



ORDINANCE NO. 2009-42

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA IMPOSING CIVIL FINES AND PENALTIES FOR THE PATENTLY FALSE REPORTING OF VIOLATIONS OF COUNTY AND STATE LAWS TO PUBLIC OFFICERS AND LAW ENFORCEMENT OFFICERS, WHICH REQUIRE THE UNNECESSARY EXHAUSTION OF PUBLIC RESOURCES; PROVIDING FOR THE FOLLOWING SECTIONS: PURPOSE; AUTHORITY; DEFINITIONS; NOTICE OF CODE VIOLATIONS AND APPEALS; PENALTIES; INCLUSION IN THE CODE OF LAWS AND ORDINANCES; CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, *Florida Statutes*, establishes the right and power of counties to provide for the health, welfare and safety of existing and future residents of the County; and

WHEREAS, the promotion of providing efficient use of public services and resources by deterring false reports of unlawful conduct to County public officers and law enforcement officers is in the common interest of the citizens of this county and is a subject appropriate for regulation; and

WHEREAS, in these difficult economic times where public budgets are constrained and personnel numbers reduced, it is appropriate to impose fines on those persons who make unwarranted calls upon public officers and law enforcement officers, which redirects those officers from responding to the legitimate needs of the public; and

WHEREAS, at the February 24, 2009, Board of County Commissioner's meeting, the Board directed that an ordinance be prepared to fine and deter persons that repeatedly contact public officers and law enforcement officers to investigate baseless alleged violations of law without cause or justification, which results in the unnecessary waste of public resources to the detriment of the entire taxpaying public; and

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

SECTION ONE: PURPOSE

The purpose of this Ordinance is to prohibit, prevent, and abate nuisance conduct caused by the false reporting of violations of County ordinances and State laws. The false reporting of violations unreasonably diverts vital and critical public resources and prevents public officers and law enforcement officers from efficiently and effectively enforcing the law. It is in the public interest for those who misuse such public services to be fined by the County. By imposing and collecting nuisance service call fines from the person(s) making patently false reports, this Ordinance is intended as a cost recovery mechanism to counter such abuse of public resources and to deter such future conduct. This ordinance is not intended to constitute punishment separate from or in addition to any criminal prosecution for the conduct underlying the false reporting. Nothing herein is meant to limit constitutional rights under the federal or state constitution.

SECTION TWO: AUTHORITY

This Ordinance is adopted pursuant to the authority granted in Article VIII, § 1(f) of the *Florida Constitution* and § 125.01, *Fla. Stat.*. The effective and efficient provision of public services and the preservation of public resources are in the common interest of the people of the county and are appropriate for regulation by Collier County. This Ordinance is enacted for the purpose of holding those persons making false reports individually responsible for the costs associated with investigating and responding to such reports and to deter or prevent future false reports and the diversion of critically important public resources.

SECTION THREE: DEFINITIONS

When used in this Ordinance, the following words, terms, and phrases shall have the following meanings, unless the context clearly indicates otherwise:

1. *False Report to Public Officer/Law Enforcement Officer.* A patently false report to any public officer/law enforcement officer that an alleged violation of a County or State law has been committed, knowing that the conduct or conditions reported do not constitute a violation of law or where the report is patently false and the intent is that a public or law enforcement officer acts in reliance upon the report, which results in the

unwarranted expenditure of public resources. A patently false report is one in which the reported violation by the Complaining Party is clearly non-existent and untrue on its face, without the need for protracted investigation.

Examples of patently false reports include but are not limited to instances where:

(a) A Complaining Party furnishes a public or law enforcement officer with false, forged, fictitious or misleading verbal or written information during the course of reporting a complaint.

(b) A Complaining Party summons as a joke, prank or otherwise, without any good reason therefore, a public or law enforcement officer to respond to an address where the basis of the matter complained about is false.

2 *Public Officer.* A public officer refers to any person authorized by Collier County government to investigate and enforce the Collier County Code of Laws and Ordinances and related provisions arising under State law. Such public officers shall include but not be limited to: Code Enforcement Officers, Domestic Animal Services Animal Control Officers, Building Inspectors, and other such County officers authorized to enforce State and local law.

