

ORDINANCE NO. 2023-13

AN ORDINANCE OF ST. JOHNS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, ESTABLISHING PROCEDURES FOR THE RELEASE OR REDUCTION OF CODE ENFORCEMENT LIENS; MAKING FINDINGS OF FACT; PROVIDING FOR DEFINITIONS; PROVIDING FOR SATISFACTION OR RELEASE OF LIENS; ESTABLISHING MINIMUM APPLICATION REQUIREMENTS FOR REDUCTION OR FORGIVENESS OF LIENS; PROVIDING FOR APPLICATION FEES; PROVIDING FOR ELIGIBILITY; PROVIDING FOR REVIEW AND PROCESSING OF APPLICATIONS; PROVIDING FOR CODE ENFORCEMENT BODY HEARING, REVIEW, AND RECOMMENDATION; PROVIDING FOR PRESENTATION TO THE BOARD AND BOARD ACTION; PROVIDING FOR PAYMENT; PROVIDING FOR EFFECT OF DENIAL OF APPLICATION; PROVIDING FOR NO RIGHT OF APPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the applicable code enforcement ordinances, St. Johns County Code enforcement officers issue alerts of violations or written warnings to violators advising of the circumstances deemed to be violations of specific County code or ordinance and providing a reasonable time to correct the violation; and

WHEREAS, in many instances, the violator fails to comply with written requirements for corrective action as stated in the alert of violation or written warning, which results in the issuance of a citation or the matter being scheduled for hearing before the applicable enforcement board or special magistrate; and

WHEREAS, a finding of a code or ordinance violation may result in an order of fines, penalties, and/or costs being entered against the violator by the applicable enforcement board or special magistrate, a certified copy of which may be recorded and shall constitute a lien against the real and personal property owned by the violator; and

WHEREAS, in the case of unsafe buildings or structures, for example, St. Johns County may be authorized to repair or demolish the structure and to remove the demolition debris from the property, which may necessitate hiring a local contractor, the cost of which is imposed as a lien against the subject property; and

WHEREAS, under St. Johns County Ordinance No. 2000-48, unsafe building abatement liens, if not paid in full within one (1) year after the recordation of a certified copy of the lien order, accrue at eight percent (8%) per annum commencing from the date of recording of the lien order until payment in full, including accrued interest; and

WHEREAS, in many instances, after the imposition of a code enforcement lien, the subject property becomes subject to tax deed sale or third-party foreclosure without having satisfied the lien, and the new property owner after tax deed sale or foreclosure may request a reduction or

forgiveness of the lien on the grounds of not having caused the original violations on the property; and

WHEREAS, in other instances, the owner or violator, or a contract purchaser, may seek to satisfy, or request the reduction or forgiveness of, a lien as part of the sale or other disposition of the subject property in order to return the property to beneficial, tax-generating use; and

WHEREAS, Section 162.09(3), Florida Statutes, provides that code enforcement liens run in favor of local governing body, and the local governing body may execute a satisfaction or release of any code enforcement lien; and

WHEREAS, Section 162.09(2)(c), Florida Statutes, provides that a code enforcement board, or special magistrate designated by the County pursuant to Section 162.03(2), Florida Statutes, may reduce a code enforcement fine before the order imposing such fine has been recorded; and

WHEREAS, Attorney General Opinion 2002-62 opines that code enforcement boards are not authorized to reduce fines after code enforcement orders have been recorded in the public records, and that only the local governing body is vested with the authority to compromise, satisfy, or release liens after such liens have been recorded; and

WHEREAS, Attorney General Opinion 2001-09 and Attorney General Opinion 99-03 conclude that the local governing body may delegate its authority to execute satisfactions or releases of code enforcement liens, so long as such delegation does not result in a complete divestiture of such liens by the local governing body; and

WHEREAS, it is in the County's best interest to delegate requests for reduction or satisfaction of code enforcement liens to the applicable code enforcement body, before which an applicant may present any and all evidence and extenuating circumstances in support of the request and which may issue a recommendation to the Board of County Commissioner for final action; and

WHEREAS, pursuant to Section 125.01, Florida Statutes, the County, through its home rule powers, shall have the power to carry on county government to the extent not inconsistent with general or special law.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. Findings of Fact. The above recitals are true and correct and incorporated by reference into the body of this Ordinance and adopted as findings of fact.

