

1 LEON COUNTY ORDINANCE NO.

2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF LEON COUNTY, FLORIDA,
5 AMENDING CHAPTER 6, SECTION 6-32, OF THE CODE OF
6 LAWS OF LEON COUNTY, FLORIDA; ENTITLED HEARING
7 PROCEDURE; AMENDING SECTION 6-34, ENTITLED
8 ADMINISTRATIVE FINES; LIENS; AMENDING CHAPTER 14,
9 ARTICLE V, SECTION 14-56, OF THE CODE OF LAWS OF
10 LEON COUNTY, FLORIDA; ENTITLED APPEALS;
11 PROVIDING FOR CONFLICTS; PROVIDING FOR
12 SEVERABILITY; PROVIDING FOR APPLICABILITY; AND
13 PROVIDING AN EFFECTIVE DATE.
14

15
16 RECITALS

17
18 WHEREAS, the Board of County Commissioners desires to enact an ordinance amending
19 Section 6-32 of the Leon County Code of Laws, relating to Hearing Procedure;
20

21 WHEREAS, the Board of County Commissioners desires to enact an ordinance amending
22 Section 6-34 of the Leon County Code of Laws, relating to Administrative fines; liens;
23

24 WHEREAS, the Board of County Commissioners desires to enact an ordinance amending
25 Section 14-56 of the Leon County Code of Laws, relating to Appeals;
26

27 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON
28 COUNTY, FLORIDA, that:
29

30 Section 1. Amendments to Chapter 6, Code Enforcement.

31
32 Section 6-32 of the Code of Laws of Leon County, Florida, entitled "Hearing Procedure" is
33 hereby amended to read as follows:
34

35 Sec. 6-32. - Hearing procedure.

36
37 (a) The ~~chairman of the code enforcement~~ board administrator may call code enforcement board
38 hearings ~~and such hearings may also be called by a written notice signed by three members of the~~
39 ~~code enforcement board~~. The code enforcement board may, at any hearing, set a future hearing
40 date.
41

42 (b) The code enforcement board shall ~~convene~~ conduct a code compliance hearing at least once every
43 two months, but may convene more often as ~~the caseload~~ demands dictates.
44

45 (c) Minutes shall be kept of all hearings held by the code enforcement board, and all such hearings shall
46 be open to the public.
47

- 1 (d) The County Administrator shall provide clerical and administrative personnel as may be required
2 to assist the code enforcement board in the proper performance of its duties.
3
- 4 (e) Each case before the code enforcement board shall be presented by a representative of the county.
5
- 6 (f) The county will provide counsel to the code enforcement board, and in no case shall the County
7 Attorney's staff present a case and represent the code enforcement board in the same case.
8
- 9 (g) Cases scheduled for a particular day shall be heard. All testimony shall be under oath and shall be
10 recorded. At the code compliance hearing, ~~t~~The code enforcement board shall take testimony from
11 the code inspector, the alleged violator and any other person familiar with the case or having
12 knowledge about the case. The code enforcement board shall not be bound by any formal rules of
13 evidence; however, it shall act to ensure fundamental due process in each case brought before the
14 code enforcement board.
15
- 16 (h) At the conclusion of the code compliance hearing, the code enforcement board shall issue a code
17 compliance order, including findings of fact, based on evidence of record, ~~and~~ conclusions of law,
18 ~~and shall issue an order requiring compliance and~~ affording the proper relief consistent with powers
19 granted herein. The terms of the code compliance order findings shall be adopted, by motion,
20 approved by a majority of those members present and voting, except that at least four members of
21 the seven-member code enforcement board must vote in order for the action to be official. The code
22 compliance order may will include a notice that it must be complied with by a specified date, and
23 that a fine may will be imposed if the order is not complied with by such date, specifying how the
24 fine will be calculated, and that a lien will be imposed on the property. If the violation was corrected
25 after scheduling of the code compliance hearing but before such hearing, the code enforcement
26 board may enter a code compliance order finding that the violation occurred and has been resolved,
27 and order closing of the file. The code enforcement board shall provide the code compliance order
28 by certified mail to the violator. A certified copy of such order may be recorded in the public records
29 of the county and shall constitute notice to any subsequent purchasers, successors in interest, or
30 assigns if the violation concerns real property, and the ~~findings terms~~ therein shall be binding upon
31 the violator and, if the violation concerns real property, any subsequent purchasers, successors in
32 interest, or assigns. If an code compliance order is recorded in the public records pursuant to this
33 subsection and the order is complied with by the date specified in the order, the code enforcement
34 board shall issue an order acknowledging code compliance that shall be recorded in the public
35 records. A hearing is not required to issue such an order acknowledging compliance. The code
36 enforcement board may at the time of the code compliance hearing authorize the chair to enter the
37 order imposing fine and lien described in section 6-32(j) in the event the violator fails to comply
38 with any one or more of the requirements set forth in the code compliance order.
39
- 40 (i) -If the violator fails to comply with any one or more of the requirements set forth in the code
41 compliance order issued by the code enforcement board by the corresponding compliance deadline,
42 the county will send notice by certified mail to the violator advising that the violator has failed to
43 comply with code compliance order and will be subject to penalties in the form of a fine per day
44 for each day that the violator remains out of compliance with the code compliance order, and that
45 a lien as determined will be imposed on the property. The violator shall have 20 days from the date
46 of the notice of non-compliance to file a request for a compliance review hearing before the code

