

ORDINANCE NO. 2019-67

AN ORDINANCE OF THE CITY OF LARGO, FLORIDA AMENDING THE CITY OF LARGO CODE OF ORDINANCES BY AMENDING CHAPTER 9, SECTION 9-72 (B) ESTABLISHING FACTORS FOR THE CODE ENFORCEMENT BOARD'S REVIEW OF REQUESTS FOR REDUCTION OF FINES AND CORRECTING ERRORS IN THE NUMBERING OF SUBSECTIONS; AMENDING CHAPTER 9, SECTION 9-146 (B) ESTABLISHING FACTORS FOR THE SPECIAL MAGISTRATE'S REVIEW OF REQUESTS FOR REDUCTION OF FINES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 162, Florida Statutes, the City has established a code enforcement board and special magistrate for code enforcement matters; and

WHEREAS, provisions pertaining to the code enforcement board and special magistrate are codified in Chapter 9 of the Largo Code of Ordinances; and

WHEREAS, pursuant to section 162.03, Florida Statutes and section 9-146 of the City of Largo Code of Ordinances, a special magistrate has the same duty and authority as a code enforcement board; and

WHEREAS, pursuant to section 162.09, Florida Statutes and sections 9-72 (b) and 9-146 (b) of the City of Largo Code of Ordinances, the code enforcement board and special magistrate may reduce any fine imposed pursuant to these sections, respectively; and

WHEREAS, there are typographical errors in the numbering of the subsections of section 9-72 (b) of the City of Largo Code of Ordinances; and

WHEREAS, the City Commission determines that it is in the public interest to establish factors for the code enforcement board and special magistrate in their consideration of requests for reduction of fines.

NOW, THEREFORE, THE CITY OF LARGO CITY COMMISSION HEREBY ORDAINS:

SECTION 1. The above recitals are true, correct, and are hereby incorporated by reference as the findings of the City Commission.

SECTION 2. Section 9.72 (b) of the City of Largo Code of Ordinances is hereby amended to read as follows:

(b) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a) of this section. However, if the code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation. In determining the amount of the fine, if any, the code enforcement board shall consider the following

factors:

- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

Since the city has a population equal to or greater than 50,000 the city commission may adopt, by a vote of at least a majority plus one of the entire city commission, an ordinance that gives the code enforcement board authority to impose fines in excess of the limits set forth in this subsection. Such fines shall not exceed \$1,000.00 per day per violation for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board finds the violation to be irreparable or irreversible in nature. In addition to such fines, the code enforcement board may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs of repairs pursuant to subsection (a) of this section. Any ordinance imposing such fines shall include criteria to be considered by the code enforcement board in determining the amount of the fines, including, but not limited to, those factors set forth in this subsection.

The code enforcement board is authorized to reduce any fine it imposes pursuant to this section. The board may establish procedures for hearing cases for reduction of fines and the board's decision with regard to the reduction of any fine shall be final. The board shall not reduce a fine if an affidavit of compliance has not been accepted by the board for the violation for which the fine(s) that the violator is seeking to be reduced was imposed. The board shall not reduce a fine if there is at least any other open code enforcement case against the individual or entity requesting the reduction, without regard to whether the case is in the form of code enforcement board case, special magistrate case, citation case before County Court, or any other quasi-judicial or judicial matter. The board shall not reduce a fine if the fine is the result of a repeat violation, as defined in section 9-19 (a) of this Code. The board shall not reduce a fine that has already been reduced by the board.

In determining whether to reduce a fine and the amount of reduction of the fine, if any, the board shall consider the following factors:

- (1) The gravity of the violation, including but not limited to, the impact on public health, safety, and general welfare of surrounding properties and residents;
- (2) Any proactive actions taken by the party requesting the reduction to correct the violation;
- (3) Any previous violations committed by the requester, including the gravity of such violations, the number and frequency of such violations, and whether the requester has demonstrated a pattern of violating the City's Code;
- (4) Whether the requester is the violator in the underlying case, or whether there has been a transfer of ownership of the subject property since the fine was imposed;
- (5) The amount of time the violation existed on the subject property prior to the filing of the Affidavit of Compliance;

- (6) The costs incurred by the City in enforcing the violation, including but not limited to, City staff's time and any costs of repairs.

