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DEPARTMENT OF LAW  
TALLAHASSEE, FLORIDA

1 Staff Summary

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3 This ordinance authorizes the Code Enforcement Division to offer alleged violators a stipulation  
4 when the Code provides a recommended penalty for an offense. Initially, the procedure is  
5 intended to be used for irrigation violations and for the proposed animal control ordinance  
6 amendment. The ordinance also changes the notice requirement for Code Enforcement actions  
7 from 15 to 10 days to conform to state statutes.  
8  
9

10 **ORDINANCE NO. 2009- 48**

11 **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF**  
12 **LAKE COUNTY, FLORIDA, AMENDING SECTION 8-4 OF THE LAKE**  
13 **COUNTY CODE TO PROVIDE A PROCEDURE FOR WRITTEN**  
14 **STIPULATIONS IN CODE ENFORCEMENT CASES; AMENDING**  
15 **SECTION 8-6 OF THE LAKE COUNTY CODE TO REDUCE THE**  
16 **NOTICE REQUIRED FOR CODE ENFORCEMENT ACTIONS FROM 15**  
17 **TO 10 DAYS IN ORDER TO CONFORM TO FLORIDA STATUTES;**  
18 **PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN**  
19 **EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND**  
20 **PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE.**  
21

22  
23 **WHEREAS,** the Board of County Commissioners has recently adopted regulatory  
24 ordinances which specify a recommended fine for certain types of offenses; and  
25

26 **WHEREAS,** the Board of County Commissioners wishes to provide a procedure where  
27 violators of these code provisions may elect to admit the violation and pay the recommended fine  
28 without the necessity of appearing at a hearing; and  
29

30 **WHEREAS,** such process would be completely voluntary and would be subject to  
31 approval by the Code Enforcement Special Master; and  
32

33 **WHEREAS,** should an alleged violator wish to have a hearing to argue guilt or to argue  
34 for a lower fine, such alleged violator will be entitled to a full hearing before the Special Master;  
35 and  
36

37 **WHEREAS,** should the Special Master determine that a hearing is necessary, the Special  
38 Master can decline to accept the proposed admission and fine and require that a full hearing  
39 before the Special Master be held.  
40

41 **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of  
42 Lake County, Florida as follows:  
43

44 **Section 1. Recitals.** The foregoing recitals are true and correct and incorporated  
45 herein by reference.  
46

County Attorney  
RECEIVED  
SEP 17 2009

1            **Section 2.    Amendment.** Chapter 8, Section 8-4, of the Lake County Code is hereby  
2 amended to read as follows:

3  
4    **Chapter 8**

5  
6    **CODE ENFORCEMENT SPECIAL MASTER**

7  
8    **Sec. 8-4. Enforcement procedure.**

9  
10            (a)    The Code Enforcement Manager or designee shall have the duty of enforcing the  
11 various codes pursuant to this chapter. The Code Enforcement Manager or designee shall utilize  
12 the procedures of this section or the alternative enforcement procedure outlined in Sections 8-11  
13 through 8-14. The Special Master shall not have the power to initiate enforcement proceedings  
14 pursuant to this chapter. The Code Enforcement Manager and designee shall accept anonymous  
15 code violation complaints.

16  
17            (b)    If a violation of a code provision is found, the Code Enforcement Manager or  
18 designee shall notify the alleged violator of the violation and give the alleged violator a  
19 reasonable time, in light of the nature of the violation, to correct the violation. Should the  
20 violation continue beyond the time specified for correction, the Code Enforcement Manager or  
21 designee shall schedule a hearing in front of the Special Master, and provide written notice to the  
22 alleged violator of a scheduled hearing in the manner prescribed in Section 8-5. If the violation  
23 is not corrected by the time specified for correction by the Code Enforcement Manager or  
24 designee, the case may be presented to the Special Master even if the violation has been  
25 corrected prior to the hearing, and the notice shall so state. If the Lake County Code specifies a  
26 recommended penalty for such violation, the Code Enforcement Manager or designee may, at his  
27 or her option, include a written stipulation along with the required notice. Such stipulation shall  
28 provide that if it is signed and returned along with any monetary penalty prior to the scheduled  
29 Special Master hearing, that the Code Enforcement Manager or designee will recommend  
30 approval of such stipulation to the Special Master and that attendance by the violator will not be  
31 necessary at such hearing. If the Special Master refuses to accept such stipulation, the matter  
32 will be reset for hearing and notice given to the alleged violator.

