

ORDINANCE NO. 2024-01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HARDEE COUNTY, FLORIDA, REPEALING AND REPLACING ORDINANCE NO. 2001-02 AND RENAMING CHAPTER 3 OF THE HARDEE COUNTY CODE OF ORDINANCES FROM "ALCOHOLIC BEVERAGES" TO "CODE ENFORCEMENT" TO PROVIDE FOR A SPECIAL MAGISTRATE, IMPOSITION OF PENALTIES AND ADMINISTRATIVE FINES, CIVIL CITATION AND HEARING PROCEDURES AND LIEN IMPOSITION AND RELEASE GUIDELINES; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, authorizes the various counties of the State of Florida to adopt regulations in the interest of the public health, safety, and the general welfare of the public; and

WHEREAS, Chapter 162, Florida Statutes, the Local Government Code Enforcement Boards Act, authorizes the Board of County Commissioners (the "Board") of Hardee County (the "County") to create special magistrates with authority to impose administrative fines and other noncriminal penalties to provide an equitable, effective and cost-efficient method of enforcement of County Code and Ordinances; and

WHEREAS, the Board finds it periodically necessary to repeal and replace parts of its Code of Ordinances (the "County Code") in order to update regulations and procedures to implement County goals and objectives; and

WHEREAS, the proposed ordinance codifies County regulations providing for a special magistrate, civil citation and hearing procedures, authority and criteria for imposition of penalties, liens and lien reduction; and

WHEREAS, this Ordinance was duly noticed and advertised pursuant to the law; and

WHEREAS, the Board finds that it would be in the best interests of the residents of the County to repeal County Ordinance 2001-02 which formerly provided for alcoholic beverage

29 regulations in Chapter 3 of the County Code and which regulations have been revised and
30 adopted as part of the County’s Unified Land Development Code; and

31 **WHEREAS,** Chapter 3 shall be renamed “Code Enforcement” and amended to create
32 special magistrate code enforcement procedures as provided for herein.

33 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
34 **HARDEE COUNTY:**¹

35 **Section 1. Recitals.** That the above recitals are confirmed, adopted, and incorporated
36 herein and made a part hereof by reference.

37 **Section 2. Repeal.** Upon Adoption, Ordinance No. 2001-02 and Chapter 3 “Alcoholic
38 Beverages” shall be repealed and replaced in its entirety as provided for herein.

39 **Section 3. Replace/Amendment.** That Chapter 3, “Alcoholic Beverages,” of the
40 County Code of Ordinances is hereby created as follows:

41 **Chapter 3 Code Enforcement Alcoholic Beverages.**

42 **Section 3-1. Civil offenses and penalties; special magistrate.**

43 (a) The violation of any County ordinance may be enforced and subject to penalties as
44 provided for in this Code, or any remedy available at law or equity, including prosecution as a
45 misdemeanor, pursuant to Section 125.69, Florida Statutes. A violation of an ordinance or
46 resolution of the County may be punishable by a fine not to exceed \$500.00 or by
47 imprisonment in the County Jail not to exceed sixty (60) days, or by both a fine and
48 imprisonment. Other authorized penalties may be provided for by resolution, ordinance or
49 law.

50 (b) Except as otherwise provided for by resolution, ordinance or law, violations of this Code
51 which shall constitute a civil offense punishable by civil penalty in the amount prescribed in
52 this Code and in accordance with the County’s Schedule of Fees adopted by Resolution.

53 (c) Accordingly, There is hereby created and established a code enforcement position to be
54 filled by a special magistrate to enforce the County Code of Ordinances.

55 **Section 3-2. Qualifications of the special magistrate and removal; organization.**

56 (a) The special magistrate shall possess an outstanding reputation for civic pride, interest,
57 integrity, responsibility, and business or professional ability. The special magistrate shall be a
58 member of the state bar in good standing or a retired judge of one of the courts of the state.
59 The appointment of the special magistrate shall be made by the Board of County
60 Commissioners on the basis of experience or interest in code enforcement. The special
61 magistrate shall be appointed for a term of three years. The special magistrate may be
62 reappointed at the discretion of the Board of County Commissioners. There shall be no limit
63 on the number of reappointments that may be given to any special magistrate. The Board of

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double-strikethrough~~ and double underline.

64 County Commissioners shall have authority to remove the special magistrate with or without
65 cause. Appointments to fill any vacancy shall be for the remainder of the unexpired term.

66 (b) The County Attorney's office or a Code Enforcement Officer shall represent the County in
67 the prosecution of a violation.

