

ORDINANCE NO. 82-18

AN ORDINANCE TO BE KNOWN AS THE LOCAL GOVERNMENT CODE ENFORCEMENT BOARD ORDINANCE; SETTING FORTH THE LEGISLATIVE INTENT; PROVIDING DEFINITIONS; CREATING A LOCAL GOVERNMENT CODE ENFORCEMENT BOARD AND ESTABLISHING ITS ORGANIZATION; PROVIDING AN ENFORCEMENT PROCEDURE; PROVIDING FOR CONDUCT OF HEARING; ESTABLISHING POWERS OF THE ENFORCEMENT BOARD; PROVIDING ADMINISTRATIVE FINES AND AUTHORIZING LIENS, ESTABLISHING A PERIOD OF DURATION OF LIENS; ESTABLISHING AT THE RIGHT OF APPEAL; DEFINING NOTICES; ESTABLISHING REMEDIES AS SUPPLEMENTAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

SECTION 1. SHORT TITLE

This Ordinance shall be known as and may be cited as the Local Government Code Enforcement Board Ordinance.

SECTION 2. INTENT. It is the intent of this ordinance to promote, protect, and improve the health, safety, and welfare of the citizens of Hernando County by authorizing the creation of an administrative board pursuant to Chapter 162, Florida Statutes, to provide an equitable, expeditious, effective and inexpensive method of enforcing the following ordinances, to-wit: All Ordinances of Hernando County in effect upon the adoption of this ordinance and all ordinances subsequently adopted.

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SECTION 3. DEFINITIONS.

- (1) "Local governing body" means the Hernando County Board of County Commissioners.
- (2) "Code inspector" means any authorized agent or employee of Hernando County whose duty it is to assure code compliance.
- (3) "Local governing body attorney" means the County Attorney for Hernando County.
- (4) "Enforcement board" means the local government enforcement board.

SECTION 4. Local Government Code Enforcement Board;
Creation and Organization.

(1) Pursuant to Chapter 162, Florida Statutes, there is hereby created within Hernando County a code enforcement board to be known as the "Hernando County Code Enforcement Board."

(2) The Enforcement Board shall be comprised of seven individuals to be appointed by the Local Governing Body.

(3) Members of the Enforcement Board shall be residents of Hernando County. Appointments shall be made in accordance with applicable law and ordinances on the basis of experience or interests in the fields covered by the ordinances identified in Section 2.

(4) The initial appointments to the enforcement board shall be as follows:

- (a) Two members appointed for a term of 1 year each.
- (b) Three members appointed for a term of 2 years each.
- (c) Two members appointed for a term of 3 years each.

Thereafter, any appointment shall be made for a term of 3 years. A member may be reappointed for one successive term upon approval of the local governing body. An appointment to fill any vacancy on the enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two of three successive meetings without cause and without prior approval of the chairman, the enforcement board shall declare the member's office vacant; and the local governing body shall promptly fill such vacancy. The members shall serve in accordance with ordinances of the local governing body and may be suspended and removed for cause as provided in such ordinances for removal of members of boards.

(5) The members of the enforcement board shall elect a chairman from among the members of the board. The presence of four or more members shall constitute a quorum of the enforcement board. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as are otherwise provided by law.

(6) The local governing body attorney shall either be counsel to the enforcement board or shall represent the municipality or county by presenting cases before the enforcement board.

SECTION 5. Enforcement Procedure.

(1) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; however, no member of the board shall have the power to initiate such enforcement proceedings.

(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 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 procedure in Section 6. Written notice shall be mailed to said violator as provided herein.

(3) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety, and welfare, the code inspector may proceed directly to the procedure in Section 6 without notifying the violator.

SECTION 6. Conduct of hearing.

(1) The chairman of the enforcement board may call hearings of the enforcement board; hearings also may be called by written notice signed by at least three members of the enforcement board. At any hearing, the enforcement board may set a future hearing date. The enforcement board may establish a regularly scheduled hearing date. The enforcement board shall attempt to convene no less frequently than once every month. Minutes shall be kept of all hearings by the enforcement board, and all hearings and proceedings shall be open to the public. The local governing body shall provide clerical and administrative personnel as may be reasonably required by the enforcement board for the proper performance of its duties.

(2) Each case before the enforcement board shall be presented by the local governing body attorney or by a member of the administrative staff of the local governing body.

(3) The enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board shall take testimony from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern

the proceedings.

(4) At the conclusion of the hearing, the enforcement board shall issue findings of fact, based on evidence of record; conclusions of law; and an order affording the proper relief consistent with powers granted herein. The finding shall be by motion approved by a majority of those members present and voting, except that at least four members of the enforcement board must vote in order for the action to be official.

SECTION 7. Powers of the enforcement board. The enforcement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county or police department of the municipality.
- (3) Subpoena evidence.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

The Enforcement Board shall have such additional powers as may be authorized by Chapter 162, Florida Statutes (1982), and any law amendatory thereto.

SECTION 8. 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 \$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; and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After 1 year from the filing of any such lien which remains unpaid, the enforcement board may authorize the local

governing body attorney to foreclose on the lien.

SECTION 9. Duration of lien.

No lien provided under the Local Government Code Enforcement Boards Ordinance shall continue for a period longer than 2 years after the certified copy of an order imposing a fine has been recorded, unless within the time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected 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 10. Appeals.

An aggrieved party, including the local governing body, may appeal a final administrative order of the enforcement board to the Circuit Court. An appeal shall be filed within 30 days of the execution of the order to be appealed.

SECTION 11. 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 Inspector, Sheriff, Deputy Sheriff or Municipal Police Officer.

SECTION 12. Provisions of Ordinances Supplemental.

The remedies set forth in this ordinance are additional and supplemental means of obtaining compliance with local codes and ordinances. Nothing contained in this Ordinance shall prohibit the local governing body from enforcing its codes and ordinances by any other means.

SECTION 13. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, district and independent provision, and such holding shall not effect the validity of the remaining portions hereof.

SECTION 14. Effective Date.

This Ordinance shall take effect immediately upon filing with the Secretary of State.

ADOPTED in Regular Session of the Board of County Commissioners of Hernando County, Florida, this 21st day of December, 1982, A.D.

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

Attest HAROLD WILLIAM BROWN
HAROLD WILLIAM BROWN, CLERK

By FRANK FISH
FRANK FISH, CHAIRMAN