

Chapter **X CODE ENFORCEMENT**

ARTICLE I. IN GENERAL

Sec. **X.001. Legislative findings.**

It is hereby ascertained, determined, and declared that:

- (1) Pursuant to Article VIII, Section 1(g) of the Florida Constitution, and the Franklin County Charter, the Franklin County Board of County Commissioners has all powers of local self-government to perform County functions and to render services in a manner not inconsistent with general law and such power may be exercised by the enactment of County ordinances.
- (2) It is the purpose of this Chapter to ensure the public health, safety, and welfare of the citizens of Franklin County are protected in the use of property located within Franklin County.
- (3) The enforcement of this Chapter, in ensuring that all property is safe for owners, occupants, and visitors thereto through inspections and prosecution of violations, serves an important public purpose.

Sec. **X.002. Application.**

This Chapter applies to all property located within Franklin County, and constitutes the minimum requirements and standards for such property. In the event Florida Statutes, the Florida Building Code, the Florida Fire Prevention Code, the Florida Life Safety Code, or other provisions of the Franklin County Code of Ordinances, the Franklin County Zoning Code, or other duly enacted County Ordinances impose more stringent requirements than those included herein, the more stringent requirements shall apply. In addition, if any provision of this Chapter is found to be in conflict with Florida Statutes, the Florida Building Code, Florida Fire Prevention Code, Florida Life Safety Code, or other state law or rule, the state law provision shall prevail. Notwithstanding this Section, the Franklin County Board of County Commissioners recognizes the existence of the Florida Right to Farm Act and hereby acknowledges that application and enforcement of this Chapter may be limited pursuant to such Act in certain circumstances.

Sec. **X.003. Definitions.**

As used in this Chapter, the following words and terms shall have the following meanings, unless the context clearly otherwise requires. Undefined terms shall have the meaning provided elsewhere in this Chapter or the Florida Building Code, the Florida Fire Prevention Code, or the Florida Life Safety Code, as applicable.

Approved means approved by the appropriate Code Official designated with responsibility for administration and enforcement of this Chapter.

Basement means that portion of a building that is partly or completely below grade.

Bathroom means a room containing plumbing fixtures including a bathtub, shower, or toilet.

Code means the Franklin County Code of Ordinances, the Franklin County Zoning Code, and any other duly enacted Franklin County Ordinance.

Code Inspector means any authorized agent or employee of Franklin County whose duty it is to ensure compliance with the Code.

Code Official means the person or persons designated with responsibility for ensuring compliance with this Chapter, including, but not limited to, the Franklin County Fire Inspector and the Franklin County Building Official.

Condemned means determined by the Code Official to be unfit for occupancy or use.

County means Franklin County, Florida.

Deteriorate means to weaken, disintegrate, corrode, rust, or decay, and lose effectiveness.

Dwelling unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Enclosed means enclosed on all sides from the elements or view.

Exterior property means the open space on the property and on adjoining real property under the control of owners or occupants of such property.

Garbage means animal, fruit, and vegetable waste, either along or in combination with other putrescible matter resulting from the handling, storage, sale, preparation, cooking, serving, or consumption of foods, and which are subject to decomposition or decay.

Imminent danger means a condition which could cause serious or life-threatening injury or death at any time.

Infestation means the presence of insects, rats, vermin, or other pests in numbers that indicate breeding within or contiguous to a structure.

Inoperable vehicle means a vehicle including, but not limited to, automobiles and other motor vehicles which cannot be driven upon the public streets for any reason, including those that are unregistered if registration is required pursuant to Florida law, wrecked, abandoned, in a state of disrepair, or incapable of being moved under their own power.

Neglect means the lack of proper maintenance for a structure, property, or structure.

Occupancy means the purpose for which a structure or portion thereof is utilized or occupied.

Occupant means any individual living or sleeping in a structure, or having possession of a space within a structure or property.

Owner means any person having a legal or equitable interest in a piece of property; a person whose interest is recorded in the official records of the state, county, or municipality as holding title to the property; or a person otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of property by a court.

Person means an individual, agent, firm, corporation, partnership, or any other group acting as a unit.

Pest elimination means the control and elimination of insects, rodents, vermin, or other pests by eliminating their harborage places, by removing or making inaccessible materials that serve as their food or water, or by other approved pest elimination methods.

Property means a lot, plot, or parcel of land, including any structures or equipment thereon.

Rent means to permit, provide, or offer for possession or occupancy, a piece of property or a structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement, or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

Repeat violation means a violation of a provision of the Code by a person whom the Special Magistrate has previously found to have violated the same provision within five (5) years prior to the violation.

Rubbish means combustible and noncombustible waste materials, except garbage; the term shall include, but is not limited to, the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, disconnected or inoperable appliances, metals, mineral matter, glass, crockery and dust, construction debris, and other similar materials.

Safe and sanitary condition means a condition that is free from pathogens or hazards that are harmful to human health or safety.

Special Magistrate means an attorney and member in good standing with the Florida Bar appointed by the County Coordinator who is authorized to preside over and conduct hearings involving alleged code violations in a manner consistent with this Chapter and Chapter 162, *Florida Statutes*.

Structure means that which is built or constructed or a portion thereof, including, but not limited to, buildings, docks, decks, and other improvements on the property.