68 **Section 3-3. Enforcement procedures.**

69 (a) For the purposes of this Chapter, a "code enforcement officer" is defined to be any agent
70 or employee of the County or Hardee County Sheriff's Office whose duty is to enforce codes
71 and ordinances enacted by the County, and who has received appropriate training as
72 determined by Hardee County or by the Hardee County Sheriff's Office. This shall include, but
73 not be limited to, Code inspectors and other Code Enforcement personnel (building, zoning,
74 mining, public works management, and public utilities personnel), law enforcement officers,
75 animal services officers, and fire safety inspectors.

76 (b) Code enforcement officers shall have the authority to initiate enforcement proceedings as
77 provided below. The special magistrate shall not have the power to initiate such proceedings.

78 (c) For the purposes of this Chapter, "violators" shall be deemed to be those persons or
79 entities legally responsible for the violation of the ordinances.

80 (d) A code enforcement officer who finds a violation of this Code shall determine a reasonable
81 time period within which the violator must correct the violation. This determination shall be
82 based on considerations of fairness; practicality; ease of correction; ability to correct; severity
83 of violation; nature, extent and probability of danger or damage to the public; and other
84 relevant factors relating to the reasonableness of the time period prescribed. A time for
85 correction need not be specified if the violation is deemed to be an uncorrectable violation or
86 a repeat violation.

87 (e) The civil violation notice shall include, but not be limited to, the following:

- 88 (1) Date of issuance.
- 89 (2) Name of code enforcement officer issuing the notice.
- 90 (3) Name and address of the violator.
- 91 (4) Number of the Code section that has been violated.
- 92 (5) Brief description of the nature of the violation, including location, date, and time of
93 violation.
- 94 (6) Amount of the civil penalty for which the violator may be liable.
- 95 (7) Instructions and due date for paying the civil fine or filing for an administrative
96 hearing before a special magistrate to appeal the civil fine.
- 97 (8) Time within which the violation must be corrected, if applicable.
- 98 (9) Notice that each day of continued violation after the time period for correction has
99 run shall be deemed a continuing violation subject to additional penalty in the same
100 amount, without the need for additional notices of violation.
- 101 (10) Notice that failure to request an administrative hearing within 20 days, or within the
102 specified time period listed for a violation of a specific section of the Code, after service of
103 the civil violation notice shall constitute a waiver of the violator's right to an administrative
104 hearing before the special magistrate, and that such waiver shall constitute an admission
105 of violation.

106 (11) Notice that the violator may be liable for the administrative costs incurred by the
107 County in its prosecution of violations, including, but not limited to, any staff time, special
108 magistrate's time, and attorneys' fees for the inspection, investigation, prosecution,
109 testing, or monitoring of a code violation should the violator be found guilty of the violation.

110 (f) A code enforcement officer is authorized to record in the public record the civil violation
111 notice or a notice of violation which is based upon the civil violation notice. The recording of
112 the civil violation or a notice of violation under this Section shall not act as or be a lien on the
113 property and shall not act as a notice of a lien on the property but shall merely act as public
114 notice of the existence of the violation.

115 **Section 3-4. Civil penalties and related terms construed.**

116 (a) Penalties for violations of the ordinances to be enforced by this Chapter shall be in the
117 amount prescribed in the schedule of civil penalties adopted by Resolution, unless otherwise
118 provided in this Code or by other law.

119 (b) An "uncorrectable violation" is a violation which cannot be remedied after the violation has
120 been committed because the violation constitutes a single prohibited act rather than an
121 ongoing condition or circumstance. Each uncorrectable violation shall constitute a separate
122 violation and shall subject the violator to an additional penalty, including repeat violation
123 penalties, as applicable. Continuing violation penalties cannot be imposed for uncorrectable
124 violations, however, the maximum fine for an uncorrectable violation shall be \$5,000.00.

125 (c) "Continuing violations" are those violations which remain uncorrected beyond the
126 reasonable time period for correction contained in either the civil violation notice or the order
127 of the special magistrate, whichever is applicable. For each day of continued violation after
128 the time for correction has run, an additional penalty in the same amount as that prescribed
129 for the original violation shall be added.

130 (d) A "repeat violation" is a recurring violation of an ordinance by a violator who has previously
131 been found guilty or who has admitted guilt of the same violation within the last five years. In
132 the case of correctable violations, a repeat violation can occur only after correction of the
133 previous violation has been made. For the first repeat violation, the amount of the civil penalty
134 shall be double the amount of penalty prescribed for the original violation. The amount of civil
135 penalty due for each subsequent repeat violation shall be double the amount of penalty due
136 for the first day of the immediately preceding violation, to a maximum initial civil penalty of four
137 times the original penalty for the second and subsequent repeat violations. A repeat violation
138 shall accrue civil penalties from the date of the civil violation notice and continuing violation
139 penalties in the same amount until the violation is corrected.

