as amended from time to time.  
206

207 **Sec. 24.24. Notices.** Notices required by this article shall be provided to the alleged  
208 violator in accordance with chapter 162, Fla. Stat., as amended, and section 24.11 of this  
209 chapter, as amended from time to time.

210  
211 **Sec. 24.25. Appeals.** An aggrieved party may appeal in accordance with chapter 162,  
212 Fla. Stat., as amended from time to time.

213  
214 SECTION 5. Severability. If any word, phrase, clause, paragraph, section or  
215 provision of this ordinance or the application hereof to any person or circumstance is held  
216 invalid or unconstitutional, such finding shall not affect the other provisions or  
217 applications of the ordinance which can be given effect without the invalid or  
218 unconstitutional provisions or application, and to this end the provisions of this ordinance  
219 are declared severable.

220 SECTION 6. Inclusion in the Code. It is the intent of the Board of County  
221 Commissioners of Alachua County, Florida, and it is hereby provided that the provisions  
222 of this ordinance shall become and be made a part of the Code of Ordinances of Alachua  
223 County, Florida; that the section of this ordinance may be renumbered or re-lettered to  
224 accomplish such intent and that the word “ordinance” may be changed to “section”,  
225 “article”, or other appropriate designation.

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

230 SECTION 8. Effective Date. This ordinance shall take effect immediately upon  
231 final adoption.

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234 DULY ADOPTED in regular session, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

235 BOARD OF COUNTY COMMISSIONERS OF  
236 ALACHUA COUNTY, FLORIDA

237  
238 ATTEST:

239 BY: \_\_\_\_\_  
240 Charles S. Chestnut, IV, Chair

241 \_\_\_\_\_  
242 J.K Irby, Clerk

243  
244 APPROVED AS TO FORM

245  
246  
247  
248 \_\_\_\_\_  
249 County Attorney

250 (SEAL)

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