



**COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM REQUEST FORM**

The Board of County Commissioners meets the 1st and 3rd Thursday of each month at 5:30 p.m. in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: 5/14/2021 Meeting Date: 5/20/2021

Name: Joel Foreman Department: County Attorney

Division Manager's Signature: 

1. Nature and purpose of agenda item:

Request for Adoption Hearing – Amendments to County Citation Ordinance

2. Recommended Motion/Action:

To set an adoption hearing for Ordinance No. 2021-08 for June 3, 2021.

3. Fiscal impact on current budget.

This item has no effect on the current budget.

MEMORANDUM

To: Board Agenda, May 20, 2021

From: Joel F. Foreman

Re: Request for Adoption Hearing – Amendments to County Citation Ordinance

Date: May 14, 2021

The Board authorized the office of the County Attorney to prepare an ordinance as relates to the powers of the County's Code Enforcement Officers to issue citations for civil infractions when the County's codes have been violated. This is a procedure supplemental to the conventional code enforcement process provided under Ch. 162 of the Florida Statutes.

While the County previously had codified a citation process, the language of the prior code did not provide for the sort of immediacy necessary for more timely enforcement of some violations.

Attached is a proposed ordinance that would amend the County Code of Ordinances to bolster the citation process. I am requesting an adoption hearing date to be set so this office may provide for publication of notices.

Recommended motion: To set an adoption hearing for Ordinance No. 2021-08 for June 3, 2021.

**COLUMBIA COUNTY, FLORIDA
ORDINANCE NO. 2021-08**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, DIVISION 3 OF THE COUNTY CODE OF ORDINANCES TO BETTER FACILITATE ISSUANCE OF CITATIONS FOR CIVIL INFRACTIONS BY EXPANDING THE DEFINITION OF CODE ENFORCEMENT OFFICER, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Columbia County Board of County Commissioners is authorized to create supplemental and additional methods of enforcing its codes and ordinances by the issuance of citations for violation of county codes and ordinances;

WHEREAS, the Columbia County Board of County Commissioners is authorized to enforce its codes and ordinances within its territorial limits as provided by Fla. Stat. Ch. 125, Fla. Stat. section 162.21, and the Home Rule Charter for Columbia County, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA:

Section 1. FINDINGS

The above Recitals are incorporated herein by reference and are hereby adopted as Findings in support of this Ordinance.

Section 2. AUTHORITY

This ordinance is enacted pursuant to the statutory authority vested in the Board of County Commissioners by Florida Statutes Chapters 125 and 162 and the Home Rule Charter for Columbia County, Florida.

Section 3. CODE RELATING TO ISSUING CITATIONS AMENDED

Chapter 2, Article VI, Sections 2-373 through 2-377 of the Columbia County Code of Ordinances is hereby amended as reflected in this section. Words that are stricken through shall be removed from the Code of Ordinances while those words that are underlined shall be added. Ellipses (...) indicate portions of the code have been omitted for brevity but should not be included in the Code nor should they indicate any deletion. Unless a deletion or addition is indicated herein, the Code of Ordinances shall not be altered by this Ordinance.

Sec. 2-373. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to

them in this section, except where the context clearly indicates a different meaning:

Code enforcement officer means any designated employee or agent of the county or, with the consent of the Sheriff, any deputy Sheriff of Columbia County, whose duty it is to enforce codes and ordinances enacted by the county.

Sec. 2-374. Designation of code enforcement officers.

The county, by and through its county coordinator or designee, shall designate certain of its employees or agents as code enforcement officers. With the consent of the Sheriff, the Sheriff and any deputy sheriff of the County is hereby designated as a county code enforcement officer. The training and qualifications of the employees or agents for such designation shall be determined by the county coordinator or designee. Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of F.S. §§ 943.085–943.255.

Section 2-375 is substituted in its entirety and shall read:

Sec. 2-375. Citation procedure.

- (a) A code enforcement officer is hereby authorized to issue a citation to any person for violation of any code or ordinance when, based upon personal investigation, the code enforcement officer has reasonable cause to believe that a violation has occurred. The word "person" shall extend and be applied to individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and legal entities or combinations thereof.
- (b) Except as provided by subsection (c) below, the code enforcement officer shall provide notice to the person that the person has committed a

violation of such code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period to correct the violation shall not exceed thirty (30) days.

- (c) A code enforcement officer is not required to provide the person with a reasonable time period to correct a violation prior to issuing a citation and may immediately issue a citation if:
 - i. A repeat violation is found, or
 - ii. The code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or
 - iii. The violation is irreparable or irreversible.
- (d) Written warning notices, if applicable, and citations shall be provided to the alleged violator by hand delivery by the code enforcement officer. In the absence of the alleged violator, issuance of a written warning notice or citation may be accomplished by leaving a copy at the alleged violator's residence with any person residing therein who is fifteen (15) years of age or older and informing the person of the contents, or by registered or certified mail, return receipt requested. If the alleged violator cannot be located and a citation relates to a motor vehicle, the citation shall be posted on the motor vehicle and the code enforcement officer shall attempt to identify the owner and effect delivery by registered or certified mail to the registered owner of the motor vehicle.
- (e) Issuance of a written warning notice or citation to a business may be accomplished by leaving a copy at the business during regular business hours with any employee and informing the employee of the contents, or by registered or certified mail, return receipt requested. Each employee of the business shall be deemed to be an agent of the

business for service of warning notices and citations.

