

ORDINANCE NO. C-23-28

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 11, CODE ENFORCEMENT, ARTICLE II. - CODE ENFORCEMENT BOARD/SPECIAL MAGISTRATE PROCEDURES; SECTION 11-3. - JURISDICTION OF BOARD AND SPECIAL MAGISTRATE, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO ESTABLISH A LIEN AMNESTY PROGRAM AND TO ESTABLISH THE AUTHORITY OF THE SPECIAL MAGISTRATE TO RATIFY FINES AND LIENS REDUCED AS A RESULT OF LIEN AMNESTY AND TO PROVIDE FOR TEMPORARY SUSPENSION OF SECTION 11-3(C) DURING PERIODS OF LIEN AMNESTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance C-15-16 adopted on April 11, 2015, amended Chapter 11 of the Code of Ordinances of the City of Fort Lauderdale, Florida, and established the authority of the special magistrate to reduce fines and liens; and

WHEREAS, it is in the City's best interest to establish a process to periodically allow lien amnesty and to provide the special magistrate the authority to ratify fines and liens settled based upon guidelines established for lien amnesty;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Chapter 11, Code Enforcement, Article II. - Code Enforcement Board/Special Magistrate Procedures, Section 11-3. - Jurisdiction of Board and Special Magistrate, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to provide as follows:

Sec. 11-3. - Jurisdiction of Board and Special Magistrate.

- (a) There shall be one (1) board and one (1) or more Special Magistrates. The board and special magistrates shall have jurisdiction to hear and decide cases in which violations of any provision of the Code are alleged.
- (b) Any alleged violation of the Code may also be enforced by the City in any court of competent jurisdiction.

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(c) The Special Magistrate is authorized to reduce fines and penalties established by a special magistrate or by the City Code Enforcement Board as follows:

- (1) *Application.* A signed Application for Fine Reduction from any order imposing a fine by a Special Magistrate or by the Code Enforcement Board must be filed with the clerk for the Special Magistrate. In order for the clerk to process an Application for Fine Reduction, all violations in the original case as well as any existing violations at other properties owned by the applicant must be in compliance and have no outstanding monies owed to the City. The application must include:
- a. Name, address and signature of the applicant.
 - b. If represented by an attorney, the name and address of the attorney must also be given; and the attorney must either file a Notice of Appearance or must sign the application.
 - c. Address or brief legal description, or both, of the property on which the violation occurred.
 - d. Address or brief legal description, or both, of all real property owned by the applicant located in the State of Florida.
 - e. Payment of the administrative fee.
 - f. Photographs of the exterior of the property on which the violation(s) occurred.
 - g. Photographs of the interior of the structure if the lien is associated with violation(s) associated with the interior of the structure.
 - h. An affidavit of compliance for the case(s).
 - i. Sufficient information should be attached including, the nature of the violation, the case number for the clerk to identify the case and a copy of the order imposing the fine.
 - j. A brief explanation of the reduction sought, along with supporting documentation and evidence.
 - k. If the fine reduction request is based upon the actual cost of repairs to the property to correct the violation(s), written documentation to support this contention, including, but not limited to, City issued permit card and description of permitted work.
 - l. If the fine reduction request is based upon financial inability, a financial affidavit must be filed with supplemental information that may include bank account statements of at least six (6) months, or federal income tax returns or W-2 statements for the last three (3) years.
 - m. If the lien amount exceeds the equity in the subject property, written documentation to support this contention. Such information should include a

current appraisal or Broward County Property Appraiser's latest valuation.

- (2) *Initial Consideration* – No application shall be accepted or processed unless the code violations on the subject property have been eliminated. The special magistrate shall not grant a fine reduction to any applicant whose property is the subject of any pending foreclosure proceedings filed by the City of Fort Lauderdale without the express written consent of the City Attorney. The clerk shall provide a copy of the application to the City and to the appropriate department for review. The City may file a written response directed to the clerk, who shall provide the applicant with a copy of the response.
- (3) *Hearing* – The application will be set for the next available hearing date after the application is reviewed. If all compliance requirements have been met, the clerk will set a hearing, at which time the special magistrate may consider the application and any City response. The clerk shall notify the attorney or representative for the applicant, or the applicant if there is no attorney, by U.S. First Class Mail, not less than seven (7) prior to the scheduled hearing. No such hearing shall proceed where the property is not currently in compliance.
- a. A lien settlement request shall not be used for purposes of rehearing the entire case or as an appeal of the original order imposing the fine. A hearing on a request for a lien settlement cannot be used as a substitute for an appeal.
- (4) *Determination* – The special magistrate shall enter an Order granting or denying the requested relief in whole or in part, or such relief as the special magistrate may deem appropriate. The special magistrate shall consider all relevant factors to determine what relief, if any, is appropriate including, but not limited to:
- a. The nature and gravity of the violation;
- b. Any actions taken by the owner to correct the violation;
- c. The length of time between the ordered compliance date and the date the violation was eliminated;
- d. Any actual costs expended by the owner to cure the violation as provided by supporting documentation, including payment of City licensing or permit fees;
- e. Any other prior or current violations committed by the owner on the subject property or upon any other property owned by the owner within the City;
- f. Repeat violations committed by the same owner regardless of whether it is on the same property;

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- g. Costs incurred by the City to abate the violation and prosecute the case, including administrative and overhead expenditures;
- (5) Transfer of ownership after recordation of the City's lien shall not be considered as a factor in the lien settlement; nor shall a lapse of time before seeking enforcement be considered.
- (6) Any reduction granted shall be contingent upon payment within a specified time period. Failure to remit payment to the City by the date ordered shall cause the original fine not to be reduced.
- (7) The request for fine reduction must present a clear and convincing case, which is determined by the special magistrate; otherwise it shall be denied.
- (8) If relief is denied based upon the merits of the claim, such denial shall be with prejudice and the matter will not be reheard.
- (9) The special magistrate shall not reduce or waive city administrative costs, including, but not limited to, inspection costs, postage fees, recording fees, advertising costs, and any and all costs of enforcement or any repair costs or costs to secure any structure, incurred by the City.
- (10) *Appeal* – Reduction under this section is strictly discretionary by the special magistrate. The application shall include a waiver of the right, if any, to seek judicial review of the special magistrate's discretionary decision whether or not to reduce the fine and if so, by how much.
- (d) The City Commission may grant relief, conditioned upon compliance within a specified time period, for a property that is not in, or cannot be placed in, compliance, in exceptional circumstances.
- (e) A lien amnesty program may periodically be established by resolution of the City Commission of the City of Fort Lauderdale.
 - (1) Fines and liens reduced as a result of lien amnesty shall be ratified by the special magistrate.

- (2) During periods of lien amnesty, the authority granted to the special magistrate in Section 11-3(c) of the Code shall be temporarily suspended.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. That this Ordinance shall be in full force and effect from the date of final passage.

PASSED FIRST READING this 5th day of July, 2023.

PASSED SECOND READING this _____ day of _____, 2023.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN