



## CITY OF CALLAWAY, FLORIDA

### CITY HALL

6601 East Highway 22, Callaway, FL 32404  
Phone 850-871-6000 • FAX 850-871-2444  
www.cityofcallaway.com

**Mayor**  
Thomas W. Abbott

**Commissioners**  
Melba Covey  
Pam Henderson  
Bob Pelletier  
Ralph L. Hollister

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## PUBLIC NOTICE

### WORKSHOP MEETING SCHEDULED

by the City of Callaway Board of Commissioners  
on 14th day, April, 2015 at 6:00 P.M.  
at the Callaway Arts & Conference Center  
500 Callaway Park Way  
Callaway, FL 32404

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## AGENDA

INVOCATION  
PLEDGE OF ALLEGIANCE

ITEM #1. Discussion of Code Enforcement Policies and Procedures

  
Sandra B. Hirth, City Clerk

Providing public input is important. It can be accomplished by calling, emailing, making an appointment with your Commissioner, or speaking at a public meeting. At the conclusion of the Workshop, citizens will be given an opportunity to provide input. Individuals will be limited to five (5) minutes.

If a person decides to appeal any decision made by the City Commission with respect to any matter considered at the meeting, if an appeal is available, such person will need a record of the proceeding and such person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Callaway's City Clerk, at 6601 E. Highway 22, Callaway, FL 32404; or by phone at (850) 871-6000 at least five calendar days prior to the meeting.

If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay System, which can be reached at 1-800-955-8770 (Voice) or 1-800-955-7661 (TDD).

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**Fire Department**  
P: 850-871-2753  
F: 850-871-5564

**Leisure Services**  
P: 850-874-0031  
F: 850-874-9977

**Planning / Code Enforcement**  
P: 850-871-4672  
F: 850-871-2404

**Public Works**  
P: 850-871-1033  
F: 850-871-2416

**Arts & Conference Center**  
P: 850-874-0035  
F: 850-874-0706

***"This institution is an equal opportunity provider and employer."***

**City of Callaway Board of Commissioners  
Agenda Item Summary**

April 14, 2015

Discussion of Code Enforcement Policies and Procedures

**1. PLACED ON AGENDA BY:**

J. Michael Fuller, City Manager

**2. AGENDA:**

- PRESENTATION
- PUBLIC HEARING
- CONSENT
- OLD BUSINESS
- REGULAR

**3. IS THIS ITEM BUDGETED (IF APPLICABLE)?:** Yes  No

N/A

**4. BACKGROUND: (WHY, WHAT, WHO, WHERE, WHEN, HOW, & IDENTIFY ALL ATTACHMENTS)**

At the last regular meeting, the City Commission scheduled a workshop to discuss current code enforcement policies and procedures, and portions of the code of ordinances related to nuisances. At the last meeting, standard operating procedures for code enforcement personnel were adopted by the City Commission and review by the Code Enforcement Board. The City Commission has indicated that a more comprehensive review and discussion on code enforcement policy is needed. To aid in that discussion, staff has enclosed copies of the standard operating procedures, relevant sections of the City's Land Development Regulations, relevant sections of the code of ordinances, and the ordinance establishing the code enforcement board system and Chapter 162, F.S.

**ATTACHMENT:**

- Code Enforcement Standard Operating Procedures
- Land Development Regulation, Neighborhood Preservation Standards
- Ordinance No. 950, Amending Chapter 9.7
- Chapter 9.7 of the Code of Ordinances
- Ordinance No. 928, Establishing Code Enforcement Board (Ch. 162, F.S. as exhibit)

**5. REQUESTED MOTION/ACTION:**

For discussion purposes. No action is required.

# CITY OF CALLAWAY CODE ENFORCEMENT

## STANDARD OPERATING PROCEDURES

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**TITLE: CODE ENFORCEMENT**

**PURPOSE:**

The purpose of the Code Enforcement Division is to promote, protect and improve the health, safety and welfare of the citizens of Callaway through an effective Code Enforcement program. This will also provide guidelines and procedures for the proper investigation of complaints handled by the Code Enforcement Division.

**DISCUSSION:**

While investigating violations of the City Municipal Code and Land Development Regulations the main goal of the Code Enforcement Officer and Zoning & Code Enforcement Officer is to obtain voluntary compliance by providing the violator with the necessary information needed to correct the violation. At the Officers discretion, judging the severity of the complaint, he or she may provide a violator with a warning (verbal or written) or a notice of violation and suggestions on how to improve and correct the problem. In the event the aforementioned informal notices are ineffective the officer will issue a formal notice of violation.

The following policies and guidelines are intended to be in accordance with Florida State Statues Chapter 162.01-162.13, "Local Government Code Enforcement Boards Act".

**POLICY:**

To investigate complaints in a fair, consistent and professional manner. To adhere to the established priority of the standard operating procedures. To proactively locate violations by patrolling zones and initiate cases without receiving a complaint. To improve and correct violations and achieve compliance using available tools and best practices. To educate citizens on code enforcement policies and procedures in an effort to mitigate common violations.

**PROCEDURE:**

When a complaint is received, obtain all vital information for Complaint Form.  
(Form is included in appendix B.)

Complainants:     Name  
                          Address  
                          Phone number  
                  (Advise complainant this is public record)  
                  (Complainant has the right to remain anonymous)

Nature of complaint  
Location of complaint

**PRIORITY LIST:**

The determination of priority is based upon the information collected in the complaint. Complaints are prioritized as follows:

**PRIORITY 1: Immediate action**

Health and safety  
Violations in progress  
Illegal dumping  
Unpermitted Land clearing or cutting of trees  
Illegal burning  
Smell or Smoke  
City Manager  
Mayor or Commissioner

**PRIORITY 2: Respond within 24 hours**

Nuisances  
Accumulation of garbage / trash  
High Grass & Weeds  
Inoperative or unregistered vehicles  
Unsafe or unfit structure  
Unauthorized obstruction to the Right-of-Way

**PRIORITY 3: Respond within 2 or 3 days**

Illegal signs  
Accumulation of materials in yard  
Unpermitted activities not in progress  
    Accessory structure  
    Improper fence  
Other miscellaneous code violations

**Investigation Guideline**

1. Conduct site visit- Verify violations, factors should include:
  - A. Is the complaint valid or unfounded?
  - B. Can the violation be observed from the Right of Way?
  - C. If the complaint involves the rear yard of private property, and it cannot be seen from the Right of Way, you must have permission from the property owner or tenant to access the yard to observe the complaint. You may access from the reporting parties yard for inspection. Do not invade someone's privacy. (See Right-of-Entry section below)
2. If violations exist, try to make contact with the owner, manager, or resident. Usually a verbal warning is made on initial contact. Take time to explain what the violations are and make suggestions as to how to correct them if needed. Depending on the severity of the violation you may leave a written notice of violation at the property or business giving a reasonable time to correct the violations. If unable to make contact with someone, always leave a doorknocker / informal notice stating what the possible violations may be. (A copy of a doorknocker / informal notice is included in appendix B.)
3. Second site visit- Re-inspect for compliance, if violations remain on the property, document what work, if any, has been done. A formal notice of violation should be given to the property owner or manager.
4. If an effort has been made to bring the property into compliance you may allow more time to correct the violations. Express appreciation for the improvements and explain that full compliance is expected. Let it be known that you will be back to reinspect soon. If good progress is being made to bring the property into compliance an informal approach is acceptable. Note the date for the next inspection.
5. If no visible work has been done to bring property into compliance, obtain legal owner information from the tax roles. As required by FL SS Sec.

162.12(1)(a). This information can be obtained from the Bay County Property Appraisers website.

6. Send formal notice of violation letter via certified return receipt mail advising the property owner of record. The N.O.V should include: property address or location by parcel I.D. #, violations, specific section of code for which the violation is of. It should also state a reasonable time to correct the violations as required by FL SS Sec. 162.06(2). A reasonable time to correct violations should be made based on all information available to the Code Enforcement Officer. Remain consistent with times allowed to correct. Only allow additional time when proven extenuating circumstances exist.  
(A typical notice of violation letter is included in appendix B.)
7. Third site visit- once allowed time to correct has expired reinspect for compliance. If not in compliance, take photos and make note of any progress.
8. Unless the case could be considered an emergency, (immediate danger to the health and safety of others,) give a minimum of 10 days notice to appear before the Code Enforcement Board. (Held the fourth Thursday of the month at 6:00 P.M.)  
(A typical notice to appear letter is included in appendix B.)
9. All formal notices must be provided to the alleged violator in accordance with FL SS Sec. 162.12(1)(a,b,c,d). Via certified return receipt or hand delivery.
10. An Investigative Report, chronological list of events is prepared and presented to the Code Enforcement Board. The investigative report should include all pertinent information of the case up to the date of the meeting. It should also include a recommendation to the Board as to how they should rule.
11. A certified copy of all formal notices issued to the violator proving that due process has been achieved should be given to the clerk after each case. The documents should be labeled "evidence". It should include a copy of the notices and proof that they were properly received by the violator, pictures, and any other information justifying the need for action by the Code Enforcement Board.
12. An Order for the Chairperson of the Code Enforcement Board will be drafted for signature.
13. A copy of the signed Order should be sent to the violator via certified mail, return receipt requested or hand delivered.
14. In the event a case has reached an impasse, seek guidance from the Code Enforcement Supervisor, City Manager, or City Attorney in that order.

#### **A. CASE DISPOSITION:**

Code Enforcement cases can be closed in one of the following ways:

1. **Unfounded:** Through an investigation the complaint is unfounded with no apparent violations.
2. **Unable to access property:** A violation cannot be seen from the Right of Way (public view). The owner or tenant refuses to give access to the property or the reporting party refuses to participate by not allowing C.E officer to take photos from their yard.
3. **Immediate Compliance:** A violation is corrected in C.E Officers presence upon initial contact with violator.
4. **Compliance:** All violations are corrected any time after initial contact with violator
5. **Abatement:** Some violations may be abated when a C.E. Officer inspects property and finds that an immediate response is needed to correct a violation that is an immediate danger to the health and safety of others, and the responsible party cannot be contacted or is not responding. An Emergency Declaration must be signed by the City Manager prior to abating the nuisance or danger as required by City Code of Ordinances Sec. 9-26(e).

#### **CASE FILE MAINTENANCE:**

All active case files will be maintained in a neat and organized form.

All files will be maintained by the assigned officer until they are officially closed and turned into the records section.

Case files will contain the complete history of the case. Including but not limited to:

- Complaint form
- Case notes and phone logs
- Copy of all formal notices
- Written Correspondences
- Hard copy of all photos
- Hard copy of all Email correspondences
- Orders issued

Any and all documents in the case file are public record and subject to statutory retention requirements of 3 years from the date the file is closed, if compliance is achieved prior to administrative action. If administrative action is taken, the case file must be retained for 5 years from the date the file is closed. If a lien has been placed on the property, the case file must be retained for 5 years after the lien has been satisfied.

### **Right-of-Entry**

The Fourth Amendment to the Constitution guarantees to all persons the right of privacy free from unreasonable state intrusion. The United State Supreme Court has held “that capacity to claim the protection of the Fourth Amendment depends not upon a property right in the invaded place, but upon whether the person who claims the protection of the amendment has a legitimate expectation of privacy in the invaded place.” Therefore, the issue becomes whether the person has an expectation of privacy in the property in question.

