

ORDINANCE NO. 1999-06

An ordinance declaring abandoned personal property, noxious plants, unlawful accumulations, unsafe buildings and the creation or maintenance of a nuisance to be unlawful, imposing a duty on the property owner or occupant to maintain property free of nuisance, providing definitions, establishing a code enforcement officer, establishing procedures for notification and citation of property in violation of this Ordinance, establishing a Special Master to preside at code violation hearings, establishing criteria for code violation hearings, establishing penalties, establishing appeals procedure, providing a severability clause, enacting a repealer clause and establishing the effective date.

**WHEREAS**, the Gulf County Board of County Commissioners has determined that property owners within the County must maintain their property in a condition so as to avoid the property creating a nuisance and safety hazard for the citizens of the County; and

**WHEREAS**, property owners must maintain their property in a condition to avoid creating any safety or health hazards to the citizens of the County; and

**WHEREAS**, the accumulation of debris, trash, uncontrolled growth, refuse, and abandoned personal property and other such nuisances constitute hazards to the citizens of the County;

**NOW, THEREFORE**, be it ordained by the Board of County Commissioners of Gulf County, Florida as follows:

1. **PURPOSE**

It shall be unlawful for the owner or occupant of any lot, tract or parcel of land within Gulf County, whether occupied or unoccupied, to suffer, maintain, or permit to remain thereon any abandoned personal property, noxious plants, unlawful accumulations, or any other nuisance as defined herein. Further, it shall be unlawful for the owner or occupant of any lot, tract or parcel of land within Gulf County whether occupied or unoccupied to suffer, maintain or permit to remain thereon any building or structure which is unsafe, unsanitary or is not provided with adequate egress or which constitutes a fire hazard or is otherwise dangerous to human life or which in relation to existing use constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment or other rationale.

2. **DUTY**

It is the duty of the owner or occupant of any lot, tract or parcel of land , whether occupied or unoccupied, to remove all abandoned personal property, noxious plants, unlawful accumulations, or other nuisances from the property. Additionally, it is the duty

or the owner or occupant of the property to maintain all buildings or structures in a safe, sanitary condition providing adequate egress and constituting no nuisance, fire hazard nor other wise being dangerous to human life nor in any manner constituting a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

## **DEFINITIONS**

For the purpose of this Ordinance, the following definitions apply:

- A. Abandoned personal property: Wrecked or derelict property having no value other than nominal salvage value, if any, which has been left abandoned and unprotected from the elements, including but not limited to, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, machinery, appliances, fixtures, furniture and other similar articles constitute abandoned personal property. A motor vehicle which is not in current running condition, does not have a current tag registration and is not insured shall demonstrate that such vehicle is abandoned personal property for the purposes of this Ordinance.
- B. Noxious plants: Weeds, underbrush, uncontrolled growth or dangerous or poisonous weeds, plants or trees constitute noxious plants.
- C. Unlawful accumulations: Any collection of trash, debris, junk, rubbish, filth or decayed vegetable matter jointly or severally, constitute unlawful accumulations.
- D. Unsafe building: All buildings or structures which are unsanitary, or which do not provide adequate egress, or which constitute a fire hazard, or which may otherwise be dangerous to human life or which in relation to existing use constitute a hazard to safety or health, are unsafe buildings.
- E. Owner: Any individual, firm, corporation or entity who is name on the Records of the Gulf County Property Appraiser as a title holder of any lot, tract or parcel of land within the County shall be deemed to be the owner.
- F. Occupant: Any individual, firm, corporation or entity who has a lawful agreement with the owner to be in possession and engage use of the property.
- G. Nuisance: Nuisance shall mean any condition that endangers life or health, obstructs reasonable or comfortable use of property; or any nuisance specifically prohibited by general law, special law, or local ordinance.
- H. Code Enforcement Officer: The Administrative person assigned by Gulf County to ensure compliance and provide enforcement for the Gulf County Code of Ordinances.

- I. Special Master: The hearing officer designated and appointed by Gulf County to review the evidence of an alleged violation of the Gulf County Code of Ordinances and render decisions covering the outcome of the alleged violation.
- J. Repeat Violation: Means a violation of a provision of the Gulf County Code of Ordinances by a person whom the Special Master has previously found to have violated the same provision with 5 years proper to the present violation.

### 3. PERSONAL PROPERTY PROCEDURE

In the event that the Gulf County Code Enforcement Officer determines that the owner or occupant of any lot, tract or parcel of land within Gulf County, whether occupied or unoccupied suffers, maintains or permits to remain thereon any abandoned personal property, noxious plants, unlawful accumulations or any other nuisance which is in violation of this Ordinance then the Officer shall initiate the following procedure:

