

ORDINANCE NO. 99-02

AN ORDINANCE, THE PURPOSE OF WHICH IS TO RESCIND ORDINANCE 90-05, AS AMENDED, AND CREATE A CODE ENFORCEMENT BOARD; SPECIFYING THE CONDUCT OF HEARINGS; ESTABLISHING FINES AND PENALTIES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners finds that the re-establishment of a Code Enforcement Board is in the best interest of the citizens of Nassau County.

NOW, THEREFORE, BE IT ORDAINED this 11th day of January, 1999, by the Board of County Commissioners of Nassau County, Florida, as follows:

SECTION I. AUTHORITY

The Code Enforcement Board and the policies thereof are created pursuant to the provisions of Florida Statutes Chapter 162.

SECTION II. INTENT

The intent of this ordinance is to promote, protect, and improve the health, safety, and welfare of the citizens of Nassau County and any municipality pursuant to an Interlocal Agreement. To give authority to impose administrative fines and other non-criminal penalties that provide equitable, expeditious, effective and inexpensive methods of enforcing codes.

SECTION III. DEFINITIONS

The term "Code Enforcement Officer" shall mean any authorized agent or employee of Nassau County whose duty it is to assure Code compliance.

SECTION IV. MEMBERS

- (1) The Board of County Commissioners shall appoint a seven (7) member Code Enforcement Board.
- (2) All members shall be residents of Nassau County.
- (3) The membership shall, if possible, include an architect, businessperson, engineer, General Contractor, subcontractor, and realtor.
- (4) The Board of County Commissioners shall, by Resolution, appoint the board as prescribed in Florida Statutes 162.
- (5) The initial terms shall be as follows:
 - (a) Two (2) members shall be appointed for a term of one (1) year each.
 - (b) Three (3) members shall be appointed for a term of two (2) years each.
 - (c) Two (2) members shall be appointed for a term of three (3) years each.
- (6) All vacant board positions shall be filled immediately upon vacancy and for the full duration of the remaining term.
- (7) All succeeding terms shall be for a term of three (3) years each. Any member may be re-appointed upon approval of the Board of County Commissioners.
- (8) All members of the Code Enforcement Board serve without compensation as delineated in Florida Statutes 162.05(4).
- (9) The Board of County Commissioners may remove a member from the Code Enforcement Board, at any time, upon a majority vote of the Board.

SECTION V. PROCEDURES

The Board of County Commissioners shall, within the Resolution appointing the members, set forth procedures, hearing guidelines and rules of order for the Code Enforcement Board. Any changes to said procedures may be submitted by the Code Enforcement Board to the Board of County Commissioners for approval.

SECTION VI. CHAIRMAN

The members of the Code Enforcement Board shall select a Chairman. A new Chairman shall be selected each year by the members of the Code Enforcement Board. No person shall serve two (2) consecutive terms as Chairman.

SECTION VII. LEGAL COUNSEL

The County Attorney shall be counsel to the Code Enforcement Board as prescribed in Florida Statutes 162.05(5).

SECTION VIII. ENFORCEMENT

- (1) The Code Enforcement Board shall have the authority, as prescribed in Florida Statutes 162.08, to hold hearings and impose fines against violators of County ordinances. The specific ordinances shall be delineated by the Board of County Commissioners by separate Resolution. This Resolution shall be prepared and presented to the Board of County Commissioners by the Chairman of the Code Enforcement Board.
- (2) The Board of County Commissioners may also appoint Special Masters to conduct hearings and make recommendations to the Code Enforcement Board as to violations and the imposition

of fines. The appointment of Special Masters and their duties and responsibilities shall be established by Resolution of the Board of County Commissioners. Should Special Masters be appointed, the Code Enforcement Board shall receive written recommendations, including documents and transcripts of the Special Master hearings from the Special Master(s) as to the violation and/or fines. The Code Enforcement Board may have the Special Master personally appear and make a verbal report as well as a written report.

- (3) If a violation of the Codes is found, the Code Enforcement Officer shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Enforcement Officer shall notify the Code Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff, shall schedule a hearing before the Board or Special Master, if Special Masters are appointed by the Board of County Commissioners, and written notice of such hearing shall be hand delivered or mailed as set forth in Florida Statutes, Section 162.12. If the violation is corrected and then recurs or if the violation is not corrected by the time specified by the Code Enforcement Officer, the case may be presented to the Code Enforcement Board or Special Master even if the violation has been corrected prior to the Board's hearing and the notice shall so state.
- (4) If a repeat violation is found, the Code Enforcement Officer shall notify the violator but is not required to

give the violator a reasonable time to correct the violation. The Code Enforcement Officer, upon notifying the violator of a repeat violation, shall notify the Code Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff, shall schedule a hearing before the Board or Special Master, if Special Masters are appointed by the Board of County Commissioners, and shall provide written notice of such hearing as set forth in Florida Statutes Section 162.12. The case may be presented to the Code Enforcement Board or Special Master even if the repeat violation is corrected prior to the Board's hearing and the notice shall so state. If the repeat violation has been corrected, the Code Enforcement Board retains the right to schedule a hearing to determine costs and impose the amount of reasonable enforcement fees upon the repeat violator. The repeat violator may waive his/her right to the hearing.