140 (e) Continuing violation penalties shall accrue from the deadline for correction given in the
141 civil violation notice until the violation is corrected. If the named violator requests an
142 administrative hearing on a correctable violation and is found in violation, the special
143 magistrate shall determine a reasonable time period within which correction of the violation
144 must be made, based on the considerations set forth in section 3-3(d). If correction is not
145 made within the period set by the special magistrate, continuing violation penalties shall
146 accrue. The time period for correction may run retroactive to the deadline in the civil violation
147 notice.

148 (f) Continuing violation penalties shall automatically accrue after the deadline imposed in the
149 original civil violation notice, or by the special magistrate. If said deadline is prospective, the
150 code enforcement officer may file an affidavit of noncompliance and notice of right to request
151 a hearing. The violator may request an administrative hearing before the special magistrate,
152 which hearing shall be strictly limited to whether the violator complied with the prior order of

153 the special magistrate and the amount of the continuing violation penalties based upon the
154 length of time the violation continued to exist. The code enforcement officer shall send a copy
155 of the affidavit of noncompliance and notice of right to request a hearing to the violator by first
156 class mail, at the last known address of the violator. Said affidavit shall include, but not be
157 limited to, the following:

- 158 (1) Date of issuance.
- 159 (2) Name of the code enforcement officer issuing the original affidavit.
- 160 (3) Section number of Code that has been violated.
- 161 (4) Amount of continuing penalty to be assessed by the special magistrate.
- 162 (5) Notice of right to request an administrative hearing and instructions on how to file
163 for the administrative hearing.
- 164 (6) Notice that failure to request an administrative hearing within 20 days after the
165 receipt of the affidavit of noncompliance shall constitute a waiver of the violator's right to
166 the administrative hearing.
- 167 (7) Notice that the administrative hearing is strictly limited to whether the violator
168 complied with the prior order of the special magistrate and the amount of the continuing
169 penalty based solely upon the length of time the violation continued to exist.
- 170 (8) Notice that the violator shall be liable for the costs of the administrative hearing if
171 the violator is unsuccessful at the hearing.

172 (g) The term "administrative costs" shall mean the costs and expenses incurred by the County
173 in its prosecution of violations, including, but not limited to, any staff time, special magistrate's
174 time, and attorneys' fees for the inspection, investigation, prosecution, testing, or monitoring
175 of a code violation.

176 (h) Civil penalties assessed pursuant to this Chapter are due and payable to the County on
177 the last day of the period allowed for the filing of an appeal from the special magistrate's
178 decision, or, if proper appeal is made, when the appeal has been finally decided adversely to
179 the named violator.

180 **Section 3-5. Rights of violators; payment of fine; right to appeal; failure to pay and**
181 **correct, or to appeal.**

182 (a) A violator who has been served with a civil violation notice or affidavit of noncompliance
183 shall elect either to:

- 184 (1) Pay the civil penalty in the manner indicated on the notice, and correct the violation
185 within the time specified on the notice (if applicable); or
- 186 (2) Request an administrative hearing before a special magistrate to appeal the
187 decision of the code enforcement officer which resulted in the issuance of the civil violation
188 notice or affidavit of noncompliance.

189 (b) Appeal by administrative hearing of the notice of violation shall be accomplished by filing
190 a request in writing to the address indicated on the notice, within the time limit stipulated in
191 the specified Code section which is enforced pursuant to the provisions of this Chapter, or no
192 later than 20 calendar days after the service of the notice, whichever is earlier.

193 (c) If the named violator after notice fails to pay the civil penalty and correct the violation within
194 the time specified (if applicable), or fails to timely request an administrative hearing before a
195 special magistrate, the special magistrate shall be informed of such failure by the filing of an

196 affidavit of default by the code enforcement officer. If the named violator pays the civil penalty
197 for a correctable violation but does not correct that violation within the time specified, each
198 day that the violation continues beyond such specified time shall constitute a continuing
199 violation. Failure of the named violator to appeal the decision of the code enforcement officer
200 within the prescribed time period shall constitute a waiver of the violator's right to
201 administrative hearing before the special master. A waiver of the right to administrative
202 hearing shall be treated as an admission of the violation and penalties and administrative
203 costs may be assessed accordingly.

204 **Section 3-6. Scheduling and conduct of hearing.**

205 (a) Upon receipt of a named violator's timely request for an administrative hearing, the special
206 magistrate shall set the matter down for hearing on the next regularly scheduled hearing date
207 or as soon thereafter as possible or as mandated in the specified Code section which is
208 enforced pursuant to this Chapter.

