

CHAPTER NINE

CODE ENFORCEMENT LIEN REDUCTION CODE

9.0 PURPOSE

The purpose of the Osceola County Code Enforcement Lien Reduction Code is to establish a uniform method for calculating and recommending a Lien reduction amount to the Board of County Commissioners (Board) for consideration when requested by an Applicant who has an interest in a property subject to an order issued by the Osceola County Code Enforcement and Nuisance Abatement Board (CEB). Definitions for terms referenced throughout the Chapter are located in Appendix A.

9.1 GENERAL PROVISIONS

9.1-1 APPLICABILITY AND EXCLUSIONS

- A. Applicability: The provisions of this Code shall apply to properties that meet the following:
1. A request for a Lien Reduction is submitted in accordance with this Code.
 2. All violations associated with reduction requests must be in compliance before any Lien Reduction is considered.
- B. Exclusions: Properties that will not be considered eligible for a Lien Reduction are as follows:
1. Any Lien resulting from a fine for a violation that was determined to be irreparable or irreversible, as outlined under Chapter 162, Florida Statutes will not be considered for reduction.
 2. Any Lien resulting from a fine in excess of the fine amount limits, as described in Florida Statute 162.09(2)(d), will not be considered for reduction.
 3. If a title insurance policy is issued upon the purchase of the property and the title insurance policy failed to identify or consider the Lien, a Lien Reduction shall not be granted. In such cases, the Lien should have been discovered by the title insurer and providing a reduction would place the County in the position of indemnifying the title insurer against its losses, which losses should be reflected in premium charges.
 4. Violations that are of the magnitude that they create community harm for an extended period of time will not be considered for reduction.

9.1-2 WAIVER OF REQUIREMENTS

The Board may, when deemed to be in the best interest of the County and not inconsistent with law, waive any or all requirements or provisions set forth in this Chapter of the Administrative Code and proceed thereafter to take whatever action is deemed to be in the best interest of the County.

9.1-3 CHANGES IN LAWS AND REGULATIONS

In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with this Code, automatically supersede this Code.

9.2 AUTHORITY

9.2-1 BOARD OF COUNTY COMMISSIONERS

Florida Statutes Chapter 125 and the Charter of Osceola County grant authority to the Board of County Commissioners of Osceola County, Florida to enact the provisions of this Code. In addition, the Board has adopted a Land Development Code and Code of Ordinances which, along with relevant Statutes, provide overall rules and regulations for Code Enforcement. The Board has sole authority and discretion to approve any Lien Reduction.

9.2-2 COUNTY MANAGER

In accordance with Chapter One of the Administrative Code (1.2), the County Manager is responsible for the day-to-day administration of the County and to administer and carry out the policies of the Board. The County Manager shall designate the qualified individuals responsible for the County's Code Enforcement process as identified throughout this Policy.

9.2-3 COUNTY ATTORNEY

In accordance with Chapter 1.3, the County Attorney serves as legal counsel and represents the Board of County Commissioners and County departments, including Code Enforcement.

9.2-4 CODE ENFORCEMENT AND NUISANCE ABATEMENT BOARD (CEB), CODE ENFORCEMENT DEPARTMENT AND CODE ENFORCEMENT OFFICERS

Authority of the CEB, Code Enforcement Department and Code Enforcement Officers are outlined in the Osceola County Land Development Code and Code of Ordinances.

9.3 LIEN REDUCTION

9.3-1 CALCULATION OF REDUCTION

- A. Except as provided for specifically herein, staff will not recommend a reduction below the original fine amount, plus County costs.
- B. If an Applicant commits, in the form of a Development Agreement, to providing a Board-desired public purpose (e.g., affordable housing meeting County criteria, construction of a public facility such as stormwater pond or roadway, etc.) with the use of the applicable property, the Board by Agreement may reduce the Lien up to 100% of the Lien amount and may waive County costs.
- C. There may be circumstances where an Applicant is the new property owner and assumed a Lien through the property purchase. If a new property owner has purchased property with a Lien and requests a reduction, County staff will, in calculating a recommended reduction, subtract the costs incurred for bringing the property into compliance (the Applicant must provide proper documentation of costs and proof of payment by the Applicant) from the total Lien amount prior to using the penalty reduction matrix incorporated herein.
- D. In calculating the length of time the violation remained non-compliant, all dates are figured from the compliance date as stated in the order until the date compliance is confirmed by the County.
- E. All lien reduction requests will be calculated to include County costs plus percentages outlined in the penalty reduction matrix incorporated herein. Such County costs may include any of the following: inspector expenses, office staff expenses, management expenses, attorney expenses, Lien Reduction processing expenses, and other miscellaneous expenses.

PENALTY REDUCTION MATRIX	
Length of Time the Violation Remained Non-Compliant with the CEB's Order:	Percentage Reduction:
Up to 1 year	Reduction to no less than four percent (4%) of the Lien amount
More than 1 year, up to 2 years	Reduction to no less than eight percent (8%) of the Lien amount
More than 2 years, up to 5 years	Reduction to no less than sixteen percent (16%) of the Lien amount
More than 5 years, up to 10 years	Reduction to no less than thirty percent (30%) of the Lien amount
More than 10 years, up to 15 years	Reduction to no less than forty percent (40%) of the Lien amount
More than 15 years	Reduction to no less than fifty percent (50%) of the Lien amount

- F. For Liens that have been recorded prior to January 1, 2016, where the calculated

reduction permitted under these policies would result in a total (including County costs and the reduced Lien amount) exceeding 50% of the assessed value of the property (according to the Property Appraiser's most recent roll or estimate for properties where demolition of structures has occurred subsequent to most recent roll), Lien may be reduced to 50% of the assessed value (including County costs and the reduced Lien amount).