- 1.) **Owner-Occupied Family Residences-** Officer must obtain consent to inspect the premises of owner occupied family residences (i.e. homestead property). If consent is denied, the Officer cannot obtain an inspection warrant. See Fla. Statute # 933.21 (1995)
- 2.) **Non-Owner Occupied Residences-** Officer must first try to obtain consent of the owner or the operator of the affected premises in order to inspect the non-owner occupied family residences (i.e. rental property, etc.). If consent has been sought and refused or there are justifiable reasons for not seeking such consent, the officer may obtain an Inspection Warrant from a Judge. An Inspection Warrant allows a government official, such as an Officer/Inspector to conduct an inspection required or authorized by state or local law or rule relating to municipal or county building, fire, safety, environmental, animal control, land use, plumbing, electrical, health, minimum housing or zoning standards. (See Fla. Statute # 933-21, et. al.).
- 3.) **Exceptions:**
  - A. **Emergencies-** In cases of emergency where extreme hazards are known to exist which may involve the potential loss of life or severe property damage, the Officer may enter the premises for inspection purposes. For instance, if a structure is in such a state of disrepair that at any moment it could collapse, the Officer is able to enter the premises in order to inspect the structure without the owner’s consent or an Inspection Warrant.
  - B. **The Plain View Doctrine-** An individual has no justifiable expectation of Privacy as to activities he exposes to the “plain view” of others. Therefore, the

plain view doctrine defines certain sensory observations as being outside the scope of the Fourth Amendment's protection. If a violation is in the plain view of the public, the property owner has no reasonable expectation of privacy concerning it. For Example, it is not a violation of privacy for a Code Inspector to observe code violations from a neighbor's yard or the street or any other structure where the violations are in the plain view of the public.

### **REMOVAL OF PERSONAL PROPERTY**

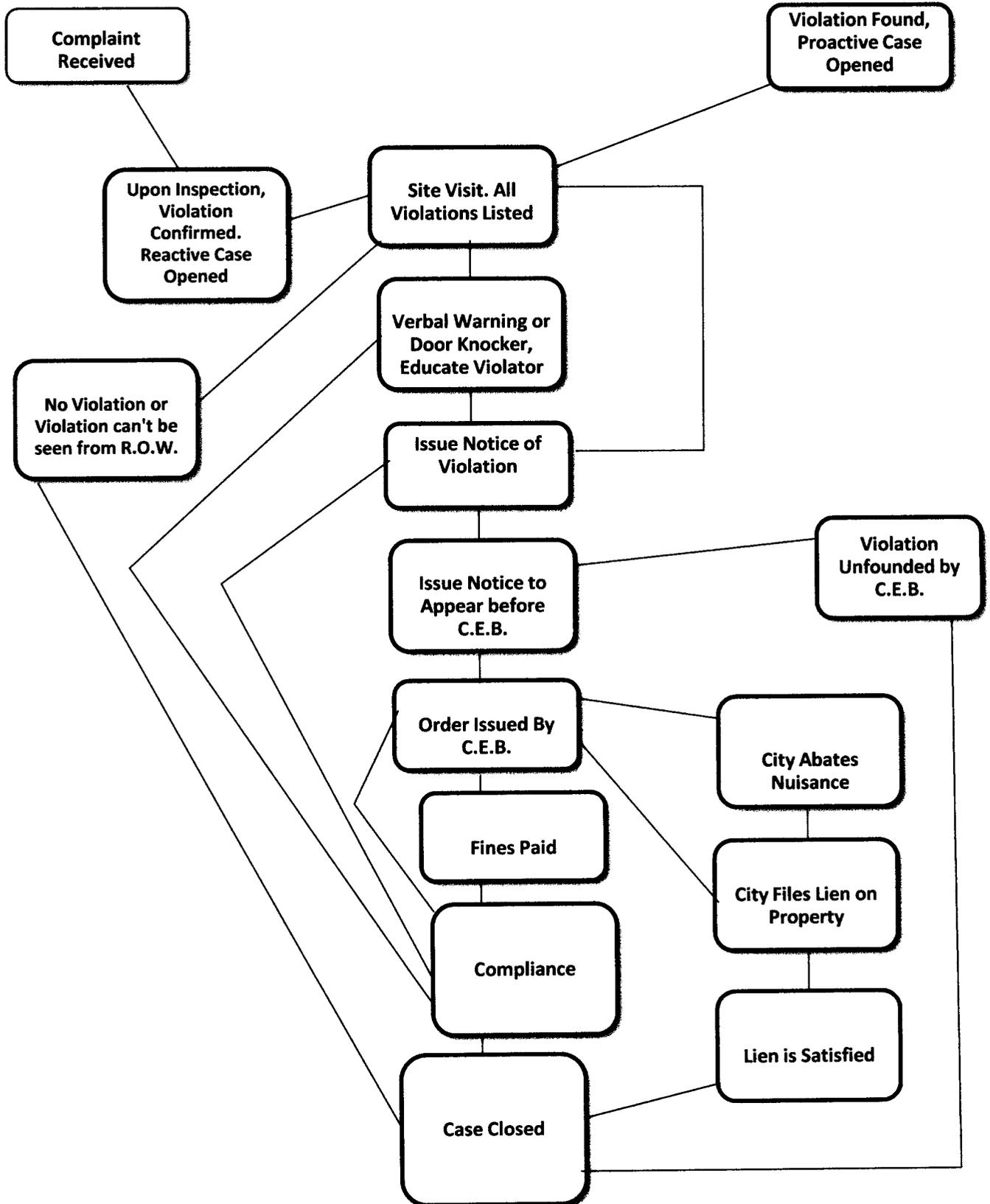
Often, lot cleaning requires the removal of items of personal property from the premises (as opposed to the removal of trash or other debris). Lot cleaning is only authorized for matter upon "any lot, tract or parcel of land" whether it is uncovered or under open shelter. Therefore, property that is within an enclosed structure cannot be removed. Never remove or authorize the removal of the property from within someone's home or any enclosed part of such structure (i.e. "screened in porch") whether it is secure or unsecured. Never remove property unless it is necessary for the public health, safety or welfare. The following procedures should be followed:

- 1.) **Photograph-** Take sufficient photographs of the personal property. Make sure the photographs reflect the true condition of the property and are appropriately marked for identification. Take picture before, during and after the work being performed.
- 2.) **Inventory-** Make a written list of all personal property that is removed from the premises.
- 3.) **Notes-** Write a brief description of all personal property. It is particularly important to document any aspect or characteristic that is not related in the photographs.
- 4.) **Storage-** Once taken into custody, the property must be stored and the owner must be notified of the storage location and given a reasonable period of time in which to retrieve it.

Approved by Code Enforcement Board February 26, 2015  
Approved by Callaway Commission March 24, 2015

# City of Callaway Code Enforcement Flow Chart

## Appendix A



City of Callaway  
**Code Enforcement Complaint Form**  
Appendix B

Date: \_\_\_/\_\_\_/\_\_\_

**Complainant**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

**Location of Reported Violation**

Address: \_\_\_\_\_

Residents Name: \_\_\_\_\_

Residents Phone #: \_\_\_\_\_

Owners Name: \_\_\_\_\_

Owners Address If Different: \_\_\_\_\_

Owners Phone #: \_\_\_\_\_

Repeat Offense:    Yes \_\_\_\_\_    No \_\_\_\_\_

**Nature of Complaint**

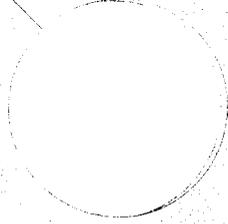
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Verbal Warning \_\_\_\_\_ Red Tag \_\_\_\_\_ N.O.V. Given \_\_\_\_\_

Letter Sent \_\_\_\_\_ Follow Up Inspection \_\_\_\_\_ Citation \_\_\_\_\_

Lien \_\_\_\_\_ **Date of Compliance:** \_\_\_\_\_

Appendix B



Date \_\_\_\_\_

Time \_\_\_\_\_

# **NOTICE**

## **CITY OF CALLAWAY CODE ENFORCEMENT**

**871-4672**

**Please contact our office**

**8 a. m. to 5 p. m.**

**Monday - Friday**

**In reference to possible code or  
ordinance violation at this property.**

Ref.# \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**CODE ENFORCEMENT OFFICER**

Appendix B

-----Date-----

----Name-----

----Address-----

Callaway, FL 32404

**Notice of Violation**

Dear ----Violator----:

The City of Callaway will allow you **10 days** from the receipt of this letter to clean up and remove all of the debris located on your property at -----Address-----, Callaway, FL. There is an accumulation of debris that has become a nuisance.

This is a violation of Ordinance 508, Section 1(g-1), which states: Any accumulation of litter, refuse, construction or demolition debris, trash, junk and other abandoned materials, metals, lumber or other things are prohibited.

Section 1(g-13) states: The term nuisance shall also include any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which the premises are located. This includes, but is not limited to, the keeping or depositing on or the scattering over the premises of any of the following: (a) litter, junk, trash, or construction or demolition debris; and (b) abandoned, discarded, unused objects or equipment such as, but not limited to, automobiles, furniture, stoves, refrigerators, freezers, cans or containers.

**Failure to comply will result in a Notice to Appear in front of the Code Enforcement Board.**

If the violation is corrected and then recurs or if the violation is not corrected by the time specified, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing.

I would like to thank you in advance for your time and cooperation. If I can be of any assistance to you in this matter, please call me at (850) 871-4672.

Respectfully,

---- Officer Name -----

Code Enforcement Officer

Appendix A

-----Date-----

---Name-----

---Address-----

Callaway, FL 32404

**Notice To Appear In Front of Code Enforcement Board**

Dear ---Violator---:

The Notice of Violation dated -----Date-----, copy attached, allowed a reasonable time to correct the following violations on your property located at -----Address-----.

~ Accumulation of debris.

This is a violation of Ordinance 508, Section 1(g-1), which states: Any accumulation of litter, refuse, construction or demolition debris, trash, junk and other abandoned materials, metals, lumber or other things are prohibited.

Section 1(g-13) states: The term nuisance shall also include any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which the premises are located. This includes, but is not limited to, the keeping or depositing on or the scattering over the premises of any of the following: (a) litter, junk, trash, or construction or demolition debris; and (b) abandoned, discarded, unused objects or equipment such as, but not limited to, automobiles, furniture, stoves, refrigerators, freezers, cans or containers.

**The allowed time to correct the violation(s) listed above has expired.**

**Therefore, it is required of you to attend the Code Enforcement Hearing:**

**Time: 6:00 P.M. -----Day-----, ----- Date-----**

**Place: Callaway Arts & Conference Center, 500 Callaway Park Way, Callaway, FL 32404.**

I would like to thank you in advance for your time and cooperation. If I can be of any assistance to you in this matter, please call me at (850) 871-4672.

Respectfully,

---- Name of Officer ----  
Code Enforcement Officer

**SECTION 15.750 - NEIGHBORHOOD PRESERVATION STANDARDS**

Section 15.750	Neighborhood Preservation Standards
Section 15.750.1	Purpose
Section 15.750.2	Commercial Vehicles in Residential Zoning Districts
Section 15.750.3	Travel Trailers in Residential Zoning Districts
Section 15.750.4	Material and Equipment Storage in Residential Zoning Districts
Section 15.750.5	Fences, Walls and Hedges
Section 15.750.6	Radio, TV Antenna and Satellite Dishes
Section 15.750.7	Provisions for Home Occupations
Section 15.750.8	Adult Bookstores, Adult Theaters and Special Cabarets
Section 15.750.9	Historical and Architectural Preservation - RESERVED
Section 15.750.10	Standards for Manufactured Housing - RESERVED

**SECTION 15.750 NEIGHBORHOOD PRESERVATION STANDARDS**

**SECTION 15.750.1 PURPOSE**

The purpose of this Section is to provide reasonable standards and regulations to assure the preservation of quality residential neighborhoods in the City, and provide standards and regulations for the following:

- Commercial vehicles in residential zoning districts;
- Travel trailers in residential zoning districts;
- Material and equipment storage;
- Fences, walls and hedges;
- Home occupations;
- Adult bookstores and theaters;
- Manufactured homes; and
- Historical and architectural preservation

**SECTION 15.750.2 COMMERCIAL VEHICLES IN RESIDENTIAL ZONING DISTRICTS (Amended by Ordinance 524. January, 1997)**

- (1) All Commercial Vehicles are prohibited from parking on any right-of-way or privately-owned parcel of land located in any residential zoning district except while standing on a temporary basis for the purpose of loading or unloading, or providing other services, common to residential areas, or as may be permitted for nonresidential uses under Section 15.760 of this Chapter.
- (2) An owner or operator of a Commercial Vehicle who parks a Commercial Vehicle on a privately-owned parcel of land located in any residential zoning district on the date of the adoption of this ordinance shall be allowed to continue to park the Commercial Vehicle on the privately-owned parcel until either the Commercial Vehicle is no longer regularly parked on the parcel, the operator of the Commercial Vehicle no longer resides on the parcel or the ownership of the parcel is transferred.

