

ORDINANCE NO. 2014-23

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING ARTICLE 14, ENFORCEMENT PROCEEDINGS AND PENALTIES OF THE LAND DEVELOPMENT REGULATIONS OF THE VILLAGE OF WELLINGTON; TO PROHIBIT THE ISSUANCE OF BUILDING PERMITS AND ALLOW SUSPENSION OF ISSUED PERMITS, ALLOW SUSPENSION OF THE CONDUCTING OF INSPECTIONS AND/OR THE GRANTING OF CERTIFICATES OF COMPLETION OR OCCUPANCY FOR PROPERTIES WITH OPEN CODE VIOLATION CASES OR OUTSTANDING CODE ENFORCEMENT LIENS OR FINES; TO PROHIBIT THE PROCESSING AND CONSIDERATION OF LAND DEVELOPMENT AND/OR USE APPROVAL APPLICATIONS FOR PROPERTIES WITH OPEN CODES ENFORCEMENT CASES AND/OR OUTSTANDING CODE ENFORCEMENT LIENS AND/OR FINES; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Wellington, Florida Council, pursuant to the authority in Chapters 163 and 166, Florida Statutes, is authorized and empowered to consider changes to its land development regulations; and

WHEREAS, the Wellington, Florida Council, pursuant to the authority in Chapter 162, Florida Statutes, is authorized and empowered to consider changes to the regulations governing the enforcement of municipal Codes; and

WHEREAS, Wellington is aware of and understands that efficient and stringent enforcement of the Village's Codes and Ordinances has positive impacts on community health, safety, welfare and overall quality of life, including property values; and

WHEREAS, Wellington believes that providing diverse and meaningful code enforcement remedies will assist in improvements to the achievement of improved codes enforcement; and

WHEREAS, The Planning, Zoning and Adjustment Board, acting as The Land Development Regulation Board, after notice and public hearing on May 7, 2014, has reviewed the proposed Ordinance and determined that the proposed amendment is consistent with Wellington's Comprehensive Plan; and

WHEREAS, the Council has taken the recommendations from the Local Planning Agency, Wellington staff and the comments from the public into consideration when considering the amendments to the Land Development Regulations that are the subject of this Ordinance.

1 **NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF WELLINGTON,**
2 **FLORIDA THAT:**

3
4 **SECTION 1.** Article 14 of Wellington's Land Development Regulations
5 (ENFORCEMENT PROCEEDINGS AND PENALTIES) is hereby modified, as follows:
6

7 **Chapter 1. GENERAL**
8

9 The provisions of this Code shall be enforced by ~~either (1) the Village of Wellington~~
10 ~~Code Enforcement Board and/or Special Master~~ Magistrate pursuant to the authority
11 granted by Sec. 162.04 et. seq., Fla. Stat., as it may from time to time be amended; (2)
12 ~~the Village of Wellington Tree Board~~ pursuant to the authority granted by this Code; (3)
13 ~~the Village Council~~ through its authority to enjoin and restrain any person violating the
14 Code; or (4) the Village of Wellington.

15 **Chapter 2. ENFORCEMENT BY CODE ENFORCEMENT BOARD AND/OR SPECIAL**
16 **MASTER MAGISTRATE**
17

18 The ~~Code Enforcement Board and/or Special Master~~ Magistrate shall have the
19 jurisdiction and authority to hear and decide alleged violations of the codes and
20 ordinances enacted by ~~the Village of Wellington~~ as provided in Chapter 2, Article IV,
21 Code of Ordinances.