Ventilation means the natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

Sec. X.004. Interpretation.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Chapter; and the term “hereafter” means after, and the term “heretofore” means before, the effective date of this Chapter. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Sec. X.005. Waiver of liability.

All Code Officials, Code Inspectors, and Special Magistrates acting in good faith in the discharge of the duties required by this Chapter, shall not be held personally liable, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

Commented [DT1]: Should this state Franklin County Board of County Commissioners?

Sec. X.006. Duties and powers of the Code Official.

- (a) Code Officials are authorized and directed to administer and enforce the provisions of this Chapter. Code Officials or Code Inspectors shall investigate complaints to determine whether there is a violation of the Code. Anonymous complaints shall not be investigated.
- (b) Code Officials or Code Inspectors shall make all inspections required to ensure compliance with the Code. A Code Official is authorized to engage experts as deemed necessary to report upon unusual technical issues that arise, in a manner consistent with the County's purchasing policy.
- (c) Whenever a Code Official has reasonable cause to believe that there exists a condition on property in violation of the Code, the Code Official is authorized to enter the property at reasonable times to inspect or perform the duties required by this Chapter, provided that if a property is occupied the Code Official shall present credentials to the occupant and request entry. If such property is unoccupied or the owner or occupant is not present, the Code Official shall first make a reasonable effort to locate the owner or occupant and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry. In the event the Code Official believes a condition exists which necessitates immediate entry into the property, the Code Official may enter the property as provided by law.
- (d) The Code Official shall keep official records of all business and activities specified in the provisions of this Chapter. Such records shall be retained for the period required for retention of public records.
- (e) Whenever, due to the nature of a particular violation of the Code, there are difficulties involved in obtaining compliance by a property owner, the Code Official shall have the authority to reasonably extend the compliance date prior to consideration by the Special Magistrate for individual cases upon application of the property owner or owner's representative, provided the Code Official shall first find that special reasons exist that make the strict letter of this Chapter impractical and the extension is consistent with the intent and purpose of this Chapter and that such extension does not lessen health, life, and fire safety requirements. The details of action granting extensions shall be documented.

Sec. X.007. Violations.

- (a) It shall be unlawful for any person to be in conflict with or in violation of any of the provisions of the Code.
- (b) If the Code Official determines a person or property is not in compliance with the Code, the Code Official shall provide the owner with a notice of violation for any violation of the Code in the manner established for prosecution of code violations. In the event a violation involves a dangerous structure or equipment, and the Code Official determines condemnation is the only means of ensuring that the property is not a threat to the public health, safety, or welfare, the Code Official shall serve, in addition to the notice of violation, an order of condemnation.
- (c) Any person failing to comply with a notice of violation or order served in accordance with this Chapter shall be prosecuted by the Code Official in the manner established for prosecution of code violations.

Commented [DT2]: Does the County want to use condemnation powers?

Commented [DT3]: See above.

Sec. X.008. Stop work or cease and desist orders.

- (a) Whenever a Code Official finds any work or matter regulated by the Code being performed or existing in a dangerous or unsafe manner or in a manner contrary to the provisions of the Code, the Florida Building Code, the Florida Fire Prevention Code, or the Florida Life Safety Code, the Code Official with responsibility for enforcing such Code provisions is authorized to issue a stop work or cease and desist order.
- (b) A stop work or cease and desist order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work or cease and desist order, the cited work shall immediately cease. The stop work or cease and desist order shall state the reason for the order and the conditions under which the cited work is authorized to resume.
- (c) Where an emergency exists, the Code Official shall not be required to give a written notice prior to stopping the work or activity.
- (d) In the event the Code Official issues a stop work or cease and desist order, the Code Official shall also immediately forward the violation to the Special Magistrate for consideration and review and request a hearing at the earliest possible regularly scheduled hearing. At the request of the property owner or the Code Official, the Special Magistrate may conduct a special hearing on the violation, subject to compliance with all notice requirements provided by law.

Sec. X.009. Violations that present a serious threat to public health, safety, or welfare.

- (a) When, in the opinion of a Code Official, there is a violation that presents a serious threat to public health, safety or welfare, the Code Official shall provide the owner with a notice of violation ordering the owner to perform the necessary work to cure the violation within a specified time not to exceed ten (10) days. If the property owner contests the Code Official's opinion that a serious threat to public health, safety, or welfare exists, the property owner shall request a hearing before the Special Magistrate within the ten (10) day period.
- (b) In the event the Special Magistrate determines there is a violation that presents a serious threat to public health, safety, or welfare, the Special Magistrate shall issue an order requiring the owner to perform the necessary work to cure the violation within a specified time not to exceed ten (10) days. If the property owner contests the Special Magistrate's determination, the property owner may file an appeal to the circuit court within thirty (30) days of the execution of the order to be appealed pursuant to Section 162.11, *Florida Statutes*, and section X.027 of this Chapter.
- (c) In the event the owner fails to perform the necessary work or fails to contest the Code Official's opinion or the Special Magistrate's determination within the time specified, the County is authorized to go upon the premises and perform the necessary work to abate the violation. Costs incurred in the performance of necessary work shall initially be paid by the County. The County's costs of performing the necessary work shall be assessed against the property.

