

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Department of Community Development/ Building Department	CODE NUMBER: AC-12-5
TITLE: Citation Procedures for Code Enforcement Officers	ADOPTED: 11/28/90
	AMENDED: 07/03/91; 08/31/94; 10/11/95; 05/25/99; 08/09/05; 05/27/08
	ORIGINATING DEPARTMENT: Department of Community Development/ Building Department/ Attorney

PURPOSE/SCOPE:

Providing for Rules of Procedure in the implementation of the Citation Process for the enforcement of codes and ordinances enacted by the County.

POLICY/PROCEDURE:

SECTION I: This Code will be known by its short title: "Citation Procedures".

SECTION II: RULES OF PROCEDURE

The following rules of procedure will govern all citations issued by any Lee County personnel, namely:

RULE 1.01 DESIGNATION OF CODE ENFORCEMENT OFFICERS

(a) As used in this section, "Code Enforcement Officer" means any designated employee or agent of Lee County whose duty it is to enforce codes and ordinances enacted by the County.

(b) Lee County may designate certain of its employees or agents as code enforcement officers. The training and qualifications of the employees or agents for such designation will be determined by the County Manager or Designee.

© Employees or agents who may be designated as code enforcement officers may include, but are not limited to, code inspectors, contractor licensing investigators, water resource officers, environmental inspectors, utility officers, or fire safety inspectors.

(d) Certification of code enforcement officers will be determined by the Director of Community Development or her/his Designee.

(e) Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of §943.085-943.255, Florida Statutes.

RULE 1.02 TRAINING PROCEDURES

(a) Department Community Development/Code Enforcement will place in their file a written procedure as to the code enforcement officer training requirements necessary.

(b) Topics covered in the training shall include, but are not limited to, the following:

1. THE CITATION
 - a. Applicable laws & enabling legislation
 - b. Purpose of citation procedures
 - c. Powers & limitations of citation procedure

2. RESPONSIBILITIES OF THE CODE ENFORCEMENT OFFICER
 - a. Enforcement Policies
 1. When to use citation power
 2. Warnings

3. ISSUING CITATION
 - a. Form of citation
 - b. Applicable laws
 - c. Warning notice required
 - d. Court date
 - e. Practice writing citation

4. SIGNATURE OF CODE VIOLATOR and/or REFUSAL TO SIGN
 - a. What to do to obtain signature
 - b. Procedure for refusal to sign
 - c. How to obtain Sheriff's assistance
 - d. Emergency contact procedures

5. PUBLIC CONTACT
 - a. How to handle difficult situations
 - b. Angry people

6. SWORN STATEMENTS

7. KEEPING FILES
 - a. Documentation and building a case
 - b. What to do with files for court action

8. COURTROOM PROCEDURES
 - a. Appearance
 - b. Demeanor
 - c. Testimony
 - d. Courtroom Visit
 - e. Judges

RULE 1.03 WHEN ORDINANCE CITATION TO BE ISSUED

A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.

RULE 1.04 NOTICE PRIOR TO ISSUANCE OF CITATION

(a) Prior to issuing a citation, a code enforcement officer must provide notice to the person that the person has committed a violation of a county code or ordinance has been committed and provide a reasonable time within which the violator must correct the violation. Such time period can be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a citation may be issued to the violator.

(b) If the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or if a repeat violation is found, the code enforcement officer is not required to provide a reasonable time in which to correct the violation and may immediately issue a citation to the person who committed the violation.

SECTION III: FORM OF CITATION

A citation issued by a code enforcement officer must be in a form prescribed by the County and contain the following:

- (a) The date and time of issuance.
- (b) The name and address of the person to whom the citation is issued.
- © The date and time the civil infraction was committed.
- (d) The facts constituting reasonable cause.
- (e) The number or section of the code or ordinance violated.
- (f) The name and authority of the code enforcement officer.
- (g) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (h) The applicable civil penalty if the person elects to contest the citation.
- (l) The applicable civil penalty if the person elects not to contest the citation.
- (j) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he will be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

SECTION IV: COURT PROCEDURES

RULE 2.01 COUNTY COURT RECEIVES CITATION

After issuing a citation to an alleged violator, a code enforcement officer must deposit the original citation and one copy of the citation with the county court in the Office of the Clerk of Courts.

RULE 2.02 JURISDICTION

Any Lee County code or ordinance may be enforced using the citation procedure.

RULE 2.03 SCHEDULE OF VIOLATIONS AND PENALTIES ASSESSED BY CODE ENFORCEMENT OFFICERS

(a) The monetary amounts of the civil penalties listed on Attachment A, attached hereto and incorporated herein by reference, are hereby established for the disposition of non-criminal infractions in violation of the Code of Laws and Ordinances of Lee County, Florida.

(b) When charged under this section, all violations of Lee County codes and ordinances are civil infractions.

© A maximum civil penalty not to exceed \$500.00 per violation.

(d) A civil penalty of less than the maximum civil penalty will be assessed, as indicated on Attachment A, if the person who has committed the civil infraction does not contest the citation.

