

Ordinance 2009-20

AN ORDINANCE UNDER SECTION 100 CHARTER OF WELAKA OF 1947 SUPERCEDING AND REPLACING IN ITS ENTIRITY ORDINANCE 94-4. REQUIRING ALL OCCUPANTS, OWNERS, OR AGENTS OF OWNER OF ALL LOTS AND PREMISES, VACANT OR OCCUPIED, WITHIN THE LIMITS OF SAID MUNICIPALITY TO KEEP THE SAME IN CLEAN AND SANITARY CONDITION BY THE REMOVAL OF ALL FILTH, DEBRIS OF EVERY KIND AND TO REQUIRE THE REMOVAL OF ALL OTHER OBNOXIOUS AND INVASIVE GROWTH, DEAD WEEDS, FALLEN, STANDING, OR GROWING ON SUCH LOTS OR PREMISES WHICH SHALL BE DEEMED TO INCLUDE SIDEWALKS AND PARKWAYS IN THE TOWN OF WELAKA, FLORIDA (HEREINAFTER CALLED THE TOWN), PROVIDING FOR LIENS FOR THE COST OF REPAIRS OR MAINTENANCE BY THE TOWN; PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR REMEDIES.

BE IT ORDAINED BY THE TOWN COUNCIL OF WELAKA, FLORIDA.

SECTION 1. Definitions. The “unkempt property” as used in this Ordinance is hereby defined to mean and include any property which is dangerous to the public health, safety, and welfare of the citizens of Welaka, because of its condition, and which may cause or aid in the spread of vermin, rodents, snakes, disease or injury to the health, safety, and welfare of the citizens of Welaka; and further property because of its condition is hazardous or distasteful to the surrounding neighborhood. Any such unkempt property in the Town is hereby declared to be a nuisance.

SECTION 2. Forested Growth - Property in a state of forested growth shall be exempt until developed from provisions of this Ordinance in certain matters. Forested property shall be deemed that with primary growth of non-invasive trees above a 6 inch minimum diameter, however, such properties shall not be exempt from control of invasive growth i.e. kudzu, poison oak, poison ivy, etc.

Wetlands – Wetlands shall be those areas such as defined by St. Johns River Water Management District of said parcels. This Ordinance shall not apply to said parcels other than to control invasive and obnoxious plant growth i.e. kudzu and other invasive plant life.

Commercial Areas – These shall be those properties zoned and land used as commercial. Said lots shall be maintained other than forested property.

Developed or Developable Lots – all lots that have been presented for development and have had previous compliance shall be deemed to remain maintained.

SECTION 3. Prohibition. It shall be unlawful to keep or permit the existence of any unkempt property in the Town; and it shall be unlawful for the owner, occupant, agent of the property, or any other person in custody of said property to permit the same to remain or continue in an unkempt condition.

SECTION 4. Abatement. It shall be the duty of the Code Enforcement Officer and/or the Building Inspector to inspect the property in Town to determine compliance by this Ordinance. Whenever the Code Enforcement Officer and/or Building Inspector shall be of the opinion that any property in the Town is an unkempt property, he/she shall file a written statement to this effect with the Code Enforcement Officer. Written notice is to be served upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service. Such notice shall state that the property has been declared to be in an unkempt condition and that such condition must be moved or remedied by cleaning and/or removing the offending condition at once. Such notice may be in the following terms:

“To (owner-occupant of premises) in accordance with Town of Welaka Municipal Codes you are hereby notified that you are in violation of the following Welaka Code(s)”:

- An Ordinance under section 100, Charter of Welaka of 1947, requiring all occupants, owners, or agents of owners of all lots and premises, vacant or occupied, within the limits of said Municipality to keep the same in clean and sanitary condition by the removal of all filth, debris of every kind and to require the removal of all other obnoxious growth, dead weeds, fallen, standing, or growing on such lots or premises which shall be deemed to include sidewalks and parkways in the Town of Welaka, Florida; providing for liens for the cost of repairs or maintenance by the Town; providing for an effective date.
- Ordinance 2009-20 Section I. The term “unkempt property” includes any property which is dangerous to the public health, safety, and welfare of the citizens of Welaka, because of its condition, and which may cause or aid in the spread of disease or injury to the health, safety, and welfare of the citizens of Welaka; and further property because of its condition is hazardous or distasteful to the surrounding neighborhood. Any such unkempt property in the Town is hereby declared to be a nuisance.

DESCRIPTION OF VIOLATION/ACTION REQUIRED:

- Property is overgrown and needs to be cleared of any debris/trash, and the property needs to be mowed/maintained.