ARTICLE II. ADOPTION OF PROPERTY MAINTENANCE REGULATIONS

Sec. X.010. Adoption of Property Maintenance Regulations.

- (a) The Franklin County Board of County Commissioners hereby adopts Property Maintenance Regulations to address matters relating to structures located within the County and their adjacent exterior real property that present a threat to the public health, safety, or welfare, including, but not limited to, those conditions that are dangerous or unsanitary.
- (b) Notwithstanding the other provisions of this Chapter, this Article shall not apply to owner-occupied dwelling units, but rather shall only apply to commercial property and non-owner occupied dwelling units.

Commented [DT4]: Does the County want to exclude owner occupied dwelling units from the Property Maintenance Regulations?

Sec. X.011. Responsibility of owner to maintain property and structures.

- (a) All owners of property shall maintain the property and structures located thereon in compliance with these requirements, except as otherwise provided for in this Article. Property shall be maintained in a safe and sanitary condition and be kept in a proper state of repair. No person shall occupy as owner-occupant or permit another person to occupy property which is not in a safe and sanitary condition and which does not comply with the requirements of this Article. Occupants are responsible for keeping that part of any structure or property which they occupy and control in a safe and sanitary condition.
- (b) All structures and property shall be maintained in a safe and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.
- (c) All property shall be maintained so as to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon, with the exception of approved retention areas and reservoirs, and wetlands or other surface waters.
- (d) Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property.

Sec. X.012. Exterior of structure.

- (a) The exterior of a structure shall be maintained in good repair and in a safe and sanitary condition so as not to pose a threat to the public health, safety, or welfare, and shall comply with the Code, Florida Statutes, the Florida Building Code, the Florida Fire Prevention Code, and the Florida Life Safety Code, and any local amendments thereto.
- (b) Every window, other than a fixed window, shall be easily opened and capable of being held in position by window hardware.
- (c) All exterior doors, door assemblies, and hardware shall be maintained in good condition. Locks or other security measures shall be provided at all entrances to dwelling units and businesses and shall secure the door.
- (d) Every basement shall be maintained to prevent the entrance of pests, rain, and surface drainage water. Every basement window that may be opened shall be supplied with rodent shields, storm windows, or other approved protection against the entry of rodents.

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- (e) Operable windows located in whole or in part within six (6) feet above ground level that provide access to a dwelling unit that is rented or leased shall be equipped with a window sash locking device.
 - (f) No person shall willfully or wantonly damage or deface any exterior surface of any structure on any private or public property by placing thereon any marking, carving, or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

Sec. X.013. Pest elimination.

- (a) All property shall be kept free from insect, rodent, vermin, and other pest infestation. All structures which are determined to be infested by insects, rodents, vermin, or other pests shall be promptly exterminated by approved processes that will not be harmful to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
- (b) The owner of any structure shall be responsible for ensuring that the structure is exterminated when necessary.

Sec. 8.028. Heating, mechanical, and electrical requirements.

- ~~(a) The heating, mechanical, and electrical facilities and equipment of a structure or property shall be properly installed and maintained in good repair and in a safe and sanitary condition so as not to pose a threat to the public health, safety, or welfare, and shall comply with applicable county ordinances, Florida Statutes, the Florida Building Code, the Florida Fire Prevention Code, and the Florida Life Safety Code, and local amendments thereto. No person shall occupy any property which does not comply with these requirements.~~
- ~~(b) The use of cooking stoves for heating purposes is prohibited.~~
- ~~(c) Every occupied building shall be provided with an electrical system that complies with the requirements of all applicable county ordinances, Florida Statutes, the Florida Building Code, the Florida Fire Prevention Code, and the Florida Life Safety Code, and local amendments thereto.~~
- ~~(d) Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard.~~
- ~~(e) Electrical facilities shall be replaced in accordance with the provisions of the Florida Building Code, the Florida Fire Prevention Code, and the Florida Life Safety Code, and any local amendments thereto, except that they may be repaired where an inspection report from the equipment manufacturer or manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.~~

Commented [AL5]: Per 4/16/26 meeting notes this section will be removed.

Commented [AL6R5]: We do need to include language regarding accessible unsafe exterior electrical.

Commented [DT7R5]: Please explain

ARTICLE III. NUISANCE ACCUMULATIONS AND INOPERABLE VEHICLES

Sec. X.014. Nuisance accumulations.

- (a) All property shall remain free from any nuisance accumulation of rubbish or garbage other than that placed in an approved and enclosed receptacle. A nuisance accumulation of rubbish or garbage in violation of this Section shall be deemed to have occurred if an owner or occupant of property allows garbage to remain on the property beyond a period of seven (7) days or rubbish to remain on the property beyond a period of fifteen (15) days.
- (b) Every owner or occupant of a structure shall dispose of all rubbish and garbage in a safe and sanitary manner by placing such rubbish and garbage in approved containers and removing it to an approved disposal facility within the County. An approved container shall be one that is covered or enclosed on all sides so as to prevent exposure of the garbage and rubbish to the elements and access of it to animals.
- (c) The owner or occupant of every occupied property shall supply approved covered containers for rubbish and garbage.
- (d) Refrigerators and other similar equipment and appliances not in operation shall not be discarded, abandoned, or stored without first removing the doors.
- (e) Notwithstanding the other provisions of this Section, rubbish and garbage may remain in an unenclosed area in connection with a business enterprise or activity lawfully situated and zoned, and possessing a permit to store such materials on the property. In addition, the creation or maintenance of a **compost pile**, firewood pile, or wildlife brush shelter (so long as the wildlife brush shelter is built in accordance with recommendations of the National Wildlife Federation) shall not be considered to be a nuisance accumulation prohibited by this Section.

