

## ORDINANCE NO. 78

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF, FLORIDA, ESTABLISHING A SYSTEM OF CODE ENFORCEMENT FOR THE VILLAGE; AUTHORIZING THE USE OF A MUNICIPAL CODE ENFORCEMENT BOARD AND/OR A SPECIAL MAGISTRATE; PROVIDING ENFORCEMENT PROCEDURES AND THE CONDUCT OF CODE ENFORCEMENT HEARINGS; PROVIDING FOR ADMINISTRATIVE FINES AND LIENS; PROVIDING AN APPEALS PROCESS; PROVIDING NOTICE REQUIREMENTS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village Council of the Village of Golf desires to implement a code enforcement process for the Village that complies with Chapter 162, *Florida Statutes* regarding municipal code enforcement; and

WHEREAS, the Village Council of the Village of Golf believes this process will be in the best interests of the health, safety and welfare of the residents of the Village of Golf.

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF, FLORIDA, THAT:

Section 1: The Village of Golf hereby adopts this ordinance as its Code Enforcement Ordinance, providing that the Village of Golf Code Enforcement Ordinance shall read as follows:

**Sec. 1. Municipal code enforcement board and special magistrates authorized.**

1.01 It is the intent of this ordinance to authorize a municipal code enforcement board and to authorize the use of special magistrates, each with the authority to impose administrative fines and other non-criminal penalties to promote, protect and improve the health, safety and welfare of the Village and to provide an equitable, expeditious, effective and inexpensive method of enforcing any provision of the ordinances of the Village in force where a pending or repeated violation exists or continues to exist. This ordinance has been enacted pursuant to the authority of Chapter 162, *Florida Statutes*.

1.02 The code enforcement board and special magistrates shall have jurisdiction to hear

and decide cases in which violations are alleged of any provisions of the Village's ordinances.

- 1.03 Any alleged violation of the aforesaid ordinances may also be enforced in any court of competent jurisdiction.

**Sec. 2. Code enforcement system.**

The Village hereby adopts a code enforcement system which gives the herein-defined code enforcement board and/or special magistrates appointed by the Village council the authority to hold hearings and assess fines against violators of the Village's ordinances, in accordance with Chapter 162, *Florida Statutes*.

**Sec. 3. Definitions.**

For the purposes of this ordinance, the terms used herein are used as follows:

*Ordinance(s)*: Any of the ordinances of the Village.

*Code enforcement board; special magistrates*: The Village code enforcement board and its special magistrates appointed by the council as provided herein. Both have the same duties and functions. Reference to *code enforcement board* or *enforcement board* is applied to *special magistrate* as well.

*Code inspector*: Any authorized agent or employee of the Village whose duty it is to assure code compliance.

*Legal counsel*: The Village attorney or an assistant Village attorney who shall represent the Village and may present cases before the code enforcement board or special magistrate.

*Repeat violation*: A violation of a provision of any ordinance by a person whom the code enforcement board or special magistrate has previously found to have violated or who has admitted violating the same provision within five (5) years prior to the violation, notwithstanding the violations occur at different locations.

*Secretary*: The clerk of the Village or his or her designee.

*Violator*: The property owner or business entity of the premises or any combination thereof.

**Sec. 4. Code enforcement board composition; appointment; terms of members; requirements; removal and vacancies.**

- 4.01 The code enforcement board, if constituted, shall consist of five (5) members and two (2) alternate members, each to be appointed by the Village council (the *council* ) for a term of two (2) years. The initial appointments to the code enforcement board shall be as follows:
- (1) Two (2) members appointed for a term of one (1) year each; and
  - (2) Three (3) members appointed for a term of two (2) years each.
- Thereafter, all appointments shall be made for terms of two (2) years.
- 4.02 Appointments shall be made in accordance with applicable law on the basis of experience or interest in the subject matter jurisdiction of the code enforcement board.
- 4.03 A member may be reappointed upon approval of the council.
- 4.04 Appointments to fill a vacancy shall be for the remainder of the unexpired term of office.
- 4.05 Members of the code enforcement board shall be residents of the Village at the time of their appointments and throughout their terms of office. Any member who is no longer a resident of the Village shall be automatically removed and that vacancy filled as provided herein. The members shall serve in accordance with the terms of this ordinance and may be suspended and removed for cause upon a majority vote of the council. If any member fails to attend two (2) of three (3) consecutive meetings without cause and without prior approval of the chairman of the code enforcement board, the code enforcement board shall declare the member's office vacant, and the council shall fill the vacancy promptly as provided herein. The membership of the code enforcement board shall, whenever possible, include an architect, a business person, an engineer, a general contractor, a subcontractor and a realtor.

