

Chapter 8

CODE ENFORCEMENT SPECIAL MASTER*

* **Editors Note:** Ord. No. 2004-15, § 2, adopted March 16, 2004, amended the title of Ch. 8, and §§ 8-1--8-10 to read as herein set out. Prior to inclusion of said ordinance, Ch. 8 was entitled, "Code Enforcement Board." See also the Code Comparative Table.

Cross References: Administration, Ch. 2.

Sec. 8-1. Lake County Code Enforcement Special Master.

(a) The board of county commissioners shall appoint one (1) or more persons to act in the capacity of a special master to hear cases involving violations of the Lake County Code and Land Development Regulations.

(b) In order to serve as a code enforcement special master, a person must be either a lawyer in good standing with the Florida Bar or a Florida Supreme Court certified mediator.

(c) The county shall include within the statement of violation and notice of hearing the name of the code enforcement special master assigned to hear the case. The respondent shall notify the county no later than ten (10) calendar days before the date of the hearing that the respondent objects to the special master. If the respondent objects, the county and the respondent shall mutually agree on an impartial third party who meets all the requirements of subsection (b) above to serve as the code enforcement special master. If the parties cannot agree on an impartial third party, an administrative law judge from the department of administrative hearings shall be brought in to hear the case.

(Ord. No. 2004-15, § 2, 3-16-04)

Sec. 8-2. Jurisdiction and powers.

The code enforcement special master shall have jurisdiction to hear and decide cases involving alleged violations of any provision of the Lake County Code, the Land Development Regulations, or any resolution duly enacted by the board of county commissioners. The special master shall have all powers granted by statute, ordinance or by law.

(Ord. No. 2004-15, § 2, 3-16-04)

Sec. 8-3. Reserved.

Sec. 8-4. Enforcement procedure.

(a) The code enforcement manager or designee shall have the duty of enforcing the various codes pursuant to this chapter. The code enforcement manager or designee shall utilize the procedures of this section or the alternative enforcement procedure outlined in sections 8-11 through 8-14. The special master shall not have the power to initiate enforcement proceedings pursuant to this chapter. The code enforcement manager and designee shall accept anonymous code violation complaints.

(b) If a violation of a code provision is found, the code enforcement manager or designee shall notify the alleged violator of the violation and give the alleged violator a reasonable time, in light of the nature of the violation, to correct the violation. Should the violation continue beyond the time specified for correction, the code enforcement manager or designee shall schedule a hearing in front of the special master, and provide written notice to the alleged violator of a scheduled hearing in the manner prescribed in section 8-5. If the violation is not corrected by the time specified for correction by the code enforcement manager or designee, the case may be presented to the special master even if the violation has been corrected prior to the hearing, and the notice shall so state. If the Lake County Code specifies a recommended penalty for such violation, the code enforcement manager or designee may, at his or her option, include a written stipulation along with the required notice. Such stipulation shall provide that if it is signed and returned along with any monetary penalty prior to the scheduled special master hearing, that the code enforcement manager or designee will recommend approval of such stipulation to the special master and that attendance by the violator will not be necessary at such hearing. If the special master refuses to accept such stipulation, the matter will be reset for hearing and notice given to the alleged violator.

(c) If a repeat violation is found, the code enforcement manager or designee shall notify the alleged violator, but shall not be required to give the alleged violator a reasonable time to correct the violation. The code enforcement manager or designee, upon notifying the alleged violator of a repeat violation, shall schedule a hearing, and shall provide written notice to the alleged violator of a scheduled hearing in the manner prescribed in section 8-5. The case may be presented to the special master even if the repeat violation has been corrected prior to the hearing, and the notice shall so state. If the repeat violation has been corrected, the special master shall retain the right to hold a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. For purposes of this chapter, a repeat violation means a violation of a provision of a code or ordinance by a person who has been previously found to have violated or who has admitted violating the same provision within five (5) years prior to the violation, notwithstanding the violations occur at different locations. If the violation is a repeat violation, and if the Lake County Code specifies a recommended penalty for such violation, the code enforcement manager or designee may, at his or her option, include a written stipulation along with the required notice. Such stipulation shall provide that if it is signed and returned along with any monetary penalty prior to the scheduled special master hearing, that the code enforcement manager or designee will recommend approval of such stipulation to the special master and that attendance by the violator will not be necessary at such hearing. If the special master refuses to accept such stipulation, the matter will be reset for hearing and notice given to the alleged violator.