Sec. X.015. Inoperable vehicles.

Except as provided for in other provisions of the Code, no more than one (1) **inoperable vehicle** shall be parked, kept, or stored in the open on any property in a state of major disassembly, or disrepair, or be in the process of being stripped or dismantled for a period of more than thirty (30) days. Notwithstanding the other provisions of this Section, a vehicle of any type is permitted to undergo a major overhaul, including body work, provided that such work is performed inside a structure or enclosed area designed for such purposes.

Commented [DT8]: Includes abandoned vehicles – see definition.

ARTICLE IV. DANGEROUS BUILDINGS

Sec. X.016. Dangerous structures.

- (a) When a structure or equipment is found by the Code Official to be unsafe, unfit for human occupancy, or unlawful pursuant to the provisions of the Code, the Florida Statutes, the Florida Building Code, the Florida Fire Prevention Code, the Florida Life Safety Code, or other applicable code, and any local amendments thereto, such structure or equipment shall be condemned, and either demolished or repaired.

Commented [DT9]: I would like to discuss this Article, especially condemnation.

Commented [AL10]: We like this section overall but:

- We do not want any one individual to have power to condemn structures
- We want to ensure that FC does not have responsibility to house property owner/occupant
- We do not want the county to be responsible for repairing unsafe structures
- CE officer will make recommendations to magistrate regarding dangerous structures, including requesting that a licensed engineer conduct an inspection and provide formal findings

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- (b) An unsafe structure is one that is found by the Code Official to be dangerous to the life, health, property, or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- (c) Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment located in a structure or on real property which is in such a state of disrepair or condition that it poses a hazard to the life, health, property, or safety of the public or occupants of the property, as determined by the appropriate Code Official.
- (d) A structure is unfit for human occupancy whenever the Code Official finds that constitutes a hazard to its occupants of the structure or to the public due to its location or to the degree to which it is in disrepair or lacks maintenance, is insanitary, infested by pests, contains filth and contamination, contains unsafe equipment, or lacks ventilation, illumination, sanitary or heating facilities, or other essential equipment required by this Chapter.
- (e) An unlawful structure is one found in whole or in part to be occupied by more persons than permitted by law or one that was erected or altered or is occupied in a manner contrary to law.
- (f) For the purpose of this Article, any structure that has any or all of the conditions or defects described below shall be considered dangerous:
- (1) A door, aisle, passageway, stairway, exit, or other means of egress that does not conform to the Florida Building Code, the Florida Fire Prevention Code, or the Florida Life Safety Code as related to the requirements for existing buildings.
 - (2) A walking surface of any aisle, passageway, stairway, exit, or other means of egress is so warped, worn loose, torn, or otherwise unsafe as to not provide safe and adequate means of egress.
 - (3) Damage caused by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism, or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
 - (4) Any portion of a structure or appurtenance that is of insufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
 - (5) Any portion of a structure that, because of dilapidation, deterioration, decay, or faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the structure is likely to fail or give way.
 - (6) A structure, or any portion thereof, that is unsafe for its use and occupancy.
 - (7) A structure that is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance, become a harbor for vagrants or criminals, or enable persons to resort to the structure for committing a nuisance or an unlawful act.
 - (8) Any structure that has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the Code or

Commented [DT11]: This should capture unpermitted structures.

Florida law to such an extent as to present either a substantial risk of fire, building collapse, or any other threat to life and safety.

- (9) A structure used or intended to be used for dwelling purposes that because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
 - (10) Any structure which, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the Code Official to be a threat to life or health.
 - (11) Any portion of a structure remaining on a site after the demolition or destruction of the structure, or any structure abandoned so as to constitute an attractive nuisance or hazard to the public.
- (g) The Code Official shall have the authority to authorize disconnection of utility service to any structure regulated by this Article and the Florida Building Code, the Florida Fire Prevention Code, or the Florida Life Safety Code in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The Code Official shall notify the serving utility and, whenever possible, the owner and occupant of the structure of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the structure shall be notified in writing as soon as practical thereafter.
 - (h) If a structure is unsafe, unlawful, or unfit for human habitation and occupancy, and does not pose an imminent danger, the Code Official is authorized to post an order of condemnation and notice of violation on the property and order the structure secured so as not to be an attractive nuisance.
 - (i) The order of condemnation and notice of violation shall further specify what actions must be taken by the owner to secure the structure, property, or equipment that has been deemed unsafe by the Code Official including, but not limited to, repair, closing entrances, or demolition.
 - (j) The Code Official's order of condemnation and notice of violation shall be posted in a conspicuous place on or about the structure affected by such notice and served on the owner as reflected in either the official records of Franklin County, other public records, or the most recent statement of title, and at the Franklin County Administration Building. If the notice pertains to equipment, it shall also be placed on the equipment. The notice of violation and condemnation order shall include a statement that a failure to correct or eliminate the dangerous or unsafe condition will result in forwarding the case to the Special Magistrate. In addition, the Code Official shall place a condemnation placard on the front of the property in order to inform other persons within the vicinity of the structure that it is unsafe.
 - (k) Upon failure of the owner to secure the property within the time specified in the order of condemnation, the Code Official shall send the case to the Special Magistrate for a public hearing for a review of the condition of the structure or equipment, a determination of whether such condition is a violation of the Code, and if it is a violation, issuance of an order requiring