- (f) If upon personal investigation the code enforcement officer finds that the violation has not been corrected within the time period, a code enforcement officer may issue a citation for a civil infraction to the person accused of committing the violation.
- (g) The citation shall be in such form prescribed by the board of county commissioners and consistent with the requirements of F.S. ch. 162, part II.
- (h) Each violation of a code or ordinance is a separate civil infraction. Each day such violation continues shall be deemed to constitute a separate civil infraction.
- (i) After issuing a citation to an alleged violator, the code enforcement officer shall:
 - (1) Deposit the original citation and one (1) copy of the citation with the clerk of court for the county court;
 - (2) Provide the person cited with one (1) copy; and
 - (3) Retain one (1) copy in the code enforcement officer's department or division file.
- (j) If the alleged violator is known and present upon presentment of the citation and refuses to sign the citation, the code enforcement officer shall write the words "refused" or "refused to sign" in the space provided for the person's signature. The code enforcement officer shall then leave a copy of the citation with the person cited, if possible, and shall contact the Orange County Sheriff's Office to file the necessary reports alleging a violation of F.S. § 162.21(6), which provides that a person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree punishable as provided in F.S. § 775.082 or § 775.083.

Sec. 2-376. Penalties.

- (a) Violation is civil infraction. A violation of a county code cited and enforced under the provisions of this division shall be deemed a civil infraction.
- ~~(b) Issuance of citation. A code enforcement officer who has reasonable cause to believe that a person has committed an act in violation of a county ordinance may issue a citation for such violation.~~
- ~~(e)~~ (b) Maximum penalty. The maximum civil penalty for each violation shall not exceed the sum of \$500.00 plus any applicable court costs.
- ~~(d)~~ (c) Uncontested citation. A civil penalty of less than the maximum civil penalty shall be assessed if the person who has committed the civil infraction does not contest the citation. A schedule of such civil penalties may be adopted by the board of county commissioners by separate resolution.
- ~~(e) Refusal of citation. Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree punishable as provided in F.S. §§ 775.082 or 775.083.~~
- ~~(f)~~ (d) Payment of civil penalties. All civil penalties shall be paid to and collected by the clerk of the court. All penalties collected by the clerk shall be turned over to the county finance department for deposit in the general revenue fund of the county.

Sec. 2-377. Procedure for contesting a citation in county court.

An alleged violator shall be entitled to contest any citation through an evidentiary hearing before the county court. The alleged violator shall be afforded an opportunity to request a hearing and, if requested, the hearing will be scheduled through the county court for a date and time certain. If the court determines no violation occurred, then no penalty shall be assessed against the alleged violator. If the court determines that an infraction did occur, the court shall order payment of the penalty together with taxable court

costs. If said penalty and costs are not paid by a date and time certain as determined by the court, a civil judgment shall be issued against the violator in favor of the county.

If a person fails to pay the civil penalty or requests a hearing within 30 days of the date of issuance of the citation, fails to appear in court to contest the citation when a hearing has been requested, or fails to appear in court as may be otherwise required, the court may enter judgment for an amount not to exceed the sum of \$500.00 per infraction plus taxable costs and/or may issue a rule to show cause upon the request of the county. The court rule to show cause shall require such person to appear before the court to explain why action on the citation has not been taken. If any person ~~who has issued~~ against whom such rule has been issued fails to appear in response to the court's directive, the person may be held in contempt of court in the sole discretion of the county court. The county, as an additional remedy, may refer cases of violations not paid and not contested within 15 days of issuance to a collection agency for processing, collection, and notification of failure of payment to the credit bureau.

At any hearing pursuant to this division, the commission of a violation of a county ordinance must be proved by a preponderance of the evidence. The Florida Rules of Civil Procedure and the Florida Evidence Code shall be applicable to any such hearing.

Section 4. SEVERABILITY

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. EFFECTIVE DATE

This Ordinance shall take effect immediately upon a certified copy hereof being filed with the Florida Department of State.

DULY ADOPTED by the Board of County Commissioners of Columbia County, Florida, this 3rd day of June 2021.

BOARD OF COUNTY COMMISSIONERS
COLUMBIA COUNTY, FLORIDA

By: _____
Rocky Ford, Chair

Approved as to form and legality:

ATTEST:

Joel F. Foreman, County Attorney

James M. Swisher, Jr., Clerk of Court