In order to be allowed to continue parking a Commercial Vehicle on a privately-owned parcel pursuant to this section, the operator of the Commercial Vehicle shall register the Commercial Vehicle with the City of Callaway Planning Department at 5708 Cherry Street, Callaway, FL 32404 within 60 days of the adoption of this ordinance. A Commercial Vehicle owner or operator must be in possession of the Commercial Vehicle to which the permit applies when the registration is submitted. The registration shall be in the form and manner determined by the City. Any owner or operator who fails to register a Commercial Vehicle with the City within the 60 day period must comply with the provisions of 15.750.2(1), Callaway Code of Ordinances.

Permits to park a Commercial Vehicle pursuant to this section are non-transferable to other owners, to other operators or to other types of Commercial Vehicles.

**SECTION 15.750.3 TRAVEL TRAILERS IN RESIDENTIAL ZONING DISTRICTS**

A travel trailer (as defined in Article II of this Chapter) may be parked in a residential zoning district (street or lot) only under the following conditions:

- (a) The travel trailer may not be occupied for living purposes.
- (b) The maximum height is fifteen (15) feet.
- (c) The travel trailer is parked in a rear or side yard no closer than five (5) feet to any property line and is screened from view by a buffer not to exceed seven (7) feet in height; or is parked within an enclosed garage or covered carport.
- (d) The travel trailer may be parked in the front yard on a temporary basis as follows:
  - (1) For a period of up to two (2) days for purposes of loading, unloading and cleaning;
  - (2) For a period of up to seven (7) days when owned by visitors or house guests of the subject property.

**SECTION 15.750.4 MATERIAL AND EQUIPMENT STORAGE IN RESIDENTIAL ZONING DISTRICTS**

The storage of materials, supplies, appliances or equipment used or designed for commercial or industrial use, and the outdoor storage of home appliances and inoperative vehicles is hereby expressly prohibited in any residential zoning district. As used in this Section, the term "inoperative vehicle" shall include:

- (a) Any vehicle from which parts, including, but not limited to, the chassis, engine, wheels or tires have been removed; or
- (b) Any vehicle without a valid, current registration; or
- (c) Any vehicle which is incapable of movement under its own power and will remain so unless

major repair or reconstruction occurs.

This subsection shall not apply to the storage of building materials on a lot if said building materials are being used for construction of a building on said lot in conformity with the terms of this Chapter and this Subsection shall not be deemed to prohibit the restoration of vehicles within an enclosed garage or privacy fence.

**SECTION 15.750.5 FENCES, WALLS AND HEDGES**  
(Amended by Ordinance 926. June 26, 2012)

No fence, wall or barrier structure shall be placed by beyond the front façade of the house unless exempted by Section 15.750.5(b). Except as may be provided in this Chapter, or by an approved subdivision plat, a wall or fence shall be permitted only within any side or rear yard, subject to the following provisions:

**SECTION 15.750.5(a) FENCES, WALLS AND HEDGES**

- (1) All walls and fences must conform to the following provisions:
  - (a) No roofing, beams, lattice work, barbed wire, or other material or structure shall be attached to or placed upon such wall or fence, and
  - (b) Vertical calculation of height shall be made by vertical measurement from the lowest point of natural ground level along the length of a wall or fence; and
  - (c) The finished side of any such wall or fence (i.e. for a wooden privacy fence, the paneled side) that faces a public road or access way shall face out; and
  - (d) The maximum height of any such wall or fence shall be eight (8) feet.
- (2) Hedges and shrubbery shall be permitted within any yard; provided that said hedges and shrubbery shall be maintained so as not to exceed a height of three (3) feet above established ground level within twenty (20) feet of the intersection of two (2) street right-of-way lines or the intersection of said lines extended.
- (3) All fences and walls shall be regularly maintained to continue their structural integrity, to provide a neat appearance and to preserve the aesthetic character of the neighborhood. In the case of exterior subdivision walls, the homeowner or condominium associations shall be jointly and severally responsible with the residents within the subdivision for the maintenance of said exterior wall.

**SECTION 15.750.5(b) EXEMPTIONS**

- (1) A wall or fence shall be allowed beyond the front facade of the house, provided the following provisions are met:
  - (a) the fence shall four (4) feet or less in height,

- (b) only a non-opaque fence and fence materials shall be used,
- (c) the fence shall not encroach on public right-of-ways or easements,
- (d) the fences shall not block the sight distance of motor vehicles on the adjacent roadways or exit points, and
- (e) the fence shall be consistent with the character of the surrounding neighborhood.

**SECTION 15.750.6 RADIO, TV ANTENNA, AND SATELLITE DISHES**

To the extent not superseded by Federal Law or regulation, radio and television antennae and dishes shall be considered accessory structures subject to the following requirements and conditions:

- (a) Single-family residential zoning districts:
  - (1) Radio and television receiving antenna and dishes shall not exceed the 60 feet height limit specified within the zoning district; and
  - (2) Freestanding (not affixed on top of a building) radio and television receiving antenna and dishes shall set back from all property lines a distance of at least fifty (50) percent of the height of the antenna or dish; and
  - (3) No installation, including supports, shall be located in any required yard(s) or in any easement or right-of-way; and
  - (4) No more than one antenna, tower and dish shall be allowed on any residential lot; and
  - (5) No advertising material shall be allowed on any antenna or dish; and
  - (6) All antenna and dish installations shall be constructed of materials that blend with the surroundings.
- (b) Multi-family residential zoning districts:
  - (1) Radio and television receiving antenna and dishes shall not exceed the maximum height specified within the zoning district; and
  - (2) Freestanding (not affixed on top of a building) radio and television receiving antenna and dishes shall set back from all property lines a distance of at least fifty (50) percent of the height of the antenna or dish; and
  - (3) No installation, including supports, shall be located in any required yard(s) or in any easement or right-of-way; and
  - (4) Antenna and dishes that are roof mounted shall be located and designed to minimize

- the visual impact on surrounding properties and from any public right-of-way; and
- (5) All antenna and dish installations shall be constructed of materials and in colors that blend with the surroundings and shall be screened by harmonious, architectural features and landscaping; and
  - (6) No advertising material shall be allowed on any antenna or dish.
- (c) Commercial and institutional/professional zoning districts:
- (1) Radio and television receiving and transmitting antenna and dishes shall not exceed the 100 maximum height specified within the zoning district; and
  - (2) Freestanding (not affixed on top of a building) radio and television antenna and dishes shall set back from all property lines a distance of at least fifty (50) percent of the height of the antenna or dish; and
  - (3) No installation, including supports, shall be located in any required easement or right-of-way; and
  - (4) All antenna and dishes shall be erected or maintained within the rear yard; and
  - (5) Antenna and dishes that are roof mounted shall be located and designed to minimize the visual impact on surrounding properties and from public right-of-way; and
  - (6) All antenna and dish installations shall be constructed of materials and in colors that blend into the surroundings and shall be screened by harmonious, architectural features and landscaping; and
  - (7) No advertising material shall be allowed on any antenna or dish.
- (d) Exceptions:
- (1) Radio and television antenna and dishes installed for use by military and emergency personnel including, but not limited to, civil defense, police and fire personnel and agencies, may be erected and operated in any location and shall be exempt from the provisions of Subsections (a) through (c) above.
  - (2) Subject to prior review and approval by the City Commission, radio and television receiving and transmitting antenna and dishes in conjunction with churches, synagogues, and educational institutions may be permitted.
  - (3) Nothing in this Section shall preclude the erection and operation of ham radio transmitting antenna and dishes which comply with Subsections (a) and (b) above.

## **SECTION 15.750.7 PROVISIONS FOR HOME OCCUPATIONS**

All applications for home occupational licenses shall be submitted to the City Engineer's office. The Public Works Department shall post a public notice in the yard of the residence of the proposed home occupation approximately 10 days prior to consideration of the application by the Planning Board. The public notice shall state that a home occupation application is pending and that interested persons can obtain a copy of the application at the City Engineer's office. Also, the public notice shall state the date that the City Engineer intends to issue the home occupation license.

The City Engineer shall either approve, approve with conditions or disapprove the application. The City Engineer shall not issue an occupational license to a person whose application does not comply with this ordinance.

The following occupations conducted in residential dwellings are expressly prohibited and presumed to be public nuisances in residential land use districts:

- (1) Barber shop, beauty shop.
- (2) Public dining facility.
- (3) Photographic studio.
- (4) Film developing or processing.
- (5) Repair shop, except watches and jewelry.
- (6) Laboratory, involving the conduct of experiments entailing the use of chemicals or matter of energy that creates, or causes to be created, noise, noxious odors, or hazardous dangers to the public health, safety and welfare.

In order to approve the occupational license application, the City Engineer must find that (1) the business activity constitutes a home occupation as defined herein, and (2) the license application complies with the provisions of this ordinance, the City of Callaway Comprehensive Growth Development Plan, the City of Callaway Land Development Regulations and other applicable law. If the City Engineer finds that the occupational license application does not comply with the aforementioned, then the application shall be disapproved. If the license applicant disagrees with the determination by the City Engineer, a written appeal can be made within 30 days to the Callaway City Commission, whose determination shall be final.

## **SECTION 15.750.8 ADULT BOOKSTORES, ADULT THEATERS AND SPECIAL CABARETS**

(a) Definitions:

- (1) "Adult bookstore." An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films, newspaper, photographs, paintings, drawings, or other publications, or graphic media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Section, or an establishment with a section devoted to the sale or display of such materials.
- (2) "Adult theater." An enclosed building or an enclosed space within a building used for presenting either filmed or live plays, dances, or other performances either by individuals or groups, distinguished or characterized by an emphasis on material

depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Section, for observation by patrons therein.

- (3) "Specified sexual activities:"
  - a. Human genitals in a state of sexual stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse, or sodomy, whether actual or simulated;
  - c. Fondling or other touching of human genitals, pubic region, buttock, or female breast.
- (4) "Specified anatomical areas:"
  - a. Less than completely and opaquely covered - human genitals or pubic region, buttock, female breast below a point immediately above the top of the areola;
  - b. Human male genitals in a discernable turgid state, even if completely or opaquely covered.
- (5) "Special cabarets." Any bar, dance hall, or other place of business at which food or beverages, alcoholic or non-alcoholic, are served which feature topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any such establishment with advertising for, or a sign or signs identifying which, uses the words, "adult," "topless," "nude," or other words of similar import.

(b) Location standards.

- (1) It shall be unlawful to locate any adult bookstore, adult theater, or special cabaret within two thousand (2000) feet of any residentially zoned area in the City.
- (2) It shall be unlawful to locate any adult bookstore, adult theater, or special cabaret within two thousand (2,000) feet of any church, synagogue, or other place of worship, school, library, public recreation (community) center, or Callaway City Hall.
- (3) It shall be unlawful to locate any adult bookstore, adult theater, or special cabaret within two thousand (2,000) feet of any other such regulated use.
- (4) Distances shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.
- (5) Nothing in this Subsection shall be construed to permit the operation of any business or the performance of any activity prohibited under any other Section of this Code.

(c) Annexed lands.

No adult bookstore, adult theater, or special cabaret may be established upon any property annexed into the municipal limits of the City until such time as the City has established valid zoning regulations for the annexed property. After the zoning of the property, the provisions of this Subsection shall govern the establishment of adult bookstores, adult theaters, or special cabarets.

