

ORDINANCE NO. 2010-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF WAKULLA COUNTY, FLORIDA, RELATING TO FIRE INSPECTIONS; PROVIDING CERTAIN FINDINGS; PROVIDING DEFINITIONS; PROVIDING PURPOSE AND INTENT; ADOPTING THE FLORIDA FIRE PREVENTION CODE AND UNIFORM FIRESAFETY STANDARDS; PROVIDING FOR INITIAL AND ANNUAL FIRE INSPECTIONS; PROVIDING FOR THE IMPOSITION OF FIRE INSPECTION FEES; PROVIDING FOR INVESTIGATIONS AND ENFORCEMENT; PROVIDING FOR A LIMITATION OF LIABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 633.081, Florida Statutes, requires Florida counties having firesafety enforcement responsibilities to employ or contract with a fire inspector to conduct all fire inspections required by law;

WHEREAS, Section 125.56, Florida Statutes, authorizes Wakulla County to enforce the Florida Fire Prevention Code and local amendments thereto and Uniform Firesafety Standards adopted by the Florida State Fire Marshal;

WHEREAS, Sections 125.56 and 633.081, Florida Statutes, further authorize Wakulla County to adopt a reasonable schedule of inspection fees to defer the costs of inspections and plans reviews conducted in enforcing the Florida Fire Prevention Code and local amendments thereto and Uniform Firesafety Standards; and

WHEREAS, Wakulla County has firesafety enforcement responsibilities within Wakulla County and employs fire inspectors authorized to perform fire inspections pursuant to section 633.081, Florida Statutes.

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

SECTION 1. FINDINGS. The above recitals are found to be true and correct and are hereby incorporated herein by reference.

SECTION 2. DEFINITIONS. As used in this Ordinance, the following words shall have the following meanings, unless the context clearly otherwise requires:

“Board” means the Board of County Commissioners of Wakulla County, Florida.

“Building” means any structure, whether temporary or permanent, built for the support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles, trailers, or enclosures serving in any way the function of a building.

“County” means Wakulla County, Florida.

“Dwelling Unit” means a Building, or a portion thereof, which is designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for a single family only.

“Fire Inspector” means an individual certified by the Division of State Fire Marshal assigned the duties within the County of conducting fire inspections of buildings and facilities on a recurring or regular basis, reviewing plans, investigating code violations relating to fire safety, and issuing Notices of Violation pursuant to this Ordinance.

“Florida Fire Prevention Code” means a set of rules promulgated by the State Fire Marshal pursuant to section 633.0215, Florida Statutes, and adopted by the County, which contain, or incorporate by reference, all firesafety laws and rules that pertain to or govern the design, construction, erection, alteration, modification, repair,

and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.

“Imminent Hazard” means a condition that presents an imminent and substantial danger to the public health, safety or welfare.

"Multi-Family Residential Building" means a Building or a portion of a Building, regardless of ownership, containing more than two Dwelling Units designed for occupancy by a single family, which units are not customarily offered for rent for one day, including but not limited to apartments and condominiums.

"Non-Residential Building" means any Building that is not a Residential Building.

"Residential Building" means a Building containing Dwelling Units.

"Single-Family House" means a Dwelling Unit on an individual lot, tract, or any other parcel of land including duplexes, manufactured homes, and detached houses on lots less than 50 feet wide, such as zero lot line homes.

“Uniform Firesafety Standard” means a requirement or group of requirements for the protection of life and property from loss by fire which shall be met by every building and structure as specified in section 633.022, Florida Statutes.

SECTION 3. PURPOSE AND INTENT. This Ordinance is intended to provide for (1) the initial inspection of all Buildings constructed, altered, or sited within the County and review of plans for such Buildings; (2) the annual inspection of all Non-Residential Buildings and the common areas of Multi-Family Residential Buildings within the County; and (3) the inspection of any Building within the County in response to a complaint so as to ensure that all such Buildings and uses of said Buildings within

Wakulla County are in compliance with the Florida Fire Prevention Code and any local amendments thereto, and Uniform Firesafety Standards, subject to both manpower and budget constraints. It is not the intent of the Board in adopting this Ordinance to offer any assurance to the public that any given Building is free of danger from fire.

SECTION 4. ADOPTION OF FLORIDA FIRE PREVENTION CODE AND UNIFORM FIRESAFETY STANDARDS. The Florida Fire Prevention Code (20__) and the Uniform Firesafety Standards (20__) are hereby adopted and incorporated herein by reference to govern the design, construction, erection, alteration, modification, repair, demolition, and use of all Buildings within the County.

SECTION 5. INITIAL FIRE INSPECTIONS.

(A) Prior to the issuance of a building permit or other development order allowing the construction, alteration, or siting of a Building, the County Fire Inspector shall review the construction plans for all Buildings to ensure that all such Buildings are to be constructed in accordance with the Florida Fire Prevention Code and any local amendments thereto and Uniform Firesafety Standards. No building permit shall be issued until the construction plans have been reviewed by the County Fire Inspector and found to be in compliance with the Florida Fire Prevention Code and any local amendments thereto and Uniform Firesafety Standards.

