

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, ESTABLISHING A CODE ENFORCEMENT BOARD PROVIDING FOR; APPLICABILITY; CREATION OF CODE ENFORCEMENT BOARD; DEFINITIONS; APPOINTMENT OF BOARD; REMOVAL FROM THE BOARD, INTERIM APPOINTMENTS; CONDUCT OF MEETINGS; ENFORCEMENT PROCEDURE; CONDUCT OF HEARING; POWERS OF THE ENFORCEMENT BOARD; ADMINISTRATIVE FINES, LIENS; REVIEW OF RULINGS OF THE CODE ENFORCEMENT BOARD; NOTICES; INCORPORATION OF THE ORDINANCE IN COUNTY CODE; SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, it is the intent of this ordinance to promote, protect and improve the health, safety and welfare of the citizens of Indian River County by creating an administrative hearing board to provide an equitable, expeditious, effective and inexpensive method of enforcing all the technical codes in force in Indian River County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, that:

SECTION 1

APPLICABILITY

This ordinance shall be effective within the unincorporated areas of Indian River County and those incorporated municipalities whose governing body have elected by the adoption of an ordinance to come under the provisions of this ordinance.

SECTION 2

CREATION OF CODE ENFORCEMENT BOARD

The Indian River County Code Enforcement Board is hereby created pursuant to the provisions of Florida Statutes §162.01 et seq and the home rule powers of non-charter counties under the Constitution of the State of Florida. The Board shall be constituted, have such power and responsibility as set forth in the following sections of this ordinance and shall enforce the various codes of Indian River County or participating municipality as may be designated by resolution of the governing body.

SECTION 3

DEFINITIONS

For the purpose of this ordinance the following terms shall be given the following meanings;

1. Code Inspector means any authorized agent or

employee of the County or municipality whose duty it is to assure code compliance.

2. Enforcement Board means the local government Code Enforcement Board created pursuant to this ordinance and Florida Statutes §162.01 et seq.

3. Technical Codes means the various occupational license, fire, building, zoning, sign, animal control regulations and related technical codes in force in the County and participating municipalities which the Code Enforcement Board is authorized to enforce pursuant to a resolution adopted by the governing body.

SECTION 4

APPOINTMENT OF BOARD

The Indian River County Code Enforcement Board shall consist of seven (7) members. Each member of the Board of County Commissioners shall be entitled to appoint one member to the Code Enforcement Board. The remaining two members will be appointed at large by the majority vote of the County Commission. The members of the Board shall be residents and registered voters of the County with interest, experience and/or competence in the fields of zoning and building. The membership shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a sub-contractor and a realtor. The initial appointment of the Board shall be:

- (a) two (2) members for a term of one (1) year each,
- (b) three (3) members for a term of two (2) years each,
- and
- (c) two (2) members for a term of three (3) years each.

All subsequent appointments shall be made for a term of three (3) years. Upon the approval of the County Commission, any member may be reappointed for one successive term only.

SECTION 5

REMOVAL FROM THE BOARD, INTERIM APPOINTMENTS

If any member voluntarily resigns or fails to attend two (2) of three (3) successive meetings without cause or prior

approval of the Chairman, the Enforcement Board shall immediately declare the member's office vacant and the Board of County Commissioners shall promptly fill such vacancy. Such interim appointees shall serve until the end of the term of the member whom they replaced. Members of the Code Enforcement Board may also be removed for cause by the affirmative vote of the majority of the County Commission.

SECTION 6

CONDUCT OF MEETINGS

The Enforcement Board shall annually elect a chairman and vice-chairman from amongst its members. The presence of four (4) or more members shall constitute a quorum of the Enforcement Board. A member once in attendance may not absent him/herself for the purpose of defeating the meeting and preventing the conduct of business for lack of a quorum. Members of the Board shall serve without compensation but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the County Commission from time to time.

The Code Enforcement Board is authorized to retain counsel to give legal advice to the Board. Once selected the rate of compensation shall be negotiated and paid by the Board of County Commissioners. In any event the counsel or firm retained shall not be the same counsel or firm who either presents cases on behalf of the County to the Board or represents those charged with violations in front of the Board.

SECTION 7

ENFORCEMENT PROCEDURE

1. It shall be the duty of the Code Inspectors to initiate enforcement proceedings in front of the Code Enforcement Board. No member of the Board shall have the power to initiate any enforcement proceedings before the Board.

2. Except as provided in Subsection 3 if a violation of the codes is found, the Code Inspector shall notify the violator and give him a reasonable time considering the nature of the violation to correct the violation. Should the violation continue beyond the time specified for correction, the Code Inspector shall

notify the Enforcement Board and request a hearing pursuant to the procedures in Section 8. Written notice shall be mailed to said violator as provided in this ordinance.