33  
34            (c)    If a repeat violation is found, the Code Enforcement Manager or designee shall  
35 notify the alleged violator, but shall not be required to give the alleged violator a reasonable time  
36 to correct the violation. The Code Enforcement Manager or designee, upon notifying the alleged  
37 violator of a repeat violation, shall schedule a hearing, and shall provide written notice to the  
38 alleged violator of a scheduled hearing in the manner prescribed in Section 8-5. The case may be  
39 presented to the Special Master even if the repeat violation has been corrected prior to the  
40 hearing, and the notice shall so state. If the repeat violation has been corrected, the Special  
41 Master shall retain the right to hold a hearing to determine costs and impose the payment of  
42 reasonable enforcement fees upon the repeat violator. For purposes of this Chapter, a repeat  
43 violation means a violation of a provision of a code or ordinance by a person who has been  
44 previously found to have violated or who has admitted violating the same provision within five  
45 (5) years prior to the violation, notwithstanding the violations occur at different locations. If the  
46 violation is a repeat violation, and if the Lake County Code specifies a recommended penalty for

1 such violation, the Code Enforcement Manager or designee may, at his or her option, include a  
2 written stipulation along with the required notice. Such stipulation shall provide that if it is  
3 signed and returned along with any monetary penalty prior to the scheduled Special Master  
4 hearing, that the Code Enforcement Manager or designee will recommend approval of such  
5 stipulation to the Special Master and that attendance by the violator will not be necessary at such  
6 hearing. If the Special Master refuses to accept such stipulation, the matter will be reset for  
7 hearing and notice given to the alleged violator.  
8

9 (d) Notwithstanding the provisions of paragraphs (a), (b), and (c), if the Code  
10 Enforcement Manager or designee has reason to believe a violation presents a serious threat to  
11 the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the  
12 Code Enforcement Manager or designee shall make a reasonable effort to notify the alleged  
13 violator and may immediately schedule a hearing in front of the Special Master. If the violation  
14 is a violation which is irreparable or irreversible in nature, and if the Lake County Code specifies  
15 a recommended penalty for such violation, the Code Enforcement Manager or designee may, at  
16 his or her option, include a written stipulation along with the required notice. Such stipulation  
17 shall provide that if it is signed and returned along with any monetary penalty prior to the  
18 scheduled Special Master hearing, that the Code Enforcement Manager or designee will  
19 recommend approval of such stipulation to the Special Master and that attendance by the violator  
20 will not be necessary at such hearing. If the Special Master refuses to accept such stipulation,  
21 the matter will be reset for hearing and notice given to the alleged violator.  
22

23  
24 **Section 3. Amendment.** Chapter 8, Section 8-6, of the Lake County Code is hereby  
25 amended to read as follows:  
26

27 **Chapter 8**

28  
29 **CODE ENFORCEMENT SPECIAL MASTER**

30  
31 **Sec. 8-6. Public hearings.**

32  
33 (a) Upon request of the Code Enforcement Manager, a hearing in front of the Special  
34 Master may be scheduled. Minutes shall be kept of all hearings before the Special Master and  
35 proceedings shall be open to the public. The alleged violator shall be given at least ten (10) days'  
36 written notice of the hearing, pursuant to the provisions of Section 8-5. The Special Master shall  
37 comply with the quasi-judicial and ex parte requirements as set forth in Chapter XIV, Land  
38 Development Regulations.  
39

