

DESOTO COUNTY

ORDINANCE NO. 2025 -

AN ORDINANCE OF DESOTO COUNTY, FLORIDA, AMENDING SECTION 20-1581 OF ARTICLE XI “ADMINISTRATION AND ENFORCEMENT” OF CHAPTER 20 OF THE DESOTO COUNTY LAND DEVELOPMENT REGULATIONS, TO CLARIFY THE MANNER IN WHICH THE AFFIDAVIT OF VIOLATION IS SERVED UPON A VIOLATOR FOR A CODE ENFORCEMENT ACTION BEFORE THE SPECIAL MASTER; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 20-1581, titled “Notice and initiation of Special Master hearings,” of Article XI “Administration and Enforcement” of Chapter 20 of the DeSoto County (“County”) Land Development Regulations (“LDRs”) sets forth the County’s process for the initiation of code enforcement proceedings of the various County codes before the County’s Special Master; and

WHEREAS, Section 20-1581 of the LDRs specifically provides that the Code Enforcement Officer shall prepare an affidavit of violation and provide said affidavit to the County Administrator who shall serve the affidavit upon the violator pursuant to Section 162.12, Florida Statutes, and Chapter 48, Florida Statutes; and

WHEREAS, Section 162.12, Florida Statutes, provides the various methods a local government can utilize to provide notices to an alleged violator, including certified mail return receipt, hand delivery, posting, or publication, as more particularly set forth therein; and

WHEREAS, Chapter 48, Florida Statutes, sets forth the manner of providing personal service of process, utilizing a process server; and

WHEREAS, as currently codified, the Section 20-1581 of the County’s LDRs utilizes the conjunctive “and” to provide that serving of the affidavit of violation must be provided in accordance with Section 162.12, Florida Statutes, and Chapter 48, Florida Statutes, however, having to engage a process server to serve each violator would be cost prohibitive and unduly burdensome, especially where it is not legally required under Chapter 162, Florida Statutes, governing local government code enforcement actions; and

WHEREAS, it is proposed that the “and” be amended to provide “or” in Section 20-1581(b) so that County code enforcement officers may opt to choose whichever process for notice that best suits the circumstances so long as notice is legally effectuated in conformance with state statutes; and

WHEREAS, on October 7, 2025, at a duly noticed public meeting, the Planning Commission considered the proposed Ordinance and recommended approval.

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

Section 1. Incorporation of Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Amendment to Article XI, of Chapter 20 of the DeSoto County Code of Ordinances. Chapter 20, Article XI, of the DeSoto County Code of Ordinances is hereby amended as follows:

ARTICLE XI. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. – GENERALLY

DIVISION 10. - ENFORCEMENT OF THE LAND DEVELOPMENT REGULATIONS

Sec. 20-1581. Notice and initiation of Special Master hearings.

(a) Initiation of enforcement proceedings of the various codes shall be solely the duty of the County Administrator or ~~his~~ their designee.

(b) Except as provided in Subsections (c) and (d) of this section, if a violation of any code is found, the County Administrator shall provide a notice of violation to the alleged violator pursuant to F.S. § 162.12, and give the violator a reasonable time to correct the violation. In the event the violation continues beyond the time specified for correction, the Code Enforcement Officer shall prepare an affidavit of violation and provide said affidavit to the County Administrator who shall serve the affidavit upon the violator pursuant to F.S. § 162.12 ~~and~~ or F.S. ch. 48.

(1) The affidavit shall be attached to a notice of mandatory hearing which shall specify the hearing date.

(2) If notice of receipt of service is not received prior to the date of the scheduled hearing, the hearing shall be re-scheduled and the affidavit reserved. This re-scheduled shall continue until such time service is perfected.

(3) If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the County Administrator, the case may be presented to the Special Master even if the violation has been corrected prior to the hearing, and the notice shall so state.

(c) If a repeat violation is found, the Code Enforcement Officer shall provide a written affidavit of recurrence to the County Administrator. The County Administrator shall schedule a hearing date and indicate the date on a notice of penalty hearing attached to the affidavit of recurrence. The affidavit of recurrence is not required to give the violator a reasonable time to correct the violation. If notice of receipt of service is not received prior to the date of the scheduled hearing, the hearing shall be re-scheduled and the affidavit of recurrence re-served. The case may be presented to the Special Master for assessment of a fine and/or order of mitigation even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.

(d) Notwithstanding the provisions of this section, if the County Administrator has reason to believe a violation presents a serious threat to a public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the County Administrator shall serve a notice of violation on the alleged violator requesting immediate compliance and an emergency hearing, which shall be held as soon as possible after proper service notifying the alleged violator of the emergency hearing date has been made.

(e) To alleviate the necessity of having to amend this section whenever new codes are adopted or existing codes repealed, the Board of County Commissioners shall designate by resolution those codes to be enforced before Special Masters.

(f) The alleged violator may appear pro se at the hearing or be represented by legal counsel.

(g) No later than three business days prior to the hearing, the respondent or his legal counsel shall file any affirmative defenses with the County Administrator and shall provide a copy to the prosecutor. If an affirmative defense is not timely filed or timely provided to the County Attorney, the County Attorney shall be granted a continuance upon request.

(h) By resolution, the Board of County Commissioners shall have the authority to prescribe proper and necessary rules and regulations governing the notice and initiation and procedural conduct of Special Master hearings. Such rules and regulations shall be

served with the notice of mandatory hearing and notice of penalty hearing served on the alleged violator. The alleged violator shall be subject to only those rules and regulations currently in effect at the time the notice is served.

Section 3. Repealer. All ordinances, or parts of ordinances, in conflict herewith be, and the same, are hereby repealed.

Section 4. Severability. If any section, subsection, clause, or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 5. Inclusion in the Code. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of DeSoto County, Florida ; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word, as required.

Section 6. Effective Date. This Ordinance will become effective after adoption at second reading in accordance with Florida law.

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, this 28th day of October, 2025.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF DESOTO COUNTY, FLORIDA**

By: _____
Mandy Hines
County Administrator

By: _____
J.C. Deriso, Chairman
Board of County Commissioners

APPROVED AS TO LEGAL FORM

By: _____
Valerie Vicente
County Attorney