

ORDINANCE 2018-3

AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE TOWN OF ST. LUCIE VILLAGE, FLORIDA, AVAILING THE VILLAGE OF THE PROCEDURES SET FORTH IN CHAPTER 162, FLORIDA STATUTES, AND ESTABLISHING A SPECIAL MAGISTRATE; AND AMENDING SECTION 10 OF THE ZONING ORDINANCES OF THE TOWN OF ST. LUCIE VILLAGE TO INCLUDE THE SPECIAL MAGISTRATE AS AN ENFORCEMENT MECHANISM FOR ENFORCEMENT OF THOSE TERMS CONTAINED THEREIN; AND AMENDING SECTION 8: ENFORCEMENT OF ORDINANCE 87-7 OF THE ORDINANCES OF THE TOWN OF ST. LUCIE VILLAGE TO INCLUDE THE SPECIAL MAGISTRATE AS AN ENFORCEMENT MECHANISM FOR ENFORCEMENT OF THOSE TERMS CONTAINED THEREIN.

WHEREAS, the Town of St. Lucie Village wishes to establish the St. Lucie Village Code Enforcement Ordinance; and

WHEREAS, the Town of St. Lucie Village wishes to avail itself of the enforcement procedures as set forth in Chapter 162, Florida Statutes; and

WHEREAS, the Town of St. Lucie Village wishes to utilize the services of a special magistrate to hear and preside over all code enforcement hearings; and

WHEREAS, due to the quasi-judicial nature of code enforcement hearings, the Town of St. Lucie Village finds it advisable to have an attorney act as a special magistrate to provide there over; and

WHEREAS, the Town of St. Lucie Village wishes to amend Section 10 of the 1995 Zoning Ordinance, adopted pursuant to Ordinance 95-3 (as further amended), to include a special magistrate as an enforcement mechanism; and

WHEREAS, the Town of St. Lucie Village wishes to amend Section 8 of the Nuisance Ordinance adopted by Ordinance 87-7 to include the special magistrate as an enforcement mechanism of those terms contained therein; and

NOW, THEREFORE, be it ordained by the Board of Aldermen of the Town of St. Lucie Village as follows:

SECTION 1: The Town of St. Lucie Village Code Enforcement Ordinance is adopted as follows:

Section 1.0 **SHORT TITLE**

Section 1.1

This Ordinance shall be known as the “St. Lucie Village Code Enforcement Ordinance.”

Section 2.0 **INTENT**

Section 2.1

The position of the Town of St. Lucie Village Code Enforcement Special Magistrate is hereby created to promote, protect, and improve the health, safety, and welfare of the citizens of the Village by providing an equitable, expeditious, effective, and inexpensive method of enforcing the technical codes in force in the Village, including, but not limited to, occupational license, fire, building, zoning, outdoor storage, nuisance, landscaping, and sign codes.

Section 2.2

This Ordinance and the provisions contained herein are intended to be supplemental to and not to supplant any other enforcement ordinance, provision, statute, or mechanism.

Section 3.0 **DEFINITIONS**

Section 3.1

For purposes of this Ordinance solely and unless otherwise expressly stated herein, the following terms shall be defined as:

The “Code Inspector” shall mean the Town Marshal or any other agent or employee authorized by the Board of Aldermen of the Town of St. Lucie Village to ensure code compliance.

The “Special Magistrate” shall mean an attorney and member of the Florida Bar who shall be appointed by the Board of Aldermen of the Town of St. Lucie Village to the position of the Town of St. Lucie Village Code Enforcement Special Magistrate to reside over code enforcement matters and who may be discharged by the Board of Aldermen of the Town of St. Lucie Village at its discretion, with or without cause.

The “Town of St. Lucie Village Codes and Ordinances” shall refer to any code, ordinance, regulation, resolution, or other requirement of the Town of St. Lucie Village as determined from time to time by the Board of Aldermen.

The “Village” shall refer to the Town of St. Lucie Village.

The "Village Attorney" shall refer to the attorney who has been appointed by the Board of Aldermen of the Town of St. Lucie Village to represent the Village.