If the board grants a reduction, the fine shall not be reduced below the administrative costs of the code enforcement board action, plus the minimum fee, as provided for in the City of Largo Fee Ordinance. The board shall set a specified date by which the reduced fine must be paid in full. This specified date shall be no less than thirty (30) days from the fine reduction hearing and no more than one (1) year from the fine reduction hearing. The determination of the specified date may be based on evidence of hardship presented by the requester. If the reduced fine is not paid in full by the specified date set by the board, the fine reduction shall be deemed to be waived by the requester., and the full amount of the fine shall be automatically reinstated.

SECTION 3. Section 9-146 (b) of the City of Largo Code of Ordinances is hereby amended to read as follows:

(b) *Reduction of Fines.* The special magistrate is authorized to reduce any fine he/she imposes pursuant to this section. The special magistrate may establish procedures for hearing cases for reduction of fines and the special magistrate's decision with regard to the reduction of any fine shall be final. The special magistrate shall not reduce a fine if the subject property has not been brought into compliance in regards to the violation for which the fines have been imposed. The special magistrate shall not reduce a fine if there is at least one other open code enforcement case against the individual or entity requesting the reduction, without regard to whether the case is in the form of code enforcement board case, special magistrate case, citation case before County Court, or any other quasi-judicial or judicial matter. The special magistrate shall not reduce a fine if the fine is the result of a repeat violation, as defined in section 9-19 (a) of this Code. The special magistrate shall not reduce a fine that already has been reduced by the special magistrate.

In determining whether to reduce a fine and the amount of reduction of the fine, if any, the special magistrate shall consider the following factors:

- (1) The gravity of the violation, including but not limited to, the impact on public health, safety, and general welfare of surrounding properties and residents;
- (2) Any proactive actions taken by the party requesting the reduction to correct the violation;
- (3) Any previous violations committed by the requester., including the gravity of such violations, the number and frequency of such violations, and whether the requester. has demonstrated a pattern of violating the City's Code;
- (4) Whether the requester. is the violator in the underlying case, or whether there has been a transfer of ownership of the subject property since the fine was imposed;
- (5) The amount of time the violation existed on the subject property prior to the filing of the Affidavit of Compliance;

- (6) The costs incurred by the City in enforcing the violation, including but not limited to City staff's time and any costs of repairs.

If the special magistrate grants a reduction, the fine shall not be reduced below the administrative costs of the special magistrate action, plus the minimum fee, as provided for in the City of Largo Fee Ordinance. The special magistrate shall set a specified date by which the reduced fine must be paid in full. This specified date shall be no less than thirty (30) days from the fine reduction hearing and no more than one (1) year from the fine reduction hearing. The setting of the specified date may be based on evidence of hardship presented by the requester. If the reduced fine is not paid in full by the specified date set by the special magistrate, the fine reduction shall be deemed to be waived by the requester, and the full amount of the fine shall be automatically re-instated.

SECTION 4. All ordinances or parts thereof inconsistent herewith are hereby repealed and superseded.

SECTION 5. This ordinance shall be codified and made part of the City of Largo Code of Ordinances, and all existing section numbers in Chapters 9, together with any cross references thereto, may be revised to accomplish such codification.

SECTION 6. It is the intention of the Largo City Commission that each provision hereof be considered severable, and, if any section, subsection, sentence, or provision of this ordinance is held invalid, the remainder of the ordinance shall not be affected.

SECTION 7. This ordinance shall become effective immediately upon its final passage and adoption.

APPROVED ON FIRST READING _____

PASSED AND ADOPTED ON
SECOND AND FINAL READING _____

CITY OF LARGO, FLORIDA

Louis (Woody) L. Brown, Mayor

REVIEWED AND APPROVED:

ATTEST:

Alan S. Zimmet, City Attorney

Diane Bruner, City Clerk