22
23 **Chapter 3. OTHER LEGAL REMEDIES**
24

25 In addition to the penalties and enforcement procedures provided in the Code of Ordinances
26 Chapter 2, Article IV, the ~~Village~~ Wellington Council may institute any lawful civil action or
27 proceeding to prevent, restrain, or abate:

28 **Section 14.3.1 Unlawful Action**

29 The unlawful construction, erection, reconstruction, alteration, rehabilitation, expansion,
30 maintenance or use of any building or structure; or

31 **Section 14.3.2 Occupancy**

32 The occupancy of such building, structure, land, or water; or

33 **Section 14.3.3 Illegal Use of Premise**

34 The illegal act, conduct, business, or use of, in or about such premises.
35

36 **Chapter 4. OTHER ADMINISTRATIVE REMEDIES**

37 **Section 14.4.1 Cease and Desist Orders**

38 The Planning, ~~Building and Zoning~~ and Development Services Department shall have the
39 authority to issue cease and desist orders in the form of written official notices given to the
40 owner of the subject building, property, or premises, or to his agent, lessee, tenant, contractor,
41 or to any person using the land, building, or premises where such violation has been
42 committed or shall exist.

1 **Section 14.4.2. Building Permits, and Certificates of Occupancy and Use, and**
2 **Development Permits**

3 **A. Issuance.** No building permit or certificate of occupancy and use shall be issued by the
4 Planning, ~~Zoning & Building~~ and Development Services Department for any purpose except in
5 compliance with the provisions of this Code and other applicable ordinances and laws, a
6 decision of the Wellington Council, Planning, Zoning and Adjustment Board, or court decision.
7 No building permit or certificate of occupancy shall be issued on any property having an open
8 codes enforcement case(s), except however, where such permit(s) and/or certificate(s) of
9 occupancy are necessary to close such code enforcement case(s). An open code
10 enforcement case exists when a property has been found by the Special Magistrate to be in
11 violation of a Wellington Code provision(s) and such violation(s) has not been corrected and
12 noted by the Wellington Code Compliance Division. Further, any such property shall be
13 ineligible for the processing of any development permit application(s) for Comprehensive Plan
14 amendments, rezoning, conditional use approvals and/or Special Use Permits until such
15 case(s) is closed and all outstanding Code Enforcement liens and/or fines are satisfied. Except
16 however, where such applications are necessary to correct such violation(s).

17 **B. Revocation.** The Planning, ~~Zoning & Building~~ and Development Services Department may
18 revoke a building permit or certificate of occupancy and use in those cases where an
19 administrative determination has been duly made that false statements and misrepresentations
20 existed as to material fact(s) in the application or plans upon which the permit or approval was
21 based.

22 **C. Suspension.** The Planning, ~~Zoning & Building~~ and Development Services Department
23 may suspend a building permit, certificate of occupancy and use or development permit where
24 an administrative determination has been duly made that an error or omission on either the
25 part of the permit applicant or government agency existed in the issuance of the permit or
26 certificate approval. The Department may also suspend building permits and conducting of
27 inspections on any property having an open codes enforcement case(s), except however,
28 where such permit(s) and inspections are necessary to close such code enforcement case(s).

29
30 **SECTION 2.** Should any section, paragraph, sentence, clause, or phrase of this
31 Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington
32 Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this
33 Ordinance shall prevail to the extent of such conflict.
34

35 **SECTION 3.** Should any section, paragraph, sentence, clause, or phase of this
36 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall
37 not affect the validity of this Ordinance as a whole as a whole or any portion or part thereof,
38 other than the part so declared to be invalid.
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40 **SECTION 4.** This Ordinance shall become effective immediately upon adoption of the
41 Village Council following second reading.
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PASSED this _____ day of _____, 2014 on first reading.

PASSED AND ADOPTED this _____ day of _____, 2014, on second and final reading.

WELLINGTON

FOR

AGAINST

BY: _____	_____	_____
Bob Margolis, Mayor		
_____	_____	_____
John Greene, Vice Mayor		
_____	_____	_____
Matt Willhite, Councilman		
_____	_____	_____
Howard K. Coates, Jr. Councilman		
_____	_____	_____
Anne Gerwig, Councilwoman		

ATTEST:

BY: _____
Awilda Rodriguez, Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Laurie Cohen, Village Attorney