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ORDINANCE NO. 2020-001

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA, AMENDING CHAPTER 2 OF THE CITY CODE, ARTICLE III, ENTITLED "BOARDS, COMMITTEES, COMMISSIONS," DIVISION 2, ENTITLED "CODE ENFORCEMENT SPECIAL MAGISTRATE", AND IN PARTICULAR TO AMEND SECTION 2-75 ENTITLED "FINE FOR FAILURE TO COMPLY WITH ORDER"; REPEALING SECTION 2-81 ENTITLED "CRITERIA FOR LIEN REDUCTION"; REPEALING SECTION 2-82 ENTITLED "APPLICATION FEE FOR LIEN REDUCTION"; REPEALING SECTION 2-83 ENTITLED "LIEN REDUCTION PROCEDURE"; REPEALING SECTION 2-84 ENTITLED "CONDUCT OF HEARING FOR LIEN MODIFICATION"; CREATING A NEW SECTION 2-81 ENTITLED "LIEN REDUCTION PROCEDURES; PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

26 **WHEREAS,** City Staff periodically reviews the Ordinances of the City of
27 Wilton Manors, Florida and makes recommendations to the City Commission to revise
28 its Ordinances; and

29 **WHEREAS,** the City Commission of the City of Wilton Manors, Florida
30 deems it to be in the best interests of the citizens, businesses, and residents of the City
31 to amend the Code of Ordinances as set forth herein.

32 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION**
33 **OF THE CITY OF WILTON MANORS, FLORIDA:**

1 **Section 1:** The foregoing “WHEREAS” clauses are hereby ratified as being
2 true and correct and are hereby made a specific part of this Ordinance upon adoption
3 hereof.

4 **Section 2:** Article III of the City Code of the City of Wilton Manors, entitled
5 “Boards, Committees, Commissions,” Division 2 entitled “Code Enforcement Special
6 Magistrate” is hereby amended to provide as follows:

7 Sec. 2-75. - Fine for failure to comply with order.

8 (a) The code enforcement special magistrate, upon notification by the code inspector
9 that a previous order of the code enforcement special magistrate has not been
10 complied with by the set time or, upon finding that a repeat violation has been
11 committed, may order the violator to pay a fine in the amount specified in this
12 section for each day the violation continues past the date set by the code
13 enforcement special magistrate for compliance or, in the case of a repeat violation,
14 for each date the repeat violation continues, beginning with the date the repeat
15 violation is found to have occurred by the code inspector. In addition, if the
16 violation is a violation described in F.S. § 162.06(4), as amended from time to time
17 (if the code ~~enforcement officer~~ inspector has reason to believe that the violation
18 presents a serious threat to the public health, safety or welfare, or if the violation is
19 irreparable or irreversible), the code enforcement special magistrate shall notify the
20 ~~local governing body~~ city, which may make all reasonable repairs which are
21 required to bring the property into compliance and charge the violator with the
22 reasonable cost of repairs, along with the fine imposed pursuant to this section.
23 Making such repairs does not create a continuing obligation on the part of the local
24 governing body to make further repairs or to maintain the property and does not
25 create any liability against the local governing body for any damages to the
26 property if such repairs were completed in good faith. If finding of a violation or a
27 repeat violation has been made, as provided in this section, a hearing shall not be
28 necessary for the issuance of an order imposing the fine.

29 (b) A fine imposed pursuant to this section shall not exceed two hundred fifty dollars
30 (\$250.00) per day for a first violation and shall not exceed five hundred dollars
31 (\$500.00) per day for a repeat violation and, in addition, may include all costs of
32 repairs pursuant to subsection (a) above. However, if the code enforcement special
33 magistrate finds the violation to be irreparable or irreversible in nature, it may
34 impose a fine not to exceed five thousand dollars (\$5,000.00) per violation.