SECTION IX. CONDUCT OF HEARING

- (1) Upon request of the Code Enforcement Officer, or at such other times as may be necessary, the Chairman of the Code Enforcement Board may call a meeting of the Board or a hearing before a Special Master or the Board. Minutes shall be kept of all hearings and meetings and all proceedings shall be open to the public.
- (2) Each case before the Board or Special Master shall be presented by a person designated by the County Coordinator. If the County prevails it should be entitled to recover all

costs incurred and such costs may be included in a lien pursuant to Florida Statutes 162.09(3).

- (3) All testimony before the Board or Special Master shall be under oath and recorded.
- (4) At the conclusion of a hearing, the Board or Special Master shall issue findings of fact, based upon evidence of record and conclusions of law, and shall issue an Order consistent with the powers granted the Board. The finding shall be made by motion approved by a majority of the members present and voting. At least four (4) members must vote in order for the action to be official. If a Special Master conducts the hearings, he/she shall make recommendation to the Board, which will include findings of fact and conclusions of law, and the Board shall review the Special Master's recommendations and issue findings of fact and conclusions of law as set forth herein.
- (5) The Board shall also issue an Order affording the proper relief consistent with its power. The findings and conclusions and the Order shall be approved by a majority of the Code Enforcement Board.
- (6) The Order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the Order is not complied with said date. A certified copy of such Order may be recorded in the public records of the County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the fines therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in

interest, or assigns. If an Order is recorded in the public records pursuant to this Ordinance and the Order is complied with by the date specified in the Order, the Code Enforcement Board shall issue an Order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an Order acknowledging compliance.

SECTION X. CODE ENFORCEMENT OFFICERS

- (1) The Board of County Commissioners shall designate Code Enforcement Officers. Qualifications shall be established by the Board of County Commissioners.
- (2) Any person designated as a Code Enforcement Officer shall have the authority, pursuant to this Ordinance, to provide notice of violations and citations for violations.

SECTION XI. ADMINISTRATIVE FINES: LIENS

- (1) The Code Enforcement Board, upon notification by the Code Enforcement Officer that an Order of the Code Enforcement Board has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine for each day the violation continues. The amount of the fine is set forth herein. If a finding of a violation or repeat violation has been made, a hearing is not necessary for the issuance of an order imposing a fine.
- (2) (a) A fine imposed shall not exceed two hundred fifty dollars (\$250.00) per day for the first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.

(b) In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

(c) The Code Enforcement Board may reduce a fine imposed pursuant to this Ordinance.

(3) 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 on which the violation exists and upon any other real or 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 in a suit to foreclose on a lien filed pursuant to this Ordinance, whichever occurs first. A lien arising from a fine pursuant to this section runs in favor of the local governing body and the local governing body may execute a satisfaction or release of the lien pursuant to this section. After three (3) months from the filing of such lien which remains unpaid, the Code Enforcement Board may authorize the County

Attorney to foreclose on the lien. No lien created pursuant to the provisions of this Ordinance may be foreclosed on real property which is a homestead under Section 4, Art. X of the Florida Constitution.

SECTION XII. CODE ENFORCEMENT

- (1) The Code Enforcement Officer shall issue a notice to violators pursuant to procedures set forth in a separate Resolution adopted by the Board of County Commissioners.
- (2) (a) A Code Enforcement Officer is authorized to issue a notice to a person when, based upon personal investigation, the officer has cause to believe that the person is in violation of a duly enacted code or ordinance.

(b) A Code Enforcement Officer shall provide notice to the person that the person is committing a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) days. If, upon personal investigation, a Code Enforcement Officer finds that the person has not corrected the violation within the time period, a Code Enforcement Officer may issue a citation to the person who has committed the violation. A Code Enforcement Officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the Code Enforcement Officer has reason to believe that the violation presents a serious threat to the public

health, safety, or welfare, or if the violation is irreparable or irreversible.

(c) A notice issued by a Code Enforcement Officer shall be in a form prescribed by the County and shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the person to whom the notice is issued.
- (3) The facts constituting the violation.
- (4) The number or section of the code or ordinance violated.
- (5) The name of the Code Enforcement Officer.
- (6) The procedures for the person to follow in order to correct the violation.
- (7) The applicable civil penalty pursuant to this ordinance.


SECTION XIII. APPEALS PROCEDURES

Appeal procedures will be in accordance with Florida Statutes 162.11.

SECTION XIV. EFFECTIVE DATE


This Ordinance shall become effective pursuant to law.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



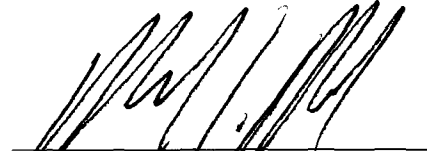
J. H. COOPER
Its: Chairman

ATTEST:



J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney:



MICHAEL S. MUELIN