

TOWN OF LOXAHATCHEE GROVES

CODE COMPLIANCE LIEN REDUCTION AND RELEASE POLICY

PURPOSE: The purpose of this policy is to provide procedures for the reduction and release of code compliance liens to ensure that all lien reductions and releases are processed and decided in a reasonable, lawful, consistent, and equitable manner.

POLICY: It is the policy of the Town Council of the Town of Loxahatchee Groves that code compliance fines/liens assessed through Chapter 14 of the Town’s Code of Ordinances may be reduced and released in accordance with the procedures set forth in this Policy.

PROCEDURES: LIEN/FINE REDUCTIONS AND RELEASES

1. *Petition.* Once a code compliance fine or lien has been imposed under Chapter 14, the property owner (“petitioner”) may submit a written petition to the code compliance division to request one of the following:
 1. Fine/lien reduction hearing before the special magistrate;
 2. Partial release of a lien; or
 3. Release of an unenforceable lien.
2. *Petition fee.* Each petition must be submitted to the code compliance division on the form provided by the town along with the non-refundable petition fee. Petition fees shall be set and amended by resolution of the town council and shall be in an amount that reflects the costs incurred by the town to accept and process the petition.
3. *Recording fees.* If a release is entered pursuant to this policy, the petitioner shall be responsible for the costs of recording the release in the official records of Palm Beach County.
4. *Policies.* The town council is authorized to adopt additional policies, by resolution, that further address criteria to be used by the special magistrate for the reduction of fines; that establish maximum percentages for reductions to be recommended by town administration based on the age of the lien/fine or other equitable basis; and any other reasonable policy.
5. *Special Magistrate lien/fine reductions and releases.*
 - (a) *Preliminary conditions.* If the following conditions are met, the petition for a reduction of a lien/fine by the special magistrate will be set for a hearing:
 1. An affidavit of compliance has been issued for the real property that confirms the property is in compliance with the violations addressed in the special magistrate’s order.

2. The subject property and all other real property owned by the petitioner within the town must be in compliance with the town's code of ordinances.
3. All outstanding code compliance administrative costs and the petition fee have been paid in full.
4. The petitioner has no overdue or delinquent accounts with the town, including but not limited to, town taxes or permit fees.

If the above conditions are not satisfied, the petition will be denied, and the town will mail a copy of the notice of denial to the petitioner by regular U.S. Mail to the address provided in the petition.

(b) *Fine/lien reduction hearing.*

- (1) If the preliminary conditions above are met, a hearing will be set, and the town will mail a notice of hearing to the petitioner at least five (5) days prior to the hearing date by regular U.S. Mail to the address provided in the petition.
- (2) Failure of the petitioner to attend the hearing will result in the petition being denied, unless otherwise agreed to in writing by the town.
- (3) The reduction hearing will be limited to the issue of whether the fine/lien assessed should be reduced, and the hearing shall not be a hearing de novo of the original case. The burden of proof will be on the petitioner to show cause for reducing the fine/lien.
- (4) At the hearing, the special magistrate shall consider the following factors:
 1. The gravity of the violation;
 2. Any action(s) taken by the petitioner to correct the violation(s);
 3. Any previous violations committed by the petitioner;
 4. Any recommendation of the town administration; and
 5. Whether the Applicant or managing member of the Applicant owns other properties in the City, and how many had other code cases or other Code Compliance liens.

6. Whether the Applicant requesting the release owned or was the managing member of the owner of the property for which the lien was placed at the time the lien was placed.

7. Any other factor which may show a hardship on the Applicant requesting the release or which may provide a reasonable basis for the requested relief.

8. The length of time between the ordered compliance date and the date the violation was eliminated;

9. Any actual costs expended by the owner to cure the violation as provided by supporting documentation, including payment of City licensing or permit fees;

10. Any other matter suggesting that the lien reduction is or is not equitable and/or in the best interests of the town.

(5) The special magistrate may make one of the following determinations: the lien is reduced to a specified amount or the request for a reduction is denied. If the reduction is granted, the special magistrate's order shall include a date certain for the payment of the reduced fine/lien and shall include a statement that if the reduced fine/lien is not paid in full on the date provided, the lien/fine amount shall automatically revert back to the original amount.

(c) *Lien releases.* When a lien or reduced lien has been paid in full in accordance with the order of the special magistrate, the town manager, with the town clerk attesting, may execute a release of lien on behalf of the town.

6. *Other lien/fine releases.*

(a) *Partial lien release.* A property owner may petition the town for a partial release of lien where the lien on the violating property has attached to a separate parcel. The following conditions and procedures will apply to such request:

(1) The subject property, if located within the town, must be free of all outstanding debts (including past due taxes) due to the town and must be in compliance with the town's code of ordinances.

(2) A partial release of lien cannot be sought for the property where the lien originated.

- (3) All property owned by the petitioner that is located in the town must be in compliance with all town codes prior to the granting of the partial release of lien. This condition may be waived if the subject property is sold within thirty (30) days of the petition.
- (4) Payment must be made to the town of ten percent (10%) of the total lien amount or five thousand dollars (\$5,000.00), whichever is greater.

(b) *Unenforceable lien releases.* A property owner may petition the town for the release of a code compliance lien as legally unenforceable or otherwise uncollectible. The following conditions and procedures will apply to such request:

- (1) The lien is more than twenty (20) years old, or the statute of limitations associated with the collection of the lien has otherwise expired;
- (2) The lien was properly foreclosed by court order;
- (3) The lien was properly discharged in bankruptcy proceeding;
- (4) The property encumbered by the lien is currently owned by the town;
- (5) Any other legal reason that establishes that a lien is legally unenforceable or otherwise uncollectible; and
- (6) The town attorney has determined in writing that the lien is legally unenforceable or otherwise uncollectible based on the conditions herein.

(c) *Lien releases.* When a petition for release or partial release of a code compliance lien has met the conditions under this section, the town manager, with the town clerk attesting, shall be authorized to execute the requested release or partial release of lien on behalf of the town.

7. *Effect of denial on application for subsequent lien reduction or forgiveness.*

(a) If the application is denied or if the application is automatically denied due to the failure of the violator to comply with the conditions imposed by the city council, the violator shall thereafter be barred from applying for a subsequent reduction or forgiveness of the lien for a period of one (1) year from the date of denial. During the one-year period, the lien may only be satisfied and released upon full payment of the fine or penalty imposed in accordance with this policy.