Section 4.0 SPECIAL MAGISTRATE

Section 4.1

Pursuant to Fla. Stat. §162.03, the Village adopts a code enforcement system that gives the office of the Special Magistrate the authority to hold hearings and assess fines against violators of the Town of St. Lucie Village Codes and Ordinances. The Special Magistrate shall have the jurisdiction and authority to hear and to decide alleged violations of the codes and ordinances of the Village, and exercise the powers of a code enforcement board as provided by Fla.Stat. Ch. 162 and this Ordinance.

Section 4.2

The Special Magistrate or Magistrates shall be selected by the Board of Aldermen by majority vote of a quorum at a duly noticed and called public meeting thereof.

Section 4.3

Any Special Magistrate shall be entitled to reasonable compensation and the Board of Aldermen shall approve or deny any proposed compensation for the Special Magistrate.

Section 4.4

The Board of Aldermen may select and appoint as many Special Magistrates as it deems advisable and the Special Magistrates shall serve at the pleasure of the Board of Aldermen.

Section 5.0 ENFORCEMENT PROCEDURE

Section 5.1

It shall be the duty of the Code Inspector to investigate complaints, including referrals from the Board of Aldermen, and to initiate enforcement proceedings of the various codes and ordinances. No Special Magistrate shall have the power to initiate such enforcement proceedings.

Section 5.2

Except as provided in Section 5.3, if a violation of the codes is found, the Code Inspector shall notify the violator and give such violator a reasonable time to correct the violation. The notice shall be in writing, delivered, either through regular mail or by hand delivery of the Code Inspector or designee. Should the violation continue beyond the time specified for correction, the Code Inspector shall notify the Special Magistrate and request a hearing pursuant to Section 6. Written notice shall be mailed to said violator as provided in this Ordinance.

Section 5.3

If the Code Inspector 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 code inspector shall make a reasonable effort to notify the violator and may immediately request a hearing.

Section 5.4

All procedures shall comply with Section 162.06, Fla.Stat.

Section 6.0 **CONDUCT OF HEARING**

Section 6.1

The Special Magistrate or the Code Inspector may call code enforcement hearings. The Special Magistrate at any hearing may set a future hearing date. The Special Magistrate shall hold hearings as often as demand necessitates. Minutes shall be kept of all hearings by the Special Magistrate, and all hearings and proceedings shall be noticed and open to the public. The Village shall provide clerical and administrative personnel as may be reasonably required by the Special Magistrate for the proper performance of the Special Magistrate's duties.

Section 6.2

Each case before the Special Magistrate shall be presented by either the Village Attorney or a member of the Village's administrative staff. All alleged violators shall be permitted to be represented by an attorney who is licensed or authorized to practice law in the State of Florida.

Section 6.3

Hearings shall be held at the Village Hall. The Special Magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Special Magistrate shall take testimony from the Code Inspector and alleged violator(s). Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern said proceedings.

Section 6.4

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 in this Ordinance.

Section 6.5

All hearings shall be conducted, concluded and memorialized in accordance with Section 162.07, Fla.Stat.

Section 7.0 POWERS

Section 7.1

The Special Magistrate shall have the power to:

- (a) Adopt rules for conduct of the Special Magistrate hearings;
- (b) Subpoena alleged violators and witnesses to appear at Special Magistrate hearings.

Subpoenas may be served by the Sheriff of the County, Marshal, or by any other person designated by the Village Board of Aldermen;

- (c) Subpoena evidence;
- (d) Take testimony under oath;

(e) Issue orders having the force of law, commanding whatever steps are necessary to bring a violation into compliance.

Section 8.0 ADMINISTRATIVE FINES; LIENS

Section 8.1

The Special Magistrate, upon notification by the Code Inspector that a previous order of the Special Magistrate has not been complied with by the set time or that a repeat violation has occurred, may order a first time violator to pay a fine not to exceed two hundred fifty dollars (\$250) for each day the violation continues past the date set for compliance and may order a repeat violator to pay a fine not to exceed five hundred (\$500) for each day the violation continues past the date set for compliance. In addition, if the violation is a violation described in Section 5.3, the Special Magistrate shall notify the Town of St. Lucie Village Board of Aldermen, which may make all reasonable repairs required to bring the property into compliance and charge the violator with the reasonable cost of the repairs and cost of compliance along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the Village to make further repairs or to maintain the property and does not create any liability against the Village for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this section, a hearing shall not be necessary for issuance of the order imposing the fine.

