

ORDINANCE NO. 2016-14 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 2, "ADMINISTRATION", ARTICLE VI, "CODE COMPLIANCE", SECTION 2-69.3 "APPLICATIONS FOR LIEN REDUCTIONS, CONSIDERATIONS FOR SALE, LIEN RELEASES; FEES; FEE CAP" TO ADDRESS THE CAPS IN THE REDUCTION OF LIEN PROCESS; AMENDING SECTION 2-69.3.1, "LIEN REDUCTIONS AND RELEASE OF LIENS" TO ADDRESS LIEN SEARCHES, TO INCLUDE A RESERVATION OF RIGHTS ON BEHALF OF THE CITY IN THE COLLECTION OF LIENS, TO CLARIFY WHAT COSTS MAY BE CONSIDERED IN THE CALCULATION OF A LIEN REDUCTION, TO ENSURE PROPERTIES SUBJECT TO A PARTIAL RELEASE OF LIEN ARE FREE OF DEBT TO THE CITY AND FOR OTHER PURPOSES; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Lake Worth, Florida (the "City") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City has a procedure wherein after a property has been brought into full compliance with the Code, the property owner may seek a reduction of the existing code enforcement liens and;

WHEREAS, in order to balance the need to enforce the daily fines imposed with the need to limit the total lien amount to a reasonable sum, the City has capped the total amount of a single lien at 200% of the appraised value of the property based upon the value of the property when the lien was imposed; and

WHEREAS, the City wishes to add an alternative cap so that the total of all liens reduced on one property does not exceed 300% of the current appraised value of the property; and

WHEREAS, as part of the analysis of a proper reduction of the lien, the Special Magistrate considers the amount of money expended by the owner to bring the property into compliance; and

WHEREAS, the City Commission wishes to clarify which costs required to bring the property into compliance should be considered in the calculation of the reduction and which costs should not be considered; and

WHEREAS, in order to ensure that properties subject to lien reductions and partial releases of liens are free of any debt owed to the City, the City wishes to include an additional lien search requirement as part of the application process; and

WHEREAS, the City Commission finds that the adoption of these amendments to the lien reduction ordinance are in the best interests of the health, safety, and welfare of the residents and citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE

CITY OF LAKE WORTH, FLORIDA:

Section 1. Chapter 2, "Administration", Article VI, "Code Compliance", Section 2-69.3 is amended to read as follows:

Sec. 2-69.3. - Applications for lien reductions, considerations for sale, and lien releases; fees; lien cap.

* * *

- (d) Upon the filing of a fully completed application for a lien reduction, the total amount of the daily fine(s) authorized in each lien imposed upon the property pursuant to this chapter shall be capped at no more than two hundred (200) percent of the appraised value of the property. The appraised value of the property shall be determined by the Palm Beach County Property Appraiser's appraised "total market value" established for the property the year the order finding the violation was entered or the year prior if the current year has not yet been established. However, in no case shall the cap on the total amount of the daily fine(s) authorized under all liens exceed three hundred (300) percent of the appraised value of the property. In this case, the appraised value of the property shall be determined by the Palm Beach County Property Appraiser's appraised "total market value" established at the time the application for a lien reduction is submitted to the city.

Section 2. Chapter 2, "Administration", Article VI, "Code Compliance", Section 2-69.3.1 is amended to read as follows:

Sec. 2-69.3.1. – Lien reductions and release of liens.

- (a) The following criteria must be complied with prior to a lien reduction hearing before a special magistrate:
- (1) The property in question must be in total compliance and an affidavit of compliance must be issued for the case(s) being considered.
 - (2) The subject property must be free of all outstanding debts (including taxes) due to the city, and all administrative costs assessed in the underlying code compliance case(s) for the lien(s) have been paid or shall be paid prior to the hearing. The applicant shall have the city clerk's office conduct a lien search to determine whether the subject property is free of any outstanding

debt owed to the city, and shall provide a copy of the search results with the application. Any costs associated with any such lien search shall be the responsibility of the applicant. If the subject property has any other code enforcement liens that originated on the subject property, all such liens shall be included in the lien reduction application or shall otherwise be paid in full prior to the scheduling of the lien reduction hearing.

- (3) The request for lien reduction application must be completed and submitted to the code compliance secretary along with the applicable fee.
- (4) All other properties owned by the violator within the city must not have any active code compliance cases in process with the city. The applicant shall provide the city a list of all properties owned by the applicant within the City of Lake Worth. This list shall be submitted with the application.
- (b) Except as otherwise set forth herein, if the reduction application is complete and the above criteria have been met, a lien reduction hearing shall be scheduled before a special magistrate. The appealing party will be notified in writing of the scheduled hearing at least five (5) days prior to the hearing date by regular U.S. Mail to the address provided on the application. In its sole discretion, the city may postpone such lien hearing if it wishes to pursue the collection of the lien(s) through an alternate remedy at law or in equity, and the city shall notify the applicant of such postponement in writing.

