

ORDINANCE NO. 566

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE IV, CODE ENFORCEMENT, DIVISION 1, CODE ENFORCEMENT THROUGH HEARING OFFICER PROCESS, BY AMENDING SECTION 2-137, SPECIFICALLY SUBSECTION 2-137(c)(2), ADMINISTRATIVE FINES; LIENS; AND BY AMENDING SECTION 2-140, NOTICES; PROVIDING FOR SEVERABILITY, CONFLICTS AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Orange City, upon recommendation from the City Code Enforcement staff, deems it in the best interests of the citizens of the City of Orange City to amend and update the administration of code enforcement fines and liens within the City of Orange City, and to clarify the code enforcement notice requirements as set forth in Chapter 2, Administration, Article IV, Code Enforcement, Division 1, Code Enforcement Through Hearing Officer Process, Section 2-137, specifically Subsection 2-137(c)(2) and Section 2-140; and

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. Chapter 2, Administration, Article IV, Code Enforcement, Division 1, Code Enforcement Through Hearing Officer Process, Section 2-137 of the City Code of Ordinances shall be amended and replaced in its entirety, specifically Section 2-137(c)(2), as follows:

Article IV. Code Enforcement

Division 1. Code Enforcement Through Hearing Officer Process.

Sec. 2.137. Administrative fines; liens.

(c)(2) Where a certified copy of an order imposing a penalty or fine, as described above, has been recorded in the public records and has become a lien against the land and/or property of the violator, the property owner, the property owner's successors and assigns who have an ownership interest in the property, or a prospective purchaser of the property, i.e. a party to a contract to purchase the property (such violator/property owner, successor or assign, contract buyer collectively referred to as "Applicant") may apply for a reduction or release of such lien as follows:

- a. Upon full payment by the Applicant of the lien amount, the City Manager or designee is hereby authorized to execute and record a satisfaction of lien.
- b. Upon request for a reduction or forgiveness of the lien amount, the Applicant shall submit a written application to code enforcement staff.
- c. The application shall be executed under oath and sworn to in the presence of a notary and shall include, but may not be limited to the following:
 1. The code enforcement case number;
The specific code violations at issue on the property;
 3. The date the property was brought into compliance with the City Code;
 4. The reasons compliance was not obtained prior to the deadline for compliance established by the code enforcement special magistrate;
 5. Whether the Applicant claims special financial difficulties that prevented the Applicant from bringing the property into compliance or from paying the full amount of the lien;
 6. If the Applicant was not the owner or tenant at the time the violations were found and the fines imposed, but purchased the property thereafter, was the Applicant aware of the City's lien before purchasing the property. If Applicant contends he/she

was not aware of the lien prior to purchase, attach a copy of any title policy or title work for the subject property;

7. The amount of the reduction being sought; and
8. Any other information which the Applicant deems pertinent to the request, including but not limited to the circumstances that exist which would warrant the reduction or forgiveness of the lien amount.

d. The Applicant shall submit at the time of application an application fee established by the City by Resolution to defray some or all of the City's costs of processing the application and for recording costs. Such fee is non-refundable without regard to the final disposition of the application.

e. Upon receipt of the application, code enforcement staff shall confirm whether the violation(s) that was the basis for the lien has been corrected and, thereafter submit the Application to the Hearing Officer for review and consideration. The City Council hereby delegates to the Hearing Officer the authority to review and decide upon applications for reductions of liens.

f. The Hearing Officer shall consider the following factors in determining whether to reduce the amount of the lien:

1. The gravity of the violation;
The actions taken by the Applicant to correct the violations and the time in which it took to bring the property into compliance;
3. The accrued amount of the code enforcement fine or lien;
4. Any previous or subsequent code violations;
5. The Applicant's prior knowledge of the lien;
6. Any financial hardship; and
7. Any other mitigating circumstances which may warrant the reduction of the lien.