**SECTION 15.750.9 HISTORICAL AND ARCHITECTURAL PRESERVATION**

**RESERVED**

**SECTION 15.750.10 STANDARDS FOR MANUFACTURED HOUSING**

**RESERVED**

### Sec. 9.7-1. - Definitions.

As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

*Construction debris* means any refuse generated by a contractor, subcontractor or other person or supplier during the course of repair, addition to, or construction of any building or structure whether such activity requires a building permit or not.

*Demolition debris* means any refuse generated through the cutting or trimming of trees, bushes or shrubbery for hire, or the destruction or demolition, in whole or in part, of any structure or building, or the clearing of land by any person, whether for hire or by the owner.

*Enforcement officer* shall mean any code enforcement officer or law enforcement officer of the city.

*Garbage* shall mean any putrescible animal and vegetable wastes resulting from the handling, storage, preparation, cooking, sale or consumption of food.

*Graffiti* means any unauthorized inscription, word, figure or design of any type that is marked, etched, scratched, drawn or painted on any surface of public or private property, including but not limited to building, structures or places.

*Graffiti implement* means an aerosol paint container, a broad tipped or felt tip marker, paint stick, graffiti stick, or etching tool or device capable of scarring glass, metal, concrete or wood.

*Inspector* means that officer or employee of the city designated by the city commission.

*Litter* means any garbage; rubbish; trash; refuse; cans; bottles; boxes; containers; paper; tobacco products; tire; appliances; mechanical equipment or part; building or construction material; tool, machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility; water supply treatment plant or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

*Nuisance*: The term "nuisance" shall mean any of the following:

- (1) Any accumulation of litter, refuse, construction or demolition debris, trash, junk and other abandoned materials, metals, lumber or other things.
- (2) Any excessive accumulation of untended growth of weeds, underbrush or other dead or living plant life upon an improved lot, tract or parcel of land, in the manner that such lot, tract or parcel of land shall or may become infested or inhabited with rodents, vermin or snakes, or may become a breeding place for mosquitoes, or threaten or endanger the public health and welfare, or may reasonably cause disease, or adversely affect and impair the economic welfare of the adjacent property.
- (3) Any unfit or unsafe dwelling or structure.
- (4)

Any weeds which exceed one foot in height upon an improved lot, tract or parcel of land, or on an undeveloped lot, tract or parcel of land within a subdivision which has had the natural vegetation cleared.

- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes that give rise to the emission or generation of such odors and stenches.
- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (8) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (9) Any building, structure or other place of location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (10) Any accumulation of stagnant water permitted or maintained or allowed to accumulate on any lot, piece of ground, or premises, including that water confined in a swimming pool, spa or hot tub.
- (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (12) Unsheltered storage for a period of 30 days or more within the corporate limits of this city (except in licensed junkyards) of old and unused stripped junk and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, or equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, is hereby declared to be a nuisance and a danger to public health, safety and welfare.
- (13) For the purpose of this chapter, the term nuisance shall also include any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which the premises are located. This includes, but is not limited to, the keeping or depositing on or the scattering over the premises of any of the following:
  - a. Litter, junk, trash, or construction or demolition debris; and
  - b. Abandoned, discarded, unused objects or equipment such as, but not limited to, automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
- (14) Any unauthorized obstructions to or interferences with the free public use of streets, rights-of-way and public thoroughfares including, but not limited to: (1) an annoyance to the public as to render the use of the street hazardous; (2) a hindrance or prevention of free and unobstructed use for travel which renders passage through the street more difficult or which increases the danger of injury to persons or property; (3) skating, skateboarding, or cycling on structures in streets, rights-of-way and public thoroughfares.
- (15) Any building, structure or other property which contains graffiti visible from a public location.
- (16) Such other acts or conditions which are declared by other ordinances to be or constitute nuisances.
- (17) In regard to portable storage units:
  - a. Any placement or the permitting of any placement of more than one portable storage unit in the front yard of a residential premises where there is a dwelling;
  - b. Any placement of more than one portable storage unit on a vacant lot in a residential area;
  - c.

Any continuous keeping of a portable storage unit on residential premises which are vacant or in the front yard of a residential premises where there is a dwelling in excess of ten days in any 60-day period. In the event of damage to a premises caused by fire, storm, flood or declared government emergency, this period may be extended upon written approval of the city manager; or

- d. Any placement or the permitting of any placement on a residential premises of a portable storage unit exceeding eight feet in width, 20 feet in length, and nine feet in height.

*Portable storage unit* shall mean any container designed for the storage of personal property which is typically rented to owners or occupants of property for their temporary use and which is delivered and removed by truck. Examples of portable storage units include, but are not limited to, moving and storage containers, road and storage trailers and steel shipping containers.

*Refuse* means leavings, dregs, rubbish, trash or waste material.

*Trash* means all grass clippings, leaves, tree limbs, old furniture, mattresses, bed springs, small debris, nonputrescible solid waste, cloth, paper, cardboard, glass and other similar materials. The term "trash" shall not include anything weighing over 1,000 pounds, items over ten feet long or any debris or items generated by a contractor or individual through construction or demolition.

*Underbrush* means any undergrowth or brush conducive to the collection of insects and rodents.

*Unfit or unsafe dwelling or structure* means any dwellings or structure or portions thereof and accessory buildings which are structurally unsafe, unstable, or unsanitary; inadequately provided with exit facilities; constitute a fire hazard; unsuitable or improper for the use or occupancy to which they are put; constitute a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; dangerous to life or property of the occupant thereof or of the surrounding area; unfit for human habitation if so intended or used; or otherwise in violation of the housing, building, electrical, plumbing, mechanical, sanitation and fire codes of the city and/or county.

*Weeds* means any plants which are useless to men or injurious to crops, grasses or flowers.

(Ord. No. 508, 8-13-96; Ord. No. 571, § 1, 6-9-98; Ord. No. 778, § 1, 1-24-06; Ord. No. 798, § 1, 8-8-06; Ord. No. 887, § 1, 10-13-09)

Sec. 9.7-2. - Prohibited acts; penalty.

Any person creating or maintaining a nuisance within the city shall be guilty of an offense punishable as provided in section 1-12 of this Code.

(Ord. No. 508, 8-13-96)

Sec. 9.7-3. - Powers and duties of the enforcement officer; determination of interested parties.

(a) *Generally.* The enforcement officer shall be charged with the duty of administering the applicable standards and securing compliance therewith and in furtherance of this responsibility, the enforcement officer shall:

- (1) Make such inspections as may be necessary to effectuate the purposes and intent of this chapter.
- (2) Investigate any complaints of alleged violation of this chapter and maintain a log reflecting the resolution thereof; however, only matters or conditions pertinent to the existence of a nuisance, as defined herein shall be considered or reported by the enforcement officer.

(b)

*Preparation of notice and order generally.* When the enforcement officer verifies the existence of a nuisance involving an unfit or unsafe structure, it shall be his duty to promptly prepare and submit to the city planner the notice and order required by this chapter. The city planner, with assistance of the city attorney, shall determine the owner of record of the real estate upon which the nuisance is located, and send a notice and order of condemnation to such party. In addition, notice shall be given to the lessee or occupants, if any, and persons of record interest, including mortgagee, contract purchaser, agent with power of attorney, and any person claiming an interest in the property.

- (c) *Nuisance not involving unfit or unsafe structure.* Where the enforcement officer verifies the existence of a nuisance not involving an unsafe or unfit structure, the enforcement officer shall serve the notice and order upon the record owner of the premises reflected by the latest tax rolls and upon any occupant of the premises, if other than the owner.
- (d) *Nuisance involving public streets, rights-of-way or public thoroughfares.* Where the enforcement officer verifies the existence of a nuisance involving public streets, rights-of-way or public thoroughfares, the enforcement officer shall serve a citation on the offender as provided in the city citation ordinance [Section 2-403 et seq.].

(Ord. No. 508, 8-13-96)

Sec. 9.7-4. - Notice and order of enforcement officer.

- (a) The notice and order of the enforcement officer may require the cutting of weeds or underbrush or the removal of rubbish or such other measures as are reasonably necessary to abate the nuisance.
- (b) The notice and order of the enforcement officer may require the vacation, demolition or removal of any unfit or unsafe dwelling or structure, or may order the repair, restoration or replacement of any part of same; provided, however, that no building or structure shall be subject to repair, restoration or replacement where the cost of repairing, restoring or replacing any part or parts thereof would exceed 50 percent of the value of such structure after repair, restoration or replacement.
- (c) The notice shall include:
- (1) The description of the location of the buildings and/or land involved either by street address or by legal description.
  - (2) A statement providing an accurate description of the nuisance for which the notice is issued.
  - (3) Specification of the section or sections of this chapter upon which the notice of violation is based.
  - (4) If the nuisance does not involve an unsafe or unfit structure, a statement ordering what shall be done to abate the nuisance.
  - (5) If the nuisance does involve an unfit or unsafe structure, a statement of the nature and extent of such repairs or alterations necessary to comply with this chapter.
  - (6) If the nuisance involves an unfit or unsafe structure and is of such a character that repairs or alterations cannot bring the building into compliance, a statement to this effect and an order of demolition of the building indicating fully the reason therefor.
  - (7) If abatement of the nuisance or demotion of a structure is necessary for compliance, a specification of time for performing same shall be stated in the notice which shall not be less than ten days nor more than 90 days.
  - (8) The name or names of persons upon whom the notice is served as stated in section 9.7-3(a).
  - (9) A statement advising that upon the owners failure to comply with the notice, the city may vacate, demolish, or remove or otherwise abate the nuisance in accordance with the order stated in the notice, and at the expense of such performance by the city shall be charged against the real

property and the assessment when made shall constitute a lien upon such property by the city.

- (10) A statement advising of the procedures for review of the action of the enforcement officer as set out in section 9.7-10
- (d) In the case of an unfit or unsafe dwelling or structure this notice and order shall require the owner and other interested parties within 30 days after service to obtain a permit and begin specified repairs or improvements, or begin to demolish and remove the dwelling or structure or portion thereof. This work shall be completed within 60 days from the date of the permit for repair or demolition. Any demolition permit necessary as a result of any condemnation herein shall not require a fee.
- (e) Except as otherwise provided in this chapter for unsafe or unfit dwellings or structures the instructor [enforcement officer] may order such work to be completed within such time as he determines to be reasonable considering the nature of the nuisance, the danger to the public and the amount of work involved to abate the nuisance.
- (f) When the county health officer or licensed pest control operator verifies the existence of a rodent infestation in any dwelling or structure that is to be demolished and removed, in order to preclude the migration of rodents, the notice and order of the inspector [enforcement officer] shall require that effective rodent extermination methods be employed by a licensed structural pest control operator prior to demolition. Extermination techniques shall include ectoparasite control measures.

*(Ord. No. 508, 8-13-96)*

Sec. 9.7-5. - Service of notice and order.

It shall be the duty of the enforcement officer to see to it that the required notice and order is delivered to the interested parties by personal delivery of copy thereof to the party to be notified, or by leaving such copy at his usual place of abode with some person of the family above 15 years of age and informing such person of the contents thereof, or by either registered or certified United States mail with return receipt requested, or, if the name of any such party or his place of residence or his post office address cannot be ascertained after diligent search, or in the event a notice sent by either registered or certified mail shall be returned undelivered and the person to be notified is not residing within the city, by publishing a copy thereof once a week for two consecutive weeks in a newspaper of general circulation within the city. A copy of such notice and order shall be posted in a conspicuous place at city hall and upon such dwelling or structure. However, if the violation is related to a nuisance in a public street, right-of-way, or public thoroughfare, the enforcement officer shall provide service on the offender.

*(Ord. No. 508, 5-13-96)*

Sec. 9.7-6. - Extension of time to comply.