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- (e) In determining how much to reduce the outstanding lien, the special magistrate may also consider any documented expenses incurred to bring the property into compliance. The use of the term “documented expenses” in this article may also include permit fees required to bring the property into compliance and the costs of any lien search conducted pursuant to this section; however, the lien reduction application fee, any outstanding administrative costs, and any government penalties or fines shall not be included. The special magistrate may reduce the outstanding lien amount by the total amount of these documented expenses.

Except as otherwise set forth herein, the special magistrate shall not reduce any lien, after documented expenses are deducted, if any, to less than ten (10) percent of the remaining outstanding lien. If the lien is attached to an owner-occupied residential property ~~or to a residential property that will be owner-occupied~~, the special magistrate may reduce the lien to less than ten (10) percent of the remaining outstanding lien based upon considerations of the criteria set forth in subsection (d) above and any deduction for documented expenses. The applicant shall provide proper documentation that the owner occupies ~~or will occupy~~ the residence, upon the request of the city.

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(g) Lien reductions by city manager.

- (1) Once a lien has been imposed under this article, a person may request a lien reduction from the city manager under the following special circumstances (with proof of the following provided to the city manager):
 - a. The property the lien attaches to will be sold prior to the next special magistrate hearing.
 - b. The completed application, documented expenses, if any, and any other documents to be considered by the city manager have been submitted to the city manager a minimum of five (5) business days prior to the scheduled closing.
 - c. The subject property, if located within the City of Lake Worth, must be free of all outstanding debts (including taxes) due to the city. Unless waived by the city manager due to time constraints, the applicant shall have the city clerk's office conduct a lien search to determine whether the subject property is free of any outstanding debt owed to the city, and shall provide a copy of the search results with the application. Any costs associated with any such lien search shall be the responsibility of the applicant. If the subject property has any other code enforcement liens that originated on the subject property, all such liens shall be included in the application or shall otherwise be paid in full prior to the city manager's consideration of

the lien reduction.

- ed. The lien on the subject property was recorded less than eighteen (18) months from the date the application is received by the city manager.
- de. All administrative costs or fees assessed in the underlying code compliance case for the lien have been paid or will be paid prior to the manager's consideration of the lien reduction application.
- ef. The application fee for the lien reduction has been paid in full.

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- (j) Partial release of liens. An applicant may request a partial release of lien where the lien on the property inside the city boundaries attaches to another property located in Palm Beach County, pursuant to F.S. section 162.09. The following procedures shall apply to such request:
 - (1) The applicant shall complete an application for such release and pay all applicable application fees as set by city resolution.
 - (2) The subject property, if located within the City of Lake Worth, must be free of all outstanding debts (including taxes) due to the city. The applicant shall have the city clerk's office conduct a lien search to determine whether the subject property is free of any outstanding debt owed to the city, and shall provide a copy of the search results with the application. Any costs associated with any such lien search shall be the responsibility of the applicant. If the subject property has any code enforcement liens that originated on the subject property, the partial release may not be granted until all such liens are paid either in full or at an amount reduced through the lien reduction process set forth above.
 - (23) All property owned by the applicant in whole or in part that is located in the city, including the property for which the partial release of lien is sought (if applicable), must be in compliance with all city codes prior to the granting of the partial release of lien.

- (34) A partial release of lien cannot be sought for the property where the lien originated.
- (45) Upon the payment of 10% of the total lien amount, or \$5,000, whichever is greater, the mayor is hereby authorized to execute a partial release of lien. If a lien search was required as part of an application for a partial release of lien, the costs of such search shall be deducted from the 10% of the total lien amount, or \$5,000, whichever is greater, and the applicant shall pay the balance.
- (56) When determining the total amount of the lien, section 2-69.3(d) shall be applicable.

Section 3. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of this Ordinance shall be made a part of the City's Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "division", or any other appropriate word.

Section 6. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner Maxwell, seconded by Commissioner Amoroso, and upon being put to a vote, the vote was as follows:

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| Mayor Pam Triolo | AYE |
| Vice Mayor Scott Maxwell | AYE |
| Commissioner Christopher McVoy | AYE |
| Commissioner Andy Amoroso | AYE |
| Commissioner Ryan Maier | AYE |

The Mayor, thereupon declared this Ordinance duly passed on first reading on the 22nd day of March, 2016.

The passage of this Ordinance on second reading was moved by Commissioner Amoroso, seconded by Commissioner McVoy, and upon being put to a vote, the vote was as follows:

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| Mayor Pam Triolo | AYE |
| Vice Mayor Scott Maxwell | AYE |
| Commissioner Christopher McVoy | AYE |
| Commissioner Andy Amoroso | AYE |
| Commissioner Ryan Maier | ABSENT |

The Mayor thereupon declared this Ordinance duly passed and enacted on the 5th day of April, 2016.

LAKE WORTH CITY COMMISSION

By: _____
Pam Triolo, Mayor

ATTEST:

Pamela J. Lopez, City Clerk