3. *Law Enforcement Officer.* Law enforcement officer means any person who is elected, appointed, or employed full time by any municipality or the State or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state as further defined in § 943.10, *Fla. Stat.*

4. *Complaining Party.* A Complaining Party is defined as an individual who makes or submits a patently false report to a public officer or law enforcement officer, which results in an unnecessary outlay of public resources.

5. *Nuisance Service Call.* A nuisance service call as defined in this Ordinance is where a Complaining Party reports a patently false violation of County or State law that necessitates a response by a public officer or a law enforcement officer.

6. *Do Not Respond List.* The Do Not Respond List is a list maintained by the County containing the names of Complaining Parties who have made two (2) patently

false reports of violations of County or State law requiring a response by a public officer or a law enforcement officer. A Complaining Party whose name appears on the Do Not Respond List is identified so that for a period of one year from the date of their second patently false report, no **non-emergency** public service will be provided in response to future reports of violations of County or State law.

SECTION FOUR: NOTICE OF CODE VIOLATIONS AND APPEALS

1. *Issuance of notice of code violation:* Public officers and law enforcement officers may lawfully issue, or cause to be issued, notices of violations of this ordinance.

2. *Contents of notice of code violation:* The notice issued for the violation, shall be by a standard form notice, which notice should include the following information:

(a) The name and mailing address of the Complaining Party as of the date the noticed ordinance violation was committed;

(b) Citation that this Ordinance was violated;

(c) The date, time and specific location where the nuisance service call originated and the address where the public/law enforcement officer responded;

(d) The monetary amount of the civil fine and the deadline date such fine must actually be received by the County's Code Enforcement Department;

(e) The mailing address of the Code Enforcement Department to which the fines must be delivered by or on behalf of the Complaining Party, and the name of the payee to facilitate payment by money order, check or other negotiable instrument;

(f) A statement of the 21-day time limit within which the Complaining Party may file an appeal and a brief description of the appeal process; and

(g) A statement that if the Complaining Party fails to pay the civil fine in full or fails to timely appeal the violation(s), the Complaining Party shall thereby be deemed to: (i) have waived all rights to dispute that violation; (ii) to thereby admit the violation; and (iii) failure to pay all applicable fines, and costs as applicable, can result in loss of privileges and imposition of liens pursuant to this article.

3. *Delivery of notice of code violation:* The notice of code violation shall be delivered to the Complaining Party's home mailing address by United States certified mail, proper postage prepaid. The County shall have the right, but not any obligation, to serve the notice by personal service upon the Complaining Party or may otherwise elect to serve the Complaining Party by any other means then authorized by law.

4. *Appeals to Special Magistrate:*

(a) Upon receipt of a notice of code violation, the noticed Complaining Party may contest the notice by filing an appeal that is actually received by the County's Code Enforcement Department not later than 21 calendar days after the Complaining Party received such notice. A Code Enforcement Department employee shall note on the appeal the date and time of receipt of that appeal.

(b) The appeal must include the Complaining Party's name, mailing address and phone number, and must state in clear, meaningful detail all grounds upon which the violation is being contested by the appeal.

(c) The Code Enforcement Department shall promptly refer the appeal to a Special Magistrate. The Special Magistrate shall endeavor to schedule the appeal hearing within 60 days after the Special Magistrate's receipt of the appeal (provided the appeal was actually received by the County's Code Enforcement Department not later than 21 days after the Complaining Party's receipt of the notice of code violation). The Special Magistrate by order may summarily dismiss the appeal with prejudice if the appeal does not comply with any requirement listed in subsections (a) or (b), above.

(d) If upon appeal the noticed violation is not voided by order of the Special Magistrate, the Complaining Party shall pay in full the civil fine, plus all costs actually incurred by the County and/or Special Magistrate resulting from that appeal. The civil fine and applicable incurred costs must be delivered in full to the County's Code Enforcement Department not later than 21 days after the Complaining Party's receipt of the Special Magistrate's order that states the noticed code violation was not voided by the Special Magistrate, and shall specify the applicable civil fine, and applicable incurred costs, if any. All of the Special Magistrate's orders, letters and other papers, etc., can be mailed to the Complaining Party by ordinary U.S. mail, proper postage prepaid,

addressed to the Complaining Party's mailing address as listed in the Complaining Party's appeal, which mailing shall be sufficient receipt by the Complaining Party.