209 (b) The code enforcement recording secretary shall send a notice of hearing by first class
210 mail to the named violator at their last known address. The notice of hearing shall include, but
211 not be limited to, the following:

- 212 (1) Name of the code enforcement officer who issued the civil violation notice.
- 213 (2) Factual description of alleged violation.
- 214 (3) Date of alleged violation.
- 215 (4) Section of the Code allegedly violated.
- 216 (5) Place, date and time of the hearing.
- 217 (6) Right of violator to be represented by a lawyer.
- 218 (7) Right of violator to present witnesses and evidence.
- 219 (8) Notice that failure of violator to attend hearing may result in civil penalties and
220 administrative costs being assessed against them.
- 221 (9) Notice that requests for continuances will not be considered if not received by the
222 special magistrate at least ten calendar days prior to the date set for hearing.

223 (c) The County shall schedule hearings on a monthly basis or as requested by the code
224 enforcement officer.

225 (d) A hearing date shall not be postponed or continued unless a request for continuance,
226 showing good cause for such continuance, is received in writing by the special magistrate at
227 least ten calendar days prior to the date set for the hearing.

228 (e) All hearings of the special magistrate shall be open to the public. All testimony shall be
229 under oath. Assuming proper notice, a hearing may proceed in the absence of the named
230 violator.

231 (f) The proceedings at the hearing shall be recorded and may be transcribed at the expense
232 of the party requesting the transcript.

233 (g) The County shall provide clerical and administrative personnel as may be reasonably
234 required by the special magistrate for the proper performance of his/her duties.

235 (h) Each case before a special magistrate shall be presented by the County Attorney's office
236 or a Code Enforcement Officer.

237 (i) The hearing shall not be conducted in accordance with the formal rules relating to
238 evidence and witnesses. Any relevant evidence shall be admitted if the special magistrate
239 finds it competent and reliable, regardless of the existence of any common law or statutory
240 rule to the contrary.

241 (j) Each party shall have the right to call and examine witnesses; to introduce exhibits; to
242 cross examine opposing witnesses on any matter relevant to the issues even though that
243 matter was not covered in the direct examination; to impeach any witness regardless of which
244 party first called him/her to testify; and to rebut the evidence against him/her.

245 (k) The special magistrate shall make findings of fact based on evidence of record. The
246 special magistrate shall make the findings of fact at the conclusion of the hearing. In order to
247 make a finding upholding the code enforcement officer's decision, the special magistrate must
248 find that a preponderance of the evidence indicates that the named violator was responsible
249 for the violation of the relevant section of the Code as charged in the civil violation notice, or
250 that the violation continued to exist beyond the deadline for compliance in a prior order of the
251 special magistrate as set out in the affidavit of noncompliance.

252 (l) If the named violator is found guilty of the violation, or if the violation is found to be a
253 continuing violation, the violator shall pay the administrative costs of the County. All
254 administrative costs shall be paid within 30 days of the date of the order of the special
255 magistrate awarding such costs. If the special magistrate finds that the violation constitutes a
256 serious threat to the public health, safety, and welfare, the special magistrate may authorize
257 the County to make all reasonable repairs which are required to bring the property into
258 compliance and charge the violator with the reasonable cost of the repairs along with the fine
259 imposed pursuant to this Section. Making such repairs does not create a continuing obligation
260 on the part of the County to make further repairs or to maintain the property and does not
261 create any liability against the County for any damages to the property if such repairs were
262 completed in good faith. The County may record a notice of lien for the costs of repairs. Said
263 lien shall be equal in dignity to tax liens.

264 (m) The fact-finding determination of the special magistrate for purposes of a civil violation
265 notice shall be limited to whether the violation alleged did occur and, if so, whether the person
266 named in the civil violation notice can be held responsible for that violation. The fact-finding
267 determination of the special magistrate for purposes of an affidavit of noncompliance shall be
268 strictly limited to whether the violator complied with the prior order of the special magistrate
269 and the amount of continuing violation penalties based upon length of time that the violation
270 existed. Based upon this fact-finding determination, the special magistrate shall either affirm
271 or reverse the decision of the code enforcement officer. If the special magistrate affirms the
272 decision of the code enforcement officer with respect to a civil violation notice, the special
273 magistrate, pursuant to section 3-4(f), shall determine a reasonable time period within which
274 correction of the violation must be made; provided however, that such time period shall be no
275 more than 30 days. If the special magistrate reverses the decision of the code enforcement
276 officer and finds the named violator not responsible for the code violation alleged in the civil
277 violation notice, the named violator shall not be liable for the payment of any civil penalty,
278 absent reversal of the special magistrate's findings pursuant to section 3-8(a). If the decision
279 of the special magistrate is to affirm, then the following elements shall be included:

280 (1) Amount of civil penalty.