**Sec. 5. Oath of office.**

Each member of the code enforcement board upon appointment shall, before entering upon the discharge of his duties of office, take such oath of office as required by the Village Charter, or applicable law.

**Sec. 6. Organization and compensation of code enforcement board; procedure.**

The organization of the code enforcement board, if constituted, shall be as follows:

- 6.01 The members of the code enforcement board shall elect a chairman from among its members. The chairman shall be allowed to vote on all matters appearing before the code enforcement board.
- 6.02 The members of the code enforcement board shall elect a vice chairman from among its members. The vice chairman shall preside over any public hearing in the absence of the chairman.
- 6.03 The presence of three (3) or more members shall constitute a quorum. Members shall not be entitled to compensation; however, all members shall receive reimbursement for travel, mileage and per diem expenses except travel to and from meetings of the code enforcement board. Such reimbursement shall be consistent with Village policy.
- 6.04 The code enforcement board may adopt such rules and regulations as are not inconsistent with the provisions of this ordinance or Chapter 162, *Florida Statutes*, which rules and regulations the code enforcement board finds necessary to carry out the provisions of this ordinance subject to approval by the council.
- 6.05 Conflict of interest provisions shall apply to members of the code enforcement board pursuant to Sections 112.3143 and 286.012, *Florida Statutes*.
- 6.06 The code enforcement board shall be represented by an attorney that is not the Village attorney. The Village attorney shall present cases before the code enforcement board.

**Sec. 7. Special magistrates.**

Special magistrates may be appointed by the Village Council and shall have all the duties and responsibilities and shall carry out the same functions and procedures as the code

enforcement board. Any reference to *code enforcement board* or *enforcement board* is applied to *special magistrate*, as well.

**Sec. 8. Enforcement procedure.**

- 8.01 It shall be the duty of the Village code inspector to initiate enforcement proceedings; neither the special magistrate nor the members of the code enforcement board shall have the power to initiate such enforcement proceedings.
- 8.02 Except as provided in subsections 8.03 and 8.04 hereinbelow, if a violation of the code 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 code enforcement board or special magistrate and request a hearing. The code enforcement board or special magistrate through its clerical staff shall schedule a hearing, and written notice of such hearing shall be hand-delivered or mailed as provided by this ordinance to the violator. At the option of the code enforcement board or special magistrate, notice may additionally be served by publication or posting as provided by this ordinance. If the violation is corrected and the violation 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 code enforcement board or special magistrate even if the violation has been corrected prior to the hearing, and the notice shall so state.
- 8.03 If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the code enforcement board or special magistrate and request a hearing. The code enforcement board or special magistrate through its clerical staff shall schedule a hearing and shall provide notice as provided by this ordinance to the violator. The case may be presented to the code enforcement board or special magistrate even if the repeat violation has been corrected prior to the hearing and the notice shall so state.
- 8.04 If the code inspector has reason to believe a violation or the condition causing the 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 code enforcement board or special magistrate and request a hearing thereon.

**Sec. 9. Conduct of hearings.**

- 9.01 Upon request of the code inspector or at such other times as may be necessary, the chairman of the code enforcement board or the special magistrate may call for hearings. Hearings may also be called by written notice signed by at least two (2) members of the code enforcement board.
- 9.02 Minutes shall be kept of all hearings, specifically including the vote of each member upon each question by the code enforcement board, and all hearings and proceedings shall be open to the public.
- 9.03 The Village shall provide a hearing room and clerical and administrative personnel as may be reasonably required by the code enforcement board or special magistrate to conduct its hearing and properly perform its duties.
- 9.04 Each case before the code enforcement board or special magistrate shall be presented by the Village attorney or by a member of the administrative staff of the Village.
- 9.05 The code enforcement board or special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The code enforcement board or special magistrate shall take testimony from the code inspector and the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
- 9.06 All relevant evidence shall be admitted if, in the opinion of the code enforcement board or special magistrate, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs. The chairman of the code enforcement board or special magistrate may exclude irrelevant or unduly repetitious evidence.
- 9.07 Each party to the hearing shall have the right to call and examine witnesses, introduce exhibits, cross examine opposing witnesses, impeach witnesses and rebut evidence.

