

ORDINANCE 99 - 42

AN ORDINANCE AMENDING ORDINANCE 99-02;
SPECIFICALLY AMENDING SECTION VIII, ENFORCEMENT;
AND SECTION XI, ADMINISTRATIVE FINES: LIENS;
PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature has made amendments to
Florida Statutes, Chapter 162; and

WHEREAS, said amendments affect Ordinance 99-02.

NOW, THEREFORE, BE IT ORDAINED this 20th day of
December, 1999, by the Board of County
Commissioners of Nassau County, Florida, that Ordinance
99-02 be amended as follows:

1. **SECTION VII. 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. The 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 of 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 hearing.

- (5) If the owner of property which is subject to an enforcement proceeding before an enforcement board, special master, or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:

- a. Disclose, in writing, the existence and nature of the proceeding to the prospective transferee.
- b. Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the Transferor.
- c. Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
- d. File a notice with the Code Enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five (5) days after the date of the transfer.

A failure to make the disclosures described in Paragraphs (a), (b), and (c) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner

shall be provided a reasonable period of time to correct the violation before the hearing is held.

2. 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)~~ one thousand dollars (\$1,000.00) 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) An additional fine may be imposed to cover all costs incurred in enforcing the particular code. The costs shall be determined by the Board based upon information to be provided by the County Coordinator or his designee. In determining the amount, the Board shall consider the information provided by the County Coordinator or his designee, and the criteria in Paragraph (b) above.

~~(3)~~(4) 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 comes 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.

3.EFFECTIVE DATE: This Ordinance shall become effective upon its being filed in the office of the Secretary of State.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

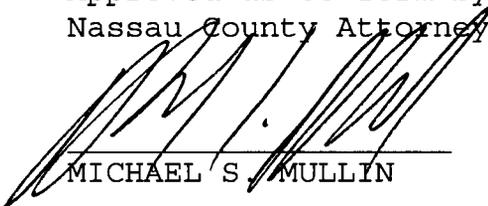

J. H. COOPER
Its: Chairman

ATTEST:



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

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN

41/a:code-enf-and