1 In formulating its order, the code enforcement special magistrate should be
2 consistent in the imposition of fines and shall consider the following factors:

3 (1) The gravity of the violation;

4 (2) Any actions taken by the violator to correct the violation; and

5 (3) Any previous violations committed by the violator. ~~The city commission may~~
6 ~~reduce a fine imposed pursuant to this section; if however, the subject violation~~
7 ~~fails to pay said reduced fine within a period of sixty (60) days from the day~~
8 ~~the order is rendered deciding said fine, then the original fine shall be~~
9 ~~reinstated. If the violator makes arrangements through the city manager to pay~~
10 ~~said reduced fine in monthly payments and fails to timely make any one (1) of~~
11 ~~the monthly payments, then the original fine, less payments made, shall be~~
12 ~~automatically reinstated.~~

13 (c) Fines are to be paid to the city finance department.

14 (d) In determining the amount of the fine, if any, the code enforcement special
15 magistrate shall consider the following factors:

16 (1) The gravity of the violation;

17 (2) Any actions taken by the violator to correct the violation; and

18 (3) Any previous violations committed by the violator.

19 (e) A lien arising from a fine imposed pursuant to this section runs in favor of the local
20 governing body and the local governing body may execute a satisfaction or release
21 of lien entered pursuant to this section.

22 ~~Sec. 2-81. Criteria for lien reduction.~~

23 ~~The following criteria must be complied with prior to a lien reduction hearing~~
24 ~~before the city commission:~~

25 ~~(1) The property in question must be in total code compliance and an affidavit of~~
26 ~~compliance must be issued for the code compliance case.~~

27 ~~(2) The subject property must be free of all outstanding debts (including taxes) due~~
28 ~~the city.~~

29 ~~(3) A non-refundable application fee of two hundred dollars (\$200.00) must be~~
30 ~~included for the application to be processed.~~

31 ~~Sec. 2-82. Application fee for lien reduction.~~

32 ~~A non-refundable application fee of two hundred dollars (\$200.00) shall~~
33 ~~accompany the initial reduction application with a non-refundable fee of fifty dollars~~
34 ~~(\$50.00) for each additional lien recorded against the property. The fees may hereafter~~
35 ~~be amended by Resolution of the city commission.~~

1 ~~Sec. 2-83.— Lien reduction procedure.~~

2 ~~A party requesting a lien reduction must submit a complete lien reduction~~
3 ~~application to the code enforcement department upon receiving verification that all~~
4 ~~conditions are complied with as stated in section 2-81. The code compliance~~
5 ~~administrator or designee will process the application and determine that all required~~
6 ~~criteria have been complied with under section 2-81. If the applicant does not qualify~~
7 ~~for a hearing under section 2-81, the party will be notified in writing of the reasons. If~~
8 ~~the reduction application is complete, the case will be placed on the next available city~~
9 ~~commission meeting.~~

10 ~~Sec. 2-84.— Conduct of hearing for lien modification.~~

11 ~~The city commission at a lien modification hearing may make one (1) of the~~
12 ~~following determinations: The lien may be waived in full, reduced to a specified amount~~
13 ~~or may be upheld in full. The city commission shall hear all the facts regarding the~~
14 ~~specific code or codes the appealing party was in violation of, the date of the original~~
15 ~~special magistrate hearing, the date the affidavit of noncompliance was issued, the date~~
16 ~~the affidavit of compliance was issued, the current lien amount and all pertinent~~
17 ~~information relating to the specific case, prior to the city commission making its~~
18 ~~determination and order. The lien modification hearing shall not be a hearing de novo of~~
19 ~~the original case.~~

20 Sec. 2-81 Lien Reduction Procedures.

21 The special magistrate is authorized to reduce fines, liens, and penalties as
22 follows:

23 (a) Application - A signed Application for Lien Reduction from any
24 order imposing a fine or lien by a special magistrate must be filed
25 with the code compliance unit. The city will process an Application
26 for Lien Reduction provided the subject code case is in compliance, and
27 no other code violations exist on the subject property or any other
28 property within the city owned by the violator. The city will prepare a
29 written analysis of the lien reduction factors to be considered by the
30 special magistrate and supplement the record with such written analysis.