the owner to take appropriate steps to secure the property. If the Special Magistrate determines there is a violation and affirms the Code Official's order of condemnation, the Special Magistrate shall provide a reasonable time for the owner to correct the dangerous condition, subsequent to which the Code Official may be directed to have the property secured by repair, closing all entrances, or demolition. If the Code Official must secure the property, the cost thereof shall be charged against the real estate upon which the structure is located and shall be a code enforcement lien upon such real estate or may be collected in any other legal manner.

- (l) The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation action was based have been eliminated.
- (m) Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy placarded property or shall operate placarded equipment, and any owner or any person responsible for the property who shall let anyone occupy the property or operate the equipment shall be liable for any injuries or damages sustained during the course of such occupancy or operation.

Sec. X.017. Emergency measures.

- (a) When, in the opinion of the appropriate Code Official, there is imminent danger of fire, failure, or collapse of a building or structure which endangers life, or when any portion of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the structure's occupants or those in the proximity because of explosives, explosive fumes, or vapors or the presence of toxic fumes, gases, or materials, or operation of defective or dangerous equipment, or any other dangerous conditions, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the property immediately. The Code Official shall cause a notice to be posted at each entrance to such property informing all persons that it is unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or demolition.
- (b) Notwithstanding other provisions of this Article, whenever, in the opinion of the Code Official, the violation, or condition causing the violation, presents a serious threat to the public health, safety, or welfare, the Code Official shall order the owner to perform the necessary work to remedy the Code violation, within a specified period of time not to exceed ten (10) days, or the Code Official may take all steps required for performance of the necessary work. If the property owner contests the Code Official's opinion that a serious threat to the public health, safety, or welfare exists, the property owner shall request a hearing from the Special Magistrate within the ten (10) day period.
- (c) When necessary for public safety, the Code Official shall temporarily close structures requiring action under this section and close, or order the authority having jurisdiction to close, sidewalks, streets, public rights-of-way, and places adjacent to such structures, and prohibit the same from being utilized.
- (d) Costs incurred in the performance of emergency work shall initially be paid by the County. The County's costs of performing the emergency work shall be assessed against the property.

Sec. X.018. Demolition or repair.

In the order of condemnation, the Code Official shall order the owner of any property upon which is located any structure that is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy to such an extent that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or demolition and removal at the owner's option. Where there has been a cessation of normal construction of any structure for a period of more than two (2) years, the Code Official shall order the owner to demolish and remove such structure, or board up until future repair. Securing or boarding up the structure for future repair shall not extend beyond one (1) year, unless approved by the Code Official.

Commented [DT12]: Is the County comfortable with this time-frame?

Sec. X.019. Salvage materials.

When any structure has been ordered demolished and removed by the County, the Code Official or other designated entity under contract with Franklin County shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of the sale, after deducting the expenses of such demolition and removal, shall be promptly remitted to the owner with a report of such sale or transaction, including the items of expense and the amounts deducted, subject to any order of a court. If there is no surplus to remit to the owner, the report shall so state.

ARTICLE V. CODE ENFORCEMENT HEARING PROCESS

Sec. X.020. Special Magistrate.

- (a) Special Magistrates shall possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability. Appointments shall be made by the County Coordinator or his/her designee on the basis of experience or interest in code enforcement. Such appointments shall be submitted to the County Clerk for ratification by the Franklin County Board of County Commissioners.
- (b) The County Coordinator or his/her designee shall appoint as many Special Magistrates as are deemed necessary. Appointments shall be made for a term of one (1) year. A Special Magistrate will be reappointed automatically, unless the County Coordinator or the Franklin County Board of County Commissioners decides not to renew an appointment; provided, however, that the decision not to renew a Special Magistrate's appointment and notice thereof occurs thirty (30) days prior to the renewal of that Special Magistrate's term. There shall be no limit on the number of reappointments that may be given to any individual Special Magistrate. The County Coordinator or the Franklin County Board of County Commissioners shall have authority to remove or suspend Special Magistrates for cause including, without limitation, those grounds specified by state law. Appointments to fill any vacancy shall be for the remainder of the unexpired term.
- (c) Special Magistrates shall not be County employees. Special Magistrates may receive compensation at a rate set by Resolution of the Franklin County Board of County

Commented [DT13]: Should BOCC appoint Special Magistrate instead of County Coordinator?

Commented [DT14]: Ditto.

Commented [DT15]: Ditto.

Commented [DT16]: Ditto.

Commissioners and be reimbursed for such travel, mileage, and per diem expenses as authorized by the County Coordinator.

- (d) The Special Magistrate shall preside over and conduct hearings regarding alleged Code violations, assess fines against violators, and otherwise carry out the provisions of this Chapter and Chapter 162, *Florida Statutes*.