- 9.08 The alleged violator has the right at his own expense to be represented by an attorney at any hearing before the code enforcement board or special magistrate.
- 9.09 If notice of the public hearing has been provided pursuant to this ordinance to an alleged violator, the hearing may be conducted and an order rendered in the absence of the violator.
- 9.10 At the conclusion of the hearing, the code enforcement board or special magistrate 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. If by code enforcement board, the finding shall be by a motion approved by a majority of those members present and voting except that at least three (3) members must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date.
- 9.11 If the Village prevails in prosecuting a case before the code enforcement board or special magistrate, it shall be entitled to recover all costs in prosecuting the case. Costs assessed pursuant to this section must be paid within ten (10) days of the issuance of the order. If the costs are not timely paid they may be included in the lien authorized by Section 9.12 below.
- 9.12 A certified copy of such an order may be recorded in the public records of Palm Beach County and shall constitute notice to any subsequent purchasers, successors in interest or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest or assigns.

**Sec. 10. Compliance.**

If an order is recorded in the public records pursuant to this ordinance and the order is complied with by the date specified in the order, the code enforcement board or special magistrate shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

**Sec. 11. Powers of the enforcement board.**

The code enforcement board shall have the power to:

- 11.01 Adopt rules for the conduct of its hearings;
- 11.02 Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county or the police department of the Village;
- 11.03 Subpoena evidence to its hearings;
- 11.04 Take testimony under oath;
- 11.05 Issue orders having the force of law commanding whatever steps are necessary to bring a violation in compliance.

**Sec. 12. Powers of special magistrates.**

The powers of the special magistrate are the same as those of the code enforcement board.

**Sec. 13. Administrative fines and liens.**

- 13.01 The code enforcement board or special magistrate, upon notification by the code inspector that an order of the code enforcement board has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in the amount specified in this section for each day the violation continues past the date set by the code enforcement board or special magistrate for compliance or, in the case of a repeat violation, for each day the repeat violation continues beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in Sec. 8.04. of this ordinance, the code enforcement board or special magistrate shall notify the Village administration, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the Village to make further repairs or to maintain the property and does not create any liability against the Village for any damages to the property if such repairs were completed in good faith. If,



after due notice and hearing, the code enforcement board or special magistrate finds a violation to be irreparable or irreversible in nature, either may order the violator to pay a fine as specified in subsection 13.02(A) hereinbelow.

13.02 (A) A fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, and in addition, may include all costs of repairs pursuant to subsection 13.01 hereinabove. However, if a code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature, either may impose a fine not to exceed \$5,000 per violation.

(B) In determining the amount of the fine, if any, the code enforcement board or special magistrate shall consider the gravity of the violation, any actions taken by the violator to correct the violation and any previous violations committed by the violator.

(C) The code enforcement board or special magistrate may reduce a fine imposed pursuant to this section. If, however, the subject violator fails to pay said reduced fine within the period of time specified in the order reducing said fine, then the original fine shall be reinstated unless such reinstatement of the original fine is specifically waived in the order reducing the fine.

(4) In addition to any such fines that may be imposed, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs pursuant to subsection 13.01 hereinabove.

13.03 A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records of Palm Beach County 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. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of the state, including levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into

compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the Village of Golf, and the Village may execute a satisfaction or release of lien entered pursuant to this section. After three (3) months from the filing of any such lien which remains unpaid, the code enforcement board or special magistrate may authorize the Village attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is homestead under Section 4, Article X, of the state constitution.

**Sec. 14. Duration of the lien.**

No lien provided under this division shall continue for a period of longer than twenty (20) 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. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in the foreclosure. The continuation of the lien affected 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.

**Sec. 15. Appeal.**

An aggrieved party, including the Village, may appeal a final administrative order of the code enforcement board or special magistrate 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 code enforcement board or special magistrate. An appeal shall be filed within thirty (30) days from the date of the rendition of the order to be appealed. A copy of the notice of appeal shall be filed with the secretary.

**Sec. 16. Notices.**

All notices required by this section shall be provided to the alleged violator by:

- 16.01 Certified mail, return receipt requested; provided if such notice is sent under this section to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the Village by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subsections 16.05(C) and (D) hereinbelow and by first class mail directed to the addresses furnished to the Village with a properly executed proof of mailing or affidavit confirming the first class mailing;
- 16.02 Hand delivery by the sheriff or other law enforcement officer, code inspector or other person designated by the Village;
- 16.03 Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
- 16.04 In the case of commercial premises, leaving the notice with the manager or other person in charge.
- 16.05 In addition to providing notice as set forth in subsections 16.01-16.04 hereinabove, at the option of the code enforcement board or special magistrate, notice may also be served by publication or posting, as follows:
- (A) Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in Palm Beach 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 Sections 50.041 and 50.051, *Florida Statutes*.
- (C) In lieu of publication as described in subsection (e)(1) hereinabove, such notice may be posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be the Village Hall.
- (D) 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.