- (a) In the case of an unfit or unsafe building or structure if the interested parties shall have obtained a building or demolition permit within the thirty-day period and in good faith and in due time begun work to comply with the order, but it appears that they will not be able to complete the work by the date ordered, they may file a written request stating the reasons they have been unable to complete compliance and if reasonable grounds are shown therefor, the city clerk is authorized to issue an amended order authorizing an extension of time, not to exceed 60 days, in which to complete compliance with the original order.
- (b) In the case of a nuisance which is not an unfit or unsafe dwelling or structure the enforcement officer may grant extensions of up to 60 days to abate the nuisance as are reasonably necessary under the circumstances upon written request from the interested parties stating the reasons they have been

unable to complete compliance and showing reasonable grounds for such failure to complete compliance.

- (c) Violations of this chapter which constitute a nuisance related to public streets, rights-of-way, and public thoroughfares shall be abated immediately.
- (d) The city commission, in exceptional cases, upon written request, may extend the completion date of the enforcement officer as merited by special hardship, unusual difficulty, or uniqueness of the situation; however, in no event shall the completion date extend beyond a maximum period of 180 days.

*(Ord. No. 508, 8-13-96)*

**Sec. 9.7-7. - City action on failure to comply.**

- (a) If the owner or other parties in interest fail to repair, restore or replace such parts of the dwelling or structure within the time permitted by the notice and order of the enforcement officer, and in the absence of extenuating circumstances as would justify an extension of the time period therefor, the city clerk may order a vacation of the premises until compliance or a demolition of the structure.
- (b) In the event that the owner or other parties in interest shall fail to comply with an order made pursuant to the provisions of this chapter within the time therein fixed, the city, acting through the director of public works, is authorized to vacate, demolish or remove or otherwise abate the nuisance in accordance with such order, either with city forces or by independent contractor submitting the lowest and best bid.

*(Ord. No. 508, 8-13-96)*

**Sec. 9.7-8. - Assessment of cost; lien.**

- (a) Upon expiration of the thirty-day appeal period with no appeal having been taken, the city planner, after proceeding under this chapter, shall as often as may be convenient report the action taken toward abatement of the nuisance by the city and the city commission shall assess the entire cost of such action against the real property, which assessment, when made shall constitute a lien upon the property by the city. The lien of the city shall encompass, in addition to the abatement cost for the vacation or removal of the facility, all administrative, legal, postal and publication expenses, as well as rodent extermination when employed, as well as all other direct or indirect costs associated therewith. The lien upon the property shall be superior to all others except taxes.
- (b) The city planner, shall file such lien in the county's official record book showing the nature of such lien, the amount thereof, and an accurate legal description of the property, including the street address, which lien shall date from the date of filing and recite the names of all persons notified or interested parties. Such municipal lien shall bear interest from such date at the rate of ten percent per annum for individual and 15 percent for corporation owners and shall be enforceable if unsatisfied after the expiration of two years from the date of filing of such notice of lien, as other liens may be enforced by the city. All such recorded liens shall be included in a municipal tax deed sale and no such deed shall be issued by the city clerk unless full payment of principal and interest is received. Upon notice of an impending county tax deed sale, the city planner shall request the clerk of the circuit court to collect all monies due the city, including such municipal lien with interest.

*(Ord. No. 508, 8-13-96)*

**Sec. 9.7-9. - Appeals generally.**

- (a) Any interested party may appeal the decision of the enforcement officer or city planner to the city commission upon the filing, within 30 days after service of the enforcement officer or city planner's notice and order, of an application to the building official, setting forth the grounds for the appeal. Upon receipt of the notice of appeal, the city planner shall forthwith transmit a copy of the notice of appeal, together with all related documents of his department, to the city commission. Within ten days after the filing of notice of appeal, the city commission shall schedule a date for the hearing thereof and give notice of the date for the hearing to the interested parties, in a manner as would afford them not less than ten days' notice. Under no circumstances shall the commission establish a hearing date beyond 60 days from the filing of the notice of appeal.
- (b) All appeals proceedings shall be public and notice thereof published in a newspaper of general circulation within the city at least ten days prior to the date of the hearing. The findings of the commission shall be encompassed in a resolution stating with particularity the grounds for the decision.
- (c) All interested parties shall have 30 days within which to comply with the resolution of the commission.
- (d) Nuisances related to public streets, rights-of-way, and public thoroughfares shall be abated immediately. However, offenders shall have the right to appeal decision of abatement to the city commission for determination of whether the conduct constituted a nuisance. If there is a determination that such conduct did not constitute a nuisance, then any fines or penalties assessed against the alleged offender shall be forfeited by the city.

*(Ord. No. 508, 8-13-96)*

#### Sec. 9.7-10. - Final appeal to circuit court.

An interest party, having exhausted his administrative remedies before the city commission, may appeal to the circuit court the decision of the commission in like manner of appeals from county courts.

*(Ord. No. 508, 8-13-96)*

#### Sec. 9.7-11. - Appearance by counsel, etc.; witnesses sworn.

Any interested party appearing before the city commission may appear in person, by counsel, or by an agent possessing power of attorney provided the agency's instrument appears in the county's official record book, but may not appear through any person otherwise a stranger to the record. All witnesses appearing before the city commission in proceedings under this chapter shall be sworn by the mayor or in his absence, by the person acting in his stead, except counsel representing a client.

*(Ord. No. 508, 8-13-96)*

#### Sec. 9.7-12. - Duties of other departments.

- (a) Members of the fire department, law enforcement, and public works department shall make written reports to the enforcement officer, of all dwellings or structures which appear to be substandard housing within the terms of this chapter. Such reports shall be submitted to the law enforcement as soon as practicable.
- (b) In carrying out his responsibilities hereunder, the enforcement officer may request assistance from a health officer, to determine violations of municipal ordinances, or state law, and rules and regulations of a health officer.

*(Ord. No. 508, 8-13-96)*

#### Sec. 9.7-13. - Entry powers of inspector.

The enforcement officer and his designees are hereby authorized to enter upon private property in order to enforce the provisions of this chapter. When necessary to obtain such entry, the enforcement officer and his designees may institute proceedings to obtain a search warrant.

*(Ord. No. 508, 8-13-96)*

ORDINANCE NO. 950

AN ORDINANCE OF THE CITY OF CALLAWAY, FLORIDA, AMENDING AND READOPTING THE "NUISANCE ABATEMENT CODE", CHAPTER 9.7 CALLAWAY CODE OF ORDINANCES; AMENDING DEFINITIONS; CLARIFYING THE CONTENTS OF THE NOTICE AND ORDER OF ABATEMENT; CLARIFYING ACTIONS AVAILABLE TO THE CITY UPON FAILURE TO COMPLY WITH A NOTICE AND ORDER OF ABATEMENT; SHORTENING THE CITY'S PERIOD OF FOREBEARANCE OF FORECLOSURE FROM TWO YEARS TO THREE MONTHS; PROVIDING THAT THE CITY MAY COLLECT THE COST OF ABATEMENT THROUGH THE LEVY OF A NON-AD VALOREM ASSESSMENT; PROVIDING THAT THE CITY MAY UTILIZE THE UNIFORM METHOD OF COLLECTION AUTHORIZED BY FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCE 508 AND ANY OTHER ORDINANCE OR PROVISIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF CALLAWAY, FLORIDA:

Section 1. From and after the effective date of this Ordinance, Chapter 9.7 of the City of Callaway Code of Ordinances is amended to read as follows (deleted text ~~stricken~~, new text **bold and underlined**):

**Sec. 9.7-1. - DEFINITIONS.**

As used in this chapter the following terms shall have the meanings respectively ascribed to them in this section:

*Construction debris* means any refuse generated by a contractor, subcontractor or other person or supplier during the course of repair, addition to, or construction of any building or structure whether such activity requires a building permit or not.

*Demolition debris* means any refuse generated through the cutting or trimming of trees, bushes or shrubbery for hire, or the destruction or demolition, in whole or in part, of

any structure or building, or the clearing of land by any person, whether for hire or by the owner.

*Enforcement Officer* shall mean any Code Enforcement Officer or law enforcement officer of the City of Callaway.

*Garbage* shall mean any putrescible animal and vegetable wastes resulting from the handling, storage, preparation, cooking, sale or consumption of food.

*Inspector* means that officer or employee of the City designated by the City Commission.

*Litter* means any garbage; rubbish; trash; refuse; cans; bottles; boxes; containers; paper; tobacco products; tires, appliances; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility; water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

*Nuisance:* The term "nuisance" shall mean any of the following:

- (1) Any accumulation of letter, refuse, construction or demolition debris, trash, junk and other abandoned materials, metals, lumber or other things.
- (2) Any excessive accumulation of untended growth of weeds, underbrush or other dead or living plant life upon an improved lot, tract or parcel of land, in the manner that such lot, tract or parcel of land shall or may become infested or inhabited with rodents, vermin or snakes, or may become a breeding place for mosquitos, or threaten or endanger the public health and welfare, or may reasonably cause disease, or adversely affect and impair the economic welfare of the adjacent property.

- (3) Any unfit or unsafe dwelling or structure.
- (4) Any weeds which exceed one foot in height upon an improved lot, tract or parcel of land, or on an undeveloped lot, tract or parcel of land within a subdivision which has had the natural vegetation cleared.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes that give rise to the emission or generation of such odors and stenches.
- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (8) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (10) Any accumulation of stagnant water permitted or maintained or allowed to accumulate on any lot, piece of ground, or premises, including that water confined in a swimming pool, spa or hot tub.
- (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (12) Unsheltered storage for a period of thirty (30) days or more within the corporate limits of this city (except in licensed junkyards) of old and unused stripped junk and other automobiles not in good and safe operating condition, and of

any other vehicles, machinery, implements, or equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, is hereby declared to be a nuisance and a danger to public health, safety and welfare.

- (13) For the purpose of this ordinance, the term nuisance shall also include any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which the premises are located. This includes, but is not limited to, the keeping or depositing on or the scattering over the premises of any of the following:
- a. litter, junk, trash, or construction or demolition debris; and
  - b. abandoned, discarded, unused objects or equipment such as, but not limited to, automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
- (14) Any unauthorized obstructions to or interferences with the free public use of streets, rights-of-way and public thoroughfares including, but not limited to: (1) an annoyance to the public as to render the use of the street hazardous; (2) a hindrance or prevention of free and unobstructed use for travel which renders passage through the street more difficult or which increases the danger of injury to persons or property; (3) skating, skateboarding, or cycling on structures in streets, rights-of-way and public thoroughfares.
- (15) Any building, structure or other property which contains graffiti visible from a public location.
- ~~(16) Such other acts or conditions which are declared by other ordinances to be or constitute nuisances.~~

**(16) Any public nuisance known at common law or in equity jurisprudence or as provided by the Statutes of the State of Florida or ordinances of the City of Callaway.**

(17) In regard to portable storage units:

- a. Any placement or the permitting of any placement of more than one portable storage unit in the front yard of a residential premises where there is a dwelling;
- b. Any placement of more than one portable storage unit on a vacant lot in a residential area;
- c. Any continuous keeping of a portable storage unit on residential premises where there is a dwelling in excess of ten days in any 60-day period. In the event of damage to a premises caused by fire, storm, flood or declared government emergency, this period may be extended upon written approval of the city manager; or
- d. Any placement or the permitting of any placement on a residential premises of a portable storage unit exceeding eight feet in width, 20 feet in length, and nine feet in height.

*Portable storage unit* shall mean any container designed for the storage of personal property which is typically rented to owners or occupants of property for their temporary use which is delivered and removed by truck. Examples of portable storage units include, but are not limited to, moving and storage containers, road and storage trailers and steel shipping containers.

*Refuse* means leavings, dregs, rubbish, trash or waste material.

*Trash* means all grass clippings, leaves, tree limbs, old furniture, mattresses, bed springs, small debris, non-putrescible solid waste, cloth, paper, cardboard, glass and other similar materials. The term "trash" shall not include anything weighing over 1,000 pounds, items over ten feet long or any debris or items generated by a contractor, or individual through construction or demolition.

*Underbrush* means any undergrowth or brush conducive to the collection of insects and rodents.