Sec. X.021. Powers and jurisdiction.

- (a) The Special Magistrate shall have the power to do the following:
 - (1) Adopt procedures for the conduct of hearings;
 - (2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served by the Law Enforcement Officers;
 - (3) Subpoena records, surveys, plats and other documentary evidence;
 - (4) Take testimony under oath;
 - (5) Issue orders having the force and effect of law, commanding whatever steps are necessary to bring a violation into compliance; and
 - (6) Establish and levy fines pursuant to this Article and Chapter 162, *Florida Statutes*.
- (b) The Special Magistrate shall have the jurisdiction to hear and decide alleged violations of the Code.
- (c) The jurisdiction of the Special Magistrate shall not be exclusive. Any alleged violation of the Code may be pursued by appropriate remedy in court at the option of the administrative official whose responsibility is to enforce that the Code.

Sec. X.022. Conduct of meetings.

- (a) Minutes shall be maintained of all meetings and hearings held by the Special Magistrate, and all meetings, hearings, and proceedings shall be open to the public.
- (b) The County Coordinator shall designate staff to provide clerical and administrative support to the Special Magistrate as may be reasonably required by the Special Magistrate for the proper performance of his/her duties.

Sec. X.023. Enforcement procedure.

- (a) It shall be the duty of the Code Inspector to initiate enforcement proceedings of violations of the Code. No Special Magistrate shall have the power to initiate such enforcement proceedings.
- (b) Except as provided in subsections (e) and (g) of this Section, if the Code Inspector finds a violation of the Code, the Code Inspector shall provide a written violation notice to the alleged violator and give the alleged violator a reasonable time to correct the violation. The reasonable time determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed.

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- (c) The violation notice shall include, but not be limited to, the following:
- (1) Date and time of issuance.
 - (2) Name of the Code Inspector.
 - (3) Name and address of the alleged violator.
 - (4) Section number of the provision of the Code that has been violated.
 - (5) Brief description of the nature of the violation, including location, date, and time of violation.
 - (6) Amount of the civil penalty for which the alleged violator may be liable.
 - (7) Time within which the violation must be corrected if applicable.
 - (8) Notice that the alleged violator may be liable for the reasonable costs of the Special Magistrate hearing should the alleged violator be found guilty of the violation.
- (d) Should the violation continue beyond the time specified for correction, the Code Inspector shall notify the Special Magistrate and request a hearing. The Code Official, in coordination with the Special Magistrate, shall schedule a hearing, and provide notice of such hearing pursuant to Section X-024 to the alleged violator.
- (e) If a violation is corrected and 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 Special Magistrate even if the violation has been corrected prior to the Special Magistrate hearing, and the notice shall so state.
- (f) If a repeat violation is found, the Code Inspector shall notify the alleged violator but is not required to give the alleged violator a reasonable time for correction. The Code Inspector, upon notifying the violator of a repeat violation, shall notify the Special Magistrate and request a hearing. The Code Official, in coordination with the Special Magistrate, shall schedule a hearing and shall provide notice pursuant to section X-024 to the alleged violator. The case may be presented to the Special Magistrate even if the repeat violation has been corrected prior to the Special Magistrate hearing, and the notice shall so state.
- (g) 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 provide notice to the violator and may immediately notify the Special Magistrate and request a hearing.
- (h) It shall be the duty of all Law Enforcement Officers to enforce the provisions of the Code.

Sec. X.024. Notices.

- (a) All notices required by this Article shall be provided to the alleged violator by:
- (1) Certified mail, return receipt requested, provided if such notice is sent under this Section to the owner of the property in question at the address listed in the Franklin County Property Appraiser's public database, and at any other address provided to the County by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (2)(b) of this Section, and by first class mail

directed to the addresses provided to the County by such owner with a properly executed proof of mailing or affidavit confirming the first-class mailing;

- (2) Hand delivery by the sheriff or other law enforcement officer, Code Inspector, or other person designated by the County;
 - (3) Leaving the notice at the alleged violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice; or
 - (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (b) In addition to providing notice as set forth in subsection (a) of this Section, notice may also be served by publication or posting, as follows:
1. Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in the County. The newspaper shall meet such requirements as are prescribed pursuant to Chapter 50, *Florida Statutes*, for legal and official advertisements.
 2. Proof of publication shall be made as provided in Section 50.041 and 50.051, *Florida Statutes*.
 3. Such notice may be posted at least ten (10) days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one of which shall be at the property upon which the violation is alleged to exist and the other of which shall be County website.
 4. Proof of posting shall be by affidavit of the person posting the notice or by photographic evidence, 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 (a) of this Section.
- (d) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this Section, together with proof of publication or posting as provided in subsection (b) of this Section, 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.

Sec. X.025. Special Magistrate Hearings.

- (a) The Special Magistrate may call hearings as needed upon request by the Code Official.
- (b) Upon scheduling, the Code Official shall provide a notice of hearing to the alleged violator in accordance with Section X.024. The notice of hearing shall include, but not be limited, to the following:
 - (1) Name of the Code Inspector who issued the notice.
 - (2) Factual description of alleged violation.

