

## **I. PETITION DESCRIPTION**

Petition Number: ZTA 2013-009, Ordinance 2014-23

Project Name: Land Development Regulations (LDR) Text Amendments-  
Article 14 (ENFORCEMENT PROCEEDINGS AND  
PENALTIES)

Applicant/Petitioner: Village of Wellington

Request: Adoption of Ordinance 2014-23 approving amendments to  
Article 14 of the Land Development Regulations; expanding  
potential administrative penalties, other than fine amounts,  
for outstanding violations, fines and liens.

## **II. BACKGROUND:**

Wellington experiences a relatively small but significant and growing problem with property owners that do not consider the current limits for Code enforcement to be sufficient to deter them to correct existing violations or to not commit repeat or new violations on the same or other properties. Many of the problem property owners own numerous properties within our jurisdiction. We believe many of these property owners see the potential fines and other remedies as minor and are willing to accept them as a cost of doing business. Staff believes that it is necessary to raise the bar with respect to potential penalties. There are two components to the solutions available under the provisions of Chapter 162 of Florida Statutes (FS.). One component is the amount of fines that can be levied and the other is other civil penalties. Chapter 2, Article IV of the Wellington Code of Ordinances deals with fine levies and is not a part of this agenda item. The Ordinance amendment proposed with this application addresses other civil penalties, which are dealt with in Article 14 of the Land Development Regulations (LDR).

The primary purpose of this amendment is to create additional tools in Article 14 of the Land Development Regulations, to assist Code compliance staff in achieving correction of violations and the payment of established fines and liens. Other minor modifications to the Article include elimination of references to the Code Enforcement Board (Wellington has not had such a Board for over 10 years), changing references from Special Master to Special Magistrate and changing references to the Planning, Zoning and Building Department to the Planning and Development Services Department.

### **III. PROPOSED ZONING TEXT AMENDMENT:**

The proposed changes are all contained in Sec. 14.4.2, which are titled under Building Permits and Certificates of Occupancy and Use. Currently Subsection 14.4.2.(A) which addresses issuance of permits, simply states that no building permit or certificate of occupancy maybe issued except in compliance with this Code and other applicable ordinances and laws, a decision of the Planning, Zoning and Adjustment Board or in compliance with a court decision. The amendment adds the Wellington Council to this list, since the PZAB does not generally issue final approvals. In addition, the following changes are recommended:

- No building permit or certificate of occupancy shall be issued on property that has an open codes enforcement case (a case which has been found by the Special Magistrate to be a violation of a Wellington Code, and which has not been corrected by the property owner), except where such permit is necessary to resolve said violation.
- No land development/use approval related application(s) such as Comprehensive Plan Amendment, Rezoning, Conditional Use, Subdivision or Special Use permit shall be processed or approved on property that has an open code enforcement case and/or unpaid code enforcement liens or fines until all have been resolved.

Currently Subsection 14.4.2.(C) provides the Department may suspend a building permit or certificate of occupancy and use where an administrative determination has been made that an error or omission was made either by the applicant or a government agency in their issuance. The proposed amendment adds the possibility of suspension of both the permit and making of inspections, not issuing new permits and not processing land development and/or use approval for applications when:

- An open codes enforcement case(s) is established, except where such permit or land development/use approval is necessary to resolve the violation(s) in question.

Finally, as noted above, the proposed Ordinance changes reference from the Special Master to Special Magistrate to reflect the language used in Chapter 162 FS, and changes references to the Planning, Zoning and Building Department to the Planning and Development Services Department. The provisions currently in the LDR were originally taken from the Palm Beach County Code. The County's growth management department is the Planning, Zoning and Building Department and Wellington's growth management agency is the Planning and Development Services Department.

An earlier version of the proposed amendments was considered by the PZAB in April of 2013. That proposed ordinance also included a provision that would have prevented properties that were not involved in violations and/or unpaid liens and fines from getting permits or land development/use approvals if they shared ownership with individuals or companies that have outstanding issues on other properties in Wellington. The PZAB had concerns with this provision and asked staff to do research

and determine whether any other jurisdictions in Florida have adopted a similar restriction and, if so, whether same has been Court tested. After having completed our search we concluded that no other jurisdictions which have adopted such a provision, although it is common practice to attach liens to other properties owned by the same person or entity. The proposed amendments being considered in this application do not include provisions that attach to or involve properties other than those directly involved in the infractions.

#### **IV. ANALYSIS:**

The primary effect of the proposed amendment is to provide civil penalties that can be imposed on properties that have open code violations and/or unresolved code enforcement fines or liens. The form of these penalties is the suspension of permits and the ability to obtain inspections, certificates of occupancy, suspension of opportunity to process or obtain approval of other land development or land use approvals until the violations are closed and all fines paid. Staff believes the amendments proposed will significantly improve Wellington's efforts to achieve a higher level of code compliance. Current limitations are often found to be ineffective because the cost of noncompliance is seen as relatively minor in comparison to the convenience or profit the continued violation provides to the property owner. Staff believes the proposed amendments contained in this Ordinance will result in substantially improved compliance. The other changes in this proposed Ordinance are housekeeping in nature.

#### **V. STAFF RECOMMENDATION:**

Staff recommends approval of Ordinance 2014-23 which amends Article 14 (ENFORCEMENT PROCEEDINGS AND PENALTIES) of the Land Development Regulations to establish limitations on the issuance of permits, inspections, certificates of occupancy and use on properties with open/active code enforcement cases and establishes limitations on processing land development approvals or related applications on property with such open case(s).

#### **VII. REVIEW PROCESS:**

##### **1. Planning Zoning and Adjustment Board**

This application shall be reviewed by the Planning Zoning and Adjustment Board: on May 7, 2014.

##### **3. Council**

This application is scheduled to be reviewed by the Council (First Reading) on June 10, 2014.

## **VII. PUBLIC NOTIFICATION:**

Public notification of this Zoning Text Amendment shall be accomplished by Newspaper Advertisement. Display advertisements shall be placed in The Palm Beach Post on:

- April 22, 2014 – Planning Zoning and Adjustment Board
- May 26, 2014 – Council, First Reading