Section 2. Definitions. When used in this Ordinance, the following words and terms shall have the meanings set forth below:

A. "Board" shall mean the Board of County Commissioners of St. Johns County, Florida.

B. “Code Enforcement Body” shall mean, depending on the context, (i) the Construction Board of Adjustments and Appeal provided for in St. Johns County Ordinance Nos. 2000-48 and 2022-33, as each may be amended from time to time; (ii) the Contractors Review Board provided for in St. Johns County Ordinance No. 2002-48, as may be amended from time to time; or (iii) a Special Magistrate appointed by the Board pursuant to St. Johns County Ordinance No. 2007-21, as may be amended from time to time.

C. “County” shall mean, depending on the context, either (i) the unincorporated area of St. Johns County, Florida, or (ii) the government of St. Johns County, Florida, acting through the Board.

D. “County Administrator” shall mean the County’s chief administrative officer, or designee.

Section 3. Satisfaction and Release of Lien. Where a certified copy of an order imposing a fine, penalty, or costs for a code enforcement violation has been recorded in the public records and has become a lien against real or personal property, a person may apply for a satisfaction or release of such lien as follows:

A. Upon payment of the full amount of the lien resulting from of a code enforcement action, including any and all interest accrued through the date of payment, the County Administrator is hereby authorized to execute and record, at the person’s expense, a satisfaction or release of lien. The Board may establish by resolution a fee to be paid in advance by any party submitting such a request for satisfaction or release of lien, which such fee shall include the actual costs incurred by the County in processing and reviewing such a request.

B. Upon request for a reduction or forgiveness of a lien resulting from a code enforcement action, the person shall submit a written application to the County Administrator as provided in Section 4, below, for consideration in accordance with this Ordinance.

Section 4. Minimum Application Requirements. The County Administrator shall prescribe an application form for any person requesting reduction or forgiveness of a lien. The application shall be executed under oath and sworn to in the presence of a notary public and, among other things, shall require the applicant to provide:

- A. The mailing address, phone number, and email address for the applicant;
- B. The Code Enforcement Body that entered the order imposing a lien on the property and the case number;
- C. A copy of the order imposing a lien on the property;
- D. The address or brief legal description, or both, of the property upon which the violation occurred;

E. The address or brief legal description, or both, of all real property owned by the applicant in the State of Florida;

F. The date upon which the subject property was brought into compliance;

G. The reasons, if any, compliance was not obtained prior to the date the lien was recorded;

H. The factual basis upon which the applicant believes the application for reduction or forgiveness of the lien should be granted;

I. The specific terms upon which the applicant believes a satisfaction or release of lien should be granted;

J. The amount of the reduction of the lien requested by the applicant;

K. Information concerning any outstanding mortgages on the property subject to the lien, including the date such mortgage or mortgages were recorded and whether the mortgage or mortgages are currently in default;

L. Any other information, documents, or evidence which support, or which the applicant deems pertinent to, the request, including but not limited to the circumstances that exist which would warrant the reduction or forgiveness of the lien.

M. A certification that all ad valorem property taxes, special assessments, county utility fees, and other government-imposed liens against the subject property have been paid;

N. A certification that the applicant is not personally indebted to the County for any reason; and

O. A certification that all county code violations on the subject property have been corrected under necessary permits issued therefor.

P. A waiver of the applicant's right, if any, to seek judicial review of the Board's discretionary decision whether or not to reduce or forgive the lien and, if so, by how much.