YOU MUST BE IN COMPLIANCE BY _____ OR THIS CASE WILL BE FORWARDED TO THE CODE ENFORCEMENT BOARD.

THIS CORRESPONDENCE SHALL SERVE AS OFFICIAL NOTIFICATION THAT THE ABOVE VIOLATION MUST BE CORRECTED WITHIN THE STATED TIME LIMIT.

SECTION 5. Fines. The Code Enforcement Board, upon notification by the Code Enforcement Officer and/or Building Inspector, that a notice of violation has not been complied with by the set time or, upon finding that a repeat violation has been committed, and after a hearing thereon, may order the violator to pay a fine in an amount not to exceed two hundred fifty dollars (\$250.00) per day for a first violation five hundred dollars (\$500.00) per day for a repeat violation, or the Town of Welaka will proceed to remedy the situation and seek financial reimbursement from you. If reimbursement from you for the cost the Town incurred for getting your property into compliance is not reached in a timely manner, the Town of Welaka will place a recorded lien on your property for the costs.

SECTION 6. Town Expenses. Should the occupant, owner, agent of the owner of any other person in custody of said property fail to comply with the notice of violation, the Town has the option of proceeding under the following sections. Section VI hereby authorizes Town employees to remedy the conditions at the expense of the occupant, owner, agent of the owner or any other person in custody of said property. Should the said person or organization fail to pay for said expense, the Code Enforcement Board will set a hearing to determine the reasonableness of said expense. Said expense will be reduced to a fine and may be recorded in the public records and shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator.

SECTION 7. Code Enforcement Board. The provision of this Ordinance may be enforced by the Code Enforcement Board of the Town of Welaka, in accordance with the provision of Town of Welaka Ordinance 97-11 and Chapter 162, Florida Statutes. As provided in Section 162.13, Florida Statutes, enforcement activities by the Code Enforcement Board shall be an additional and supplemental means available for obtaining compliance with this Ordinance.

SECTION 8. Enforcement: Penalties and Supplemental Remedies. It is the expressed intent and purpose of the Town Council of the Town of Welaka that all the provisions for enforcement of this Ordinance, and the penalties and remedies hereinafter provided shall be cumulative in nature and that resort to one shall not constitute a bar or limitation upon the right of the Town of Welaka to employ any other, either sequentially or in combination, individually or simultaneously, without limitation.

Any person, firm, corporation, association or other group or body who shall violate any provision of this Ordinance, or any of the restrictions, limitation or mandates herein set forth, shall upon conviction thereof, be punished by a fine not to exceed \$500 or by imprisonment in the County Jail not to exceed 60 days or by both such fine and imprisonment. Each day that an offense or violation of this Ordinance continues shall be deemed a separate offense, and shall be punishable accordingly. Notwithstanding this section, any violation of this Ordinance, which constitutes a violation of any provision of State law, shall be punishable under such state law as a separate offense.

SECTION 9. Liens for Sums due the Town of Welaka. The Town Council of the Town of Welaka, Florida shall be and is hereby authorized to file in the public records of Putnam County, Florida, a Claim of Lien for any sums due to the Town of Welaka pursuant to the terms, conditions and provisions of this Ordinance. Such claims of lien shall constitute a lien upon the property to which unpaid unkempt property in violations have been furnished and/or against which penalties have been assessed hereunder and such claims of lien shall be enforceable in the same manner as liens arising under Chapter 713 Florida Statutes. In addition to recovery of sums otherwise due pursuant to the terms of this ordinance, the Town of Welaka shall be entitled to the recovery of its costs and reasonable attorney fees incurred in the filing and enforcement of claims of lien hereunder.

Section 10. Judicial Relief. Any violation of this Ordinance, including any failure to comply with the requirements hereof, including the failure to comply with any of the restrictions and limitations herein contained. May be enforced 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 Welaka, Florida. In the event such action is initiated, the Town of Welaka shall be entitled to recovery of its costs and reasonable attorney fees incurred in and about such proceeding.

EFFECTIVE DATE:

This Ordinance shall be effective immediately upon its passage.

PASSED by the Town Council of the Town of Welaka, Florida, on First Reading this 8th day of December, 2009.

PASSED by the Town Council of the Town of Welaka, Florida, on Second Reading this 12th day of January, 2010.

ATTEST:

SIGNED:

Judy Jones, Town Clerk

Gordon Sands, Mayor

APPROVAL AS TO FORM:

Allen Scott, Town Attorney

Gilbert McGauley, Council President