- A. The Code Enforcement Officer shall issue a Notice of Violation to the owner and occupant, if any, which shall specify the details of the violation and list the activity necessary to correct the violation. The Notice of Violation shall advise the owner/occupant to correct the violation within fifteen (15) days of the date of issuance of the Notice of Violation. Written notice of such Violation shall be provided to the alleged violator by certified mail, return receipt requested, at the address appearing on the Gulf County Tax Role, or by hand delivery by the Sheriff or other law enforcement officer of the County, including the County Code Enforcement Officer, or by leaving the Notice at the violators usual place or residence with any person residing therein who is above fifteen years of age.
- B. In the event that the violation shall continue beyond the fifteen day time period specified for correction of the violation(s) as presented within the Notice of Violation, then the Code Enforcement Officer shall issue to the owner and occupant, if any, a citation of violation and shall notify the Special Master of the issuance of a citation of violation and shall request a hearing date.
- C. If the Code Enforcement Officer has reason to believe a violation or a condition causing the violation presents a serious threat to the public health, safety and welfare or if the violation is irreparable or irreversible in nature, the Code Enforcement Officer shall make a reasonable effort to notify the violator and may immediately issue a citation of violation and notify the Special Master and request a hearing.
- D. The Special Master through the clerical staff of the Gulf County Building and Planning Department shall schedule a hearing before the Special Master concerning the citation. The administrative staff of the county shall provide the necessary administrative support required by the ordinance. Written notice of such hearings shall be provided to

the alleged violator by certified mail, return receipt requested, at the address appearing on the Gulf County Tax Role or by hand delivery by the Sheriff or other law enforcement officer of the County, including the County Code Enforcement Officer, or by leaving the Notice at the violator's usual place of residence with any person residing therein who is above fifteen years of age and informing such person of the contents of the Notice of Hearing.

E. The date of the hearing shall not be less than fifteen (15) days from the date of the Notice of Hearing.

F. During the hearing before the Special Master, the owner or occupant shall have the right to appear before the Special Master and be heard either in person or by an authorized representative. Minutes shall be kept of all hearings before the Code Enforcement Special Master and all hearings and proceedings before the Special Master shall be open to the public.

G. Each case before the Special Master shall be presented and prosecuted by the Code Enforcement Officer or designated administrative staff of Gulf County, Florida.

H. In the event that the County prevails in prosecuting a case before the Special Master it shall be entitled to recover all costs incurred in prosecuting the case before the Special Master and such cost shall be included as a part of the lien authorized by this Ordinance.

I. The Special Master shall proceed to hear all cases on the agenda for the hearing date. All testimony shall be under oath and shall be recorded. The Special Master shall take testimony from the Code Enforcement Officer and the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Each Special Master shall have the power to:

Adopt rules for the conduct of his/her hearings.

Subpoena alleged violators and witnesses to his/her hearings.

Subpoenas may be served by the Sheriff of Gulf County, Florida.

Subpoena evidence to his/her hearings.

Take testimony under oath.

Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

J. Within thirty (30) days of the hearing, the Special Master shall issue an Order with written findings of fact, based upon evidence of record and conclusion of law and affording the proper relief consistent with powers granted herein.

#### 4. PENALTY

The owner and/or occupant of any lot, tract or parcel of land within Gulf County who violates any of the provisions of this Ordinance shall be guilty of a civil infraction.

Such infraction shall be punishable by a monetary fine to be imposed by the Special Master pursuant to this Ordinance.

Upon finding that a violation has been committed, the Special Master may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the Code Enforcement Officer with the Notice of Violation 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 Code Enforcement Officer.

If the violation is a violation as described in section 3-C above, the Special Master shall notify the governing body which shall may make all reasonable repairs which are required to bring the property into compliance and charge the violator with a reasonable cost of the repairs along with a fine imposed pursuant to this Section.

A fine may be imposed by the Special Master pursuant to this Ordinance in an amount not to exceed \$250.00 per day for a violation of the first offense and shall not exceed \$500.00 per day for a repeat, and, in addition, may include all costs of repairs as set forth above.

In determining the amount of the fine the Special Master shall consider the following factors;

1. The gravity of the violation.
2. Any actions taken by the violator to correct the violation.
3. Any previous violations committed by the violator.
4. A Special Master may reduce a fine imposed pursuant to this Section.

A certified copy of the order imposing a fine and/or cost may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any real personal property owned by the violator.

Upon petition to the Circuit Court, such order may be enforced in the same manner as a court judgment by the Sheriffs of this State, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes.

A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered and a suit to foreclose on a lien is filed pursuant to this Section, whichever occurs first.

A lien arising from a fine imposed pursuant to this Section shall run in favor of the Gulf County Board of County Commissioners and the Gulf County Board of County Commissioners may execute a satisfaction or release of lien entered in pursuant to this Section.

At the conclusion of three (3) months from the filing of any such lien which remains unpaid, the Gulf County Board of County Commissioners may authorize the Gulf County Attorney to foreclose on the lien. No lien created pursuant to this provision may be foreclosed on real property which is a homestead under Section 4 Article 10 of the State Constitution.

In an action to foreclose on a lien, the prevailing party is entitled to recover all costs including a reasonable attorney's fees, that is incurred in the foreclosure. The Gulf County Board of County Commissioners shall be entitled to collect all costs incurred in recording and satisfying a valid lien. 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.

#### 5. APPEALS

An aggrieved party, including the local governing board, may appeal a final administrative hearing by the Special Master to the Circuit Court. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Master. Any appeal must be filed within thirty (30) days of the entry of the Order by the Special Master.

#### 6. REPEALER

That any other ordinance or provision or an ordinance in conflict with this Ordinance shall be repealed to the extent of, but only to the extent of, the explicit conflict with this Ordinance. Gulf County Ordinance No. 92-08 and 93-05 are hereby repealed in their entirety.

#### 7. SEVERABILITY

That in the event any part of this Ordinance is deemed to be unconstitutional or invalid for any reason, the remainder of the Ordinance shall remain in full force and effect.

#### 8. EFFECTIVE DATE

This Ordinance shall become effective as provided by law upon majority vote of the Commission.

ADOPTED on 12 OCTOBER, 1999.