Section 5. Application Fee. The Board may establish by resolution a fee to be paid in advance by any party submitting an application for reduction or forgiveness of a lien pursuant to Section 4, above. Such fee shall be non-refundable, without regard to the final disposition of the application, and shall be due each time an application is submitted, including for the same lien.

Section 6. Eligibility. No application for reduction or forgiveness of a lien may be granted if:

A. The applicant purchased the property after the date of recording of the lien was recorded. In such cases, the lien should have been identified and satisfied at the time of purchase of the property;

B. A title insurance policy was issued at the time the property was purchased and the title insurance policy failed to identify or consider the lien. In such cases, the lien should have been discovered by the title insurer and reduction or forgiveness would serve to indemnify the title insurer against losses due to negligent examination of title;

C. The Board has previously reduced the amount of the lien, without regard to whether the current applicant was the recipient of the previous reduction or not;

D. Either the lien or the subject property is the subject of any pending foreclosure proceeding filed by the County or other county enforcement proceeding;

E. Any ad valorem property taxes, special assessments, county utility fees, or other government-imposed liens against the subject property are outstanding;

F. The applicant is personally indebted to the County for any reason; or

G. Any county code violations on the subject property have not been corrected under necessary permits issued therefor.

Section 7. Review and Processing of Application.

A. Upon receipt of a complete and sufficient application for reduction or forgiveness of lien, the County Administrator shall confirm that all ad valorem property taxes, special assessments, county utility fees, and other government-imposed liens against the subject property have been paid; that the applicant is not personally indebted to the County for any reason; and that all county code violations on the subject property have been corrected under necessary permits issued therefor. Upon confirmation, the County Administrator shall place the application upon the agenda of the next available meeting of the applicable Code Enforcement Body.

B. Upon presenting the County Administrator with a bona fide written contract for purchase and sale of property subject to a lien and proof of closing date prior to the next available meeting of the applicable Code Enforcement Body, the County Administrator shall place the application on the agenda for the next available regular meeting of the Board without first seeking the recommendation of the applicable Code Enforcement Body.

C. If a property subject to a lien is the subject of a pending tax deed sale prior to the next available meeting of the applicable Code Enforcement Body, and if a party submits a sworn statement to the County Administrator that the party intends to submit a bid to purchase the property at the tax deed sale, the County Administrator shall place the application on the agenda for the next available regular meeting of the Board without first seeking the recommendation of the applicable Code Enforcement Body.

Section 8. Code Enforcement Body Hearing; Review and Recommendation.

A. At the hearing, the Code Enforcement Body shall review and consider the sworn application for reduction or forgiveness of the lien and any documents or evidence submitted in support thereof, provide the applicant with an opportunity to address the authority regarding the application, and take the testimony of other interested parties, including but not limited to county staff.

B. Upon review of the application and any testimony presented, the Code Enforcement Body shall recommend to the Board approval, approval with conditions, or denial of the application for reduction or forgiveness of lien. The burden of proof shall be on the applicant to show cause for reducing or forgiving the lien. The Code Enforcement Body, in determining its recommendation, may consider the following factors, as may be applicable:

- i. The nature and gravity of the violation;
- ii. Any actions taken by the applicant to correct the violation, including any actual costs expended by the applicant, along with supporting documentation;
- iii. Any costs incurred by the County to abate the violation and prosecute the case, including administrative and overhead expenditures;
- iv. The length of time the subject property was in violation prior to the lien being placed;
- v. The time it took for the subject property to come into compliance;
- vi. The accrued amount of the lien, as well as the market value of the property;
- vii. Any previous or subsequent code violations on the subject property;
- viii. Whether there is a prior recorded mortgage on the subject property and, if so, whether such mortgage is in default and/or whether the principal amount of the mortgage is of such magnitude that it would not be practical for the County to institute a lien foreclosure action;
- ix. Consideration for the future or proposed use of the subject property for public purpose;
- x. The number and status of all other properties in the County owned by the applicant, and how many active code enforcement cases or code enforcement liens;
- xi. Whether the applicant requesting the reduction owned the property at the time the lien was placed;

xii. Any financial hardship; and

xiii. Any other mitigating circumstance that may warrant the reduction or forgiveness of the lien.