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32 The application must include:

- 33 (1) Name, address, and signature of the applicant.
34 (2) If represented by an attorney, the name and address of the
35 attorney must also be given; and the attorney must either
36 file a Notice of Appearance or must sign the application.
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- (3) Address, or brief legal description, or both, of the property on which the violation occurred.
- (4) Address, or brief legal description, or both, of all real property owned by the applicant located in the City of Wilton Manors.
- (5) A non-refundable application fee of two hundred dollars (\$200.00) with a non-refundable fee of fifty dollars (\$50.00) for each additional lien recorded against the property. The application fees may hereafter be amended by resolution of the city commission.
- (6) A brief explanation of the reduction sought, along with all relevant and supporting documentation and evidence.
- (7) If the lien reduction request is based upon financial inability, a financial affidavit must be filed with supplemental information that shall include bank account statements for at least six (6) months, and federal income tax returns and supporting documents for the last three (3) years.
- (8) If the lien amount exceeds the equity in the subject property, written documentation to support this contention must be provided. Such information shall include a current appraisal or Broward County Property Appraiser's latest valuation.
- (9) Reduction under this section is strictly discretionary by the special magistrate. The application shall include a waiver of the right, if any, to seek judicial review of the special magistrate's discretionary decision whether or not to reduce the lien.

- (b) Upon the receipt of the complete application, the city's code compliance unit shall inspect the applicant's property(ies) and city records to verify compliance.
 - (1) If the code inspector verifies compliance, they shall confirm compliance and update the property record.
 - (2) If the code inspector is not able to confirm compliance, a notice identifying the outstanding issues shall be sent to applicant.

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The applicant shall have 30 days from receipt of notice from the city to comply with the outstanding issues. Should the applicant fail to do so, the application will be deemed withdrawn, and should the applicant desire to again request a mitigation of a code compliance lien, a new application will need to be filed, including payment of the required application fee(s).

(c) Initial Consideration - No application shall be processed unless and until the code inspector verifies that the subject property is in compliance with all city codes, and the subject property is free of all outstanding debts due to the city which includes, but is not limited to, taxes, local business tax receipts, utility accounts, and other code enforcement cases. The special magistrate shall not grant a lien reduction to any applicant whose property is the subject of any pending foreclosure proceedings initiated by the City of Wilton Manors or was purchased at a tax deed sale without the express written consent of the City Attorney.

(d) Hearing – The application will be set for the next available hearing date after the application is reviewed and determined to be complete and in compliance with the requirements of this section. If all compliance requirements have been met, the Code Compliance Administrator or designee will set a hearing, at which time the special magistrate may consider the application and any city response. The special magistrate shall only consider testimony and evidence pertaining to the Application for Lien Reduction and not evidence or testimony contesting the underlying violation or the previous finding of violation by the special magistrate. The Administrator or designee shall notify the applicant or representative in writing, not less than ten (10) days prior to the scheduled hearing.

(e) Determination - The special magistrate shall enter an Order granting or denying the requested relief in whole or in part, or such relief as the special magistrate may deem appropriate. The special magistrate shall consider all relevant factors to determine what relief, if any, is appropriate including, but not limited to:

- (1) The nature and gravity of the violation;
- (2) Any actions taken by the owner to correct the violation;
- (3) The length of time between the ordered compliance date and the date the violation was eliminated;

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(4) Any actual costs expended by the owner to cure the violation as provided by supporting documentation, including payment of city licensing or permit fees;

(5) Any other prior or current violations committed by the owner on the subject property or upon any other property owned by the owner within the city;

(6) Repeat violations committed by the same owner regardless of whether it is on the same property; and

(7) Costs incurred by the city to abate the violation and prosecute the case, including administrative and overhead expenditures.

(f) Transfer of ownership after recordation of the city's lien shall not be considered as a factor in the lien reduction; nor shall a lapse of time before seeking enforcement be considered.