RULE 2.04 DELINQUENCY FEES AND FAILURE TO SIGN

(a) A delinquency fee of \$50.00 per civil infraction is hereby established for failure to pay the civil penalty within the time allowed.

(b) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer will be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083, Florida Statutes.

RULE 2.05 CONTESTING THE CITATION IN COUNTY COURT

(a) To contest the violation, the violator must appear at the date, time and location shown on the citation for their arraignment and enter a plea of Not Guilty before the Judge.

(b) The Judge will schedule a hearing date.

© If a hearing is requested and the County Judge determines that the violator has committed the offense, the County Judge may impose a penalty not to exceed \$500.00 per civil infraction.

SECTION V. SUPPLEMENTAL PROVISIONS

The provisions of this section are additional and supplemental means of enforcing Lee County codes and ordinances and may be used for the enforcement of any code or ordinance or for the enforcement of all codes and ordinances. Nothing contained herein will prohibit Lee County from enforcing its codes or ordinances by any other means.

ATTACHMENT "A"

ADMINISTRATIVE CODE 12-05, CITATION PROCEDURES
SCHEDULE OF VIOLATIONS AND PENALTIES

Pursuant to Administrative Code 12-05, Section III(I), the following civil penalties are applicable if a person elects not to contest the code enforcement citation. (Listed by increasing ordinance (LCO) number and Land Development Code (LDC) chapter, article or section.)

LCO 85-07 (As Amended)

TRANSIENT MERCHANTS

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 88-11 (As Amended)

COMMERCIAL USE OF THE RIGHT-OF-WAY

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 88-40 (As Amended)

CONSTRUCTION SITE CLEAN-UP
AND CONSTRUCTION DEBRIS DISPOSAL

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$400.00

LCO 90-03 (As Amended)

WATERING SHORTAGE VIOLATION

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 25.00	\$100.00	\$500.00

AC-12-5 (Continued)

LCO 90-32

DISPOSAL OF DOMESTIC SLUDGES

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 91-07 (As Amended)

TRANSPORTATION OF SOLID WASTE IN LEE COUNTY

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	2nd Degree Misdemeanor

(Only Law Enforcement Officers Can Enforce)

LCO 91-29

PARKING IN FIRE LANE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 15.00	\$ 15.00	\$ 15.00

(If a person elects to have a hearing, the judge may impose a fine not to exceed \$100.00 plus court costs.)

LCO 93-10 SECTION 3.2a (As Amended)

REMOVAL OF RECYCLABLE MATERIALS WITH VEHICLE
(ANTI-SCAVENGING ORDINANCE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00 and 60 days imprisonment

AC-12-5 (Continued)

LCO 93-10 SECTION 3.2b (As Amended)

REMOVAL OF RECYCLABLE MATERIALS WITHOUT VEHICLE
(ANTI-SCAVENGING ORDINANCE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$ 75.00	\$100.00

LCO 93-39 (As Amended)

DISPOSAL OF GARBAGE - NUISANCE ACCUMULATION

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 05-13-Section 8, (As Amended)

MANDATORY SOLID WASTE COLLECTION & DISPOSAL ORDINANCE
(RELATED TO UNSANITARY NUISANCES & COMMERCIAL
CUSTOMERS WITHOUT SERVICE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 05-13-SECTION 20A, (As Amended)

MANDATORY SOLID WASTE COLLECTION & DISPOSAL ORDINANCE
24 HOUR SET-OUT RULE - RESIDENTIAL VIOLATIONS

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$100.00	\$150.00

LCO 05-13-SECTIONS 22 & 23

MANDATORY SOLID WASTE COLLECTION & DISPOSAL ORDINANCE
CREATION OF A PUBLIC NUISANCE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$100.00	\$150.00

LDC §6-111

NO OCCUPANCY PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. II

SEA TURTLE PROTECTION ORDINANCE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. V

TREE CUTTING WITHOUT PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. VI (As Amended)

MANGROVE TRIMMING WITHOUT PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

AC-12-5 (Continued)

LDC CH. 30

SIGN ORDINANCE

1ST OFFENSE

2ND OFFENSE

3RD OFFENSE

\$100.00

\$250.00

\$500.00

LDC CH. 34

ZONING ORDINANCE

1ST OFFENSE

2ND OFFENSE

3RD OFFENSE

\$100.00

\$250.00

\$500.00

VIOLATION OF A POSTED STOP WORK ORDER, VARIOUS ORDINANCES

1ST OFFENSE

2ND OFFENSE

3RD OFFENSE

\$100.00

\$250.00

\$500.00

LCO-07-25 SECTION 3

MANDATORY BUSINESS RECYCLING ORDINANCE
(Businesses)

1ST OFFENSE

\$300.00

LCO-07-25 SECTION 4

MANDATORY BUSINESS RECYCLING ORDINANCE
(Multi-family Properties)

1ST OFFENSE

\$300.00

LCO-07-25 SECTION 5

MANDATORY BUSINESS RECYCLING ORDINANCE
(Construction & Demolition Debris)

1ST OFFENSE

3 times (x) the associated Diversion
Fee for the project in question but
not to exceed \$15,000