Section 8.2

In the event that the Special Magistrate deems a violation to be irreparable or irreversible in nature, the Special Magistrate may impose a fine not to exceed five thousand (\$5,000) per violation.

Section 8.3

In addition to any fine or administrative fee imposed by the Special Magistrate, the Special Magistrate shall award, to the Village in any successful prosecution, any costs of prosecution that are incurred by the Village including, but not limited to, the cost of staff's time and that of the Code Inspector, Building Official, Building Inspector, Special Magistrate, and the Village Attorney.

Section 8.4

A certified copy of an order imposing a fine shall be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator and may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. After one year from the filing of any such lien which remains unpaid, the Board of Aldermen may authorize the Village Attorney to foreclose on the lien. All fines and liens are subject to any additional limitations or requirements imposed by Section 162.09, Fla.Stat.

Section 9.0 DURATION OF LIEN

Section 9.1

No lien provided by this article shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Section 10.0 APPEALS

Section 10.1

An aggrieved party, including the Village, may appeal a final administrative order of the Special Magistrate to the circuit court. An appeal shall be filed within thirty (30) days of execution of the order to be appealed.

Section 11.0 NOTICES

Section 11.1

All notices required by this Ordinance, except as otherwise provided, shall be by certified mail, return receipt requested, or where mail would not be effective, by hand delivery by the Code Inspector or designee.

SECTION 2: That SECTION 10: ENFORCEMENT of the Town of St. Lucie Village Zoning Ordinances is hereby amended to read as follows:

SECTION 10 ENFORCEMENT

In the event any building or structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the St. Lucie Village Board of Aldermen, in addition to other remedies, including referral to a Special Magistrate as provided in the St. Lucie Village Code Enforcement Ordinance, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

SECTION 3: That SECTION 8: ENFORCEMENT: of Ordinance 87-7 of the Ordinances of the Town of St. Lucie Village is hereby amended to read as follows:

SECTION 8: ENFORCEMENT:

1. The Marshal of St. Lucie Village may issue a warning or citation to any person found not to be in compliance with the provisions of this Ordinance.
2. The Marshal of St. Lucie Village or his agent shall be immune from prosecution, civil or criminal, for reasonable good faith trespass upon real property while in the discharge of duties imposed by this Ordinance.
3. In the event of any violation of this Ordinance, the Board of Aldermen of the Town of St. Lucie Village, in addition to any other procedures herein or any other remedies, may refer the matter to a Special Magistrate as provided in the St. Lucie Village Code Enforcement Ordinance, or institute any appropriate action or proceeding to prevent such violation and/or to restrain, correct, or abate such violation.
4. The terms and provisions of this Ordinance shall supersede the terms and provisions of any prior ordinance or resolution enacted by the Town of St. Lucie Village, which are in conflict with the terms and provisions of this Ordinance.

SECTION 4: This Ordinance shall become effective immediately upon passage or as soon thereafter as is permissible by law.

PASSED AND APPROVED by the Board of Aldermen of the Town of St. Lucie Village on this 19th day of June, 2018.

APPROVED:
BOARD OF ALDERMEN OF THE TOWN OF
ST. LUCIE VILLAGE, FLORIDA

By: William G. Thiess
William G. Thiess, Mayor

ATTESTED:

By: Diane C. Orme
Diane C. Orme, Clerk

I, DIANE C. ORME, Clerk of the TOWN OF ST. LUCIE VILLAGE, FLORIDA, do hereby certify that this is a true and accurate copy of Ordinance **2018-3** which was duly introduced, read and adopted at the regular meeting of the Board of Aldermen of the TOWN OF ST. LUCIE VILLAGE, FLORIDA, held this 19th day of June, 2018.

Diane C. Orme
DIANE C. ORME, CLERK