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- (3) Date of alleged violation.
 - (4) Section of the Code allegedly violated.
 - (5) Place, date, and time of the hearing.
 - (6) Right of the alleged violator to be represented by a lawyer.
 - (7) Right of the alleged violator to present witnesses and evidence.
 - (8) Notice that failure of the alleged violator to attend hearing may result in civil penalty being assessed against him/her.
 - (9) Notice that requests for continuances will not be considered if not received by the Special Magistrate at least ten (10) calendar days prior to the date set for hearing.
 - (c) A hearing date shall not be postponed or continued unless a request for continuance, showing good cause for such continuance is received in writing by the Special Magistrate at least ten (10) calendar days prior to the date set for the hearing.
 - (d) All hearings of the Special Magistrate shall be open to the public. All testimony shall be under oath and shall be electronically recorded. Assuming proper notice, a hearing may proceed in the absence of the alleged violator.
 - (e) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript. Minutes shall be kept of all hearings by each Special Magistrate.
 - (f) The County Clerk or his/her designee shall provide clerical and administrative personnel, services, forms, and facilities as may be reasonably required by each Special Magistrate for the proper performance of his/her duties, and shall collect all civil penalties, costs, and other sums due and payable hereunder.
 - (g) Each case before a Special Magistrate shall be presented by a representative of the County.
 - (h) The hearing need not be conducted in accordance with the formal rules relating to evidence and witnesses but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the Special Magistrate finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary and regardless of whether such evidence would be admissible in a trial in the courts of the state. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
 - (i) The Special Magistrate may take testimony from the Code Inspector, the alleged violator, and from such other witnesses as may be called by the respective sides. Each party shall have the right to present brief opening and closing statements; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her.
 - (j) The Special Magistrate shall make findings of fact based on evidence of record. In order to make a finding of a violation of the Code, the Special Magistrate must find that a preponderance of the evidence indicates that the alleged violator was responsible for the violation of the relevant section of the Code as charged.

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(k) If the owner of property which is subject to an enforcement action or proceeding transfers ownership of such property between the time the initial citation or citations were issued and the time of the hearing, such owner shall:

- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
- (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
- (3) 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.
- (4) File a notice with the Special Magistrate 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 (5) days after the date of transfer.

A failure to make the disclosure described in subparagraphs (k)(1)(2)(3) of this Section, 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 will be added as an additional party of record and thereafter shall be provided a reasonable period of time as determined by the Code Inspector to correct the violation before the hearing is held. Continuing violation penalties, if any, shall continue to accrue against the original party. No civil penalty or continuing violation penalties shall accrue against the new owner until and unless the new owner shall fail to correct the violation within the reasonable period provided to the new owner. All parties shall be jointly and severally liable for any penalties up to the amount common among them, and the amounts paid to the County shall be first applied to that common, joint, and several amount.

Sec. X.026. Penalties.

- (a) The Special Magistrate upon notification by the Code Inspector that an order of the Special Magistrate 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 Chapter for each day the violation continues past the date set by the Special Magistrate for compliance or, in the case of a repeat violation, for each day the repeat violation continues past the date of notice to the violator. If a finding of a violation or a repeat violation has been made as provided in this section, a hearing shall not be necessary for the issuance of an order imposing a fine. In addition, if the violation is a violation described in Section 162.06(4), *Florida Statutes*, the Special Magistrate shall notify the County, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost for the repairs along with the fine imposed pursuant to this section. 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.
- (b) 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 (a) of this section.
- (c) In determining the amount of the fine, if any, the Special Magistrate shall consider the following factors:

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- (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.
- (d) The Special Magistrate may reduce a fine imposed pursuant to this Section.
- (e) A certified copy of an order imposing a fine 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 a petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, 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 to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this Section, runs in favor of the County and the County may execute a satisfaction or release of lien entered pursuant to this Section. After three (3) months from the filing of any such lien which remains unpaid, the Franklin County Board of County Commissioners may authorize the County Attorney to foreclose on the lien. No lien created pursuant to this Section may be foreclosed on real property which is homestead pursuant to article X, § 4 of the State Constitution.
- (f) No lien provided pursuant to this Section shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including reasonable attorney fees that it incurs in the foreclosure. The continuation of the lien affected 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.
- (g) The County shall be entitled to collect all costs incurred in recording and satisfying a valid lien.
- (h) Notwithstanding any provisions of this Chapter, no County officer, agent, employee, or board shall approve, grant, or issue any operating permit, license, building permit, certificate of use and occupancy, occupational licenses, platting action, or zoning action to any named violator with:
- (i) Unpaid civil penalties;
 - (ii) Unpaid administrative costs of hearing;
 - (iii) Unpaid investigative, enforcement, testing, or monitoring costs; or
 - (iv) Unpaid liens, any or all of which are owed to the County pursuant to the provisions of the Code.

Sec. X.027. Appeal.

- (a) An aggrieved party, including the County, may appeal a final administrative order of the Special Magistrate to the circuit court. Any such appeal shall be filed within thirty (30) days of the execution of the order to be appealed.
- (b) The scope of review shall be limited to the record made before the Special Magistrate and shall not be a trial de novo.
- (c) The cost of the preparation of the record shall be paid by the appealing party.