281 (2) Administrative costs of hearing.

282 (3) Date by which the violation must be corrected to prevent imposition of continuing
283 violation penalties (if applicable).

- 284 (n) The special magistrate shall have the power to:
285 (1) Adopt procedures for the conduct of hearings.
286 (2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served
287 by the police department or by the code enforcement officer or recording secretary.
288 (3) Subpoena evidence.
289 (4) Take testimony under oath.
290 (5) Assess and order the payment of civil penalties and administrative costs as
291 provided herein.
292 (6) Reduce civil penalties as provided herein.
293 (7) Issue orders having the force of law to command whatever steps are necessary to
294 bring a violation into compliance.

295 **Section 3-7. Recovery of unpaid civil penalties; unpaid penalty to constitute a lien;**
296 **interest to be paid on liens; foreclosure; prohibition of the issuance of permits,**
297 **licenses, certificates of use and occupancy, or zoning approvals to violators with**
298 **unpaid civil penalties or liens; lien reduction.**

299 (a) The County may institute proceedings in a court of competent jurisdiction to compel
300 payment of civil penalties.

301 (b) A certified copy of an order imposing a civil penalty shall be recorded in the public records
302 and thereafter shall constitute a lien against the land on which the violation exists or upon any
303 other real or personal property owned by the violator; and it may be enforced in the same
304 manner as a court judgment by the sheriffs of this state, including levy against the personal
305 property, but shall not be deemed to be a court judgment except for enforcement purposes.
306 The County may foreclose or otherwise execute on the lien.

307 (c) Liens created pursuant to this Chapter may be discharged and satisfied by paying to the
308 County the amount specified in the order, together with interest thereon from the date of the
309 order computed at the rate of 12 percent per annum, together with the administrative costs
310 and recording fees. When any such lien has been discharged, the County shall issue a
311 satisfaction of lien in recordable form.

312 (d) With the exception of any development approvals needed to correct a code violation for
313 which the applicant has been cited and notwithstanding any provision of this Code, no County
314 officer, agent, employee or board shall approve, grant or issue any operating permit, license,
315 building permit, certificate of use and occupancy, platting action, or zoning action to any
316 named violator with:

- 317 (1) Uncorrected code violations;
318 (2) Unpaid civil penalties;
319 (3) Unpaid administrative costs; or
320 (4) Unpaid liens;

321 any or all of which are owed to the County.

322 (e) No lien provided under this Chapter shall continue for a period longer than 20 years after
323 the certified copy of an order imposing a fine has been recorded, unless within that time an
324 action to foreclose on a lien is commenced in a court of competent jurisdiction. In an action to

325 foreclose on a lien, the prevailing party may recover interest and all costs, including attorneys'
326 fees, incurred in the foreclosure. The continuation of the lien effected by the commencement
327 of the action shall not be good against creditors or subsequent purchasers for valuable
328 consideration without notice, unless a notice of lis pendens is recorded.

329 (f) Lien reduction. The violator, or the violator's successor or assign, who has an ownership
330 interest in the property encumbered by a lien for civil penalties (the "applicant"), may file a
331 request for a reduction of the continuing violation penalties before the special magistrate. The
332 request may only be filed after a compliance inspection is completed during which a code
333 enforcement officer finds that all violations were corrected but that the civil penalties have not
334 yet been paid and that there are no other outstanding code violations, whether on the property
335 to which the lien attaches or on another property belonging to the applicant, or debts owed to
336 the County for which the applicant is responsible. Upon receipt of a written request for
337 reduction of civil penalties, and the filing of an affidavit of partial compliance by the code
338 enforcement officer which sets forth that all outstanding violations of the special magistrate's
339 order have been corrected, except for payment of any outstanding civil penalties, the County
340 shall set the matter for a penalty reduction hearing by the special magistrate. The County
341 Manager may, in his/her sole discretion, enter into a settlement agreement with the applicant
342 to pay a reduced fine that is reduced pursuant to the guidelines in this Section without the
343 need for a hearing. No hearing shall be held:

- 344 (1) To reduce an initial civil penalty or an award of administrative costs;
345 (2) To reduce the civil penalties for an uncorrectable violation;
346 (3) If the County Attorney has requested authorization to bring further enforcement
347 action or commenced an action to obtain compliance with the order of the special
348 magistrate, including, but not limited to, an action for injunctive relief, foreclosure, or
349 money judgment; or
350 (4) If, for whatever reason, the civil penalties have already been paid.