40 (b) Each case before the Special Master shall be presented by the County.  
41

42 (c) The Special Master shall proceed to hear cases on the agenda for the day of the  
43 scheduled hearing. All testimony shall be under oath or affirmation, and shall be recorded. The  
44 Special Master and Clerk shall have power to administer oaths and affirmations. The County  
45 and the alleged violator shall have the right to call and examine witnesses, introduce exhibits,  
46 cross-examine opposing witnesses, impeach witnesses and rebut evidence. All persons

1 appearing before the Special Master shall be sworn in prior to giving any testimony relevant to  
2 the case. However, hearings shall be informal and need not be conducted according to technical  
3 rules of evidence.  
4

5 (d) Any relevant evidence shall be admitted if determined by the Special Master to be  
6 the sort of evidence upon which reasonable and prudent persons are accustomed to rely in the  
7 conduct of their affairs, regardless of the existence of any common law or statutory rule which,  
8 might make such evidence inadmissible in civil actions. Hearsay evidence may be used to  
9 supplement or explain other evidence, but shall not be sufficient in itself to support a finding of  
10 fact unless it would be admissible over objection in a civil action. The Special Master may  
11 exclude irrelevant or unduly repetitious evidence.  
12

13 (e) After the conclusion of the hearing, if enforcement action is necessary, the Special  
14 Master shall issue findings of fact and conclusions of law in the form of an order of enforcement,  
15 which shall command whatever steps are necessary to bring a violation into compliance by the  
16 time set in the order. The order of enforcement may include a notice that it shall be complied  
17 with by a specified date, and that a fine may be imposed if the order is not complied with by such  
18 date. A certified copy of such order of enforcement may be recorded in the public records of the  
19 County, and shall constitute notice to any subsequent purchasers, successors in interest, or  
20 assigns if the violation concerns real property, and the findings therein shall be binding upon the  
21 violator, and, if the violation concerns real property, any subsequent purchasers, successors in  
22 interest, or assigns. If an order of enforcement is recorded in the public records pursuant to this  
23 Section, and the order is complied with by the date specified in the order, the Special Master  
24 shall issue an order acknowledging compliance, which shall be recorded in the public records of  
25 the County.  
26

27 (f) The Recording Secretary for the Special Master shall serve as Clerk to the Special  
28 Master, and shall maintain all official records and orders of the Special Master.  
29

30 **Section 4. Inclusion in Code.** It is the intent of the Board of County  
31 Commissioners that the provisions of this Ordinance shall become and be made a part of the  
32 Lake County Code, and that the sections of this Ordinance may be renumbered or relettered and  
33 the word "ordinance" changed to "section", "article", or such other appropriate word or phrase in  
34 order to accomplish such intentions.  
35

36 **Section 5. Severability.** If any section, sentence, clause, or phrase of the Ordinance  
37 is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding  
38 shall in no way affect the validity of the remaining portion of this Ordinance.  
39

40 **Section 6. Filing with the Department of State.** The clerk shall be and is  
41 hereby directed to send a certified copy of this ordinance forthwith to the Secretary of State for  
42 the State of Florida.  
43

44 **Section 7. Effective Date.** This ordinance shall become effective as provided  
45 for by law.  
46


2  
3 Enacted this 1<sup>st</sup> day of September, 2009.  
4


5 Filed with the Secretary of State Sept. 9, 2009.  
6

7 Effective Sept 9, 2009.  
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9


10  
11 ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF LAKE COUNTY, FLORIDA

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15 \_\_\_\_\_  
16 Neil Kelly, Clerk of the  
17 Board of County Commissioners  
18 of Lake County, Florida  
19

20  
21   
22 \_\_\_\_\_  
23 Welton G. Cadwell, Chairman  
24 This 1 day of September, 2009.  
25

26 Approved as to form and legality:

27   
\_\_\_\_\_  
Sanford A. Minkoff  
County Attorney