1 enforcement board to challenge the determination of non-compliance with the code compliance
2 order, validity of the fine amount, or the imposition of the lien. Such request for a compliance
3 review hearing shall be filed with the board administrator, who will notice the case for hearing.
4 Failure to timely file a request for a compliance review hearing will be deemed a waiver of the right
5 to challenge the determination of non-compliance in the code compliance order, validity of the fine
6 amount, or the imposition of a lien.

7
8 (j) If the violator fails to timely file a request for a compliance review hearing, the county will submit
9 an affidavit of non-compliance to the chair of the code enforcement board. Upon receipt of the
10 affidavit of non-compliance, and confirmation that the violator waived the right to request a hearing
11 to contest non-compliance, validity of the fine amount, or the imposition of a lien, the chair may
12 execute an order imposing a fine, which will be filed against the violator immediately and a fine
13 shall be assessed for the days the violator is out of compliance. The fines established by the order
14 imposing fine shall constitute a lien against the property and upon any other real or personal
15 property owned by the violator.

16
17 (ik) -Any case may be continued by the code enforcement board for good cause shown. If the code
18 enforcement board's consideration of a case has already been publicly noticed, the code
19 enforcement board's counsel may grant a continuance prior to the meeting at which a case is to be
20 heard, provided that the request is unopposed by all parties. The continuance shall be announced
21 during the publicly noticed hearing.

22
23 Section 6-34 of the Code of Laws of Leon County, Florida, entitled "Administrative fines;
24 liens" is hereby amended to read as follows:

25
26 Sec. 6-34. – Administrative fines; liens.

27
28 (a) As set forth above in Section 6-32, The code enforcement board, upon notification by the code
29 inspector that an order of the code enforcement board when a code compliance order has not been
30 complied with by the set time or, upon finding that a repeat violation has been committed, may
31 order the violator may be ordered to pay a fine in an amount specified in this section for each day
32 the violation continues past the date set by the code enforcement board for compliance order or, in
33 the case of a repeat violation, for each day the repeat violation continues, beginning with the date
34 the repeat violation is found to have occurred by the code inspector past the date of notice to the
35 violator of the repeat violation. If Where a finding of a violation or a repeat violation has been made
36 as provided in this part, at a code compliance hearing and the violator has failed to timely request
37 a compliance review hearing as provided in Section 6-32(i), a hearing shall not be necessary for
38 issuance of the order imposing the fine.

39
40 (b) The code enforcement board shall provide by certified mail the findings of fact and conclusions of
41 law to the property owner with a notice that the property owner may request a hearing challenging
42 the fine amount within 20 days from the date of the findings of fact and conclusions of law. The
43 findings of fact and conclusions of law shall be recorded after 20 days unless the property owner
44 files a timely request for hearing. If such a hearing is requested, the hearing shall be limited to a
45 consideration of only those new findings necessary to impose an appropriate fine.

