



City of Naples

City Council Chambers
735 Eighth Street South
Naples, Florida 33940

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COUNCIL MEMBERS

MOTION SECTION YES NO ABSENT

Zoning Code Enforcement (Cont)

have an attorney present a case to the Board but the City Attorney could not do both. He said he would prefer to represent the Board and let administrative personnel prosecute the cases. Ed McMahon, Old Naples Association, said he was in favor of this proposed Board if it had "enough teeth" to accomplish the intended purpose. Fire Chief Ijams noted that his department deals with safety violations and utilizing this Board might create a delay in enforcement if the Board only met every other month, but the City Attorney assured him that a schedule could be outlined that would be workable for the Fire Department.

ADJOURN: 11:20 a.m.

Edwin J. Putzell, Jr., Mayor

Janet Cason City Clerk

Ellen P. Weigand Deputy Clerk

These minutes of the Naples City Council approved

Supplemental Attendance List - Workshop Meeting, April 9, 1986

Kent Weissinger
Herb Anderson
Frank Lualdi
Joseph Bridges
Bruce Kixmiller
Tim Cully

Debbie Cook
Fred Voss
John Pistor
Lodge McKee
Ed McMahon

Vivian Storey
Max Hasse
Harry Cunningham
J. Sandy Scatena
Hubert Howard
Tom Crandall

News Media

Bob DelBuono, TV-9
Hilary Hutchison, TV-9

Bill Upham, Naples Times
Ted Trulock, WBBH TV-20
Bob Goldberger, WBBH TV-20

Chuck Curry, Naples Daily News
Maggie Minarich, Naples Star

Other interested citizens and visitors.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NAPLES, FLORIDA, BY ADDING A NEW SECTION _____ TO CHAPTER _____, ENTITLED "CODE ENFORCEMENT BOARD", PROVIDING REGULATIONS ESTABLISHING THE CODE ENFORCEMENT BOARD, PROVIDING PROCEDURES, POWERS, AND PENALTIES ENFORCEABLE BY THE CODE ENFORCEMENT BOARD, AND PROVIDING AN EFFECTIVE DATE.

PURPOSE: TO PROVIDE FOR ADDITIONAL MEANS OF ENFORCING THE CODES OF THE CITY OF NAPLES.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

SECTION 1. Title.

This article may be known and cited as the "Code Enforcement Board Ordinance of the City of Naples, Florida."

SECTION 2. Intent.

It is the intent of this ordinance to promote, protect, and improve the health, safety, and welfare of the citizens of the City of Naples by authorizing the creation of an administrative board to provide an equitable, expeditious, effective and inexpensive method of enforcing the codes and ordinances of the City of Naples, which have no criminal penalty.

SECTION 3. Created; membership; terms.

- (a) There is hereby created a Code Enforcement Board of the City of Naples, Florida, which shall consist of seven (7) members to be appointed by the Mayor and City Council. All members of the Board shall be residents of the city and shall serve without compensation.
- (b) The membership of the Code Enforcement Board shall, whenever possible, include:
 - (1) An architect;
 - (2) A businessman or businesswoman;
 - (3) An engineer;
 - (4) A general contractor;
 - (5) A subcontractor;
 - (6) A realtor;
- (c) The initial appointments to the Code Enforcement Board shall be as follows:
 - (1) One (1) member shall be appointed for a term of one (1) year.
 - (2) Three (3) members shall be appointed for a term of two (2) years.

- (3) Two (2) members shall be appointed for a term of three (3) years.
- (4) Appointments to fill any vacancy on the Code Enforcement Board shall be for the remainder of the unexpired term of office.

Thereafter, each term shall be for a period of three (3) years. Each member shall be limited to two (2) consecutive three (3)-year terms; after serving two (2) such terms, a member may reapply for appointment one (1) year after the expiration of said member's last term.

(d) At the first meeting of the Code Enforcement Board, the members of the Board shall elect a chairman and a vice-chairman to preside in the absence of the chairman. The presence of four (4) or more members, including the alternate members, shall constitute a quorum of the Code Enforcement Board necessary to take action. Meetings of the Board shall occur no less frequently than once every two (2) months; however, the board may meet more often, as necessary.

(e) Special meetings of the Board may be convened by the chairman upon the giving of written notice thereof hand delivered to the residences of each other member of the Board. Unless waived by a majority of the Board, notice of a special meeting shall be given at least twenty-four (24) hours prior thereto.

(f) Minutes shall be maintained of all hearings held by the Code Enforcement Board, and all hearings shall be open to the public. The City Council shall provide clerical and administrative personnel as may be reasonably required by the Board for the proper performance of its duties. The City Attorney or his/her designee shall be counsel to the Code Enforcement Board; such attorney shall attend all meetings of the Board, and shall assist the Board in the conduct of its hearings, and in the performance of its duties.

SECTION 4. Jurisdiction.

(a) The Code Enforcement Board shall have the jurisdiction and authority to hear and decide alleged violations of codes and ordinances of the City of Naples including but not limited to:

- Zoning - Appendix "A"
- Boats, Docks, Lakes and Waterways - Chapter 7
- Buildings - Chapter 8 (Bldg. Appeals)
- Fire Protection - Chapter 9
- Health and Sanitation - Chapter 11
- Occupational Licenses and Excise Taxes - Chapter 12
- Noise - Chapter 14
- Subdivisions - Chapter 20
- Swimming Pools - Chapter 21
- Television Antennas, Masts and Towers - Chapter 22
- Water - Chapter 26

BOARD OF APPEALS

Water and Sewer Service Area Regulations -
 Chapter 26A
 Wells - Chapter 27

and other codes or ordinances for which there is no criminal penalty. In the event a violation of any code or ordinance is filed with the Code Enforcement Board, no criminal penalty will be deemed applicable to said violation.