(g) Any reduction granted shall be contingent upon payment within sixty (60) days of the order. The special magistrate may grant additional time to remit payment to the city and such additional time must be specified in the Order. Failure to remit payment to the city by the date ordered shall cause the original fine to be reinstated.

(h) The special magistrate may reduce the fine upon a finding of good cause, based on the provisions of this section and any evidence and testimony presented; otherwise the application shall be denied.

(i) The lien for owner occupied property shall not be reduced to an amount less than fifteen percent (15%) of the total lien, or to the total of all incurred city costs and expenses including but not limited to attorney's fees, whichever is greater. The lien for all other property shall not be reduced to an amount less than fifty percent (50%) percent of the total lien, or to the total of all incurred city costs and expenses including but not limited to attorney's fees, whichever is greater.

(j) Upon a finding of extreme hardship, including financial hardship, the special magistrate may reduce the fine up to one hundred percent (100%). Such a finding may only be made in rare and extraordinary circumstances. The special magistrate shall exercise caution in making such a finding.

1 (k) All applicants may appeal the special magistrate’s decision to the city
2 commission. The applicant’s notice of appeal must be provided to the
3 city in writing within ten (10) days of the date of the order. The
4 appealing party will be notified in writing of the scheduled date of the
5 hearing at least five (5) days prior to the hearing date. A party receiving
6 a lien reduction, shall, in addition to any reduced lien amount, pay to the
7 city an amount determined by the city commission to be reasonably
8 related to the city’s administrative costs of enforcing the city code and
9 collecting the lien amount. The city commission may affirm, reverse, or
10 modify the magistrate’s order. The application fee, if any, to appeal the
11 matter to the city commission may be established by resolution of the
12 city commission.

13 **Section 3: Codification.** It is the intention of the City Commission
14 of the City of Wilton Manors, and it is hereby ordained that the provisions of this
15 Ordinance shall become and be made a part of the Code and Ordinances of the City of
16 Wilton Manors, Florida, and that Sections of this Ordinance may be renumbered, re-
17 lettered and the word “Ordinance” may be changed to “Section,” “Article,” or such
18 other word or phrase in order to accomplish such intention.

19 **Section 4: Severability.** If any clause, section, or other part of this
20 Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or
21 invalid, such unconstitutional or invalid part shall be considered as eliminated and in no
22 way affecting the validity of the other provisions of this Ordinance.

23 **Section 5: Conflicts.** That all Ordinances or parts of Ordinances,
24 Resolutions, or parts of Resolutions in conflict herewith, be and the same are repealed
25 to the extent of such conflict.

1 **Section 6. Effective Date.** That this Ordinance shall take effect
2 immediately upon adoption.

3
4 **PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF**
5 **WILTON MANORS, FLORIDA, THIS 28th DAY OF January, 2020.**

6
7 **PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY**
8 **COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA THIS 23rd**
9 **DAY OF March, 2021.**

10
11 CITY OF WILTON MANORS, FLORIDA
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14 By: 
15 SCOTT NEWTON, MAYOR

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18 ATTEST:
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22 FAITH LOMBARDO
23 CITY CLERK

24 RECORD OF COMMISSION VOTE: 1ST
25 Reading

26 MAYOR FLIPPEN
27 VICE MAYOR GREEN
28 COMMISSIONER CARSON
29 COMMISSIONER RESNICK
30 COMMISSIONER ROLLI



31 I HEREBY CERTIFY that I have
32 approved the form of this Ordinance.

33
34 /s/ Kerry L. Ezrol
35 KERRY L. EZROL, ESQ.
36 CITY ATTORNEY

37 RECORD OF COMMISSION VOTE: 2ND
38 Reading

39 MAYOR NEWTON
40 VICE MAYOR ROLLI
41 COMMISSIONER BRACCHI
COMMISSIONER CAPUTO
COMMISSIONER RESNICK

