

ORDINANCE NO. 88-32

AN ORDINANCE OF HERNANDO COUNTY PROVIDING THAT THE CODE OF ORDINANCES, HERNANDO COUNTY, FLORIDA, BE AMENDED BY REVISING SECTIONS 2-47, 2-48, 2-50(b) AND (c), 2-51(a), 2-53, 2-54, 2-55, AND 2-56 OF SAID CODE; PROVIDING FOR CHANGES IN THE NOTICE AND ENFORCEMENT PROCEDURES, HEARINGS, FINES, LIENS, AND APPEAL PROVISIONS RELATING TO THE CODE ENFORCEMENT BOARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

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FILED

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

SECTION I. That section 2-47 of the Code of Ordinances of Hernando County, Florida, be amended so that such section shall read as follows:

"Sec. 2-47. Intent.

It is the intent of this article to promote, protect, and improve the health, safety, and welfare of the citizens of the county by authorizing the creation of administrative boards with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing the codes and ordinances in force in the county, where a pending or repeated violation continues to exist, including, but not limited to, occupational license, fire, building, zoning, and sign codes."

SECTION II. That Section 2-48 of the Code of Ordinances of Hernando County, Florida, be amended so that the definition of "enforcement board" shall read as follows:

"Enforcement board means the local government code enforcement board."

SECTION III. That Paragraphs 2-50(b) and (c) of the Code of Ordinances of Hernando County, Florida, be amended so that such section shall read as follows:

"Sec. 2-50. Enforcement procedure.

(b) Except as provided in paragraph (c) of this section, 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 an enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in Section 2-56 to said violator. At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in Section 2-56. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(c) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing."

SECTION IV. That Paragraph 2-51(a) of the Code of Ordinances of Hernando County, Florida, be amended so that such section shall read as follows:

"Sec. 2-51. Hearings; findings of fact; conclusions of law; orders.

(a) Upon request of the code inspector, or at such other times as may be necessary, the chairman of the enforcement board may call a hearing of the enforcement board; a hearing 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 also establish a regularly scheduled hearing date. Minutes shall be kept of all hearings 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 each enforcement board for the proper performance of its duties."

SECTION V. That section 2-53 of the Code of Ordinances of Hernando County, Florida, be amended so that such section shall read as follows:

"Sec. 2-53. Administrative fines; liens.

(a) An enforcement board, upon notification by the code inspector that an order of the enforcement board has not been complied with by the set time or, upon finding that the same violation has been repeated by the same violator, may order the violator to pay a fine not to exceed \$250 for each day the violation continues past the date set for compliance or for each time the violation has been repeated, and a hearing shall not be necessary for issuance of the order.

(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) 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; and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including the levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After 6 months 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. No lien created pursuant to the provisions of this chapter may be foreclosed on real property which is homestead under s.4, Art. X of the State Constitution."

SECTION VI. That Section 2-54 of the Code of Ordinances of Hernando County, Florida, be amended so that such section shall read as follows:

"Sec. 2-54. Duration of lien.

No lien provided under this article shall continue for a period longer than 5 years after the certified copy of an order imposing a fine has been recorded, unless within that 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 VII. That Section 2-55 of the Code of Ordinances of Hernando County, Florida, be amended so that such section shall read as follows:

"Sec. 2-55. Appeals.

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

SECTION VIII. That Section 2-56 of the Code of Ordinances of Hernando County, Florida, be amended so that such section shall read as follows:

"Sec. 2-56. Notices.

(a) All notices required by this article shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body; or by leaving the notice at the violator's usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice.

(b) In addition to providing notice as set forth in sub-section (a), at the option of the code enforcement board, notice may also be served by publication or posting, as follows:

(1)(a) Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes, for legal and official advertisements.

(b) Proof of publication shall be made as provided in ss. 50.041 and 50.051, Florida Statutes.

(2)(a) If there is no newspaper of general circulation in the county, three copies of such notice shall be posted for at least 28 days in three different and conspicuous places in the county, one of which shall be at the front door of the courthouse.

(b) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a). Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this article have been met, without regard to whether or not the alleged violator actually received such notice."

SECTION IX. SEVERABILITY. It is declared to be the intent of the Board of County Commissioners that if any section, subsection, clause, sentence, phrase or provision of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this Ordinance.

SECTION X. REPEAL. All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION XI. INCLUSION IN THE CODE. It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance

shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION XII. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed in the Office of the Secretary of State by the Clerk of the Board within ten (10) days after adoption of this Ordinance.

ADOPTED THIS 5<sup>th</sup> day of October, 1988, A.D.

(SEAL)

Attest:

Karen Nicolai  
KAREN NICOLAI  
Clerk

BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA

By:

David D. Russell, Sr.  
DAVID D. RUSSELL, SR.  
Chairman