ARTICLE VI. APPLICATIONS FOR SATISFACTION AND REDUCTION OF CODE ENFORCEMENT LIENS

Sec. X.028. Applications for satisfaction of code enforcement liens.

Where a certified copy of an order imposing a penalty or fine relating to a county code enforcement case has been recorded in the public records and has become a lien against the land or property of the property owner, such property owner may apply for a satisfaction of such lien as follows:

- (1) No application may be made for the satisfaction of a code enforcement lien unless and until the property which is the subject of the lien is in full compliance with this Code, as confirmed by the Code Inspector.
- (2) The property owner seeking a satisfaction of the code enforcement lien must file an application with the County Coordinator, or his/her designee, which shall include full payment by the property owner of all fines, administrative charges, and other penalties, and any interest imposed by the Special Magistrate or sufficient evidence documenting that such payment has been received by the County.
- (3) Once the County Coordinator, or his/her designee, has confirmed receipt of full payment by the property owner of all fines, administrative charges, and any interest imposed by the Special Magistrate, the County Coordinator, or his/her designee, is hereby authorized to execute and record a satisfaction of the code enforcement lien in the public records of the County.

Sec. 8.029. Applications for reduction of code enforcement liens.

Where a certified copy of an order imposing a penalty or fine relating to a code enforcement case has been recorded in the public records and has become a lien against the land or property of the property owner and such property is currently in full compliance with the Code, as confirmed by the Code Inspector, the property owner may apply for a reduction of such lien amount as follows:

- (1) The property owner seeking reduction of a code enforcement lien must file an application with the County Coordinator, or his/her designee. The application shall include:
 - (a) Payment of an application fee of \$25.00 for processing the application;

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- (b) A copy of the order imposing fines upon the property;
 - (c) The code enforcement case number;
 - (d) The date upon which the property owner brought the subject property into compliance with the Code;
 - (e) The factual circumstances upon which the property owner believes the application for reduction of the lien should be granted, taking into account the standards and factors identified in subsections (3) and (4) below;
 - (f) The amount of the reduction in the lien being sought; and
 - (g) The sworn and notarized signature of the applicant.
- (2) Upon receipt of a complete application for reduction of a code enforcement lien and the required application fee, the Code Inspector shall conduct an inspection and confirm that the property in violation of the Code which resulted in the imposition of the lien has been brought into compliance and remains in full compliance with the Code. The County Coordinator, or his/her designee, shall also forward a copy of the application and any relevant back-up materials to the Special Magistrate which shall provide the Franklin County Board of County Commissioners with comments and a recommendation on the application, taking into account the standards and factors contained in subsections (3) and (4) below.
- (3) Following review of an application for lien reduction by the Special Magistrate, the County Coordinator, or his/her designee, shall forward the application along with the recommendation and comments of the Special Magistrate to the Franklin County Board of County Commissioners. The Franklin County Board of County Commissioners shall not grant any request for lien reduction unless it finds the applicant has met at least one (1) of the following standards:
- (a) The applicant was not the owner at the time of the violation and the applicant remedied the Code violation on the property within a reasonable time after taking ownership of the property. In determining what constitutes a reasonable amount of time, the Franklin County Board of County Commissioners may consider the severity of the violation, whether the violation pertained to a dangerous condition, the cost and labor involved in rectifying the violation, and other relevant factors. If the owner of the property at the time of the violation possesses an option or other instrument that would allow them to reacquire the property at any time, the applicant shall not be eligible to receive a lien reduction unless they can demonstrate the existence of exigent circumstances, as provided in subsection (b) below.
 - (b) The applicant can demonstrate the existence of exigent circumstances at the time of the violation that prevented timely compliance with the order of the Special Magistrate. Exigent circumstances are pressing or demanding conditions that would prevent a reasonable person from being able to timely remedy the code violation in compliance with the order of the Special Magistrate.

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- (c) The applicant has identified a legal deficiency in the code enforcement process or the lien which could render the lien unenforceable and the County Attorney concurs in this recommendation.
 - (4) If the Franklin County Board of County Commissioners determines that an applicant has satisfied one of the standards contained in subsection (3), the Board may consider the following factors in determining the extent to which the lien may be reduced.
 - (a) Except in the case of an unenforceable lien as provided in subsection (3)(c) above, no lien shall be reduced to less than the amount of the County's administrative and actual costs incurred by the County in connection with the prosecution and administration of the case and any funds expended by the County to mitigate any violations or safeguard the property, plus twenty (20) percent said total administrative and actual costs.
 - (b) The severity of the code enforcement violation and whether it involved the existence of a condition dangerous to the health, safety, and welfare of the citizens of the County.
 - (c) Whether the code enforcement violation was a repeat violation by the applicant of the same or a different county ordinance.
 - (d) The duration of the code enforcement violation.
 - (e) Whether the applicant has previously applied for lien reduction requests on the same or other property.
 - (f) Whether the county holds unsatisfied liens on other property owned by the same property owner.
 - (5) A lien reduction approved by the Franklin County Board of County Commissioners shall be valid for a period of sixty (60) days after Board approval. If the reduced lien amount is not satisfied in accordance with the provisions of Section X.028 within sixty (60) days of approval by the Board, the full amount of the lien will immediately and without further action by the Board become due and owing to the County.