351 (g) At the hearing, the fact-finding determination of the special magistrate shall be limited to
352 evidence establishing:

- 353 (1) Good cause for a reduction of the continuing violation penalties;
354 (2) The amount of the reduction; and
355 (3) Any equitable considerations raised by the applicant or the County relating to good
356 cause or the amount of the reduction.

357 Said hearing shall not be an opportunity to appeal any finding of fact or conclusions of law set
358 forth in any prior order of the special magistrate or any administrative determination of the
359 County.

360 (h) The special magistrate may reduce the civil penalties once the applicant has otherwise
361 complied with an order of the special magistrate based on a showing of good cause, but in no
362 event shall the civil penalties be reduced below the administrative costs incurred by the
363 County nor shall any administrative costs previously awarded by the special magistrate, costs
364 of repair, or assessment liens be waived or reduced.

365 (i) In determining good cause, and the amount of the reduction, if any, the special magistrate
366 shall consider:

- 367 (1) The gravity of the violation.
368 (2) Any actions taken by the violator or applicant to correct the violation.

369 (3) Any previous, or other outstanding violations, whether committed by the violator or
370 applicant, or pertaining to the property to which the lien attaches, unless an order finding
371 a violation is under appeal at the time of the determination.

372 (4) Whether the violation is irreparable or irreversible in nature.

373 (5) Whether the violator or applicant's failure to timely comply with an order of the code
374 enforcement officer or the special magistrate is due to an inability to comply based on
375 factors beyond the control of the violator or applicant.

376 (i) Upon a finding of good cause, the special magistrate has the sole discretion to grant or
377 deny the request for a reduction of civil penalties according to the following guidelines,
378 provided the reduction is to an amount that is not less than the administrative costs incurred
379 by the County:

380 (1) If compliance occurs within three months of the deadline for compliance provided
381 for in the order of the special magistrate, a maximum reduction of 95 percent of the total
382 civil penalties (the original civil penalty plus the continuing violation penalties);

383 (2) If compliance occurs more than three months but less than 12 months from the
384 compliance deadline, a maximum reduction of 75 percent of the total civil penalties;

385 (3) If compliance occurs from 12 months to 18 months of the compliance deadline, a
386 maximum of 50 percent of the total civil penalties; and

387 (4) If compliance occurs more than 18 months after the compliance deadline, a
388 maximum of 25 percent of the total civil penalties.

389 (k) The special magistrate has the authority where there is a demonstrated showing of
390 financial hardship or other good cause to reduce the civil penalties below the civil penalty
391 reduction guidelines. The special magistrate shall exercise this authority with great caution
392 and only in documented and exceptional circumstances. An applicant alleging financial
393 hardship has the burden of presenting evidence of inability to pay the civil penalty.

394 (l) If a civil penalty is reduced, the order of the special magistrate shall provide that, if the
395 applicant fails to pay the reduced civil penalty by the date ordered by the special magistrate,
396 then the original amount of the total civil penalty shall be automatically reinstated. The special
397 magistrate may impose conditions on the granting of a request for reduction of the civil penalty
398 and may allow additional hearings upon request if necessary to establish compliance with said
399 conditions before an order reducing the civil penalty is entered.

400 (m) A certified copy of the order reducing the civil penalty shall not be recorded in the public
401 records and the order shall so provide.

402 (n) Upon receipt of timely payment in full of the amount of the reduced civil penalties, and the
403 recording costs, the County shall issue to the applicant a satisfaction of lien in recordable
404 form.

405 (o) A reduction of civil penalty may only be granted once as to any violation of an order of the
406 special magistrate.

407 **Section 3-8. Appeals.**

408 (a) The named violator or the County may appeal a final order of the special magistrate by
409 filing a notice of appeal in the circuit court in and for the county, within 30 days of the execution
410 of the order to be appealed and in accordance with the procedures provided by the Florida
411 Rules of Appellate Procedure. Such an appeal shall not be a hearing de novo, but shall be
412 limited to appellate review of the record created before the special magistrate.

413 (b) Unless the findings of the special magistrate are overturned in a proceeding held pursuant
414 to section 3-8(a), all findings of the special magistrate shall be admissible in any proceeding
415 to collect unpaid penalties.

416 (c) No party, other than the County, may apply to the court for relief unless such party has
417 first exhausted the remedies provided for in this chapter and has taken all available steps
418 provided in this chapter. It is the intention of the County that all steps provided by this Chapter
419 shall be taken before any application is made to the court for relief; and no application shall
420 be made by any party other than the County to a court for relief except from an order imposing
421 civil penalties or continuing violation penalties issued by a special magistrate pursuant to this
422 Chapter. It is the intention of the County that the order reducing the civil penalty or denying a
423 reduction of the civil penalty shall not be subject to appeal or other form of judicial review.

