

ORDINANCE NO. 358-87

EMERGENCY ORDINANCE AMENDING AND REENACTING PORTIONS OF ORDINANCES 230 AND 230A; ESTABLISHING THE "CODE ENFORCEMENT BOARD"; COMPLYING WITH THE PROVISIONS OF FLORIDA STATUTE CHAPTER 162 AS AMENDED 1986; INCREASING THE MEMBERSHIP OF THE BOARD TO SEVEN (7) MEMBERS; TERM AND ELECTION OF CHAIRMAN; PROCEDURE BEFORE THE BOARD; AMENDING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; DECLARING AN EMERGENCY; TRANSITION; EFFECTIVE DATE.

WHEREAS, the Florida Legislature has substantially amended the provisions of Chapter 162 which authorize the creation of local government code enforcement boards, and

WHEREAS, the Town of Golden Beach has heretofore established a municipal code enforcement board, and

WHEREAS, the Charter and Ordinance Review Board has recommended amendment to the existing provisions of Ordinances 230 and 230A in order to comply with the provisions of Florida Law, including increasing membership to seven (7) members.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH HEREBY ORDAINS.

Section 1: That Ordinances 230 and 230A establishing the Code Enforcement Board be and they are hereby amended and reenacted as follows:

(A) There is established a Board to be known as the "Code Enforcement Board."

(B) Organization, Powers and Duties

(1) There is hereby created and established, a Code Enforcement Board to enforce the occupational license, building, zoning, sign and other related codes and ordinance, which board shall consist of seven (7) members appointed by the Mayor and Town Council for three-year terms, except as set forth herein. Members of the Code Enforcement Board shall be residents of the TOWN OF GOLDEN BEACH. Appointments shall be made on the basis of experience or interest in the fields of zoning and building control. The membership of the Code Enforcement Board shall, whenever possible, consist of an architect, a businessman, an engineer, a general contractor, a subcontractor, and a realtor, and attorney, but shall not be limited to these professions if there are no such qualified persons available.

(2) The appointments to the Code Enforcement Board shall be as follows:

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

Upon expiration of initial terms, subsequent appointments for terms of three (3) years shall be made. Any members may be reappointed by the Mayor and Town Council. Appointments to fill

a vacancy shall be for the remainder of the unexpired term. Any member who fails to attend three (3) successive meetings without cause and without prior approval of the chairman, the code enforcement board shall declare the member's office vacant and the Mayor and Town Council shall promptly fill such vacancy for the remainder of the term. The members shall serve in accordance with the provision of the Code of Ordinances governing suspension and removal of board members generally.

(C) The members shall elect a chairman from amongst the members of the board for a term of one (1) year. The presence of four (4) or more members shall constitute a quorum.

(E) Powers of the Code Enforcement Board. The Code Enforcement Board shall have the power to:

- (a) Adopt rules for the conduct of its hearings.
- (b) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the police department of the TOWN OF GOLDEN BEACH, but shall be approved and signed by the Board Chairman, upon affirmative vote of the Board.
- (c) Subpoena evidence.
- (d) Take testimony under oath.
- (e) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.

(F) Enforcement Procedures

(1) It shall be the duty of the code enforcement officer to initiate enforcement proceedings of the various codes. No member of the board shall have the power to initiate such enforcement proceedings.

(2) Except as provided in subsection (c), if a violation of any code is found, the code enforcement officer shall notify the violator and give him 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 pursuant to the procedure in the following section. The code enforcement board through its secretary shall schedule a hearing and written notice shall be hand delivered or mailed to said violator as provided herein. If the violation is corrected and then recurs, the case shall be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(3) If the code enforcement officer has reason to believe a violation presents serious threat to the public health, safety or welfare, the code enforcement officer may proceed directly to the procedure set forth in Section 4.

(4) A code enforcement officer is defined as any authorized agent or employee of the TOWN OF GOLDEN BEACH, whose duty it is to ensure code enforcement.

(5) Code enforcement method; option. None of the provisions contained in this division shall be considered exclusive. The code enforcement officer shall have the option to use any method provided by the Code Ordinances or law to enforce the provisions of the various Town codes.

