

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **AMENDMENT TO THE RULES OF PROCEDURE FOR CODE ENFORCEMENT BOARD AND SPECIAL MAGISTRATE**; AMENDING RULE 17 ESTABLISHING A SET OF PROCEDURES BY WHICH REDUCTION REQUESTS FOR CODE ENFORCEMENT LIENS AND ADMINISTRATIVE COSTS ARE TO BE ADDRESSED AND MITIGATED.

**WHEREAS**, the City of Fort Pierce recently experienced a recession in which many homes were lost through foreclosure or tax sale resulting in substantial stock of vacant and distressed properties; and

**WHEREAS**, due to the abandonment and neglect of these properties, code enforcement action was taken resulting in fines and liens being assessed, which placed an encumbrance upon the title; and

**WHEREAS**, the current economy is changing direction and investors and new home buyers alike are interested in purchasing these distressed properties and correcting any code violations; and

**WHEREAS**, the Code Enforcement Board for the City of Fort Pierce, Florida, at its regular meeting on May 11, 2016, adopted an amendment to Rule 17 (Requests for Reduction of Liens) of its Rules of Procedure, said amendment establishing procedures in which these encumbrances can be addressed and settled in a timely fashion thus clearing any title deficiencies, as follows:

**Rule 17. Requests for Reduction of Liens.**

**Section (a)** A respondent may request a reduction of a lien otherwise imposed by the City to the Department, after the original violation is in compliance and the Department has issued an affidavit of compliance. No such request shall be made until after the date originally set for compliance has passed and the property is already under penalty. ~~The Any~~ request for reduction of lien shall be made in writing to the Department and shall state reasons ~~for why there should be consideration of a reduction of the Lien should be considered~~. The request should include a description of any supporting documentation which should be considered in furtherance of such request. ~~The Department shall schedule a hearing on the request before the Special Magistrate or Board, with notice to the respondent. After hearing both sides, the Special Magistrate shall make a determination, or the Board shall adopt a motion, recommending to the Commission that the request for reduction of the lien be denied, granted, or granted with conditions. The recommendation will be based upon evidence, upon consideration of the following criteria:~~

- ~~1. The gravity or seriousness of the violation;~~
- ~~2. Any and all actions taken by the violator to correct the violations;~~
- ~~3. The length of time necessary to bring the property into compliance;~~
- ~~4. The number of prior violations committed by the violator;~~
- ~~5. The number of violation notices the violator has received in the past;~~

- ~~6. Whether or to what extent there are extenuating factors preventing timely compliance, such as unavoidable personal hardship.~~
- ~~7. Whether or to what extent there are pending violation proceedings on the subject property or any other property within the City owned by the respondent.~~

~~Any motion of recommendation shall include findings on each criterion. Any recommendation that the lien be reduced in whole or in part shall include provision for payment of administrative costs except that such costs may be waived as appropriate upon consideration of the same factors upon which the recommendation is based. Any recommendation for reduction may include further recommendation that reduction be conditioned upon payment of the reduced amount within a specified period of time.~~

**Section (b)** If any of the following conditions are met, the Department has the authority to process a lien reduction request and issue a Release of Lien:

1. The amount of settlement for a property zoned residential is \$5000 or more and is payable in less than 30 days.
2. The amount of the settlement for a property zoned commercial or industrial is \$10,000 or more and is payable in less than 30 days.
3. The settlement is based upon the receipt of excess tax sale proceeds that have been received by the City and respectively cover the administrative costs incurred.

The Department shall forward the request to the Special Magistrate or Code Enforcement Board if additional review is required, if a hearing is specifically requested or in the best interest of the City. The Department and Requestor may enter into an agreement to settle the Lien reduction. Any written agreement between the requesting party and the Department to settle the lien reduction shall constitute a waiver of hearing by the Special Magistrate or Code Board by both parties.

**Section (c)** If the request does not meet the criteria outlined in Section (b), the Department has determined the request requires additional review, or the requesting party chooses to not waive his or her right to a hearing, the Department shall schedule a hearing on the request before the Special Magistrate or Board, with notice to the respondent. After hearing both sides, the Special Magistrate shall make a determination, or the Board shall adopt a motion, that the request for reduction of the lien be denied, granted, or granted with conditions. The determination will be based upon evidence, upon consideration of the following criteria:

1. The gravity or seriousness of the violation;
2. Any and all actions taken by the violator to correct the violations or, if the violation was not corrected by the original violator, what action was taken by any other owner or party in interest to bring the property into compliance;
3. The length of time necessary to bring the property into compliance;
4. The number of times the violator was previously found in violation by either the Code Enforcement Board, Special Magistrate, or other quasi-judicial or judicial process, or otherwise admitted guilt in any such proceeding;
5. The number of violation notices the violator has received in the past as well as their nature and the final disposition of each such notice;

6. Whether or to what extent there are extenuating factors preventing timely compliance, such as unavoidable personal hardship.
7. Whether or to what extent there are pending violation proceedings on the subject property or any other property within the City owned by the respondent.

**Section (d)** If the Special Magistrate or the Board determines that the request for reduction be approved and the following conditions are met, they may order the Department, once payment is received and any other conditions are met, to issue a Release of Lien:

1. The amount of settlement for a property zoned residential is \$3,000 or more and is payable in less than 6 months.
2. The amount of the settlement for a property zoned commercial or industrial is \$7,500 or more and is payable in less than 6 months.

The Special Magistrate or Code Enforcement Board may, at its discretion, forward the request to the Commission if they feel additional review is required or in the best interest of the City.

**Section (e)** If the Special Magistrate or the Board determines that the request for reduction be approved but the request does not meet the criteria outlined in Section (d), the determination is to deny the request, or additional review is required, they shall forward their recommendation to the City Commission for a final determination.

**Section (f)** Any recommendation for waiver or reduction may include further recommendation that the reduction be conditioned upon payment of the reduced amount within a specified period of time. Failure to pay the reduced amount within that time period will result in the lien reverting to the original amount.

**Section (g)** There shall be established an administrative fee of \$250.00 for any requests for mitigation of a code enforcement lien that must be heard by the City Commission. Such fee may be imposed after consideration by the City Commission. This fee shall not apply to special assessment reduction requests.

**Section (h)** The Department has the authority to mitigate in part or in full only the administration fees that have been assessed by the Department for Special Assessment Liens imposed for nuisance abatement actions. The Department shall have no authority to mitigate the interest, penalties or Special Assessment liens imposed for Nuisance Abatement actions.

**WHEREAS**, Rule 18 of the Rules of Procedure for the Code Enforcement Board and Special Magistrate provide that any amendment to the procedural rules for code enforcement proceedings shall not become effective unless or until subsequently ratified or approved by the City Commission; and

**WHEREAS**, the City Commission considered the proposed amendment to Rule 17 and determines that such amendment is reasonable and provides for procedures governing the orderly disposition of enforcement related proceedings.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Commission of the City of Fort Pierce, Florida, that the aforesaid amendment to the Rules of Procedure for the Code Enforcement Board and Special Magistrate should be and the same is hereby approved.

**ADOPTED** by the City Commission of the City of Fort Pierce, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Linda Hudson, Mayor

ATTEST:

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Linda Cox, City Clerk

APPROVED AS TO FORM AND CORRECTNESS

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James M. Messer, Esq.  
City Attorney