(d) Notwithstanding the provisions of paragraphs (a), (b), and (c), if the code enforcement manager or designee has reason to believe a violation presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the code enforcement manager or designee shall make a reasonable effort to notify the alleged violator and may immediately schedule a hearing in front of the special master. If the violation is a violation which is irreparable or irreversible in nature, and if the Lake County Code specifies a recommended penalty for such violation, the code enforcement manager or designee may, at his or her option, include a written stipulation along with the required notice. Such stipulation shall provide that if it is signed and returned along with any monetary penalty prior to the scheduled special master hearing, that the code enforcement manager or designee will recommend approval of such stipulation to the special master and that attendance by the violator will not be necessary at such hearing. If the special master refuses to accept such stipulation, the matter will be reset for hearing and notice given to the alleged violator.

(Ord. No. 2004-15, § 2, 3-16-04; Ord. No. 2007-40, § 3, 8-21-07; Ord. No. 2009-48, § 2, 9-1-09)

Sec. 8-5. Written notice.

(a) All written notices required by this section shall be provided to the alleged violator by certified mail, return receipt requested, provided if such notice is sent to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the county by such owner and is returned as unclaimed or refused, notice may be provided by posting and by first class mail directed to the addresses furnished to the county with a properly executed proof of mailing or affidavit confirming the first class mailing; hand delivery by the sheriff or other law enforcement officer, or by the code enforcement manager or designee; or by leaving the notice at the alleged violator's usual place of residence with some person of his or her family above fifteen (15) years of age, and informing such person of the contents of the written notice; or in the case of commercial premises, leaving the notice with the manager or other person in charge.

(b) In addition to providing written notice as set forth in subsection (a), written notice may also be served by publication or posting as provided in section 162.12(2), Florida Statutes.

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

(Ord. No. 2004-15, § 2, 3-16-04)

Sec. 8-6. Public hearings.

(a) Upon request of the code enforcement manager, a hearing in front of the special master may be scheduled. Minutes shall be kept of all hearings before the special master and proceedings shall be open to the public. The alleged violator shall be given at least ten (10) days' written notice of the hearing, pursuant to the provisions of section 8-5. The special master shall comply with the quasi-judicial and ex parte requirements as set forth in Chapter XIV, Land Development Regulations.

(b) Each case before the special master shall be presented by the county.

(c) The special master shall proceed to hear cases on the agenda for the day of the scheduled hearing. All testimony shall be under oath or affirmation, and shall be recorded. The special master and clerk shall have power to administer oaths and affirmations. The county and the alleged violator shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach witnesses and rebut evidence. All persons appearing before the special master shall be sworn in prior to giving any testimony relevant to the case. However, hearings shall be informal and need not be conducted according to technical rules of evidence.

(d) Any relevant evidence shall be admitted if determined by the special master to be the sort of evidence upon which reasonable and prudent persons are accustomed to rely in the conduct of their affairs, regardless of the existence of any common law or statutory rule which, might make such evidence inadmissible

in civil actions. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding of fact unless it would be admissible over objection in a civil action. The special master may exclude irrelevant or unduly repetitious evidence.

(e) After the conclusion of the hearing, if enforcement action is necessary, the special master shall issue findings of fact and conclusions of law in the form of an order of enforcement, which shall command whatever steps are necessary to bring a violation into compliance by the time set in the order. The order of enforcement may include a notice that it shall 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 of enforcement 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 of enforcement is recorded in the public records pursuant to this section, and the order is complied with by the date specified in the order, the special master shall issue an order acknowledging compliance, which shall be recorded in the public records of the county.

(f) The recording secretary for the special master shall serve as clerk to the special master, and shall maintain all official records and orders of the special master.

(Ord. No. 2004-15, § 2, 3-16-04; Ord. No. 2009-48, § 3, 9-1-09)

Sec. 8-7. Reserved.

Sec. 8-8. Subpoena powers.

The special master, the code enforcement manager or designee, or the alleged violator, may request that witnesses and evidence, including records, surveys, plats, and other materials, be subpoenaed for any code enforcement hearing. Subpoenas shall be signed by the special master, and shall be signed in blank to be provided to the code enforcement manager or designee, or to the alleged violator. Subpoenas may be served by the sheriff, or in any other manner provided by law. Proof of such service shall be made by affidavit of the person making service if not served by an officer authorized by law to do so.

