

ORDINANCE NO. 2022-2230

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE CITY, FLORIDA, AMENDING THE CITY CODE RELATED TO CODE ENFORCEMENT; PROVIDING FOR SUPPLEMENTAL PROCEDURES TO THE CODE ENFORCEMENT PROCESS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lake City, Florida (hereinafter the “City”) has enacted regulations concerning the enforcement of the city code; and

WHEREAS, the City Code provides for both a code enforcement board and a special magistrate as means by which violations of the City Code are processed; and

WHEREAS, the City Council finds that the addition of supplemental procedures to enforce the City Code is in the best interests of the City.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF LAKE CITY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are all true and accurate and are hereby incorporated herein and made a part of this ordinance.

Section 2. The Code of the City of Lake City is hereby amended by adding two divisions to article X, which shall read as follows:

ARTICLE X. - CODE ENFORCEMENT BOARD

DIVISION 1. GENERALLY – BOARD AND SPECIAL MAGISTRATE

DIVISION 2. SUPPLEMENTAL PROCEDURE

Sec. 2-701. Authority of division provisions.

This division is adopted pursuant to F.S. ch. 162, part II (F.S. § 162.21 et seq.), as a supplemental enforcement procedure. This division is found to be necessary to protect the interest of the public health, safety and welfare of the citizens and residents of the city and the general public.

Sec. 2-702. 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 city whose duty it is to enforce codes and ordinances enacted by the city.

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.

Sec. 2-703. Designation of code enforcement officers.

The city, by and through its city manager or designee, shall designate certain of its employees or agents as code enforcement officers. Officers of the police department are hereby designated as a city code enforcement officer. The training and qualifications of the employees or agents for such designation shall be determined by the city manager 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.

Sec. 2-704. 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.

(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:

- (1) A repeat violation is found, or
- (2) The code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or
- (3) 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 city 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 copy of the citation with the clerk of court for the county court;
- (2) Provide the person cited with one copy; and
- (3) Retain one 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 police department 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. 2-705. Penalties.

(a) *Violation is civil infraction.* A violation of a city code cited and enforced under the provisions of this division shall be deemed a civil infraction.

(b) *Maximum penalty.* The maximum civil penalty for each violation shall not exceed the sum of \$500.00 plus any applicable court costs.

(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 city council by separate resolution.

(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 city finance department for deposit in the general revenue fund of the county.

Sec. 2-706. 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 request a hearing within thirty (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 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 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 fifteen (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 city 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.

Sec. 2-707. Exemptions.

The provisions of this division shall not apply to the enforcement pursuant to sections of the Florida Building Code adopted pursuant to F.S. § 553.73 as they apply to construction, provided that a building permit is either not required or has been issued by the county.

Sec. 2-708. Supplemental enforcement method.

The provisions of this division are additional and supplemental means of enforcing city ordinances and may be used for the enforcement of any city ordinance or for the enforcement of all city ordinances. Nothing contained in this division shall prohibit the city from enforcing its ordinances by any other means.

Section 3. Conflict. All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 4. 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 5. Codification. It is the intention of the City Council of the City of Lake, City, Florida, that the provisions of this ordinance shall become and be made part of the Code of the City of Lake City, Florida.

[Remainder of this page left blank intentionally.]

Section 6. Effective Date. This ordinance shall become effective upon adoption.

PASSED upon first reading this _____ day of _____ 2022.

NOTICE PUBLISHED on this _____ day of _____ 2022.

PASSED AND ADOPTED on the second and final reading this _____ day of _____ 2022.

CITY OF LAKE CITY, FLORIDA

By: _____
Stephen M. Witt, Mayor

ATTEST:

APPROVED AS TO FORM AND
LEGALITY:

By: _____
Audrey E. Sikes, City Clerk

By: _____
Frederick L. Koberlein, Jr.,
City Attorney