

ORDINANCE: 1916

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III., DIVISION 5. – CODE ENFORCEMENT SPECIAL MAGISTRATE, OF THE CITY OF CRESTVIEW CODE OF ORDINANCES; PROVIDING FOR AUTHORITY; PROVIDING FOR FILING OF THIS ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT OF OKALOOSA COUNTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER’S ERRORS; PROVIDING FOR LIBERAL INTERPRETATION; PROVIDING FOR REPEAL OF CONFLICTING CODES AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF CRESTVIEW, FLORIDA AS FOLLOWS:

CHAPTER 2, ARTICLE III., DIVISION 5. – CODE ENFORCEMENT SPECIAL MAGISTRATE is hereby amended with the addition of *Section 2-119. Lien Mitigation*, as attached to this ordinance (Attachment 1).

SECTION 1 – AUTHORITY. The authority for enactment of this ordinance is section 166.021, Florida Statutes, and Section 2 of the City Charter.

SECTION 2 – FILING – Upon passage, the City Clerk is directed to file a copy of this ordinance with the Clerk of Circuit Court of Okaloosa County and with the Florida Department of the State.

SECTION 3 – SEVERABILITY. If any word, phrase, sentence, paragraph or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4 – SCRIVENER’S ERRORS. The correction of typographical errors which do not affect the intent of this Ordinance may be authorized by the City Manager or the City Manager’s designee, without public hearing, by filing a corrected or re-codified copy with the City Clerk.

SECTION 5 – ORDINANCE TO BE LIBERALLY CONSTRUED. This Ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

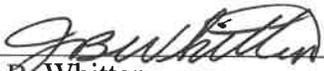
SECTION 6 – REPEAL OF CONFLICTING CODES, ORDINANCES, AND RESOLUTIONS. All Charter provisions, codes, ordinances and resolutions or parts of Charter

provisions, Codes, ordinances and resolutions or portions thereof of the City of Crestview, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7 – EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

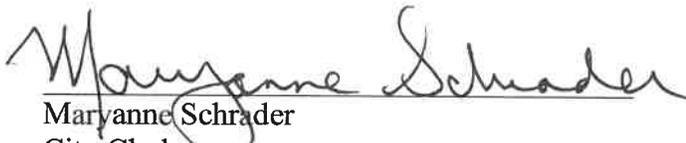
Passed and adopted on second reading by the City Council of Crestview, Florida on the 23rd day of January 2023.

Approved this 23rd day of January 2023.



J. B. Whitten
Mayor

ATTEST:



Maryanne Schrader
City Clerk



Sec. 2-119. Lien Mitigation

- (a) *Definitions.* The following, words, terms, and phrases, when used in this section, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:
 - (1) *Satisfaction of Order.* A legal document, as approved by the City Attorney, and the process by which the City acknowledges and confirms that a violator has satisfied all obligations of a Code Enforcement Order imposing a fine.
 - (2) *Release of Order.* A legal document, as approved by the City Attorney, and the process by which the City acknowledges and confirms that the City is releasing the violator from some of the obligations of a Code Enforcement Order imposing a fine while other obligations of the order have been satisfied by the violator.
 - (3) *Satisfaction of Lien.* A legal document, as approved by the City Attorney, and the process by which the City acknowledges and confirms that a violator has satisfied all obligations of a code enforcement order imposing a fine that has been filed in the public records of Okaloosa County. The City shall file a satisfaction of lien in the public records of Okaloosa County.
 - (4) *Release of Lien.* A legal document, as approved by the City Attorney, and the process by which the City acknowledges and confirms that the City is releasing the violator from some of the obligations of a Code Enforcement Order imposing a fine that has been filed in the public records of Okaloosa County, while other obligations of the order have been satisfied by the violator. The City shall file a release of lien in the public records of Okaloosa County.
 - (5) *Mitigation Schedule.* A schedule of suggested mitigation percentages, as approved by the city council and amended by resolution if needed, that shall be considered during review of an application for release of an order imposing a fine or release of lien, and that may ensure an equitable, expeditious, and effective method of gaining compliance with the code. The following is the city's suggested mitigation percentage schedule:

| <u>Fine Amount</u> | <u>% of Fine Amount to be Paid</u> |
|--------------------|--|
| \$1,000 to \$5,000 | 100% of the fine amount* |
| \$5,001—and over | 10% of the fine amount or \$5,000, whichever is greater* |

