



**Town of Loxahatchee Groves**

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## **FORECLOSURE POLICY & PROCEDURE**

**EFFECTIVE DATE:** November 12, 2024

**POLICY AND PROCEDURE:** Foreclosure of Code Enforcement Liens

**PURPOSE:** Section 162.09, Florida Statutes, authorizes the Town to foreclose code enforcement liens attached to non-homestead properties, as defined by section 4, Art. X of the State Constitution. The purpose of this Foreclosure Policy and Procedure is to establish a reasonable and consistent framework for the assessment of potential foreclosure lawsuits on behalf of the Town.

### **POLICY**

New foreclosure lawsuits shall only be filed upon the approval of the Town Council.

The Town's administrative staff is authorized to expend funds, in accordance with Town Code Chapter 2, Article V "Purchasing", and to take such actions as are necessary to adequately evaluate each potential new case before presenting the case to the Town Council for approval to file a lawsuit.

Generally, Town staff will not seek the approval of the Town Council to file a foreclosure lawsuit unless one or more of the following criteria are met with respect to the property found in violation of the Town Code:

1. The property has more than \$100,000 in unpaid code enforcement fines.
2. The property has been out of compliance for more than one year.
3. Conditions on the property pose a substantial risk to the life, safety, or the general welfare.

In exceptional circumstances, Town staff may seek approval to file lawsuits in cases that do not meet one of the above criteria.

Nothing in this policy shall preclude the Town Council from approving or directing litigation to foreclose or otherwise collect on a code enforcement lien when, in its sole discretion, such action is appropriate and in the best interest of the Town.

### **PROCEDURE**

Prior to presenting a potential foreclosure case to the Town Council, Town staff are expected to follow the procedure set forth below.<sup>1</sup>

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<sup>1</sup> A defect in the adherence to this internal procedure shall not constitute a bar to filing a lawsuit that otherwise meets the

1. Town staff shall verify that the subject property is not a homestead, as defined by section 4, Art. X of the State Constitution.
2. Town staff shall verify that the lien has been recorded for at least three (3) months, and that it remains unpaid.
3. Town staff, or the Town Attorney, shall obtain a title search for the subject property, which shall be reviewed by the Town Attorney.
4. Town staff, or the Town Attorney, shall determine the existence of any superior (prior recorded) liens held by other parties.
5. Town staff shall utilize a standardized checklist for each potential new case. The foreclosure checklist shall be substantially in the form attached hereto and approved by the Town's administrative staff and Town Attorney.
6. Town staff shall obtain an order from the special magistrate authorizing foreclosure in accordance with section 162.09, Florida Statutes, with written notice to the property owner.
7. The matter shall be placed on the Town Council meeting agenda.



**FORECLOSURE CHECKLIST**

Property being considered for foreclosure: \_\_\_\_\_

Owner name(s): \_\_\_\_\_

Owner mailing address (see Tax Collector's records): \_\_\_\_\_

Any other owner address that Town has notice of: \_\_\_\_\_

Is the property a homestead: \_\_\_\_ Yes \_\_\_\_ No  
[If yes, do not proceed with checklist. This property cannot be foreclosed.]

Does the property have a lis pendens recorded against it in an open case: \_\_\_\_ Yes \_\_\_\_ No  
[If yes, do not proceed with checklist. This property is already in foreclosure.]

Is the property in compliance: \_\_\_\_ Yes \_\_\_\_ No

Current amount of lien: \_\_\_\_\_ as of \_\_\_\_\_, 20\_\_

Daily amount of fine, if still accruing: \_\_\_\_\_

If the property is not in compliance, what condition is the property in (give details):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Owner made efforts to comply the property: \_\_\_\_ Yes \_\_\_\_ No

Owner has an existing hardship: \_\_\_\_ Yes \_\_\_\_ No

If yes, explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Do the conditions on the property pose a substantial risk to the life, safety, or the general welfare?  
\_\_\_\_ Yes \_\_\_\_ No