SECTION FIVE: PENALTIES

1. *Violations of this Ordinance shall be punished as follows:*

(a) First Violation. Upon the first occurrence of a patently false report under this Ordinance where a public or law enforcement officer has been dispatched to private property on a nuisance service call, the Complaining Party shall be issued a civil fine in the amount of \$500.00. The fine imposed takes into consideration the gross salaries, including all fringe benefits and overhead paid to the public or law enforcement officers responding, the cost of all equipment, including vehicles, used in responding to the nuisance service call, as well as, the impact upon the citizens of the County when public or law enforcement officers are called away from their legitimate duties to respond to nuisance service calls and the need to deter such conduct.

(b) Second Violation. Upon the second occurrence of a patently false report under this Ordinance where a public or law enforcement officer has been dispatched to private property on a nuisance call, the Complaining Party shall be issued a civil fine in the amount of \$1,000.00. The fine imposed takes into consideration the gross salaries, including all fringe benefits and overhead paid to the public or law enforcement officers responding, the cost of all equipment, including vehicles, used in responding to the nuisance service call, as well as, the impact upon the citizens of the County when public or law enforcement officers are repeatedly called away from their legitimate duties to respond to nuisance service calls and the need to deter such conduct. The manner in which the Complaining Party is notified of the civil fine shall be administered in the same manner as that for committing a first violation under this Ordinance.

In addition to the civil fine, the Complaining Party shall be placed on a Do Not Respond List for future **non-emergency** reports to the County for a period of one year from the date of the second patently false report violation. Any emergency calls for assistance from the Complaining Party concerning emergency matters involving public health, safety and/or welfare shall be responded to regardless of any prior false reports by that individual. Notwithstanding the foregoing, public or law enforcement officers may

elect to investigate any and all such reports regardless of the fact that a Complaining Party's name may appear on the Do Not Respond List.

The Complaining Party may appeal the imposition of the civil fine and placement on the Do Not Respond List in the same manner provided for first violations of the Ordinance. Interest at the then current statutory rate will accrue on the unpaid civil fine from the date of issuance as allowed by law.

2. *Other Remedies.* In addition to the foregoing, any violation of this Ordinance shall be deemed a nuisance *per se*, permitting the County, its officers, agents or any private citizen to take such action in any court of competent jurisdiction to cause the abatement of such nuisance, including injunctive relief.

SECTION SIX: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the *Code of Laws and Ordinances of Collier County, Florida*. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "article" or "section" or any other appropriate word.

SECTION SEVEN: CONFLICT AND SEVERABILITY

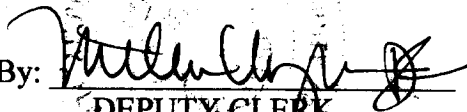
In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion. The application of this Ordinance shall not prevent the County or the Collier County Sheriff from seeking injunctive relief, any available criminal penalties or other appropriate civil remedies.

SECTION EIGHT: EFFECTIVE DATE

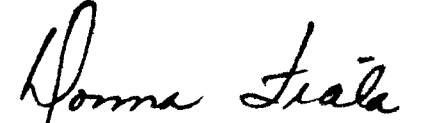
This Ordinance shall take effect upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, on this 28th day of July, 2009.

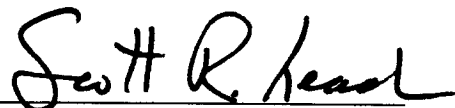
ATTEST:
DWIGHT E. BROCK, Clerk

By: 
DEPUTY CLERK
Attest as to Chairman's signature on: "

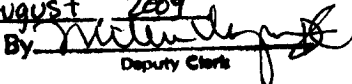
BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

BY: 
DONNA FIALA, CHAIRMAN

Approved as to form and
legal sufficiency:


Scott R. Teach,
Deputy County Attorney

09-BCC-00526/5

This ordinance filed with the
Secretary of State's Office the
3rd day of August, 2009
and acknowledgement of that
filing received this 10th day
of August 2009
By: 
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

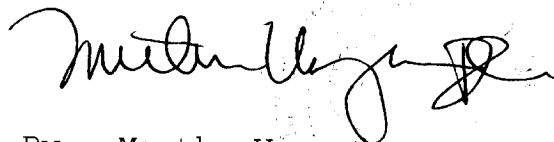
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2009-42

Which was adopted by the Board of County Commissioners on the 28th day of July, 2009, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 31st day of July, 2009.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners.



By: Martha Vergara,
Deputy Clerk