* The fine amount to be paid in a mitigated settlement may be reduced to 10 percent of the Just Market Value of the property as established by the Okaloosa County Property Appraiser in cases where the Just Market Value is greater than \$50,000.

- (b) *Satisfaction of Order of Lien.*
 - (1) At any time that a violator/property owner has satisfied all obligations of a Code Enforcement Order, the City Manager, upon request provided by the violator and a statement of compliance provided by the Code Inspector, shall execute a Satisfaction of Order or Lien, whichever is applicable.
 - (2) The City Clerk will record any Satisfaction of Lien in the public records of Okaloosa County, Florida, and provide a copy of the recorded document to the property owner.
- (c) *Release of Lien.* If a certified copy of a Code Enforcement Board order has been recorded in the public records and the property that was in violation has been brought into compliance with the code, the violator/property owner may apply to the City for a release of lien as follows:
 - (1) The violator/property owner shall apply for a release of lien in writing that includes, at a minimum:
 - a. the address of the subject property,

- b. the date the subject property was brought into compliance,
 - c. the factual basis for the request for Release of Lien,
 - d. the terms upon which the violator/property owner believes a Release of Lien should be granted,
 - e. a statement of compliance by the code inspector, and
 - f. the amount of the release in fines sought by the violator/property owner.
- (2) Upon receipt of the application for release of lien, the City Manager shall review the request to determine if review by the City Council is appropriate or if the case can be settled by the City Manager. If the request is not consistent with the suggested mitigation schedule or exceeds \$20,000.00, it will be scheduled for the next available Council meeting and Staff will prepare a recommendation to the City Council. If the request is consistent with the suggested mitigation schedule and the settlement amount is less than \$20,000.00, the City Manager can settle the case according to guidelines in this section.
- (3) If the property subject to the request is also the subject of a foreclosure proceeding filed by the City against the property and property owner in violation, the City Manager shall issue a written denial of the request that includes name, address and telephone number of the foreclosure attorney and advised the applicant that matter must be considered as a settlement of the litigation.
- (4) The City Manager shall consider request for Release of Lien at pursuant to the following criteria:
- a. The City Manager may take action based solely upon the sworn application and comments of the petitioner, and the recommendation of the City Staff.
 - b. The City Manager may reduce the amount of the lien consistent with the mitigation schedule or continue the lien in its full amount.
 - c. The City Manager will consider the following in determining whether to approve or deny a request for Release of Lien:
 - 1. The gravity of the violation.
 - 2. The time in which it took the violator/property owner to come into compliance.
 - 3. The accrued amount of the code enforcement fines/lien as compared to the County's Property Appraiser's stated value of the property before exemptions.
 - 4. Any previous code violations; and
 - 5. Consistency with the suggested mitigation schedule.
 - d. If the City Manager approves a Release of Lien settlement, the City Attorney shall review the Release of Lien prior to the City Manager executing the release and the City Clerk shall have the release recorded in the public records of Okaloosa County, Florida, and provide a copy to the property owner.
- (5) When the request cannot be settled by the City Manager, The City Council may consider the request for Release of Lien at a public meeting. Requests for settlement should be evaluated pursuant to the following criteria:
- 1. The gravity of the violation.
 - 2. The time in which it took the violator/property owner to come into compliance.
 - 3. Any previous code violations; and
 - 4. The adopted mitigation schedule.
- d. If the City Council approves a release of lien, the City Manager shall execute such release and the City Clerk shall have the release recorded in the public records of Okaloosa County, Florida, and provide a copy to the property owner.