*Unfit or unsafe dwelling or structure* means any dwellings or structure or portions thereof and accessory buildings which are structurally unsafe, unstable, or unsanitary; inadequately provided with exit facilities; constitute a fire hazard; unsuitable or improper for the use or occupancy to which they are put; constitute a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; dangerous to life or property of the occupant thereof or of the surrounding area; unfit for human habitation if so intended or used; or otherwise in violation of the housing, building, electrical, plumbing, mechanical, sanitation and fire codes of the city and/or county.

*Weeds* mean any plants which are useless to men or injurious to crops, grasses or flowers.

**Sec. 9.7-2. PROHIBITED ACTS; PENALTY.**

Any ~~person~~ **owner or occupant of a premises knowingly** creating or maintaining a nuisance within the City shall be guilty of an offense. **Where the nuisance is maintained by a fictitious person owning or occupying the premises, a natural person serving as an officer, manager or other agent of the owner or occupant who knowingly permits the nuisance to be maintained shall be guilty of the same offense as the fictitious person.**

**Sec. 9.7-3. POWERS AND DUTIES OF THE ENFORCEMENT OFFICER; DETERMINATION OF INTERESTED PARTIES.**

(a) *Generally.* The Enforcement Officer shall be charged with the duty of administering the applicable standards and securing compliance therewith and in furtherance of this responsibility, the Enforcement Officer shall;

(1) Make such inspections as may be necessary to effectuate the

purposes and intent of this ordinance.

- (2) Investigate any complaints of alleged violation of this ordinance and maintain a log reflecting the resolution thereof; however, only matters or conditions pertinent to the existence of a nuisance, as defined herein shall be considered or reported by the Enforcement Officer.

(b) *Preparation of notice and order generally.* When the Enforcement Officer verifies the existence of a nuisance ~~involving an unfit or unsafe structure~~, it shall be his duty to promptly prepare and submit to the City ~~Planner~~ **Manager a proposed form of the notice and order required by this ordinance chapter.** The City ~~Planner~~ **Manager or his or her designee, shall review, approve or modify and execute the form of notice and order and**, with assistance of the city attorney, shall determine the owner(s) of record of the real estate upon which the nuisance is located, and send **the owner(s)** a notice and order of **abatement, referred to in this chapter as the notice and order.** ~~condemnation to said party.~~ In addition, **the notice and order** shall be given to the ~~record~~ **lessee(s) or occupants, if any, and persons of record interest, (including by way of example and not limitation mortgagee, contract purchaser, agent with power of attorney, and any person claiming an interest in the property) and, by the initial posting of notice upon the dwelling or structure in question, to any occupants of that dwelling or structure. All such persons are referred to as the "interested parties" in this chapter.**

~~(c) Where the Enforcement Officer verifies the existence of a nuisance not involving an unsafe or unfit structure, the Enforcement Officer shall serve the notice and order upon the record owner of the premises reflected by the latest tax rolls and upon any occupant of the premises, if other than the owner.~~

~~(d) Where the Enforcement Officer verifies the existence of a nuisance involving~~

~~public streets, rights of way or public thoroughfares, the Enforcement Officer shall serve a citation on the offender as provided in the City of Callaway Citation Ordinance.~~

**Sec. 9.7-4. NOTICE AND ORDER OF ABATEMENT ENFORCEMENT OFFICER.**

(a) ~~The notice and order of the Enforcement Officer~~ may require the cutting of weeds or underbrush or the removal of rubbish or such other measures as are reasonably necessary to abate the nuisance.

(b) ~~The notice and order of the Enforcement Officer~~ may require the vacation, repair, restoration or replacement ~~demolition or removal~~ of any unfit or unsafe dwelling or structure or of any part or parts thereof, including accessory building(s) ~~or may order the repair, restoration or replacement of any part of same; provided, however, that if the inspector shall determine that the cost to repair, restore or replace any such dwelling or structure or part thereof, including accessory building(s) in compliance with all applicable building and life safety codes, no building or structure shall be subject to repair, restoration or replacement where the cost of repairing, restoring or replacing any part or parts thereof would exceed fifty percent (50%) of the value of such dwelling or structure or part thereof, including accessory building(s) (as determined by reference to the most recent, final ad valorem tax roll prepared by the Bay County Property Appraiser) after repair, restoration or replacement. he may only order the vacation and demolition and removal of the dwelling or structure.~~

(c) In addition, due to a variety of reasons, including but not limited to abandonment, neglect, inadequate property management, or obsolescence, the condition(s) constituting a danger or nuisance to the public cannot be made safe, the notice and order shall require the vacation of the dwelling or structure involved and order the demolition and removal of the dwelling or structure or any part or parts

thereof, including accessory building(s), contributing to the nuisance. Factors evidencing a determination that a property cannot be made safe may include, but not be limited to: a history of unsecured or un-securable, dangerous conditions; a history demonstrating the property owner's failure to exercise reasonable control over the property to keep it secure or safe; a history showing that the property has become an attractive nuisance to children or transients; a history showing a proliferation of criminal activity due to dilapidated conditions and lack of management and control over the premises; a history showing that notwithstanding the reasonable efforts of law enforcement or code enforcement personnel, or both, the property remains in a condition which is imminently dangerous to the public health, safety and welfare.

(d) A notice and order requiring the repair, restoration or replacement of any dwelling, structure or part or parts thereof, including accessory building(s), shall require that the work meet the standards specified by all applicable building and life safety codes.

(e)(e) The notice ~~and order~~ shall ~~include~~ be in writing, signed by the City Manager or his or her designee, with a (1)The description of the nuisance and a location of the buildings and/or land involved either by street address or by legal description of the realty where it is located, including the street address, and shall state what the City orders to be done about the condition and the date within which the work ordered to be done is to be completed. The notice and order shall state that it may be appealed within thirty (30) days by written application to the City Manager. The notice and order shall describe the condition(s) found by the inspector to constitute a public nuisance pursuant to this chapter. If the notice and order requires demolition and removal of an unfit or unsafe dwelling or structure, or part or parts thereof, including an accessory building(s), it shall describe the condition(s) found by the

inspector, upon consultation with the City Attorney, to constitute such a public nuisance pursuant to this chapter as to make demolition reasonable. A notice and order requiring demolition and removal shall also state that interested parties may elect to abate the nuisance by repair, restoration or replacement of the subject unfit or unsafe dwelling or structure, or part or parts thereof, including accessory building(s).

~~(2) A statement providing an accurate description of the nuisance for which the notice is issued.~~

~~(3) Specification of the section or sections of this chapter upon which the notice of violation is based.~~

~~(4) If the nuisance does not involve an unsafe or unfit structure, a statement ordering what shall be done to abate the nuisance.~~

~~(5) If the nuisance does involve an unfit or unsafe structure, a statement of the nature and extent of such repairs or alterations necessary to comply with this ordinance.~~

~~(6) If the nuisance involves an unfit or unsafe structure and is of such a character that repairs or alterations cannot bring the building into compliance, a statement to this effect and an order of demolition of the building indicating fully the reason therefor.~~

~~(7) If abatement of the nuisance or demotion of a structure is necessary for compliance, a specification of time for performing same shall be stated in the notice which shall not be less than ten (10) days nor more than ninety (90) days.~~

~~(8) The name or names of persons upon whom the notice is served as stated in section 3(a).~~

~~(9) A statement advising that upon the owners failure to comply with the notice, the city may vacate, demolish, or remove or otherwise abate the nuisance in accordance with the order~~

~~stated in the notice, and at the expense of such performance by the city shall be charged against the real property and the assessment when made shall constitute a lien upon said property by the city.~~

~~(10) A statement advising of the procedures for review of the action of the Enforcement Officer as set out in section 10.~~

(d)(f) In the case of an unfit or unsafe dwelling or structure **or part or parts thereof, including accessory building(s)**, this notice and order shall require the owner **or** ~~and~~ other interested parties within thirty (30) days after service to obtain a permit and begin specified repairs or improvements, or begin to demolish and remove the dwelling or structure or portion thereof. This work shall be completed within sixty (60) days from the date of the permit for repair or demolition. Any demolition permit necessary as a result of any **notice and order condemnation** herein shall not require a fee.

(e)(g) Except as otherwise provided in this **chapter ordinance** for unsafe or unfit dwellings or structures the **City Manager shall** ~~inspector may~~ order such work to be completed within such time as he determines to be reasonable considering the nature of the nuisance, the danger to the public and the amount of work involved to abate the nuisance.

(f)(h) When the county health officer or licensed pest control operator verifies the existence of a rodent infestation in any dwelling or structure that is to be demolished and removed, in order to preclude the migration of rodents, the notice and order ~~of the inspector~~ shall require that effective rodent extermination methods be employed by a licensed structural pest control operator prior to demolition. Extermination techniques shall include ectoparasite control measures.

**(i) An order to vacate, demolish and remove an unfit or unsafe dwelling or structure or any part or parts thereof, including accessory building(s), shall not preclude**

the immediate repair, restoration or replacement thereof by an interested party entitled to effect such work (herein collectively an applicant). In order to make the election available in this subsection and avoid the demolition and removal, within thirty (30) days after service of the notice and order of demolition, the applicant must submit a competent application for all or a material portion of the work needed to abate the nuisance and in good faith commence and diligently and continuously pursue all the work through completion. The work must meet the standards specified by all applicable building and life safety codes. In the event that the initial permit application does not cover all the work, the application must be accompanied by a description of the remainder of the work to be done and include a schedule of all the work with milestones reasonable and customary in the construction industry. The City Manager shall either accept or reject the application as covering a material portion of the work, the overall work described as sufficient to abate the nuisance and the schedule of work/milestones as reasonable. Should the City Manager find that the initial application does not cover a material portion of the work, that the overall work described is insufficient to abate the nuisance, or that the schedule of work/milestones is not reasonable, he or she shall advise the applicant who shall have ten (10) days to correct the deficiency in writing or appeal in writing to the City Commission which shall hear the matter at its next regular or special meeting. The only issues before the City Commission shall be whether to accept or reject the matter(s) rejected by the City Manager. The City Commission may not amend the application, description of work or schedule without the written consent of the applicant. The appeal shall be conducted as a quasi-judicial, de novo hearing pursuant the city's Land Development Code, except that only the applicant and the City Manager, or their respective designees, shall be entitled to present evidence. No other persons shall be considered adversely affected

persons. Public comment, but only as commentary, shall be permitted. The applicant shall bear the burden of proof. If the applicant's position is accepted then the applicant shall be required to immediately commence and diligently and continuously pursue the work to abate the nuisance strictly in accord with the schedule upon penalty of demolition as provided in Section 9.7-7(b). If the applicant's position is not affirmed, the applicant shall have thirty (30) days after entry of the City Commission's order to comply with the initial notice and order of demolition and removal, and no permit to repair, restore or replace shall be issued.

Sec. 9.7-5. SERVICE OF NOTICE AND ORDER.

