

ORDINANCE 2024-4

CODES ENFORCEMENT

AN ORDINANCE OF THE TOWN OF INTERLACHEN, FLORIDA, REPEALING ORDINANCE 2021-1; SETTING FORTH REGULATIONS PERTAINING TO CODES ENFORCEMENT WITHIN THE TOWN OF INTERLACHEN; PROVIDING FOR THE USE OF A SPECIAL MAGISTRATE; ESTABLISHING THE QUALIFICATIONS, DUTIES AND POWERS OF SAID MAGISTRATE; ESTABLISHING A CODES ENFORCEMENT OFFICER; ESTABLISHING ENFORCEMENT PROCEDURES, CONDUCT OF HEARINGS, ADMINISTRATIVE FINES, LIENS AND APPEALS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INTERLACHEN, FLORIDA,

SECTION I REPEAL

Section 1.1-Repeal.

Ordinance 2021-1, passed on second reading on May 11, 2021 is hereby repealed.

SECTION 2 RULES OF CONSTRUCTION

Section 2.1-Rules of Construction.

For the purpose of administration and enforcement of this Ordinance, unless otherwise stated in this Ordinance, the following rules of construction shall apply to the text of this Ordinance.

- (1) The masculine gender includes the feminine gender and the neutral gender.
- (2) The word "shall" is always mandatory and not discretionary.
- (3) The word "must" is always mandatory and not discretionary.
- (4) The word "may" is to be construed as being permissible and not as being mandatory.
- (5) Words used in the present tense shall include the future and words used in the singular number shall include the plural and the plural singularly, unless the text clearly indicates the contrary.
- (6) The phrase "used for" includes " arrange for", "maintained for", or "occupied for".
- (7) The word "person" includes an individual, corporation, a partnership and incorporated association or any other similar entity.
- (8) The word "C.E.O." shall mean "Codes Enforcement Officer".
- (9) The word "violator and/or property owner" shall mean the occupant or owner of the property.

SECTION 3 SPECIAL MAGISTRATE

Section 3.1 - Establishment of a Special Magistrate.

It is the intent of this Section to promote, protect and improve the health, safety, and welfare of the citizens of the Town of Interlachen by creating a Special Magistrate to hear and render decisions on codes violation cases. The Special Magistrate shall have the authority to impose administrative fines and other non-criminal penalties and to provide an equitable, expeditious, effective, and inexpensive method for enforcing Town codes and ordinances where a pending, or repeated violation continues to exist.

Section 3.2 - Appointment and Qualifications of the Special Magistrate.

(A) The Special Magistrate may be appointed by a majority vote of the Town Council. The Council may appoint one or more alternate Special Magistrates.

(B) The Special Magistrate will be appointed for a period of one (1) year and may be reappointed upon approval of the Town Council. In the event of a vacancy, the Town Council shall appoint a replacement for the remainder of the unexpired term.

(C) The Special Magistrate would be compensated in the amount to be established by the Town Council, or pursuant to an agreement with Putnam County to use their Special Magistrate.

(D) The Special Magistrate would serve at the pleasure of the Town Council and could be suspended or removed by a majority vote of said Council.

(E) The Special Magistrate will be an attorney and a member in good standing with the Florida Bar for a minimum of five (5) years.

(F) The Town of Interlachen may choose to utilize the County's Special Magistrate through an inter-local agreement instead of a Special Magistrate of their own.

SECTION 4 GENERAL FUNCTIONS, POWERS, AND DUTIES

Section 4.1: General Functions, Powers, and Duties.

A) Jurisdiction of the Special Magistrate

Except as otherwise provided in the Ordinance, the Special Magistrate shall have the jurisdiction and authority to hear and decide alleged violation of this code, other codes and ordinances enacted by the Town, including, but not limited to:

- 1) Animals and fowl.
- 2) Buildings.
- 3) Junked or abandoned property.
- 4) Nuisances.
- 5) Specified violations of the Land Development Code.
- 6) Access roads, streets, sidewalks, and other public places.