- (b) The jurisdiction of the Code Enforcement Board shall not be exclusive. Any alleged violation of any of the provisions in subsection (a) may be pursued by appropriate remedy in court at the option of the administrative official whose responsibility it is to enforce that respective Code or Ordinance.

SECTION 5. Removal; filling vacancies.

Members of the Code Enforcement Board may be removed from office by the City Council for cause upon written charges and after public hearing. Any member who fails to attend two (2) out of three (3) consecutive meetings without cause and without prior approval of the Chairman of the Board, shall have his office declared vacant, and the Mayor and City Council shall promptly fill such vacancy. Vacancies shall be filled by appointment by the Mayor and City Council for the unexpired term(s) affected.

SECTION 6. Procedure; hearings.

- (a) An alleged violation of any of the codes or ordinances listed in Section 4 shall be filed with the Code Enforcement Board by the administrative official who bears responsibility for enforcement of that respective code or ordinance. If a previous, continuing, pending or repeated violation of a code or ordinance is believed to have occurred or to exist, the official shall notify the violator and give said person a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction or upon finding that the same violation has been repeated by the same violator, the administrative official shall recite to the Board the name(s) and address(es) of the respondent(s), the code provision involved, and a short factual statement which forms the basis for the belief that a violation exists. The Code Enforcement Board may then order that a hearing be held at a subsequent meeting of the Board, and shall give notice thereof to the violator (hereinafter "Respondent") by certified mail, return receipt requested, or by personal service.
- (b) At the hearing, the burden of proof shall be upon the administrative official to show, by a preponderance of the evidence, that a violation did occur or does exist, or has been repeated. Assuming proper notice of the hearing has been

given to the respondent, either as actual notice, or as provided herein, a hearing may proceed in the absence of the respondent.

(c) All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply. Irrelevant, immaterial and unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Documentary and physical evidence may be admitted. The attorney acting as counsel to the Board shall rule on objections made to any question asked of any witness and on admissibility of evidence.

(d) Board members who are present and voting, and the attorney acting as counsel to the Board, may inquire of any witness before the Board. The respondent, or his attorney, and the City administered official bearing responsibility for enforcement of the relevant code or ordinance shall be permitted to inquire of any witness before the board. Members of the board who are present and voting and the attorney acting as counsel to the board may call any witness deemed necessary to a full and fair hearing of the case.

(e) At the conclusion of the hearing, the Code Enforcement Board shall issue findings of fact and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted herein. The order shall be stated orally at the meeting, and shall be reduced to writing and mailed to the alleged violator within ten (10) days after the hearing. The finding shall be by motion approved by the affirmative vote of a majority of those members present and voting, except that at least four (4) members of the Code Enforcement Board must vote in order for the action to be official.

SECTION 7. Powers.

The Code Enforcement Board shall have the power to:

- (1) Adopt rules for the conduct of its meetings and hearings.
- (2) Subpoena alleged violators [respondents] and witnesses to its hearings.
- (3) Subpoena evidence as necessary for its hearings, including but not limited to physical and documentary evidence such as records, surveys, plats and photographs.
- (4) Take testimony under oath.
- (5) Issue orders having the force and effect of law which can command whatever steps are necessary to bring a violation into compliance, said decision to be made at the hearing

and reduced to writing and mailed to the respondent(s) within ten (10) days thereafter.

- (6) Establish and enforce fines pursuant to Section 8 herein.
- (7) Authorize the attorney acting as counsel to the Board to foreclose on liens imposed pursuant to Section 8 which remain unpaid after a period of six (6) months.

SECTION 8. Penalties.

- (a) The Code Enforcement Board may order a respondent to pay a fine not to exceed two hundred fifty dollars (\$250) per day that any violation continues past the date set by the Board's order for compliance, or upon finding that the same violation has been repeated by the same violator [respondent]. A certified copy of an order imposing a fine may be recorded in the public records in the office of the clerk of the circuit court in and for Collier County, Florida, and once recorded, 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 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 otherwise to be a judgment of a court, except for enforcement purposes. No lien shall exceed five thousand dollars (\$5,000.00) in total principal amount, although accrued interest may accumulate above said amount.
- (b) After six (6) months from the filing of any such lien which remains unpaid, the enforcement Board may authorize the City Attorney to foreclose on the lien.
- (c) No lien provided by this section shall continue for a period longer than two (2) 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.
- (d) No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Article X, Section 4, of the State Constitution.

SECTION 9. Appeal.

Any aggrieved party, including the City of Naples, may appeal a ruling or order of the Code Enforcement Board to the Circuit Court of Collier County, Florida. Such an appeal shall not be a hearing de novo, but

shall be limited to appellate review of the record created before the Codes Enforcement Board. The appeal must be filed within thirty (30) days after the hearing at which the order being appealed was announced. The Board shall establish reasonable charges for the preparation of the record, to be paid by the petitioner.

SECTION 10. This resolution shall take effect immediately upon adoption.

APPROVED AT FIRST READING THIS _____ DAY OF _____, 1986.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS _____ DAY OF _____, 1986.

Edwin J. Putzell, Jr. Mayor

ATTEST:

Janet Cason
City Clerk

APPROVED AS TO FORM AND LEGALITY BY _____
David W. Rynders
City Attorney