It shall be the duty of the ~~Enforcement Officer~~ City Manager or his or her designee to see to it that the required notice and order is delivered to the interested parties by personal delivery of copy thereof to the party to be notified, or by leaving such copy at his usual place of abode with some person of the family above fifteen (15) years of age and informing such person of the contents thereof, or by either registered or certified United States mail with return receipt requested, ~~or, if~~ If the name of any such the party to be notified or his place of residence or his post office address cannot be ascertained after diligent search, or in the event a notice and order sent by either registered or certified mail shall be returned undelivered ~~and the person to be notified is not residing within the city,~~ notice shall be made by publishing a copy thereof once a week for two (2) consecutive weeks in a newspaper of general circulation within the city. A copy of such notice and order shall be posted in a conspicuous place ~~at City Hall and~~ upon such dwelling or structure in question, in a conspicuous place at City Hall, and upon the City website. The subsequent removal or illegibility of the notice and order posted upon the dwelling or structure shall not render the posting invalid. ~~However, if the violation is related to a nuisance in a public street, right of way or public thoroughfare, the~~

~~Enforcement Officer shall provide service on the offender.~~

**Sec. 9.7-6. EXTENSION OF TIME TO COMPLY.**

(a) In the case of an unfit or unsafe building or structure if the interested parties shall have obtained a building or demolition permit within the thirty (30) day period and in good faith and in due time begun work to comply with the order **and diligently pursue the work**, but it appears that they will not be able to complete the work by the date ordered, they may file a written request **with the City Commission** stating the reasons they have been unable to complete compliance, ~~and if~~ **If** reasonable grounds are shown therefor, the **City Commission** ~~city clerk~~ is authorized to issue an ~~amended~~ order authorizing an extension of time, not to exceed sixty (60) days, in which to complete compliance with the original **notice and** order. **The City Commission shall consider the request at its next regular or a special meeting, give the requesting party an opportunity to be heard, and grant the request only for good cause shown.**

(b) In the case of a nuisance which is not an unfit or unsafe dwelling or structure the ~~Enforcement Officer~~ **City Manager or his or her designee** may grant extensions of up to sixty (60) days to abate the nuisance as are reasonably necessary under the circumstances upon written request from the interested parties stating the reasons they have been unable to complete compliance and showing reasonable grounds for such failure to complete compliance.

(c) Violations of this ordinance which constitute a nuisance in a related to public streets, rights-of-way and public thoroughfares shall be abated immediately.

(d) **Should the interested parties, through no fault of their own, be unable to complete compliance by the date ordered in the original notice and order nor by any extension date granted pursuant to this section, the** ~~The~~ City Commission, in exceptional cases, upon written request, may extend the completion date ~~of the Enforcement Officer~~ as

merited by special hardship, unusual difficulty, or uniqueness of the situation; however, in no event shall the completion date extend beyond a maximum period of one hundred eighty (180) days.

Sec. 9.7-7. CITY ACTION ON FAILURE TO COMPLY.

(a) If the interested party(s) shall fail to comply with an order made pursuant to the provisions of this chapter within the time therein fixed or extended, the City, acting through the City Manager, is authorized to abate the nuisance in accordance with the notice and order, either with City forces or by independent contractor(s) selected through the City's procurement process.

(b) If the interested party(s) respecting an unfit or unsafe dwelling or structure or any part or parts thereof, including accessory building(s) which are the subject or an order to demolish and remove shall timely elect to repair, restoration or replacement as provided in this chapter but fail to timely obtain the required permits, or fail to timely commence and continuously and diligently pursue the work, the City, acting through the City Manager, is authorized to effect the ordered demolition and removal (including work in progress if work has been commenced) either with City forces or by independent contractor(s) selected through the City's procurement process.

(c) In the event of any failure to comply specified in this section or under this chapter, the City Manager and the City Attorney are authorized to commence on behalf of the City an action in circuit court against the interested party(s) to determine the validity of this chapter on its face and as applied, to require the interested party(s) to comply with the notice and order and, in the absence of compliance within a time specified by the court, to authorize the City to abate the nuisance as specified in the notice and order or as pleases the court, and to determine the amount and validity of the lien or assessment to be imposed or levied against the subject property to pay the cost

of abatement. In the event the City Commission shall by resolution determine to borrow the funds required to pay the cost of abatement and to pledge the proceeds of the lien or assessment to repay the loan, the City Manager and City Attorney are authorized to seek on behalf of the City pursuant to Chapter 75, Florida Statutes, validation of the City's authority to incur the debt, issue the certificates or bonds evidencing the debt and the legality of all the proceedings in connection therewith. In the event validation proceedings are commenced, the City Manager is directed to serve upon the interested parties notice of their right to intervene in those proceedings.

~~(a) — If the owner or other parties in interest fail to repair, restore or replace such parts of the dwelling or structure within the time permitted by the notice and order of the Enforcement Officer, and in the absence of extenuating circumstances as would justify an extension of the time period therefor, the city clerk may order a vacation of the premises until compliance or a demolition of the structure.~~

~~(b) — In the event that the owner or other parties in interest shall fail to comply with an order made pursuant to the provisions of this ordinance within the time therein fixed, the City, acting through the Director of Public Works, is authorized to vacate, demolish or remove or otherwise abate the nuisance in accordance with such order, either with City forces or by independent contractor submitting the lowest and best bid.~~

**Sec. 9.7-8. ASSESSMENT OF COST OF ABATEMENT; LIEN.**

(a) Upon expiration of the thirty (30) day appeal period with no appeal having been taken, the City Planner **Manager**, after proceeding under this ordinance **chapter**, shall as often as may be convenient report the action taken toward abatement of the nuisance by the City and the City Commission shall assess the entire cost of such action against the real property, which assessment, when made shall constitute a lien upon said property **in favor of** by the City. The lien of the City shall encompass ~~in addition to the~~

~~abatement costs~~ of determining the nuisance, effecting for the vacation, securing the property, removing or abating the nuisance, demolishing and removing the dwelling or structure and accessory building(s) when applicable, or removal of the facility all administrative, legal, postal and publication expenses, as well as rodent extermination when employed, and the fees of independent experts offering opinions, reports or testimony concerning the nuisance or abatement, as well as all other direct or indirect costs associated therewith. All such costs and expenses are collectively referred to as the abatement cost. ~~To the extent permitted by law, the~~ The lien upon the property for the abatement cost shall be superior to the interests of all others receiving notice and an opportunity to administratively appeal the notice and order, except taxes.

(b) The City ~~Planner~~ Clerk shall record a notice and claim of ~~file such~~ lien in the County's Official Record Book showing the nature of such lien, the amount thereof, and ~~an accurate~~ a legal description of the property, including the street address, and which lien shall date from the date of filing and recite the names of all interested parties known to the City ~~persons notified or interested parties~~. Such municipal lien shall bear interest from said date at the rate of ten per cent (10%) per annum ~~for individuals and fifteen per cent (15%) for corporation owners~~ and shall be enforceable by foreclosure against the property if unsatisfied after the expiration of three months ~~two (2) years~~ from the date of ~~filing~~ recording the notice and claim ~~of such notice~~ of lien, or enforceable as other liens may be enforced by the City. ~~All such recorded liens shall be included in a municipal tax deed sale and no such deed shall be issued by the City Clerk unless full payment of principal and interest is received.~~ Upon notice of an impending county tax deed sale, the ~~City Planner~~ tax collector shall request the Clerk of the Circuit Court to collect all monies due the City, including such municipal lien with interest.

(c) In addition, the City may collect the abatement cost through the

additional and alternative method of levying a special assessment, sometimes called a non-ad valorem assessment, upon the subject property benefitted by the abatement. Collection shall be through the methods authorized by Ordinance No. 876, or any amending or succeeding ordinance, and shall include without limitation the method of collection specified in sections 197.3632 and 197.3635, Florida Statutes, or any amending or succeeding statute. It is the legislative intend of this chapter to authorize the collection of abatement costs by assessment placed on the same bill as ad valorem taxes pursuant to applicable statutes and regulations promulgated thereunder. In the event this additional and alternative method of collection is used, the abatement cost shall include the fees incurred by the City for legal counsel, independent experts offering opinions, reports or testimony concerning the abatement benefit to the subject property or any other matters related or useful to the levy. This method of collection is cumulative to any other method of collection available to the City at law or equity.

Sec. 9.7-9. APPEALS GENERALLY.

(a) Any interested party may appeal to the City Commission the interpretation or application of the code section, ordinance, statute, regulation or common law principle on which the notice and order ~~decision~~ of the ~~Enforcement Officer or City Planner~~ Manager ~~to the City Commission upon the~~ by filing with the City Clerk, within thirty (30) days after service of the ~~Enforcement Officer or City Planner's~~ Manager's notice and order, ~~of an application to the building official,~~ setting forth the grounds for the appeal. Upon receipt of the notice of appeal, the City ~~Planner~~ Clerk shall forthwith transmit a copy of the notice of appeal, together with all related documents of the Enforcement Officer's ~~his~~ department, to the City Commission. Within ten (10) days after the filing of notice of appeal, the City ~~Commission~~ Clerk shall schedule a date for the hearing thereof and give notice of the date for the hearing to the interested parties, in a

manner as would afford them not less than ten (10) days' notice. Under no circumstances shall the ~~Commission~~ Clerk establish a hearing date beyond sixty (60) days from the filing of the notice of appeal.

~~(b) All appeals proceedings shall be public and notice thereof published in a newspaper of general circulation within the city at least ten (10) days prior to the date of the hearing. The findings of the commission shall be encompassed in a resolution stating with particularity the grounds for the decision.~~

(e) All interested parties shall have thirty (30) days within which to comply with the resolution of the Commission.

~~(d)~~ (c) Nuisances related to public streets, rights-of-way and public thoroughfares shall be abated immediately. However, offenders shall have the right to appeal decision of abatement to the City Commission for determination of whether the conduct constituted a nuisance. If there is a determination that such conduct did not constitute a nuisance, then any fines or penalties assessed against the alleged offender shall be forfeited by the City.

#### **Sec. 9.7-10. FINAL APPEAL TO CIRCUIT COURT.**

An interested party, having exhausted his administrative remedies before the Ccity Commission, may appeal to the circuit court the decision of the Commission in like manner of appeals from county courts.

#### **Sec. 9.7-11. APPEARANCE BY COUNSEL; WITNESSES SWORN.**

Any interested party appearing before the Ccity Commission may appear in person, by counsel, or by an agent possessing power of attorney provided the agency's instrument appears in the county's official record book, but may not appear through any person otherwise a stranger to the record. All witnesses appearing before the Ccity Commission in proceedings under this chapter shall be sworn by the mayor or in his absence, by the person acting in his stead, except counsel representing a client.

**Sec. 9.7-12. DUTIES OF OTHER DEPARTMENTS.**

(a) Members of the fire department, law enforcement, and public works department shall make written reports to the Enforcement Officer, of all dwellings or structures which appear to be substandard housing within the terms of this ordinance. Such reports shall be submitted to the Enforcement Officer as soon as practicable.

(b) In carrying out his responsibilities hereunder, the Enforcement Officer may request assistance from a health officer, to determine violations of municipal ordinances, or state law, and rules and regulations of a health officer.

**Sec. 9.7-13. ENTRY POWERS.**

The Enforcement Officers and his designees are hereby authorized to enter upon private property in order to enforce the provisions of this ordinance. When necessary to obtain such entry, the Enforcement Officer and his designees may institute proceedings to obtain a search warrant.

**Sec. 9.7-14. ALTERNATIVE METHOD.**

**This chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby, including without limitation the levy of assessments, sometimes called non-ad valorem assessments, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This chapter, being necessary for the health, safety, and welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.**

**Section 2. REPEALER.**

Ordinance 508 and all ordinances in conflict or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

Section 3. SEVERABILITY.

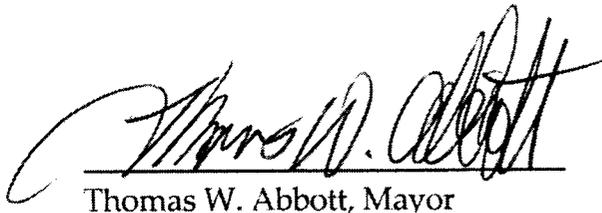
In the event that any portion of this Ordinance shall be determined to be unconstitutional or invalid for any reason, the remaining provision shall remain in full force and effect.

Section 4. EFFECTIVE DATE.

This Ordinance shall take effect upon passage.

PASSED, APPROVED AND ADOPTED this 13<sup>th</sup> day of January, 2015.

