

ORDINANCE NO. 11-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 6, ARTICLE II, SECTION 6-31 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, PROVIDING FOR THE JURISDICTION OF THE LEON COUNTY CODE ENFORCEMENT BOARD; AMENDING CHAPTER 6, ARTICLE II, SECTION 6-32, PROVIDING FOR ADMINISTRATIVE CONTINUANCES; AMENDING CHAPTER 14, ARTICLE I, SECTION 14-5, PROVIDING FOR LIENS LEVIED BY THE CODE ENFORCEMENT BOARD FOR ABATEMENT OF NUISANCES TO BE COEQUAL WITH OTHER LIENS AND INCUMBRANCES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of the County of Leon, Florida, as follows, that:

**SECTION 1.** Chapter 6, Article II, Section 6-31 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

**Sec. 6-31. Function.**

The code enforcement board shall have the purpose of conducting hearings relating to the enforcement of the following provisions as now or hereafter amended:

- (1) ~~Chapter 10, Article VII;~~
- (2) ~~Chapter 10, Article X;~~
- (3) ~~Chapter 10, Article XII;~~
- (4) ~~Chapter 14, articles I, II and III;~~
- (5) ~~Chapter 5, Article II and Article III;~~
- (6) ~~Chapter 10, Article XI;~~
- (7) ~~Chapter 10, Article XVI; and~~

~~(8) Chapter 10, Article XVIII.~~

(1) Chapter 5, Building and Construction Regulations, Article II, Technical Codes and Standards;

(2) Chapter 5, Building and Construction Regulations, Article III, Housing Code;

(3) Chapter 10, Land Development Code;

(4) Chapter 14, Public Nuisances, Article I, In General;

(5) Chapter 14, Public Nuisances, Article II, Junk;

(6) Chapter 14, Public Nuisances, Article III, Lot Mowing; and

(7) Any provision of the Leon County Code of Laws which the code enforcement board is specifically granted enforcement jurisdiction.

**SECTION 2.** Chapter 6, Article II, Section 6-32 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

**Sec. 6-32. Hearing procedure.**

(a) The chairman of the code enforcement board may call enforcement board hearings and such hearings may also be called by a written notice signed by three members of the board. The code enforcement board may at any hearing set a future hearing date.

(b) The code enforcement board shall convene at least once every two months, but may convene more often as the case demand dictates.

(c) Minutes shall be kept of all hearings held by the code enforcement board and all such hearings shall be open to the public.

(d) The county administrator shall provide clerical and administrative personnel as may be required to assist the board in the proper performance of its duties.

(e) Each case before the enforcement board shall be presented by a representative of the county.

(f) The county will provide counsel to the code enforcement board, and in no case shall the county attorney's staff present a case and represent the board in the same case.

(g) Cases scheduled for a particular day shall be heard. All testimony shall be under oath and shall be recorded. The board shall take testimony from the code inspector, the alleged violator and any other person familiar with the case or having knowledge about the case. The board shall not be bound by any formal rules of evidence; however, it shall act to ensure fundamental due process in each case brought before the board.

(h) At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein. The finding shall be by motion approved by a majority of those members present and voting, except that at least four members of a seven-member enforcement board must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by such date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the enforcement board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

(i) Any case may be continued by the code enforcement board for good cause shown. If the code enforcement board's consideration of a case has already been publicly noticed, the board's counsel may grant a continuance prior to the meeting at which a case is to be heard, provided that the request is unopposed by all parties. The continuance shall be announced during the publicly noticed hearing.

**SECTION 3.** Chapter 14, Article I, Section 14-5 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

**Sec. 14-5. Abatement by county.**

(a) If after a hearing, as provided for in Chapter 6, the code enforcement board determines that the conditions which exist on the property constitutes a public nuisance, the owner of the property shall have a reasonable time, as described by the code enforcement board, to remove or correct the conditions, after which time the county, through the county administration or agents or contractors hired by the county administration, shall have the right to have the conditions abated at the expense of the property owner. Upon having the nuisance abated, the county shall mail, by certified mail, return receipt requested, to the owner a notice of the cost of abating the conditions. If payment is not received within 15 days after the mailing of the notice of assessment for the work together with all costs of inspection and administration, the county may file a lien against the property for the actual cost of the work, inspection and administration costs, interest, plus reasonable attorney's fee, and other costs of collecting the sums. Nothing herein shall be construed to prevent the county from exercising its discretion to increase or decrease charges based on costs or bid considerations, or utilizing means other than that contemplated in the notice provided for in this section, to abate the conditions violative of this article.

(b) Liens created pursuant to this section and recorded in the public records shall remain liens coequal with the liens of all state, county, district, and municipal taxes, and coequal with all other liens, title and claims, until paid, and shall bear interest annually at a rate not to exceed the legal rate allowed for such liens, and may be foreclosed pursuant to the procedure set forth in Chapter 173, Florida Statutes.

**SECTION 4.** Conflict with Other Ordinances and Codes.

All ordinances or parts of ordinances of the Code of Laws of Leon County, Florida, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 5.** Severability.

If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

**SECTION 6.** Effective Date. This ordinance shall have effect upon becoming law.

DONE, ADOPTED, AND PASSED by the Board of County Commissioners of Leon County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
John Dailey, Chairman  
Board of County Commissioners

ATTEST:  
Bob Inzer, Clerk of the Court  
Leon County, Florida

Approved as to Form:  
Leon County Attorney's Office

BY: \_\_\_\_\_

BY: \_\_\_\_\_  
Herbert W.A. Thiele, Esq.  
County Attorney