

CODE ENFORCEMENT FINES & LIENS

MARCH 11, 2019



FL State Statute - Chapter 162

- The Code Enforcement Division functions under the powers granted to it by State Statute – Chapter 162.
 - 162.06 – assigns the duty of initiating code enforcement proceedings to the code officer; requires reasonable time to correct; requires notice of hearings; establishes repeat violators; and establishes emergency or irreversible violations.
 - 162.07 – establishes conduct of hearings; requires hearings to be public and recorded; all orders to be in writing; allows for fines to be imposed and/or repairs to be made and the cost be assessed.

FL State Statute - Chapter 162

- 162.09 – Administrative fines; costs of repair; liens
 - Establishes penalty maximums – up to \$250 per day for the 1st violation and up to \$500 per day for repeat violations; up to \$5,000 per violation for irreparable or irreversible violations.
 - Establishes the criteria to consider when setting the fine:
 - The gravity of the violation
 - Any actions taken by the violator to correct the violation; **AND**
 - Any previous violation committed by the violator

FL State Statute - Chapter 162

- 162.09 (3)–

A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator..

A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first.

Code Enforcement Liens

- Are considered “soft” liens, which means the entire amount may be waived.
- Accrue on a daily basis until compliance.
- Do not accrue interest or penalties.
- Expire after 20 years.
- May be foreclosed upon (non-homestead properties only).
- Spread to all properties owned by the violator.
- Reduction requests may be addressed by staff, the Special Magistrate and/or City Commission.

Massey v. Charlotte County

Prior to the City imposing a lien on the property, the property owner is notified that the fines are running and is given the opportunity to contest the fine in a “Massey Hearing”.

- The owner must submit the request in writing.
- It must be submitted within 20 days.
- Massey Hearings are conducted by the Special Magistrate, who may:
 - Reduce the amount of the fine
 - Eliminate the fine in full
 - Order the lien be filed

Special Magistrate Rules of Procedure

All actions of the Special Magistrate are governed by the Special Magistrate Rules of Procedure, which are formally adopted by the City Commission.

- They incorporate all the elements of Chapter 162.
- Requires that the property be in compliance prior to any request for reduction be considered.
- Were amended in 2016 to allow for “fast track” reduction requests:
 - This would lessen the number of requests heard by the City Commission and allow title transfers to be completed in a timely fashion.

“Fast Track” Reduction Request

- Staff may issue a release of lien if the following criteria is met:
 - Residential property – offer of at least \$5,000 payable in 60 days or less
 - Commercial property – offer of at least \$10,000 payable in 60 days or less
 - Excess tax sale proceeds that adequately cover the administrative costs of the City
- Special Magistrate may issue a release of lien when:
 - Residential property – offer of at least \$3,000 payable in 6 months or less
 - Commercial property – offer of at least \$7,500 payable in 6 months or less

Special Assessment Liens

- Special Assessment Lien are liens filed against a property for work that was performed by the City or a City Vendor.
 - Lot clearing
 - Demolition
 - Graffiti removal
 - Securing the structure
 - Bee removal
- The cost of the repair is a “hard” cost and may not be waived.
- They accrue administration fees, interest and penalties.
- Are the equivalent of a tax lien.
- Never expire.
- Staff may waive administration fees only. All other reduction requests are heard by the City Commission.

Citations

- Citations are issued directly to a violator for a variety of violations:
 - Parking Citations
 - Animal Control Citations
 - Code Enforcement Citations
- Citations are a flat rate fine – the amount based upon the severity of the violation. (\$50 / \$100 / \$250)
- Failure to pay results in a hearing before the Special Magistrate.
- Failure to comply with the Special Magistrate's order results in the citation being forwarded to the County Court system.

Food for Fines

- In October 2018, the City Commission adopted a Resolution to allow parking citations issued from 10/26 through 12/1 to be paid with non-perishable food items.
- A voucher was attached to each parking citations issued and payment would be accepted up to 30 days after being issued.
- The City collected over 1/3 of a ton of food – 679 lbs., which was donated to the Treasure Coast Food Bank.
- We would like to do this again for 2019 with the goal of collecting 1000 lbs.



Questions?