9.3-2 CRITERIA FOR REDUCTION

A. Factors for Consideration - Recommendations for Lien Reduction shall be based on consideration of factors including, but not limited to:

1. The nature of the violation;
2. The severity of the violation;
3. The duration of the violation;
4. Whether the violation was a repeat of the same violation or a different Code Enforcement provision;
5. Whether there are unsatisfied Code Enforcement penalties or Code Enforcement Liens for other property owned by the Applicant; and
6. Whether there are other properties owned by the Applicant that have uncorrected violations of any Code Enforcement provision.

B. Additional Considerations – In addition to the above factors, recommendations for Lien Reductions that fall under 9.3-1 F. shall also take into consideration the following:

1. Whether the Applicant is the new property owner and brought the property into compliance in a timely manner upon taking ownership.
2. Whether the Applicant is the new property owner and has maintained the property in compliance with applicable regulations consistently upon taking ownership.

9.3-3 LIEN REDUCTION PROCESS

A. If a Lien Reduction is requested by an Applicant for a Lien that originated from a CEB order, County staff will calculate the allowable Lien Reduction amount according to this Policy and will review the calculation with the Applicant.

B. If the Applicant agrees with the Lien Reduction calculation, County staff will prepare a

Consent Agenda item for Board consideration.

- C. If the Applicant does not agree with the Lien Reduction calculation, County staff will prepare a Regular Agenda item for Board consideration.
- D. Reduced Liens shall be paid within thirty (30) calendar days of Board approval, or as otherwise ordered by the Board, or said Lien will revert to the pre-reduced amount.
- E. If a Lien reverts to the pre-reduced amount due to nonpayment by the deadline, the Applicant may submit a second reduction request. Staff will follow the same Lien Reduction process according to this Policy for the second request.
- F. If a second reduced Lien reverts to the pre-reduced amount due to nonpayment by the deadline, the Applicant may submit a third or subsequent reduction request. However, staff only has authority to support a reduction to no less than fifty percent (50%) of the Lien amount, plus County costs for a third or subsequent request.
- G. All lien reduction requests submitted on or after July 1, 2023, shall be subject to the amended PENALTY REDUCTION MATRIX

APPENDIX A. - DEFINITIONS

Unless the context otherwise requires, the following terms shall have the meanings set forth below whenever they appear in Chapter 9 of the Administrative Code and/or correlating County Manager Procedures:

“Administrative Code/Code” means the compilation of the Board’s Policy/rules for its operations.

“Applicant” means a party or parties with interest in a property that has a CEB Lien and submits a Lien Reduction for Board consideration. An Applicant may include the current or potential owner of the property.

“Board” means the Osceola County Board of County Commissioners that is the duly elected legislative branch responsible for setting policies, adopting ordinances, appropriating funds, etc.

“Code Enforcement and Nuisance Abatement Board (CEB)” means the entity created by the Board of County Commissioners pursuant to F.S. Chapters 162 and 893 that shall exercise the powers and have jurisdiction over matters of nuisance abatement and may exercise the powers including, but not limited to the following:

- Adopt rules for the conduct of its hearings.
- Subpoena alleged violators and witnesses to its hearings.
- Subpoena evidence to its hearings.
- Take testimony under oath.
- Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

“County Administration” means the County Manager, Chief Operating Officer, Deputy County Manager(s) and/or Assistant County Manager(s) when acting in the capacity of the County Manager in accordance with approved, written delegation of authority, and determined necessary by the County Manager to assist with overseeing the day-to-day operations of the County.

“County Manager” means a Chief Executive Officer for the County appointed pursuant to Section 2:3 A. of the Osceola County Home Rule Charter, or such person's designee, who oversees county operations.

“Development Agreement” means in accordance with the Florida State Statutes Chapter 163.3221.

“Lien” means a security interest/legal right on a property due to an owner not complying with an order from the CEB; generally stays in effect until the underlying obligation and violation

is satisfied. If the underlying obligation is not satisfied, the creditor may be able to take possession of the property involved.

“Lien Reduction” means a request to lower the amount of a Lien placed against a property for non-compliance with an order from the CEB.

~~*Special Assessments Policy History – 02/16/04, created Chapter 9, Res #04-009R; 10/20/14, Res #14-101R, agenda item #12; amended and restated in its entirety on 05/02/22, Res #22-087R, agenda item #11*~~
NEW copied from previous Chapter 11 History – 01/12/15, created Chapter 11, Res #15-010R, agenda item #18; 02/15/16, Res #16-059R, agenda item #9; 05/16/16, Res 16-123R, agenda item 8; amended and restated in its entirety on 05/02/22, Res #22-087R, agenda item #11 and renumbered from Chapter 11 to Chapter 9; 5/01/23, Res #23-078R, agenda item #17; 12/04/23 Res #23-146R, agenda item #7;