(Ord. No. 2004-15, § 2, 3-16-04)

Sec. 8-9. Decisions and orders.

(a) The code enforcement manager or designee, or the violator, may appeal a final administrative order of the special master to the Circuit Court of the Fifth Judicial Circuit in Lake County. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the special master. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

(b) Every order of enforcement or order of fine entered by the special master shall be in writing, and shall include findings of fact and conclusions of law.

(c) Every order of enforcement or order of fine entered by the special master shall be filed in the office of the clerk for the special master. A copy of the executed order shall be sent by certified mail, return receipt requested, to the violator.

(d) The special master shall, in every proceeding, reach a decision without unreasonable or unnecessary delay, and shall, in all instances, reach a decision within twenty (20) calendar days from the date of the final hearing at which receipt of all evidence has been concluded.
(Ord. No. 2004-15, § 2, 3-16-04)

Sec. 8-10. Orders of fine; liens.

(a) The special master, upon notification by the code enforcement manager or designee that an order of enforcement has not been complied with by the time set out in the order, or upon finding that a repeat violation has been committed, may enter an order of fine ordering 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 master in the order of enforcement for compliance, or, in the case of a repeat violation, for each day the repeat violation continues past the date of notice to the violator of the repeat violation which has been provided by the code enforcement manager or designee. If a finding of a violation or a repeat violation has been made by the special master pursuant to this chapter, a hearing shall not be necessary for issuance of the order of fine.

- (1) A fine imposed pursuant to this section shall not exceed one thousand dollars (\$1,000.00) per day for a first violation, and shall not exceed five thousand dollars (\$5,000.00) per day for a repeat violation. However, if the special master finds the violation to be irreparable or irreversible in nature, the special master may impose a fine not to exceed fifteen thousand dollars (\$15,000.00) per violation.
 - (2) In determining the amount of the fine, if any, the special master shall consider the following factors:
 - a. The gravity of the violation;
 - b. Any actions taken by the violator to correct the violation;
 - c. Any previous violations committed by the violator.
 - (3) The special master may recommend a reduction of a fine imposed pursuant to this section. In addition to the factors contained in subsection (2) above, the special master shall consider the following mitigating factors when reducing the amount of a fine:
 - a. The transfer of the property to a new owner who subsequently brings the property into compliance with the Lake County Code;
 - b. The ability of the violator to bring the property into compliance; and
 - c. The amount of money and other resources expended to bring the property into compliance.
- (b) The violator shall have the right to request a hearing in front of the special master to challenge

the order of fine, provided such hearing is requested within twenty (20) days of the date of issuance of the order of fine. If the hearing is timely requested, it shall be scheduled as soon as practicable in front of the special master. The hearing shall be limited to consideration of only those new findings necessary to imposing the order of fine, and shall in no event be a complete re-hearing of the case. If the violator fails to make a timely request for hearing on the order of fine, the order shall be recorded in the public records of Lake County, Florida. Requesting a hearing on the order of fine shall not toll the time for appeal to the Circuit Court sitting in Lake County, Florida.

(c) A certified copy of an order of fine shall be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists, and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance, or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever shall first occur. After three (3) months from the filing of any such lien which remains unpaid, the special master may authorize the county attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest, pursuant to the provisions of section 162.09, Florida Statutes.

(d) No lien created pursuant to this chapter shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(e) Upon complying with the order of enforcement as executed by the special master, the violator may request a hearing to ask for a reduction in the order of fine. Such request shall be made in writing addressed to the code enforcement manager or designee. Upon receipt of such request, the code enforcement manager or designee shall verify that the violator has complied with the order of enforcement, and if in compliance, shall schedule the matter to be heard by the special master. A request for reduction of fine does not toll the time for filing an appeal of the order of fine to the circuit court.
(Ord. No. 2004-15, § 2, 3-16-04)

Sec. 8-11. Alternate enforcement procedure.

The code enforcement manager or designee shall have the enforcement powers set out in sections 8-11 through 8-14 herein, inclusive.

(Ord. No. 1999-74, § 2, 7-6-99; Ord. No. 2007-40, § 4, 8-21-07)

Note: Former App. E, § 12.07.20.

Sec. 8-12. Civil infraction; authority to issue citations.