- 7) Any other similar type codes which may be passed by the Town of Interlachen in the future which regulates aesthetics, construction, environmental, health, safety, or location of any structure on real property in the Town of Interlachen.
- B) The provisions of this Section are supplemental and shall not prohibit the Town from enforcing its codes by other legal means.
- C) The Special Magistrate shall have the power to:
 - (1) Subpoena alleged violators and witnesses to its hearing. A sheriff or other authorized persons may serve subpoenas consistent with applicable State law and procedures, upon request by the Special Magistrate.
 - (2) Subpoena records, surveys, plats, and other documentary materials.
 - (3) Take testimony under oath.
 - (4) Issue orders having the full force and effect of law to command whatever steps are necessary to bring a violation into compliance.
 - (5) Assess fines pursuant to the requirements of this Section pertaining to fines.
 - (6) Lien property pursuant to the requirements of this Section pertaining to liens.

SECTION 5 ESTABLISHMENT OF A CODES ENFORCEMENT OFFICER

Section 5: Establishment of a Codes Enforcement Officer.

- 1) The Codes Enforcement officer shall be hired by the appropriate Department Head or the Town Clerk.
- 2) In the absence of a part/full-time C.E.O., the Town Council is authorized to appoint administrative staff or another duly qualified person as the interim C.E.O.

SECTION 6 ENFORCEMENT PROCEDURES AND REMEDIES

Section 6.1: Enforcement Procedures and Remedies.

- 1) An alleged violation of any of the codes or ordinances of the Town of Interlachen, as described herein, may be filed with the Town Office, and forwarded to the C.E.O.
- 2) The C.E.O. is an authorized agent of the Town whose duty is to ensure code compliance. It shall be the duty of the C.E.O. to initiate enforcement proceedings.
- 3) To determine violations, the C.E.O. is authorized to conduct lawful code inspections.
- 4) If violations are not corrected in the time specified, the person or entity found to be in violation

may be prosecuted as provided in this Ordinance, or any other method provided by law.

5) Each day a violation continues after a notice shall constitute a separate violation.

6) Violations may be restricted by injunction, including a mandatory injunction, and otherwise abated in any Council, or by any person, firm, or corporation, association or other group or body withstanding to do so, under the laws of Florida.

7) Reasonable costs, including attorney fees incurred by the Town, County, or the Court in enforcement actions may be assessed against the landowner, violator and/or property owner.

8) Except as provided in subsection (10) and (11) below, if a violation is found, the C.E.O. shall notify the violator and/or the property owner and give them (30) days to correct the violation. Should the violation continue beyond the time specified for correction, the C.E.O. shall schedule a hearing before the Special Magistrate and give notice to the violator and/or property owner pursuant to Section 7 of this Ordinance. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction, the hearing shall nevertheless take place, even if the violation has been corrected prior to the hearing and the notice shall state such.

9) If a repeat violation is found, the C.E.O. shall notify the violator or property owner as provided in Section 7 of this Ordinance but is not required to give the violator or property owner a reasonable time to correct the violation. "Repeat violation" means the violation of a provision of a code or ordinance by a person who has been previously found through the Special Magistrate or any other quasi-judicial or judicial proves to have violated, or who has admitted violating the same provision within five years prior to the violation. The C.E.O., upon notifying the violator or property owner of a repeat violation, shall schedule a hearing and shall provide notice in accordance with Section 7 of this Ordinance. The case may be presented to the Special Magistrate even if the repeat violation has been corrected prior to the hearing and the notice shall state such. If the repeat violation has been corrected, the Special Magistrate retains the right to impose costs and enforcement fees. The repeat violator or property owner may waive his/her right to this hearing and pay said costs as determined by the Special Magistrate.

10) If the C. E.O. has reason to believe a violation presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the C.E.O. shall make a reasonable effort to notify the violator and/or property owner and may immediately notify the Special Magistrate and request a hearing or follow the abatement procedures outlined in Section 8 of this Ordinance.

11) Nothing contained in these sections shall prohibit the Town of Interlachen from enforcing its codes by any other means.

SECTION 7 NOTICES

Section 7.1- Notices.

Upon determination by the C.E.O. that there is a violation, the C.E.O shall follow the following noticing procedures:

A) A " **Notice of Violation**" shall be mailed by certified mail, return receipt requested, with a request to the postal service to return after fifteen (15) days if undeliverable. Such notice shall be addressed to the property owner(s) of record according to the Putnam County Property Appraiser and to the person responsible for the

violation. If the notice is returned as undeliverable the C.E.O. or a law enforcement officer shall hand deliver it by:

- (1) Leaving the notice at the violator or property owner's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice; or
- (2) In case of Commercial premises. leaving the notice with the manager or other person in charge.
- (3) Notices may be posted at least ten (10) days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in two (2) locations. one of which shall be the property upon which the violation is alleged to exist and the other of which shall be on the bulletin board at the Interlachen Town Office.
- (4) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

B) Evidence that an attempt has been made to hand deliver or mail notice, together with proof of posting. shall be sufficient to show that the notice requirements of this Section have been met.

