

ORDINANCE NO. 2001-1

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA ESTABLISHING A CODE ENFORCEMENT SYSTEM FOR THE TOWN OF SOUTHWEST RANCHES THAT IS SUPPLEMENTAL TO OTHER LAWS CONCERNING CODE ENFORCEMENT; CREATING THE POSITION OF CODE ENFORCEMENT SPECIAL MASTER; ESTABLISHING THE JURISDICTION OF THE SPECIAL MASTER; PROVIDING FOR DEFINITIONS; SUPPORT STAFF; PROCEDURES FOR HEARINGS; ESTABLISHMENT OF FINES AND LIENS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, Chapter 162, F.S. provides for a municipality to establish a local code enforcement board or to adopt an alternate code enforcement system; and

WHEREAS, the Town Council of the Town of Southwest Ranches has expressed its intent to create an alternate code enforcement system utilizing the services of a Special Master to hear code enforcement matters; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the Town, notifying the public of this proposed ordinance and of a public hearing in the Town Council's meeting room; and

WHEREAS, a public hearing before the Town Council was held pursuant to the published notice described above, at which the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1. That a chapter of the Town of Southwest Ranches Code is hereby created to include code enforcement and shall read as follows:

CREATION OF CODE ENFORCEMENT SYSTEM

(A) The Town, by this ordinance, hereby adopts an alternate code enforcement system which shall provide for a Special Master hereinafter described with the authority to hold hearings and assess fines against violators of the Town Codes and subchapters.

(B) The Town, by this ordinance, hereby adopts F.S., Ch. 162 in its entirety or as may be amended from time to time.

INTENT

It is the intent of this ordinance to promote, protect, and improve the health, safety, and welfare of the citizens of the Town, by authorizing the creation of the position of Special Master for code enforcement proceedings with the authority to impose administrative fines and other non-criminal penalties, to provide an equitable, expeditious, effective and an inexpensive method of enforcing any codes and ordinances in force in the Town where a pending or repeat violation exists.

JURISDICTION

(A) The jurisdiction of the Special Master appointed by the Town Council to hear code enforcement violation matters shall be limited to hearing those matters the Broward County Code Enforcement Board is empowered and authorized to hear and rule upon for violations occurring within the Town of Southwest Ranches or ordinances or codes of the Town of Southwest Ranches authorizing violations of same to be heard by the Special Master.

(B) Those Code Enforcement Board Cases pending at the passage of this ordinance shall be heard by the Special Master.

DEFINITIONS

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

<u>“Town.”</u>	The Town of Southwest Ranches.
<u>“Town Attorney.”</u>	The Town Attorney, Assistant Town Attorney of the town or their authorized representative.
<u>“Town Council.”</u>	The legislative body of the Town.
<u>“Town Administrator.”</u>	The individual or management firm serving as the chief administrative officer of the Town.
<u>“Code Inspector.”</u>	Any employee or other agent of the Town designated by law, ordinance, or the Town Administrator, whose duties are to insure compliance in and for town codes or ordinances and to present code violations to the Special Master.

- “Notices.” Notices shall be provided as set forth in F.S., Ch 162 as currently enacted or as may be amended from time to time.
- “Owner.” The person or persons reflected as the property owner in the most recently certified real property ad valorem tax rolls of the county which have been provided to the town by the county. Additionally, in the case of multiple or joint ownership, notice to one owner shall be considered for the purposes herein as notice to all multiple or joint owners.
- “Town Code.” Hereinafter referred to as “Code” or “Ordinances”, which words may be used interchangeably, shall mean the ordinances of the Town as described under the section entitled “Jurisdiction.”
- “Repeat Violations.” A violation of a provision of a code or ordinance by a person whom the Code Enforcement Board or Special Master has previously found to have violated the same provision within five years prior to the violation.
- “Special Master.” The Town Special Master appointed by the Town Council to hear code enforcement violation cases.
- “Violator.” The person responsible for the ordinance or code violation which, in the appropriate circumstances, shall be the perpetrator of the violation, the owner of the real property or personal property, or the person legally responsible for the property upon which the violation occurred.

ESTABLISHING A SPECIAL MASTER

- (A) The qualifications and appointment of the Special Master shall be as follows:
- (1) The Special Master shall be appointed by the Town Council and shall serve with compensation as established by the Town Council upon appointment.
 - (2) The Special Master must be either a Florida registered architect, a Florida registered engineer or an attorney who is a member in good standing of the Florida Bar.
 - (3) The Special Master will be bound by the Code of Judicial Conduct as currently proscribed or as amended from time to time.