CITY OF CALLAWAY, FLORIDA

  
Thomas W. Abbott, Mayor

ATTEST:

  
Sandra B. Hirth, City Clerk

ORDINANCE NO. 928

AN ORDINANCE OF THE CITY OF CALLAWAY, FLORIDA, AMENDING ARTICLE IX ENTITLED "CODE ENFORCEMENT BOARD" OF CHAPTER 2, ENTITLED "ADMINISTRATION," CITY OF CALLAWAY MUNICIPAL CODE; ADOPTING AND INCORPORATING SECTIONS 162.01 THROUGH 162.13, FLORIDA STATUTES, COMMONLY REFERRED TO AS THE "LOCAL GOVERNMENT CODE ENFORCEMENT BOARDS ACT," BY REFERENCE, WHICH PROVISIONS ARE SUPPLEMENTED HEREBY TO PROVIDE FOR THE METHOD AND MANNER OF APPOINTMENT OF MEMBERS TO THE BOARD, THE JURISDICTION, THE IMPOSITION OF ADDITIONAL PENALTIES FOR CODE VIOLATIONS, THE APPOINTMENT OF A SPECIAL MAGISTRATE OR MAGISTRATES TO HEAR CODE VIOLATIONS IN LIEU OF THE BOARD, THE QUALIFICATIONS, TERMS OF OFFICE, STATUS AND COMPENSATION OF BOARD MEMBERS OR MAGISTRATES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; SPECIFICALLY REPEALING CITY OF CALLAWAY ORDINANCE 579 WHICH CREATED THE HEARING OFFICER SYSTEM; PROVIDING FOR THE SEVERANCE HEREFROM OF ANY PORTION OF THIS ORDINANCE THAT IS DECLARED INVALID WITHOUT IMPAIRING OF THE FORCE AND EFFECT OF THE REMAINING PROVISIONS, AND; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF CALLAWAY, FLORIDA:

SECTION 1. By reference, the City hereby adopts Section 162.01 through 162.13, Florida Statutes, commonly referred to as the "Local Government Code Enforcement Boards Act" (a copy of the Act is attached as Exhibit A and is set forth in the Appendix to the City of Callaway Municipal Code).

SECTION 2. The City hereby creates a Code Enforcement Board pursuant to Section 1 above. All members shall serve without compensation and shall be appointed by the City Commission. All members shall be at least 18 years of age and be a resident of the City of Callaway. All members will be subject to pre-appointment background checks and State of Florida Financial Disclosure requirements.

SECTION 3. In addition to the statutory penalties for Code violations, the Code Enforcement Board shall prohibit the issuance of a building permit or development order until the Code violations have been corrected and shall serve notice or an order on the violator that no further work shall be done under an existing building permit or development order until the Code violation has been corrected.

SECTION 4. Special Magistrates.

(a) Alternative proceedings. In lieu of the having the code enforcement board hear and decide code violations, the City may appoint one or more special magistrates to hear and dispose of such matters. Special magistrates shall have the same status, jurisdiction and authority as the code enforcement board. All references to the code enforcement board shall apply to the special magistrate.

(b) Special Magistrate Qualifications, appointment and term of office. The City Commission may appoint one or more special magistrates. Special Magistrates, once appointed, shall continue in office until their successors have been duly appointed. All Special Magistrates shall serve at the pleasure of the City Commission.

(c) Status and Compensation of Special Magistrates. A Special Magistrate shall not be considered an employee of the City, but shall enjoy the same immunities in the discharge of his or her duties as that of a member of the Code Enforcement Board, to the extent permitted by law. The Special Magistrate could be compensated on such basis as determined by the City Commission to be appropriate and as approved by a resolution of the City Commission.

SECTION 5. Repealer. Any Ordinance or any part thereof in conflict herewith is repealed to the extent of such conflict.

SECTION 6. Severability. Should any part of this ordinance be declared invalid that part not declared invalid shall remain in full force and effect.

SECTION 7. Effective Date. This Ordinance shall become effective upon its adoption.

PASSED, APPROVED, AND ADOPTED at the regular meeting of the City Commission on the 13<sup>th</sup> day of November, 2012.

CITY OF CALLAWAY, FLORIDA

ATTEST:

  
Jennifer M. Vigil, City Clerk

  
Thomas W. Abbott, Mayor

Date of 1<sup>st</sup> Reading: 10/23/12  
Date of Final Reading: 11/13/2012

# EXHIBIT A

## Florida Statutes, Chapter 162, Part I Sections 162.01 – 162.13

162.01 - Short title.  
162.02 - Intent.  
162.03 - Applicability.  
162.04 - Definitions.  
162.05 - Local government code enforcement boards: organization.  
162.06 - Enforcement procedure.  
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### **162.01 - Short title.**

Sections 162.01—162.13 may be cited as the "Local Government Code Enforcement Boards Act."

### **162.02 - Intent.**

It is the intent of this part to promote, protect, and improve the health, safety, and welfare of the citizens of the counties and municipalities of this state by authorizing the creation of administrative boards with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing any codes and ordinances in force in counties and municipalities, where a pending or repeated violation continues to exist.

### **162.03 - Applicability.**

(1) Each county or municipality may, at its option, create or abolish by ordinance local government code enforcement boards as provided herein.

(2) A charter county, a noncharter county, or a municipality may, by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances. A special magistrate shall have the same status as an enforcement board under this chapter. References in this chapter to an enforcement board, except in s. 162.05, shall include a special magistrate if the context permits.

### **162.04 - Definitions.**

As used in ss. 162.01—162.13, the term:

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- (1) "Local governing body" means the governing body of the county or municipality, however designated.
- (2) "Code inspector" means any authorized agent or employee of the county or municipality whose duty it is to assure code compliance.
- (3) "Local governing body attorney" means the legal counselor for the county or municipality.
- (4) "Enforcement board" means a local government code enforcement board.
- (5) "Repeat violation" means a violation of a provision of a code or ordinance by a person who has been previously found through a code enforcement board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provision within five years prior to the violation, notwithstanding the violations occur at different locations.

## **162.05 - Local government code enforcement boards; organization.**

- (1) The local governing body may appoint one or more code enforcement boards and legal counsel for the enforcement boards. The local governing body of a county or a municipality that has a population of less than 5,000 persons may appoint five-member or seven-member code enforcement boards. The local governing body of a county or a municipality that has a population equal to or greater than 5,000 persons must appoint seven-member code enforcement boards. The local governing body may appoint up to two alternate members for each code enforcement board to serve on the board in the absence of board members.
- (2) Members of the enforcement boards shall be residents of the municipality, in the case of municipal enforcement boards, or residents of the county, in the case of county enforcement boards. Appointments shall be made in accordance with applicable law and ordinances on the basis of experience or interest in the subject matter jurisdiction of the respective code enforcement board, in the sole discretion of the local governing body. The membership of each enforcement board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (3)
  - (a) The initial appointments to a seven-member code enforcement board shall be as follows:
    1. Two members appointed for a term of one year each.
    2. Three members appointed for a term of two years each.
    3. Two members appointed for a term of three years each.
  - (b) The initial appointments to a five-member code enforcement board shall be as follows:
    1. One member appointed for a term of one year.
    2. Two members appointed for a term of two years each.
    3. Two members appointed for a term of three years each.

Thereafter, any appointment shall be made for a term of three years.
  - (c) The local governing body of a county or a municipality that has a population of less than 5,000 persons may reduce a seven-member code enforcement board to five members upon the

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simultaneous expiration of the terms of office of two members of the board.

(d) A member may be reappointed upon approval of the local governing body.

(e) An appointment to fill any vacancy on an enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two of three successive meetings without cause and without prior approval of the chair, the enforcement board shall declare the member's office vacant, and the local governing body shall promptly fill such vacancy.

(f) The members shall serve in accordance with ordinances of the local governing body and may be suspended and removed for cause as provided in such ordinances for removal of members of boards.

(4) The members of an enforcement board shall elect a chair, who shall be a voting member, from among the members of the board. The presence of four or more members shall constitute a quorum of any seven-member enforcement board, and the presence of three or more members shall constitute a quorum of any five-member enforcement board. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as are otherwise provided by law.

(5) The local governing body attorney shall either be counsel to an enforcement board or shall represent the municipality or county by presenting cases before the enforcement board, but in no case shall the local governing body attorney serve in both capacities.

## **162.06 - Enforcement procedure.**

(1) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; however, no member of a board shall have the power to initiate such enforcement proceedings.

(2) Except as provided in subsections (3) and (4), if a violation of the codes is found, the code inspector shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify an enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in s. 162.12 to said violator. At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in s. 162.12. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(3) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify an enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing and shall provide notice pursuant to s. 162.12. The case may be presented to the enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement board retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the code enforcement board.

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(4) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

(5) If the owner of property that is subject to an enforcement proceeding before an enforcement board, special magistrate, or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:

(a) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

(b) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.

(c) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(d) File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.

A failure to make the disclosures described in paragraphs (a), (b), and (c) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

### **162.07 - Conduct of hearing.**

(1) Upon request of the code inspector, or at such other times as may be necessary, the chair of an enforcement board may call a hearing of an enforcement board; a hearing also may be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board. Minutes shall be kept of all hearings by each enforcement board, and all hearings and proceedings shall be open to the public. The local governing body shall provide clerical and administrative personnel as may be reasonably required by each enforcement board for the proper performance of its duties.

(2) Each case before an enforcement board shall be presented by the local governing body attorney or by a member of the administrative staff of the local governing body. If the local governing body prevails in prosecuting a case before the enforcement board, it shall be entitled to recover all costs incurred in prosecuting the case before the board and such costs may be included in the lien authorized under s. 162.09(3).

(3) An enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board shall take testimony from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(4) At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein. The finding shall be by motion approved by a majority of those

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members present and voting, except that at least four members of a seven-member enforcement board, or three members of a five-member enforcement board, must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in s. 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by said date. A certified copy of such order 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 is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the enforcement board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

### **162.08 - Powers of enforcement boards.**

Each enforcement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county or police department of the municipality.
- (3) Subpoena evidence to its hearings.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

### **162.09 - Administrative fines; costs of repair; liens.**

(1) An enforcement board, upon notification by the code inspector that an order of the enforcement board has not been complied with by the set time or upon finding that a repeat violation has been committed, may order 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 enforcement board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in s. 162.06(4), the enforcement board shall notify the local governing body, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (2)(a).

(2) (a) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (1). However, if a code enforcement board finds the violation to be

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irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation.

(b) In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator.

(c) An enforcement board may reduce a fine imposed pursuant to this section.

(d) A county or a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the county or municipality, an ordinance that gives code enforcement boards or special magistrates, or both, authority to impose fines in excess of the limits set forth in paragraph (a). Such fines shall not exceed \$1,000.00 per day per violation for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature. In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs pursuant to subsection (1). Any ordinance imposing such fines shall include criteria to be considered by the code enforcement board or special magistrate in determining the amount of the fines, including, but not limited to, those factors set forth in paragraph (b).

(3) A certified copy of an order imposing a fine, or a fine plus repair costs, may 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 of this state, 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 part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under s. 4(a), Art. X of the State Constitution.

### **162.10 - Duration of lien.**

No lien provided under the Local Government Code Enforcement Boards Act shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to s. 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the

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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.

## **162.11 - Appeals.**

An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

## **162.12 - Notices.**

(1) All notices required by this part shall be provided to the alleged violator by:

- (a) Certified mail, return receipt requested, provided if such notice is sent under this paragraph 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 local government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2. and by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing;
- (b) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;
- (c) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
- (d) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board, notice may also be served by publication or posting, as follows:

(a) . Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.

2. Proof of publication shall be made as provided in ss. 50.041 and 50.051.

(b) . In lieu of publication as described in paragraph (a), such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be, in the case of municipalities, at the primary municipal government office, and in the case of counties, at the front door of the courthouse or the main county governmental center in said county.

2. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(c) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (1).

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Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), 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.

## **162.125 - Actions for money judgments under this chapter; limitation.**

Actions for money judgments under this chapter may be pursued only on fines levied after October 1, 2000.

## **162.13 - Provisions of act supplemental.**

It is the legislative intent of ss. 162.01—162.12 to provide an additional or supplemental means of obtaining compliance with local codes. Nothing contained in ss. 162.01—162.12 shall prohibit a local governing body from enforcing its codes by any other means.