C) The Notice of Violation shall include:

- (1) The section of the code or ordinance that is being violated.
- (2) An order to cease such violation.
- (3) A list of remedial actions indicating the necessary steps to abate such violation.
- (4) The deadline date for coming into compliance.
- (5) Information concerning penalties for violation of this Ordinance.

SECTION 8 CONDUCT OF HEARINGS

Section 8.1- Conduct of Hearings.

The following requirements shall apply to the Special Magistrate hearings.

1) Schedule:

- (a) Special Magistrate Hearings shall be held the first Tuesday of each month on an "as needed" basis, unless the C.E.O. deems it necessary to call a special hearing and with the approval of the Town Clerk.
- (b) All Testimonies shall be under oath and mechanically recorded.

2) Each case shall be presented by the Town's authorized representative who is charged with the

responsibility for enforcement of the specific code sections alleged to have been violated.

- 3) The formal rules of evidence shall apply, but fundamental due process shall be observed and govern the proceeding. All relevant evidence shall be admitted if, in the opinion of the Special Magistrate it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule that might make such evidence inadmissible over objections in a civil action. The Special Magistrate may exclude irrelevant or unduly repetitious evidence. Any part of the evidence may be received in written form and noted during the meeting.**
- 4) Each party shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach witnesses, and rebut evidence at the hearing.**
- 5) The alleged violator and/or property owner has the right, at his/her own expense, to be represented by an attorney at any hearing.**
- 6) The alleged violator and/or property owner who wishes to have a written verbatim transcript of the hearing shall be responsible for securing at their own expense a duly certified court reporter.**
- 7) The burden of proof shall be with the C.E.O. to show by a preponderance of evidence that a code violation exists and that the alleged violator and/or property owner committed or was responsible for maintaining the violation.**
- 8) If the required notice of the Public Hearing has been provided to the alleged violator and/or property owner, the hearing may be conducted, and an order rendered in the absence of the alleged violator and/or property owner.**
- 9) At the conclusion of the hearing, the Special Magistrate shall issue findings of fact based on evidence of record and conclusions of law and shall issue an order affording the proper relief consistent with powers granted herein, including, but not limited to, corrective action to eliminate the violation. The order shall include a notice that the order must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. The costs of any repairs made pursuant to Section 10(a) of this Ordinance shall also be assessed against the violator or property owner. If a violation is found, the Town shall be entitled to recover all costs incurred in prosecuting the case, and such costs shall be included in the lien authorized by Section 11 of this Ordinance. A copy of the order shall be mailed by certified mail to the owner of record at the most current address provided in the records of the Property Appraiser and, if applicable, his authorized agent or representative, and to the violator or property owner.**
- 10) A certified copy of such order may be recorded in the public records of Putnam County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and/or property owner and, if the violation concerns property, any subsequent purchasers, successors in interest, or assigns. If any such order is complied with by the date specified in the order the Magistrate shall, without a hearing, issue an order acknowledging compliance.**

**SECTION 9
APPEALS**

Section 9.1- Appeals.

Any aggrieved party, including the Town of Interlachen, may appeal a final administrative order of the Special Magistrate to the Circuit Court in Putnam County, Florida. Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Special Magistrate. An appeal must be filed within thirty (30) days of the execution of the order being appealed. The County may assess a reasonable charge for the preparation of the record to be paid by the petitioner in accordance with *FS., Section 119.07*. A copy of all documents filed by the aggrieved party with the Court shall be filed at the Town Office.

**SECTION 10
ADMINISTRATIVE FINES**

Section 10.1-Administrative Fines.