424 **Section 3-9. Notice.**

425 (a) All notices required by this Chapter shall be provided to the alleged violator by:

426 (1) Certified mail, return receipt requested, to the address listed in the tax collector's office
427 for tax notices or to the address listed in the county property appraiser's database. An
428 additional notice may be provided to any other address for the property owner. For
429 property owned by a corporation, notices may be provided by certified mail to the
430 registered agent of the corporation. If any notice sent by certified mail is not signed as
431 received within 30 days after the postmarked date of mailing, notice may be provided by
432 posting as described in Subsection (b);

433 (2) Hand delivery by the sheriff, or other law enforcement officer, the code inspector, or
434 other person designated by the Board of County Commissioners;

435 (3) Leaving the notice at the violator's usual place of residence with any person residing
436 therein who is above 15 years of age and informing such person of the contents of the
437 notice; or

438 (4) In the case of commercial premises, leaving the notice with the manager or other
439 person in charge.

440 (b) In addition to providing notice as set forth in Subsection (a), notice may be served by either
441 publication or posting, as follows:

442 (1) Such notice shall be published once during each week for four consecutive weeks (four
443 publications being sufficient) in a newspaper of general circulation in the County. The
444 newspaper shall meet such requirements as are prescribed under F.S. Ch. 50 for legal
445 and official advertisements. Proof of publication shall be made as provided in F.S. §§
446 50.041 and 50.051.

447 (2) In lieu of publication as described in Subsection (1) above, such notice may be posted
448 at least ten days prior to the hearing, or prior to the expiration of any deadline contained
449 in the notice, in at least two locations, one of which shall be the property on which the
450 violation is alleged to exist and the other of which shall be at the front door of the County
451 courthouse or the main government center in the County. Proof of posting shall be by
452 affidavit of the person posting the notice, which affidavit shall include a copy of the notice
453 posted and the date and places of its posting.

454 (3) Notice by publication or posting may run concurrently with, or may follow, an attempt
455 or attempts to provide notice by hand delivery or by mail as required under Subsection (a)
456 above.

457 (c) Evidence that an attempt has been made to hand-deliver or mail notice as provided in
458 Subsection (a), together with proof of publication or posting as provided in Subsection (b),
459 shall be sufficient to show that the notice requirements of this Chapter have been met, without
460 regard to whether or not the alleged violator actually received such notice.

461 **Section 3-10. Schedule of Civil Penalties.**

462 There shall be a schedule of civil penalties adopted by Resolution and available on the
463 County Website for inspection.

464 **Section 3-11. Provisions contained herein are supplemental.**

465 Nothing contained in this Chapter shall prohibit the County from enforcing its Code by any
466 other means. The enforcement procedures outlined herein are cumulative to all others and
467 shall not be deemed to be prerequisites to filing suit for the enforcement of any section of this
468 Code.

469 **Section 4. Conflicts.** All Sections or parts of Sections of the County Code of
470 Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in
471 conflict with this Ordinance are repealed to the extent of such conflict.

472 **Section 5. Severability.** That the provisions of this Ordinance are declared to be
473 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be
474 held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining
475 sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being
476 the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

477 **Section 6. Codification.** That it is the intention of the Board, and it is hereby ordained
478 that the provisions of this Ordinance shall become and be made a part of the County Code, that
479 the sections of this Ordinance may be renumbered or relettered to accomplish such intentions,
480 and that the word Ordinance shall be changed to Section or other appropriate word.

481 **Section 7. Effective Date.** That this Ordinance shall become effective immediately
482 upon adoption on second reading.

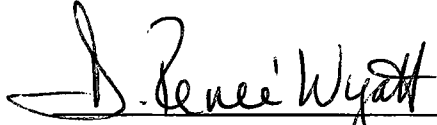
483 **PASSED ON FIRST READING** on the 2nd day of November, 2023.

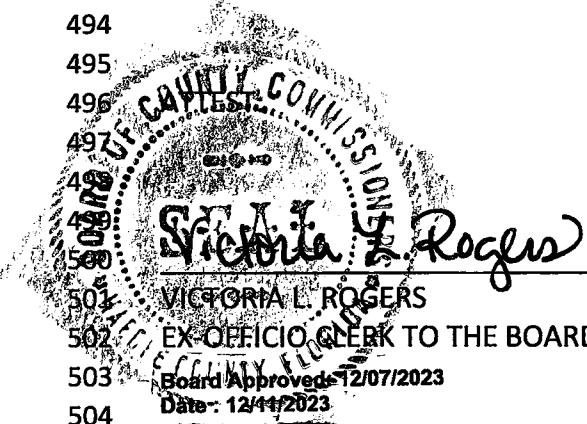
484 **PASSED AND ADOPTED ON SECOND READING** this 7th day of December, 2023.