g. The Hearing Officer may approve, approve with conditions, or deny the application for release or reduction of the lien. To the maximum extent feasible, the Hearing Officer shall collect, at a minimum, all administrative and out-of-pocket costs incurred by the City relating to the code enforcement action for the subject property. If the Hearing Officer approves a reduction of the lien amount, Applicant shall have an amount of time set by the Hearing Officer from the date the decision is conveyed to Applicant to pay the reduced lien amount in full and to comply with any conditions imposed by the Hearing Officer. Unless special payment arrangements are set forth in the Hearing Officer's written decision, Applicant's failure to pay in full or comply

with any conditions established by the Hearing Officer within the time frame set forth by the Hearing Officer results in the automatic denial of the application and the lien amount shall revert back to the original lien amount.

h. If the application is denied or if the Applicant failed to timely pay the reduced lien amount, the Applicant shall thereafter be barred from applying for a subsequent reduction or forgiveness of the lien for a period of one year from the date of denial.

i. Right of Appeal. The Applicant shall have thirty (30) days in which to submit a written appeal of the Hearing Officer's decision on the application. The appeal shall be to the City Council and shall be filed with the City Clerk. The notice of appeal shall state the decision that is being appealed, the grounds for appeal, and a brief summary of the relief being sought. A non-refundable filing fee as established by Resolution shall accompany the notice of appeal. Upon submittal of a timely appeal, code enforcement staff shall place the appeal on the agenda of the next regularly scheduled City Council meeting to the extent practicable, but no less than seven (7) days from the date of appeal. The City Council shall render a final decision on the application based upon the sworn application, the Hearing Officer's determination, and information regarding the factors set forth in section f above. The City Council may consider any other relevant information or testimony provided by the Applicant, City, or other interested party. Any decision made by the City Council pursuant to this section shall be deemed final and not subject to any further administrative review by the City. Applicant shall have thirty (30) days to comply with any decision of or condition imposed by the City Council from the date of the Council's decision, or the application shall be deemed automatically denied, the lien amount shall revert to its original amount, and Applicant shall be barred from applying for another reduction or release of lien for a period of one year from the date of the Council's decision.

j. When a lien is satisfied as a result of a reduced payment or release, the City Manager or designee shall execute and record a satisfaction of lien in the public records of Volusia County, Florida.

k. Partial Release. Under appropriate circumstances and terms determined by the City Manager or City Council to be in the best interest of the city, the City Manager or City Council may approve a partial release of lien that releases a city lien from a specific piece of property, but the lien will remain in effect and will encumber any other properties which are subject to the lien pursuant to law. Partial releases of lien may also be authorized by

the City Manager or City Council to account for any funds paid to the City to reduce the amount owed on the lien.

I. Nothing herein shall require an application in the event a lien is recorded in error by the City. The City Manager may release a lien, in whole or in part, that was recorded in error by the City.

SECTION 2. Chapter 2, Administration, Article IV; Code Enforcement, Division 1, Code Enforcement through Hearing Officer process, §2.140, Notices, of the City Code of Ordinances shall be amended and replaced in its entirety, as follows:

Sec. 2-140. - Notices.

All notices required by Chapter 162, Florida Statutes, shall be provided to the alleged violator in the manner set forth in section 162.12, Florida Statutes.

Ord. No. 192, § 11, 4-27-04)

SECTION 3. CODIFICATION. It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Orange City, Florida and the word “ordinance” may be changed to “section”, “article”, or other appropriate word or phrase and the sections of the Ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 4. CONFLICTS. All ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed to the extent of any conflict.

SECTION 5. SEVERABILITY. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage and adoption.

ROLL CALL VOTE AS FOLLOWS:

First Reading this _____ day of _____, 2016.

Anthony J. Pupello _____	Michael G. Wright _____
Ronald L. Saylor _____	Tom Abraham _____
O. William Crippen _____	Gary A. Blair, Vice Mayor _____
Tom Laputka, Mayor _____	

ROLL CALL VOTE AS FOLLOWS:

Second Reading this _____ day of _____, 2016.

Anthony J. Pupello _____	Michael G. Wright _____
Ronald L. Saylor _____	Tom Abraham _____
O. William Crippen _____	Gary A. Blair, Vice Mayor _____
Tom Laputka, Mayor _____	

PASSED and ADOPTED this _____ day of _____, 2016.

ATTEST:

AUTHENTICATED:

Gloria J. Thomas, CMC, City Clerk

Tom Laputka, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr., City Attorney