(E) 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 subsections 16.01-16.04 hereinabove.

16.06 Evidence that an attempt has been made to hand deliver or mail notice as provided in subsections 16.01-16.04 hereinabove, together with proof of publication or posting as provided in subsection 16.05 hereinabove, shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the alleged violator actually received such notice.

**Sec. 17. Supplemental enforcement.**

Nothing contained in this ordinance shall prohibit the Village from enforcing its ordinances by any other means.

Section 2: All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

Section 3: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court or competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 4: Specific authority is hereby granted to codify this Ordinance.

Section 5: This Ordinance shall take effect immediately upon passage.

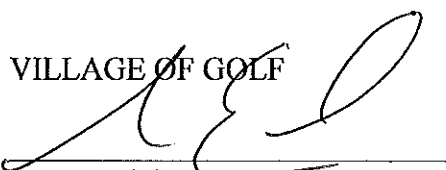
FIRST READING this 29<sup>th</sup> day of March, 2006.

SECOND AND FINAL READING this 11<sup>th</sup> day of April, 2006.

✓  
\_\_\_\_\_  
Aye

\_\_\_\_\_  
Nay

VILLAGE OF GOLF

  
\_\_\_\_\_  
Mayor Michael E. Botos

✓  
Aye

        
Nay

✓  
Aye

        
Nay

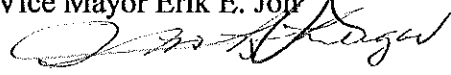
✓  
Aye

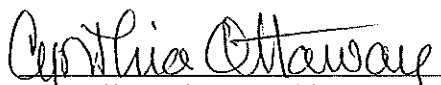
        
Nay


✓  
Aye

        
Nay

  
Vice Mayor Erik E. Joh

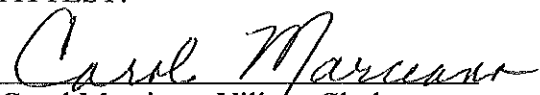
  
Councilmember William R. Lugar

  
Councilmember Cynthia Ottaway

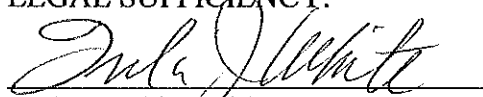
  
Councilmember William Rodawig

ATTEST:

(SEAL)

  
Carol Marciano, Village Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY.

  
Trela J. White, Village Attorney

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THE PALM BEACH POST  
Published Daily and Sunday  
West Palm Beach, Palm Beach County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA  
COUNTY OF PALM BEACH


Before the undersigned authority personally appeared **Kristi Morrow**, who on oath says that she is **Customer Service Supervisor** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Ordinance 78** was published in said newspaper in the issues of **April 5, 2006**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*Kristi Morrow*

Sworn to and subscribed before 5<sup>th</sup> day of April A.D. 2006

*Kristen J. Maxfield*

Personally known XX or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

NOTARY PUBLIC-STATE OF FLORIDA  
 **Kristen J. Maxfield**  
Commission # DD528685  
Expires: MAR. 14, 2010  
Bonded Thru Atlantic Bonding Co., Inc.

NO. 5570799  
**ORDINANCE NO. 78**  
The Village Council of the Village of Golf will hold a Public Hearing to consider the following proposed Ordinance on second and final reading, Tuesday, April 11, 2006 at 9:00 a.m. at the Village Administration Building, 21 Country Road, Village of Golf, Florida.  
**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF, FLORIDA, ESTABLISHING A SYSTEM OF CODE ENFORCEMENT FOR THE VILLAGE; AUTHORIZING THE USE OF A MUNICIPAL CODE ENFORCEMENT BOARD AND/OR A SPECIAL MAGISTRATE; PROVIDING ENFORCEMENT PROCEDURES AND THE CONDUCT CODE ENFORCEMENT HEARINGS; PROVIDING FOR ADMINISTRATIVE FINES AND LIENS; PROVIDING AN APPEALS PROCESS; PROVIDING NOTICE REQUIREMENTS; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.**  
All interested parties are invited to appear at the meeting as it may be continued from time to time, and be heard with respect to proposed ordinance.  
A copy of the proposed ordinance is on file at the Village Clerk's Office located at 21 Country Road, Village of Golf, FL 33436, for inspection by the public from 8:00 a.m. - 4:00 p.m., Monday through Friday.  
If a person decides to appeal any decision made by the Village Council with respect to any matter considered at subject meeting, he will need a record of the proceedings and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.  
**VILLAGE OF GOLF**  
PUB: The Palm Beach Post  
April 5, 2006