1 (e**b**) A fine imposed pursuant to this ~~section~~ Chapter shall not exceed \$250.00 per day for a first
2 violation and shall not exceed \$500.00 per day for a repeat violation. If, at the code compliance
3 hearing, the code enforcement board finds the violation to be irreparable or irreversible in nature,
4 it may impose a one-time fine not to exceed \$5,000.00 per violation in the code compliance order.
5 In determining the amount of the fine, if any, the code enforcement board shall consider the
6 following factors:

7
8 (1) The gravity of the violation.

9
10 (2) Any actions taken by the violator to correct the violation.

11
12 (3) Any previous violations committed by the violator.

13
14 (d**c**) The code enforcement board may reduce a fine imposed pursuant to this ~~section~~ Chapter upon
15 request after the violation has been corrected.

16
17 (e**d**) A lien for a violation of section 14-31 or 14-41 has a maximum lien threshold of \$10,000.00 and
18 shall cease accruing once the lien reaches \$10,000.00. Violations that are found to be repeat
19 violations, regardless of the violation, and violations of other sections of the Code other than
20 sections 14-31 and 14-41 do not have a maximum lien threshold, unless otherwise stated.

21
22 (f**e**) A certified copy of an order imposing a fine shall be recorded in the public records and, thereafter,
23 shall constitute a lien against the land on which the violation exists and upon any other real or
24 personal property owned by the violator. Upon petition to the circuit court, such order may be
25 enforced in the same manner as a court judgment by the sheriffs of the state, including levy against
26 the personal property, but such order shall not be deemed to be a court judgment except for
27 enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the
28 violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed
29 pursuant to this ~~section~~ Chapter, whichever occurs first. After three months from the filing of any
30 such lien which remains unpaid, the code enforcement board may authorize the County Attorney
31 to foreclose on the lien. No lien created pursuant to the provisions of this ~~section~~ Chapter may be
32 foreclosed on real property which is a homestead under Fla. Const. art. X, § 4. A lien arising from
33 a fine imposed pursuant to this ~~section~~ Chapter runs in favor of the county, and the county may
34 execute a satisfaction or release of lien entered pursuant to this ~~section~~ Chapter.

35
36 **Section 2. Amendments to Chapter 14, Nuisance Abatement.**

37
38 Section 14-56 of the Code of Laws of Leon County, Florida, entitled "Appeals" is hereby
39 amended to read as follows:

40
41 Sec. 14-56. - Appeals.

42
43 (a) An aggrieved party and/or the county may appeal a final administrative order of the nuisance
44 abatement board to the circuit court by writ of certiorari. An appeal shall be filed within ~~15~~ 30 days
45 of the entry of the order to be appealed. As used in this section, the term "aggrieved party" means
46 a person who possesses a present legal right of present or future enjoyment of the property by virtue

1 of a deed, title, mortgage, fully executed contract for purchase, lien on estate in the property,
2 judgment of court, being named a beneficiary in a will or trust of a deceased owner or the legal
3 spouse of the property owner.
4

5 (b) The filing of an appeal stays the order of the nuisance abatement board until the appeal is resolved
6 unless the building or premises presents imminent peril to the public health or general welfare or
7 presents immediate danger to the life or safety of any person.
8

9 **Section 3. Conflicts.**

10
11 All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby
12 repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon
13 County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this
14 ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.
15

16 **Section 4. Severability.**

17
18 If any word, phrase, clause, section, or portion of this ordinance is declared by any court of
19 competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and
20 portions of this ordinance shall remain in full force and effect.
21

22 **Section 5. Applicability.**

23
24 This ordinance shall apply to and be effective in the unincorporated area of Leon County.
25

26 **Section 6. Effective Date.**

27
28 This ordinance shall have effect upon becoming law.
29

30 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County,
31 Florida, this _____ day of _____, 20____.
32

33 LEON COUNTY, FLORIDA
34
35

36 By: _____
37 Carolyn D. Cummings, Chair
38 Board of County Commissioners
39

1 ATTESTED BY:
2 Gwendolyn Marshall Knight, Clerk of
3 Court & Comptroller, Leon County, Florida

4
5
6 By:_____

7
8
9 APPROVED AS TO FORM:
10 Chasity H. O'Steen, County Attorney
11 Leon County Attorney's Office

12
13
14 By:_____