(B) Prior to issuance of a certificate of occupancy, a tie-down permit or other development order allowing the occupancy of a Building, the County Fire Inspector shall conduct a fire inspection on the subject Building to ensure that the Building was constructed in accordance with the Florida Fire Prevention Code and any local amendments thereto and Uniform Firesafety Standards. No certificate of occupancy,

tie-down permit, or other development order allowing occupancy of a Building shall be issued until the Building has been inspected by the County Fire Inspector and found to be in compliance with the Florida Fire Prevention Code and any local amendments thereto and Uniform Firesafety Standards.

SECTION 6. ANNUAL FIRE INSPECTIONS. The County Fire Inspector shall inspect on an annual basis all Non-Residential Buildings and the common areas of Multi-Family Residential Buildings constructed within Wakulla County, subject to constraints on manpower and budget, in order to ensure that all Buildings are used and maintained in accordance with the Florida Fire Prevention Code and any local amendments thereto and Uniform Firesafety Standards.

SECTION 7. RIGHT OF ENTRY.

(A) Upon presentation of proper credentials, the County Fire Inspector may enter, at any reasonable time, any Building or premises for the purpose of making any inspection or investigation, with the exception of a private Residential Building or Dwelling Unit.

(B) If the Building is a private Residential Building or Dwelling Unit, the Fire Inspector shall first seek permission to enter from the person living in such Building. If entry is denied, the Fire Inspector shall obtain a search or inspection warrant pursuant to Florida Statutes, prior to entering the Building or Dwelling Unit.

SECTION 8. FIRE INSPECTION FEES. The Board may establish fees for fire inspections and construction plans review conducted pursuant to this Ordinance by resolution.

SECTION 9. INVESTIGATION AND ENFORCEMENT POWERS.

(A) The County Fire Inspector shall, upon complaint or other probable cause, investigate all potential violations of the Florida Fire Prevention Code and any local amendments thereto and Uniform Firesafety Standards, in accordance with this Ordinance.

(B) All Fire Inspectors are further designated as code enforcement officers for purposes of Chapter 162, Part I, Florida Statutes, and Article V, Division 3, of Chapter 2, of the Wakulla County Code of Ordinances, when enforcing provisions of the Florida Fire Prevention Code or any local amendment thereto or Uniform Firesafety Standards.

(C) It shall be unlawful for any person to violate the Florida Fire Prevention Code and any local amendments thereto and Uniform Firesafety Standards, or to violate or fail to comply with any order made by the County Fire Inspector or the County Code Enforcement Board or to permit or maintain such a violation.

(D) In the event an annual inspection or an inspection performed in response to a complaint or based on other probable cause reveals a violation of the Florida Fire Prevention Code or any local amendment thereto or Uniform Firesafety Standards, the Fire Inspector shall issue a Notice of Violation to the owner of the property on which the violation exists in a manner consistent with Chapter 2, Article V, Division 3 of the Code of Ordinances, informing the owner that such violation exists and that it must be corrected within a reasonable period of time.

(E) If, upon personal investigation, a Fire Inspector finds that a property owner has not corrected a violation within the time period prescribed in the Notice of Violation, the Fire Inspector shall present the case to the Wakulla County Code Enforcement

Board in the manner provided in Chapter 2, Article V, Division 3 of the Code of Ordinances and Part I of Chapter 162, Florida Statutes.

(F) In the event an inspection performed pursuant to this Ordinance reveals a violation of the Florida Fire Prevention Code or any local amendment thereto or Uniform Firesafety Standards which presents an Imminent Threat, the County Fire Inspector shall be authorized to issue a cease and desist order stopping all work on all or any portion of the Building and/or ordering the closing and evacuation of all or any portion of the Building until such time as the Imminent Hazard has been corrected. The cease and desist order shall further establish what corrective action is necessary for removal of the order. The County Fire Inspector is authorized to order any gas company, power company, or other utility company, to disconnect its service to any Buildings containing gas or power installations, where such installations present an Imminent Hazard and to otherwise close or evacuate such Building until such installation is repaired or replaced and the Imminent Hazard ceases to exist.

(G) All cease and desist orders issued by the County Fire Inspector shall be appealable to the Wakulla County Code Enforcement Board. A property owner seeking to appeal the issuance of a cease and desist order shall notify the County Fire Inspector in writing within 48 hours of issuance of the cease and desist order of his or her intent to appeal the order. The Code Enforcement Board shall schedule a hearing to consider the appeal as soon as possible.

SECTION 10. ALTERNATIVE METHOD OF ENFORCEMENT. The enforcement method provided for in this Ordinance is alternative and supplemental to and does not preclude any other means of enforcing the Florida Fire Prevention Code

and local amendments thereto and the Uniform Firesafety Standards, including but not limited to injunctive relief or the imposition of criminal penalties.

SECTION 11. LIMITATION OF LIABILITY. This Ordinance should not be construed as imposing a duty upon the County to inspect every Building which it is authorized to inspect or to examine all construction plans which it is authorized to examine. Furthermore, by the adoption of this Ordinance, the County expressly disclaims a duty to ensure that all structures are built in accordance with plans submitted or a duty to promptly remedy known violations of the provisions hereof.

SECTION 12. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 13. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed in the Department of State within ten (10) days after enactment by the Board and the Ordinance shall take effect on October 1, 2010.

PASSED AND DULY ADOPTED this _____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS
OF WAKULLA COUNTY, FLORIDA

By: _____
HOWARD KESSLER, Chair

ATTEST:

BRENT X. THURMOND, Ex Officio

Clerk to the Board

APPROVED AS TO FORM AND CONTENT:

Heather Encinosa, Esq.
County Attorney