Date Town's lien was recorded: \_\_\_\_\_ Book \_\_\_\_\_ Page \_\_\_\_\_

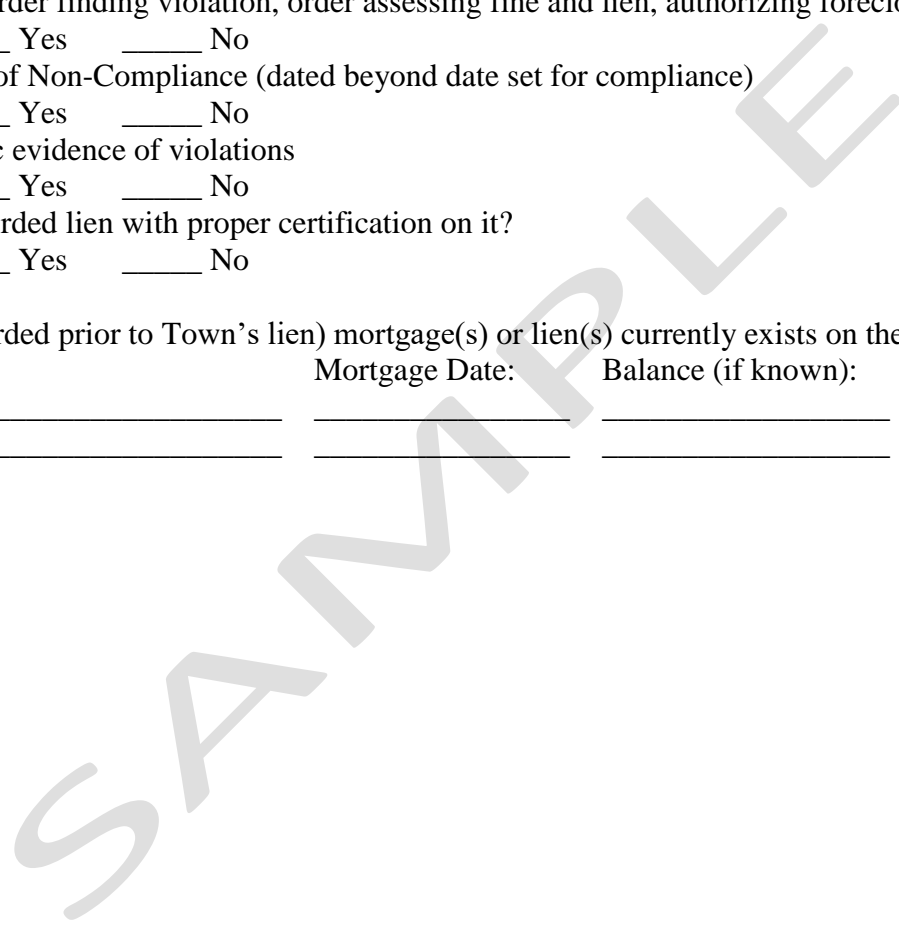
Does Town's lien have the Town Clerk's certification: \_\_\_\_\_ Yes \_\_\_\_\_ No

Does code enforcement file include the following (check all that apply):

- Notice of violation/notice of hearing  
\_\_\_\_\_ Yes \_\_\_\_\_ No
- Notice of fine assessment hearing  
\_\_\_\_\_ Yes \_\_\_\_\_ No
- All certified mail return receipts and/or posting notices  
\_\_\_\_\_ Yes \_\_\_\_\_ No
- All orders (order finding violation, order assessing fine and lien, authorizing foreclosure, etc.)  
\_\_\_\_\_ Yes \_\_\_\_\_ No
- Affidavit(s) of Non-Compliance (dated beyond date set for compliance)  
\_\_\_\_\_ Yes \_\_\_\_\_ No
- Photographic evidence of violations  
\_\_\_\_\_ Yes \_\_\_\_\_ No
- Copy of recorded lien with proper certification on it?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

What superior (recorded prior to Town's lien) mortgage(s) or lien(s) currently exists on the property:

Bank/Mortgagee:	Mortgage Date:	Balance (if known):
_____	_____	_____
_____	_____	_____





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**NOTICE OF REQUEST  
FOR AUTHORIZATION OF FORECLOSURE**

[Date]

[Respondent Name/Address]

**CASE NO.:**

Property Address:

Legal Description:

Parcel Control Number:

Dear Property Owner:

Your property at [Address] has been determined to have violated the Town's Code of Ordinances in the above referenced Code Enforcement case. The fines for the violation(s) have accrued to **[\$Amount of Fine]** and the Town has recorded a lien against the property. Pursuant to section 162.09, Florida Statutes, the Town is now requesting that the Code Enforcement Special Magistrate authorize the Town to foreclose the lien. **In the event that the Town is successful in obtaining this request before the Special Magistrate, a foreclosure action may be commenced by the Town against the above-referenced property or any other real property you own.**

The request will be presented to the Special Magistrate at a hearing, which you may attend. If you would like to discuss your case prior to that time in an effort to settle all outstanding matters including compliance and payment, please contact the Town's Code Compliance Division at 561-793-2418. **OTHERWISE, THE REQUEST WILL BE PRESENTED TO THE CODE ENFORCEMENT SPECIAL MAGISTRATE, ON [Hearing Date] AT [Hearing Time]. IN THE TOWN HALL CHAMBERS LOCATED AT 155 F ROAD LOXAHATCHEE GROVES, FL 33470.**

Please govern yourself accordingly.

Sincerely,

Code Compliance Division