(B) The rules and regulations as found in F.S., Ch. 162 as currently enacted or as amended from time to time, shall be adopted by the Special Master. The Special Master may adopt additional rules and regulations as are consistent with the provisions of F. S., Ch. 162, which the Master finds necessary to carry out the provisions of this ordinance, subject to the approval of the Town Council.

SUPPORT STAFF

The Town Administrator shall perform the functions assigned to the Clerk as set forth in this ordinance.

CODE PROSECUTOR DUTIES

(A) The Town Attorney may represent the interests of the Town and act as Code Prosecutor when the violator is represented by counsel.

(B) The Code Prosecutor shall have prosecutorial discretion, including but not limited to the right to negotiate a plea with the violator, and present that plea to the Special Master for approval, to recommend the disposition of a case to the Special Master, and to decline to prosecute a case, similar to the discretion exercised by the State Attorney in criminal cases.

CODE INSPECTORS AND DUTIES

(A) The code inspectors have the primary duty to enforce various ordinances and codes, as described in the section entitled, "Jurisdiction" and may initiate enforcement proceedings before the Special Master. The Special Master shall not have the power to initiate such enforcement proceedings.

(B) If a violation of an ordinance or code is found, the Code Inspector shall give written notification to the alleged violator of the violation in accordance with F.S., Ch. 162 as currently enacted or as amended from time to time, and give the alleged violator a reasonable time, in light of the nature of the violation, to correct the violation. Should the violation continue beyond the time specified for correction, or if the violation was corrected and recurs or if the violation is a repeat violation, the Code Inspector shall request the Board Clerk to set a hearing and to notify the alleged violator of the hearing.

CONDUCTING HEARINGS

(A) The clerk for the Special Master shall set a time and date for the hearing and notify the alleged violator and the code prosecutor. The violator shall be given at least seven

working days' written notification of the hearing. The conduct of the hearing shall be consistent with F. S., Ch. 162 as currently enacted or as may be amended from time to time.

(B) In the event the Special Master believes that a violation presents a serious threat to the public health, safety, and welfare, the Special Master may request the Town seek appropriate injunctive relief in the name of the Town from the courts.

(C) Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but hearsay evidence shall not, in and of itself, be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

(D) The alleged violator shall have the right to be represented by an attorney; however, the alleged violator or their attorney shall provide the Town with written notice that an attorney is representing the violator's interest at least five working days prior to the scheduled date of the hearing.

(E) All testimony before the Special Master shall be under oath and shall be recorded. The alleged violator or the Town may cause the proceedings to be recorded by a certified court reporter or other certified recording instrument; however, the Town shall be under no obligation to provide a certified court reporter or other certified recording instrument, but rather, the Town may use a recording device of its choice to satisfy its obligation to record the meeting.

(F) The burden of proof shall be with the code inspector to show by the greater weight of the evidence that a code violation exists and that the alleged violator committed or was responsible for maintaining the violation.

(G) If written notice has been provided to an alleged violator of the hearing, a hearing may be conducted and an order rendered in the absence of the violator.

(H) The Special Master may, for good cause shown, postpone or continue a hearing.

ESTABLISHING FINE AND LIEN

(A) The establishment of a fine and lien shall be consistent with and pursuant to the provisions of F. S., Ch. 162 as currently enacted or as amended from time to time.

(B) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land upon which the violation exists, or if the violator does not own the land, upon any other real or personal property owned by the

violator. It may be enforced in the same manner as a court judgment by the sheriffs of the state, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. As authorized by law, the Town Attorney may foreclose on duly recorded liens that have remained unpaid. Property subject to a lien established by the Special Master may be foreclosed by the Town in a manner provided by state law for the foreclosure of mortgages on real property; or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of F.S. 173, as currently enacted or as amended from time to time, or payment thereof enforced otherwise as authorized by law.

(C) Upon full payment of any lien, the Town Attorney, shall be authorized to execute and deliver a full satisfaction of the lien to the violator, or his or her representative, for their recording.

SUPPLEMENTARY PROVISIONS

The provisions and procedures contained in this ordinance shall be in addition and supplemental to any other remedies now existing or subsequently provided for by law, regarding violations of municipal ordinances.

Section 2. Inclusion in Town Code.

This ordinance, upon passage, shall become a part of and incorporated within the Town Code.

Section 3. Conflict.

That all Sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, in conflict are hereby repealed to the extent of such conflict.

Section 4. Severability.

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

Section 5. Effective date.

This ordinance shall become effective upon passage.

PASSED ON FIRST READING on October 12, 2000.

PASSED ON SECOND READING on November 9, 2000.

Mecca Fink, Mayor

Attest:

Katherine V. Selchan
Interim Town Clerk

Approved as to Form and Correctness:

Gary A. Poliakoff, J.D., Town Attorney