

Sec. 2-511. - Fines and liens.

(a) *Generally.* The hearing officer, upon notification by the code enforcement officer that an order of the hearing officer has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the hearing officer for compliance or, in the case of a repeat violation, for each day the repeat violation continues past the date of notice to the violator of the repeat violation. If a finding of a violation or a repeat violation has been made as provided in this article, a hearing shall not be necessary for issuance of the order imposing the fine.

(b) *Fine.*

(1) A fine imposed pursuant to this section shall not exceed the following amounts, unless otherwise provided by this Code or the unified land development code:

- a. \$25.00 per day for any violation of the unified land development code; other than those identified in (b)(1)b below.
- b. Fines for violation of specific sections of the unified land development code, Chapter 45 - Tree Protection Regulations. Each unauthorized removal of a single tree regulated by this chapter shall be a separate violation or offense:
 1. \$100.00 per diameter inch at breast height (DBH) for each tree and \$200.00 per DBH for each heritage tree up to a maximum of \$5,000.00 per tree for conducting an activity that requires a tree removal permit without first obtaining a tree removal permit.
 2. In a case where tree removal has occurred and the number of trees removed is unable to be determined, \$15,000.00 fine shall be assessed per each 10,000 square feet of lot/parcel or fraction thereof. Each 10,000 square feet constitutes a separate violation.
- c. \$50.00 per day for any violation of the Florida Building Codes;
- d. \$10.00 per day for any other violation of the code of the city not otherwise identified in (b)(1)a. or (b)(1)b.
- e. \$250.00 per day for any violation to Chapter 1, Florida Building Code, as it pertains to unsafe building abatement as determined by the Building Official.
- f. The hearing officer may impose fines for repeat violations. Such fines shall not exceed \$500.00 per day per violation for a repeat violation. In addition to such fines, a hearing officer may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs taken by the local government.

(2)

In determining the amount of the fine, if any, the hearing officer shall consider the following factors:

- a. The gravity of the violation.
 - b. Any actions taken by the violator to correct the violation.
 - c. Any previous violations committed by the violator.
 1. However, no order issued by the hearing officer shall be deemed to be invalid or unenforceable because it fails to demonstrate that the previous factors were considered.
- (3) Until such time as an order imposing a fine has been recorded as a lien, the hearing officer may reduce a fine imposed pursuant to this section. After such time as an order imposing a fine has been recorded as a lien, the only entity that has the ability to reduce such fine shall be the city commission.
- (4) Any daily fine which is imposed pursuant to this section shall continue to accrue until such time as the violation is brought into compliance, and such compliance is confirmed in accordance with subsection 2-511(c), or until the maximum cumulative fine has been reached, as defined in subsection 2-511(b)(5).
- (5) The maximum cumulative fine which may be imposed pursuant to this section is as follows, unless a higher amount for a particular violation is expressly provided by the unified land development code or city code:
- a. \$2,000.00 for any violation of the unified land development code;
 - b. \$5,000.00 for any violation of the Florida Building Code except for violations as defined as 2-511(b)(1)(d); as it pertains to unsafe abatement as determined by the Building Official. There is no maximum fine cap for violations defined in 2-511(b)(1)(d).
 - c. \$1,000.00 for any other violation of a city code or ordinance.
 - d. \$25,000.00 for any repeat violations.
- (c) *Order imposing fine constitutes a lien.* A certified copy of an order imposing a fine, or 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. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance, until the maximum cumulative fine has been reached, or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. After an order finding a violation and imposing a fine is entered, it shall be the responsibility of the property owner to inform the city that the violation has been corrected, and to request a re-inspection of the property to stop the accrual of any running fines. After the city

has entered an order imposing a fine which makes a finding of fact that a property is not in compliance with the city's code, no property shall be deemed to be in compliance until such time as the property owner has requested a re-inspection of the property, in writing, and the city has issued an affidavit of compliance, and the property shall in fact remain in violation of the city code until such time as a re-inspection has been requested and conducted in accordance with this section. After three months from the filing of any such lien which remains unpaid, the hearing officer may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under section 4, article X of the State Constitution. Such lien shall bear interest at the lawful rate for court judgments from the date of its filing.

(d) *Settlement of fines and liens.* The city commission hereby establishes a code enforcement lien relief program which has the following terms and conditions.

(1) Lien reduction.

- a. Property owners of residentially zoned properties may apply to the code compliance office for a reduction of code enforcement liens encumbering property.
- b. The property must be in compliance with all city codes at the time of application.
- c. Liens will be reduced to the maximum cumulative fine adopted by subsection 2-511(b)(5) plus the city's actual abatement and administrative costs incurred during enforcement.
- d. The application fee for the lien reduction will be \$150.00. The application shall be per property, not per code enforcement case.
- e. The property owner shall, within 30 days from the date of the notification of the lien reduction amount, make full payment of that amount. Failure to do so will void the application and a release of lien shall not be executed.
- f. Lien relief does not apply to liens from fines imposed after October 25, 2010.

(2) Lien release.

- a. Property owners who purchase property through a foreclosure sale, clerk's sale, or other judicially imposed sale, may apply for a release of any code enforcement board liens on the property after the sale closes, except for actual abatement and administrative costs.
- b. The property owner shall not have been the owner of the property at the time the lien was imposed.
- c. The property must be in compliance with all city codes at the time of application.
- d. The fee for the application for the lien release will be \$150.00. The application shall be per property, not per code enforcement case.
- e.

The property owner shall, within 30 days from the date of the notification of the lien reduction amount, make full payment of that amount. Failure to do so will void the application and a release of lien shall not be executed.

- (3) Alternative procedure for non-owners. In anticipation of a pending sale, persons with a bona fide purchase contract for affected properties may seek an anticipatory lien reduction provided that:
 - a. The property is residentially zoned.
 - b. The property must be in compliance with all city codes at the time of application, or must meet the requirements of subsection (f) below.
 - c. The application fee for the lien reduction will be \$150.00. The application shall be per property, not per code enforcement case and must be authorized by the current owner of the property.
 - d. Liens will be reduced to the maximum cumulative fine adopted by subsection 2-511(b)(5) plus the city's actual abatement and administrative costs incurred during enforcement.
 - e. The property owner or applicant shall, within 30 days from the date of the notification of the lien reduction amount, make full payment of that amount. Failure to do so will void the application and a release of lien shall not be executed.
 - f. In the event the property is not in compliance at the time of application, the applicant must, in addition to prepaying the reduced lien amount, enter into an agreement with the city giving the applicant 90 days from closing to bring the property into compliance with any existing code enforcement orders. Failure to bring the property into compliance within the 90-day period shall result in the reinstatement of the previous fine amounts and code enforcement proceedings.
 - g. Lien relief does not apply to liens from fines imposed after October 25, 2010.
- (4) Authority. The city manager or designee shall develop the application for use with the lien relief program. The city manager is authorized to approve the applications seeking the lien reduction or lien releases and to sign the satisfaction and release of liens necessary to execute the relief program. The city manager or designee is hereby authorized in consultation with the city attorney to enter into and enforce agreements with current and potential property owners to ensure compliance with this program.
- (5) Special assessment liens. Subsection 2-511(d) does not apply to special assessment liens.
- (e) *Duration of lien; action to foreclose.* No lien shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in the foreclosure. The city shall be entitled to

collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(Ord. No. 2014-30, § 1, 9-8-2014; Ord. No. 2015-26, § 8, 9-28-2015; Ord. No. 2021-46, § 4.01, 2-22-2022)