3. If the Code Inspector has reason to believe a violation presents a serious immediate threat to the public health, safety or welfare, the Code Inspector may proceed directly to the procedure in Section 8 without notifying the violator in advance as set forth in Subsection 2 above while at the same time making all reasonable attempts to notify the violator.

SECTION 8

CONDUCT OF HEARING

1. The Chairman of the Enforcement Board may call hearings of the Enforcement Board; hearings may also be called by written notice signed by at least three (3) members of the Enforcement Board. At any hearing the Enforcement Board may set a future hearing date. The Enforcement Board shall attempt to convene no less frequently than once every two months, but may meet more or less often as the demand necessitates. All meetings of the Board shall be open to the public and minutes shall be kept of all hearings. The County Commission shall provide clerical and administrative personnel as may be reasonably required by the Enforcement Board for the proper performance of its duties under this ordinance.

2. Each case before the Enforcement Board shall be presented by the County Attorney, his designee or a member of the administrative staff of the County or municipality wherein the violation occurs.

3. At each scheduled meeting the Enforcement Board shall proceed to hear the cases on the agenda for that day. All testimony given shall be under oath and shall be recorded. The Code Enforcement Board shall take testimony from all interested parties in attendance. Formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern said proceedings.

4. At the conclusion of each hearing on the agenda, the Enforcement Board shall issue findings of fact, based on evidence

of record, and conclusions of law and shall issue an order affording the proper relief consistent with the powers granted herein. The findings shall be by motion approved by a majority of those present and voting thereon, except that at least four (4) members of the Enforcement Board must vote in order for the action to be official. The record of the proceedings shall be preserved according to the public records law and available to the public for the purposes of review and shall be subject to review by the court of competent jurisdiction.

SECTION 9

POWERS OF THE ENFORCEMENT BOARD

The Enforcement Board shall have in addition to the powers set forth elsewhere in this ordinance the following additional powers and responsibilities;

1. Adopt rules for the conduct of its hearings.
2. Subpoena alleged violators and witnesses to its hearings. Subpoenas shall be issued by the Clerk of the Circuit Court and may be served by the Sheriff's Department of Indian River County or the police department of participating municipalities.
3. Subpoena evidence.
4. Take testimony under oath.
5. Issue orders having the force of law commanding whatever steps are necessary to bring a violation of a technical code into compliance.

SECTION 10

ADMINISTRATIVE FINES; LIENS

The Enforcement Board, upon notification by the Code Inspector that a previous order of the Enforcement Board has not been complied with by the set time, may order the violator to pay a fine not to exceed TWO HUNDRED AND FIFTY DOLLARS (\$250.00) for each day the violation continues past the date set for compliance. 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, 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 to be a court judgment except for enforcement purposes. After one year from the filing of any such lien which remains unpaid, the Enforcement Board may authorize the County Attorney to foreclose on the lien.

SECTION 11

DURATION AND ENFORCEMENT OF LIEN

No lien filed pursuant to this ordinance shall continue for a period longer than two (2) years after recording, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien 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.

SECTION 12

REVIEW OF RULINGS OF THE CODE ENFORCEMENT BOARD

An aggrieved party including the local governing Board may appeal a final administrative order of the Enforcement Board to the Circuit Court of the Nineteenth Judicial District. An appeal must be filed within thirty (30) days of the execution of the order to be appealed.

SECTION 13

NOTICES

All notices required by this act shall be by certified mail, return receipt requested, or, when mail would not be effective, by hand delivery by the Code Inspectors or Sheriff's Deputies.

SECTION 14

INCORPORATION OF ORDINANCE IN COUNTY CODE, SUPPLEMENTAL METHOD

Provisions of this Ordinance shall be incorporated into the County Code and the word "ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this Ordinance may be renumbered or relettered to accomplish such intentions. It is the intent that this ordinance shall be a

supplemental method of Code Enforcement.

SECTION 15

SEVERABILITY

In the event any section, paragraph or phrase of this Ordinance is declared invalid by a court of competent jurisdiction, such section, paragraph or phrase shall be deemed a separate provision of this Ordinance and shall not affect the validity of other parts of this Ordinance.

SECTION 16

EFFECTIVE DATE

The provisions of this Ordinance shall become effective upon receipt from the Florida Secretary of State of official acknowledgment that this Ordinance has been filed with the Department of State.

Approved and adopted by the Board of County Commissioners of Indian River County, Florida this 16th day of February, 1983.

INDIAN RIVER COUNTY BY ITS
BOARD OF COUNTY COMMISSIONERS

By Richard N. Bird
RICHARD N. BIRD
Chairman

Acknowledgment by the Department of State of the State of Florida this 25th day of February, 1983.

Effective Date: Acknowledgment from the Department of State received on this 7th day of March, 1983, at 10:00 A.M. and filed in the office of the Clerk of the Board of County Commissioners of Indian River County, Florida.

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By Gary M. Brandenburg
GARY M. BRANDENBURG, County Attorney