

## **ORDINANCE NO. 2023-03**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING CHAPTER 14 “CODE ENFORCEMENT”, BY ADOPTING ARTICLE I “IN GENERAL” TO INCLUDE EXISTING SECTIONS 14-1 THROUGH 14-3; ADOPTING ARTICLE II “LIEN REDUCTIONS AND RELEASES” TO INCLUDE, RENUMBER AND AMEND SECTION 14-4 “GENERALLY” TO PROVIDE GENERAL PROVISIONS APPLICABLE TO LIEN/FINE REDUCTIONS AND RELEASES; TO ADOPT SECTION 14-16 “SPECIAL MAGISTRATE LIEN REDUCTIONS AND RELEASES” TO ADDRESS REDUCTIONS BY SPECIAL MAGISTRATES; AND TO ADOPT SECTION 14-17 “OTHER LIEN RELEASES” TO ADDRESS PARTIAL RELEASES OF LIENS AND RELEASES OF UNENFORCEABLE LIENS AND FOR OTHER PURPOSES; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves wishes to adopt an ordinance to address the criteria for the reduction and release of code enforcement liens and to clarify the reduction and release processes to ensure any and all lien reductions and releases are processed and decided in a reasonable, lawful, consistent, and equitable manner; and,

**WHEREAS**, the Town Council finds the adoption of the Ordinance serves a public purpose and is in the best interest of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA:**

**Section 1:** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2.** The Town Council for the Town of Loxahatchee Groves hereby amends Chapter 14 “Code Enforcement” by adopting Article I “In General” to include existing sections 14-1, 14-2, and 14-3 and to adopt Article II “Lien/Fine Reductions and Releases” as follows:

### **Chapter 14 – CODE ENFORCEMENT**

#### **ARTICLE I. – IN GENERAL**

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## **ARTICLE II. – LIEN/FINE REDUCTIONS AND RELEASES**

### **Sec. 14-415. – ~~Application for relief from code enforcement lien~~ Generally.**

(a) Petition. Once a code enforcement fine or lien has been imposed under this chapter, the property owner (“petitioner”) may submit a written petition to the code enforcement department 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.

(b) Petition fee. Each petition must be submitted to the code enforcement department on the form provided by the town along with the nonrefundable 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.

(c) Recording fees. If a release is entered pursuant to this article, the petitioner shall be responsible for the costs of recording the release in the official records of Palm Beach County.

(d) Policies. The town council is authorized to adopt 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.

### **Sec. 14-16. – 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 enforcement 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. 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 the 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.

**Sec. 14-17. – 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 will be 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 a release of a code enforcement 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 a 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 enforcement 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.

~~*Special magistrate to consider applications for lien relief.* All applications for lien reductions, satisfactions and releases, or other matters relating to relief from liens, shall be directed to the special magistrate. The special magistrate shall consider the written request, the statements of the applicant or an authorized agent for the applicant, the recommendation of town administration, and any other information deemed relevant, and render a decision on the application.~~

~~*Payment.* The applicant shall make payment to the town within the timeframe ordered by the special magistrate, which shall be no longer than 30 calendar days from the date of the order. Upon receipt of the required payment, the town manager or his designee shall execute a satisfaction and release on behalf of the town. Should the applicant fail to make payment in a timely manner, the full amount of the lien shall be reinstated as due and payable to the town.~~

**Section 3: Conflicts.** All Ordinances or parts of Ordinances, Resolutions, or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the

extent of such conflict.

**Section 4: Severability.** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

**Section 5: Codification.** It is the intention of the Town Council of the Town of Loxahatchee Groves that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, and that the Sections of this ordinance may be re-numbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase to accomplish such intention.

**Section 6: Effective Date.** This ordinance shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2023.**

Councilmember \_\_\_\_\_ offered the foregoing ordinance. Councilmember \_\_\_\_\_ seconded the motion, and upon being put to a vote, the vote was as

follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
LAURA DANOWSKI, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERT SHORR, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARGARET HERZOG, COUNCI MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARIANNE MILES, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2023.**

Councilmember \_\_\_\_\_ offered the foregoing ordinance. Councilmember \_\_\_\_\_ seconded the motion, and upon being put to a vote, the vote was as

follows:

<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
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LAURA DANOWSKI, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERT SHORR, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARGARET HERZOG, COUNCI MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARIANNE MILES, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor Laura Danowski

\_\_\_\_\_  
Lakisha Q. Burch, Town Clerk

\_\_\_\_\_  
Vice Mayor Robert Shorr

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Councilmember Margaret Herzog

\_\_\_\_\_  
Office of the Town Attorney

\_\_\_\_\_  
Councilmember Phyllis Maniglia

\_\_\_\_\_  
Councilmember Marianne Miles