

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 result in improved codes enforcement; and

**WHEREAS**, The Planning, Zoning and Adjustment Board, acting as the Local Planning Agency, 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 OF WELLINGTON, FLORIDA**  
2 **COUNCIL THAT:**

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

7 **Chapter 1.    GENERAL**  
8

9 The provisions of this Code shall be enforced by ~~either (1) the Village of Wellington Code~~  
10 ~~Enforcement Board and/or~~ Special Master Magistrate pursuant to the authority granted by  
11 Chapter 162.04 , Fla. Stat., as it may from time to time be amended; (2) the ~~Village of~~  
12 Wellington Tree Board, pursuant to the authority granted by this Code; (3) the ~~Village of~~  
13 Wellington Council through its authority to enjoin and restrain any person violating the Code; or  
14 (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 Magistrates, appointed from time to time  
19 by the Wellington Council, shall have jurisdiction and authority to hear and decide alleged  
20 violations of the codes and ordinances enacted by ~~the Village of~~ Wellington as provided in  
21 Chapter 2, Article IV, 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 of~~ 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 the owner's agent, lessee, tenant,  
41 contractor, or to any person using the land, building, or premises where such violation has  
42 been 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 code 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) or to allow emergency  
10 repairs. An open code enforcement case exists when a property has been found by the  
11 Special Magistrate to be in violation of a Wellington Code provision(s) and such violation(s)  
12 has not been corrected and noted by the Wellington Code Compliance Division. Further, any  
13 such property shall be ineligible for the processing of any development permit application(s) for  
14 Comprehensive Plan amendments, rezoning, conditional use approvals and/or special use  
15 permits until such case(s) is closed and all outstanding Code Enforcement liens and/or fines  
16 are satisfied, except, however, where such applications are necessary to correct such  
17 violation(s).

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

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

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

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36 **SECTION 3.** Should any section, paragraph, sentence, clause, or phrase of this  
37 Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall  
38 not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the  
39 part so declared to be invalid.

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41 **SECTION 4.** This Ordinance shall become effective immediately upon adoption of the  
42 Village Council following second reading.

**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