A violation of a code or ordinance is a civil infraction. As such, the code enforcement manager or designee shall have the power to issue a citation to a person when, based upon personal investigation, the code enforcement manager or designee has reasonable cause to believe that the person has committed a civil

infraction in violation of the provisions of the Lake County Code or Lake County Land Development Regulations.

(Ord. No. 1999-74, § 2, 7-6-99; Ord. No. 2001-24, § 2, 3-6-01)

Note: Former App. E, § 12.07.21.

Sec. 8-13. Penalties.

(a) A citation for initial violation of a code provision or ordinance which is not contested shall carry a reduced civil penalty of one hundred fifty dollars (\$150.00), provided that such reduced civil penalty shall be paid to the clerk of the county court within thirty (30) days of the alleged violator's receipt of the citation.

(b) A citation for a repeat violation which is a second violation of a code provision or ordinance, and which is not contested, shall carry a reduced civil penalty of three hundred dollars (\$300.00), provided that such reduced civil penalty shall be paid to the clerk of the county court within thirty (30) days of the alleged violator's receipt of the citation.

(c) A citation for a repeat violation of a code provision or ordinance, other than a second violation, and which is not contested, shall carry a civil penalty of four hundred fifty dollars (\$450.00), provided that such reduced civil penalty shall be paid to the clerk of the county court within thirty (30) days of the alleged violator's receipt of the citation.

(d) An alleged violator may contest the citation by requesting a hearing date from the clerk of the county court within thirty (30) days of the alleged violator's receipt of the citation.

(e) If a citation for a violation of a code or ordinance is contested, the civil penalty imposed by the county court shall not exceed five hundred dollars (\$500.00).

(Ord. No. 1999-74, § 2, 7-6-99; Ord. No. 2001-24, § 2, 3-6-01; Ord. No. 2007-40, § 5, 8-21-07)

Note: Former App. E, § 12.07.22.

Sec. 8-14. Violations procedure.

(a) The code enforcement manager or designee shall be authorized to issue a citation to a person when, based upon personal investigation, the code enforcement manager or designee has reasonable cause to believe that the person has committed a civil infraction in violation of a Lake County Code provision or an ordinance. Prior to issuing a citation, the code enforcement manager or designee shall provide notice to the person that the person has committed a violation of the applicable code provision or ordinance, and shall establish a reasonable period of time of thirty (30) days or less within which the person shall correct the violation. If, upon personal investigation, the code enforcement manager or designee finds that the person has not corrected the violation within the designated time period, he or she may issue a citation to the person who has committed the violation. The code enforcement manager or designee shall not be required to provide the person with a reasonable period of time to correct the violation prior to issuing the citation, and may immediately issue a citation, if the code enforcement manager or designee has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(b) The code enforcement manager or designee shall issue a citation in a form prescribed by

resolution of the board of county commissioners, and meeting the requirements of F.S. § 162.21(3)(c).

(c) Any person who willfully refuses to sign and accept a citation issued by the code enforcement manager or designee shall be guilty of a misdemeanor of the second degree, punishable as provided for in F.S. § 775.082 or 775.083.

(d) After issuing a citation to an alleged violator, the code enforcement manager or designee shall deposit the original citation and one (1) copy of the citation with the Clerk of the County Court in Lake County.

(e) An alleged violator shall have thirty (30) days from the date of receipt of the citation to pay the reduced civil penalty indicated on the citation, either by mail or in person, or contest the citation by requesting a hearing date in the county court. An alleged violator electing to contest the citation and choosing to appear in county court shall be deemed to have waived the right to pay the reduced civil penalty provided for in section 8-13.

(f) The county court, after a hearing, shall determine whether the alleged violator has committed an infraction. If the commission of an infraction by the alleged violator has been proven by the greater weight of the evidence, the county court may impose a civil penalty not to exceed five hundred dollars (\$500.00).

(g) An alleged violator who fails, within thirty (30) days from the date of receipt of the citation, to pay the reduced civil penalty appearing on the citation, or to request a hearing to contest the citation, or who requests a hearing but does not appear, shall be deemed to have waived the right to contest the citation, and the county court may enter judgment against the alleged violator for an amount up to the maximum civil penalty of five hundred dollars (\$500.00).

(Ord. No. 1999-74, § 2, 7-6-99; Ord. No. 2007-40, § 6, 8-21-07)

Note: Former App. E, § 12.07.23.