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[SIGNATURE PAGE TO FOLLOW]

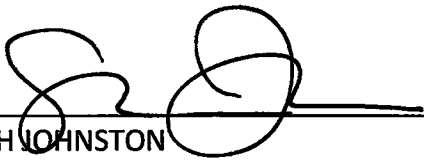
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D. RENEE WYATT, CHAIR



VICTORIA L. ROGERS
EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS
Board Approved: 12/07/2023
Date: 12/11/2023

APPROVED AS TO FORM AND LEGAL SUFFICIENCY


SARAH JOHNSTON
COUNTY ATTORNEY

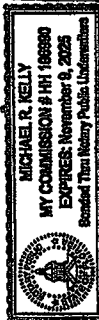
AFFIDAVIT OF PUBLICATION
The Herald-Advocate
 Published Weekly at Wauchula, Florida

STATE OF FLORIDA,
 COUNTY OF HARDEE

Before the undersigned authority personally appeared Lia Jones who on oath says he is the Secretary of The Herald-Advocate, a newspaper published at Wauchula, in Hardee County, Florida; that the attached copy of advertisement, being a Public Notice - BOCC in the matter of Public Hearing - Ordinance No. 2022-08 in the 1st Court, was published in said newspaper in the issues of Nov. 23, 2023

Affiant further says that the said Herald-Advocate is a newspaper published at Wauchula, in said Hardee County, Florida, and that the said newspaper has heretofore been continuously published in said Hardee County, Florida, each week and has been entered as periodicals matter at the post office in Wauchula, in said Hardee County, Florida, for a period of one year next preceding the publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 23 day of November A.D. 2023
Michael R. Kelly
 Notary Public
 My Commission Expires Nov. 9, 2025



HARDEE CLERK TO BOARD
 NOV 30 23 4:35

PUBLIC NOTICE

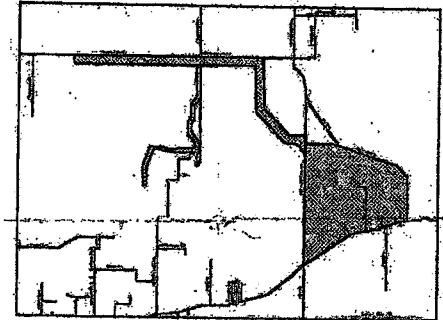
The HARDEE COUNTY
 BOARD OF COUNTY COMMISSIONERS

will hold a
PUBLIC HEARING on
THURSDAY, DECEMBER 07, 2023
8:35 A.M., or as soon thereafter
 in the County Commissioners' Board Room
 Room 102, 1st floor Courthouse Annex
 412 West Orange St., Wauchula, FL.

TO HEAR THE APPLICATION AND TO RECEIVE PUBLIC INPUT FOR:

Agenda No. 22-04 as Ordinance No. 2022-02
 Mosale Fertilizer LLC requests a Large-Scale Comprehensive Plan Amendment to the Generalized Mining Overlay Map to incorporate approximately 4,232 acres of land in unincorporated Hardee County.

Specifically, Parcels included in the cross-hatched area on the below map.



Code Enforcement Regulations as Ordinance 2024-01 (Second Reading)

An Ordinance of the Board of County Commissioners of Hardee County, Florida, repealing and replacing Ordinance 2001-02 and renaming Chapter 3 of the Hardee County Code of Ordinances from "Alcoholic Beverages" to "Code Enforcement" to provide for a Special Magistrate, imposition of penalties and administrative fines, civil citation and hearing procedures and lien position and release guidelines; providing for repeal, conflicts, severability, codification and for an effective date.

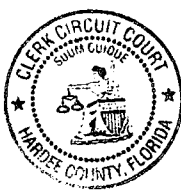
Noey Flores, Chairman

This is a Disabled-Accessible facility. Any disabled person needing to make special arrangements should contact the Planning and Development Department at least two (2) working days prior to the Public Hearing.

Prior to the Public Hearing, documents relating to the Requests are available for public inspection during weekdays between the hours of 8:00 A.M. and 4:00 P.M. at the Community Development Department, 110 S. 9th Ave., Wauchula, Florida.

All interested persons shall have the right to be heard. Although minutes of the Public Hearing will be recorded, Anyone wishing to appeal any decision made at the public hearing will need to ensure a verbatim record of the proceedings are made by a court reporter.

11:23a



CERTIFIED TO BE A TRUE COPY
 THIS COPY HAS BEEN REDACTED PURSUANT TO LAW
 VICTORIA L. ROGERS, CLERK
 BY Laura V. Barber D.C.
December 8, 2023