A) The Special Magistrate, upon notification by the C.E.O. that an order of the Special Magistrate has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator and/or property owner to pay a fine in an amount specified below for each day the violation continues past the date set for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the C.E.O. In addition, if the violation is a violation described in Care of Premises Ordinance 2024-5, the Special Magistrate may authorize the Town Council to make all reasonable repairs that are required to bring the property into compliance and charge the violator and/or property owner with the reasonable cost of the repairs along with the fine imposed pursuant to this Section. Making such repairs does not create a continuing obligation to make further repairs or to maintain the property and does not create any liability for any damage to the property if such repairs were completed in good faith. If finding of a violation or a repeat violation has been made as proved in this Section, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, a violation is found irreparable or irreversible in nature, it may order the violator and/or property owner to pay a fine as specified in Subsection (B) below.

B) A fine imposed pursuant to this Section shall not exceed \$250.00 per day per violation for a first violation and shall not exceed \$500.00 a day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (A). However, the Special Magistrate has the ability to impose fines in excess of those described above subject to the following criteria:

- (1) The gravity of the violation.
- (2) Any actions taken by the violator or property owner to correct the violation.
- (3) Inaction on the part of the violator or property owner to correct the violation.
- (4) Any previous violations by the violator or property owner.
- (5) The negative impact on the surrounding properties.
- (6) Whether or not the fine outlined above could be considered a "cost of doing business" by the violator or property owner.
- (7) Impact on the environment.

Such fines shall not exceed \$1,000.00 per day per violation for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the violation is found to be irreparable or irreversible in nature. Additional fines may be imposed to cover all costs incurred by the Town in enforcing its codes and all costs of repairs made.

C) Fines may include the following administrative fees:

- (1) Administrative/research.....\$100.00
- (2) Administrative/monthly\$ 10.00
- (3) Inspections/Postings.....\$ 50.00
- (4) Certified Mail \$ 11.00
- (5) Recording With Clerk of Court\$ 37.00
- (6) Special Magistrate Hearing\$100.00

D) The Town Council may reduce a fine imposed pursuant to this Section.

**SECTION 11
LIENS**

Section 11.1-Liens.

- 1) The Town Council of the Town of Interlachen, Florida shall be and is hereby authorized to file in the public records of Putnam County, Florida a Claim of Lien as ordered by the Special Magistrate against the land on which a violation exists, and upon any other real or personal property owned by the violator and/or property owner for any sums due to the Town pursuant to the terms, condition, and provision of this Ordinance.
- 2) Such an order may be enforced in the same manner as a court judgment, including levy against the personal property of the violator or property owner. Such lien shall be superior to any mortgage lien or other encumbrance created or recorded subsequent to the recording of such lien. A fine imposed pursuant to this Section shall constitute to accrue until the violator or property owner comes into compliance or until judgment is rendered in a suit filed hereunder, whichever occurs first.
- 3) In addition to recovery of sums otherwise due pursuant to the terms of this Ordinance, the Town shall be entitled to the recovery of its costs and reasonable attorney fees incurred in the filing and enforcement of claims of lien hereunder.
- 4) The Town Council shall authorize the Town Clerk to execute and record in the public records of Putnam County, Florida a Satisfaction of Lien.

**SECTION 12
JUDICIAL
RELIEF**

Section 12.1 - Judicial Relief: Any violation or failure to comply with any of the restrictions and limitations of this Ordinance may be forced by injunction, including mandatory injunction, or otherwise judicially enforced in any other manner provided by law, and any such suit or action may be instituted and maintained by the Town Council of the Town of Interlachen, Florida. In the event such action is initiated, the Town shall be entitled to recovery of its costs and reasonable attorney fees incurred in and about such.

**SECTION 13
VIOLATIONS**

Section 13.1-Violations.

It is unlawful for any person(s) to violate any provisions of this Ordinance, or any other Code or Ordinance adopted by the Interlachen Town Council.

**SECTION 14
PENALTIES**

Section 14.1- Penalties.

Penalties shall be allowed by Florida Law or as stated in this Ordinance and related Town codes and ordinance.

**SECTION 15
CONFLICTS**

Section 15.1- Conflicting Ordinances.

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed to the extent of the conflict.

**SECTION 16
SEVERABILITY**

Section 16.1-Severability Clause.

If any provision of this Ordinance or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**SECTION 17
EFFECTIVE DATE**

Section 17.1- Effective Date.

This Ordinance shall become effective immediately upon its final passage as provided by law.

Passed on First Reading AUGUST 13, 2024

Passed on Second Reading September 10, 2024