(G) Conduct of Hearing: Fines: Appeals

(1) At the request of the code enforcement officer, or at such other time, as may be necessary, the chairman of the board may call hearings of the board. Hearings may also be called by written notice signed by at least (3) members of the board. The board, at any hearing, may set a future hearing date. The board shall attempt to convene no less often as the demand necessitates. Minutes shall be kept of all hearings and all hearing shall be open to the public. The Town Council shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the board's duties.

(2) Each case before the board shall be presented by a code enforcement officer or member of the administrative staff of the TOWN OF GOLDEN BEACH or the Town Attorney.

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

(4) At the Conclusion of the hearing, the board shall issue findings of fact based on evidence and conclusions of law and shall issue an order affording the proper relief consistent with powers granted herein. The findings shall be by motion approved by a majority of those present and voting, except that at least four (4) members of the board must vote for the action to be official. The order may include a notice that it must be complied with by a specified rate and that a fine may be imposed if the order is not complied with by said date. The record shall be presented to a court if the order is appealed.

(H) Fines. The board, upon notification by the code enforcement officer that a previous order of the board has not been complied with by the set time, may order the violator to pay a fine not to exceed TWO HUNDRED FIFTY DOLLARS (\$250.00) for each day the violation continues past the date set for enforcement or for each time the violation has been repeated, and a hearing shall not be necessary for issuance of an order. 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. The lien 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 6 months from the filing of any such lien which remains unpaid, the enforcement board or Town Council may authorize the town 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.

(I) Duration of Lien. No lien provided under the Code Enforcement Board 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.

(J) Appeals. An aggrieved party may appeal a ruling or order of the Code Enforcement Board by certiorari to the circuit court. An appeal shall be filed within thirty (30) days of the date of the written order appealed.

(K) All notices required by this division shall be by Certified Mail, Return Receipt Requested, or where mail would not be effective, by hand-delivery by the code enforcement officer.

Section 2: Transition. All terms of present members of the Board shall be terminated upon passage of this Ordinance. The Town Council shall appoint board members by Motion or Resolution for terms in accordance with the provisions of paragraph (B)(2) of this Ordinance. Upon compliance with the terms of this transitionsection, this section shall be deleted from the Code of Ordinances.

Section 3: All Ordinances or parts of Ordinances in conflict be in the same as hereby repealed insofar as they are in conflict.

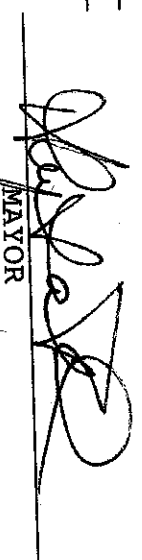
Section 4: This ordinance is declared an emergency ordinance.

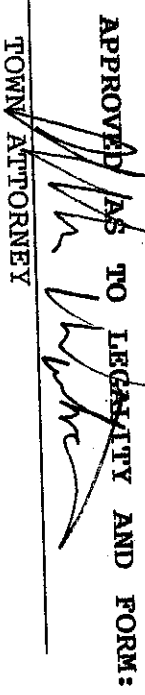
Section 5: This ordinance shall take effect immediately upon passage by the Town Council.

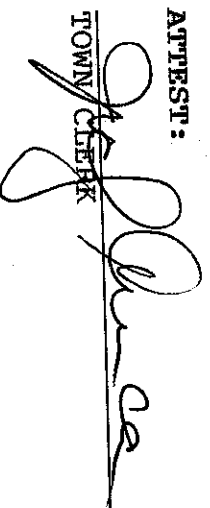
**PASSED AND ADOPTED** this 17 day of November, 1987.

The Motion to adopt the foregoing Ordinance was offered by: Councilman Fried, second by: Councilman Sorota and on roll call the following vote ensued:

<b>COUNCIL VOTE:</b>	
Mayor Tobin	aye
Vice - Mayor Tweedle	aye
Council Member Fried	aye
Council Member Duffner	aye
Council Member Sorota	aye

  
MAYOR

APPROVED AS TO LEGALITY AND FORM:  
  
TOWN ATTORNEY

ATTEST:  
  
TOWN CLERK