C. The Code Enforcement Body shall notify the applicant of its recommendation in writing by certified mail. No written findings by the Code Enforcement Body are required.

Section 9. Presentation to Board; Board Action.

A. After a recommendation has been rendered by the Code Enforcement Body, the County Administrator shall place the application for reduction or forgiveness of lien upon the agenda of the next available regular meeting of the Board for its consideration and final determination. The Board may take action solely based upon the sworn application and the recommendation of the Code Enforcement Body or may, in its discretion, provide the applicant with an opportunity to address the Board regarding the application and take testimony of other interested parties, including but not limited to county staff. The Board may accept, modify, or reject the recommendations of the Code Enforcement Body and may reduce the amount of the lien, waive the full amount of the lien, or continue the lien in its full amount and approve, approve with conditions, or deny the application for reduction or forgiveness of lien. No written findings by the Board are required.

B. If the Board approves the application for reduction or forgiveness of the lien and the approval is conditioned upon the applicant paying a reduced amount, or any other condition, the satisfaction or release of lien shall not be prepared or recorded until any conditions placed by the Board have been satisfied. The applicant shall have thirty (30) days in which to comply with any such conditions. Failure to timely comply shall result in the automatic denial of the application for reduction or forgiveness of lien.

Section 10. Payment. Board approval of a reduction in the amount of the lien shall be contingent upon payment in full of the reduced amount within thirty (30) days of the Board approval date. Upon timely payment in full of the reduced amount, the County Administrator is authorized to execute and record, at the applicant's expense, a satisfaction or release of lien. If the reduced amount is not paid in full within thirty (30) days, the approval of the reduction shall automatically become null and void and the full amount of the lien shall remain due and payable.

Section 11. Effect of Denial. If the application for reduction or forgiveness of the lien is denied, or if the application is automatically denied due to the failure of the applicant to comply with any condition imposed by the Board or to timely pay the reduced amount, the applicant 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 lien, including accrued interest.

Section 12. No Right of Appeal. A lien is an asset of the County. Any decision or action by the Board on an application for reduction or forgiveness under this Ordinance is strictly discretionary, not quasi-judicial, and shall not constitute a final administrative order for purposes

of Section 162.11, Florida Statutes. An applicant has no right to the requested reduction or forgiveness of a fine, penalty, costs, and/or lien. Due process, including the opportunity for appeal, was provided the property owner/violator through the proceedings before the applicable Code Enforcement Body, and an application for reduction or forgiveness a lien under this Ordinance shall not constitute, or be used for purposes of, rehearing or appeal of the underlying code enforcement action or the order imposing the fine, penalty, or costs. The procedures in this Ordinance are not intended, and shall not be deemed, to create additional substantive or procedural due process rights.

Section 13. Severability. It is the intent of the Board of County Commissioners of St. Johns County, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, subsections, sentences, clauses, phrases, or provision of this Ordinance.

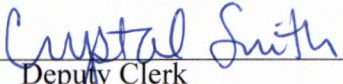
Section 14. Effective Date. This Ordinance shall take effect upon its being filed with the Department of State of Florida.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this 4th day of April, 2023.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: 
Christian Whitehurst, Chair

ATTEST: Brandon J. Patty,
Clerk of the Circuit Court & Comptroller

By: 
Deputy Clerk

Rendition Date APR 04 2023

Effective Date: APR 05 2023



LOCALiQ

FLORIDA

PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Minutes And Records
CLERK OF THE COURTS
Minutes And Records
500 San Sebastian View

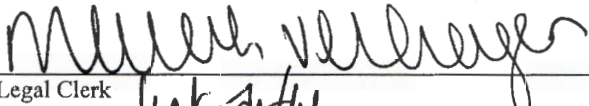
Saint Augustine FL 32084

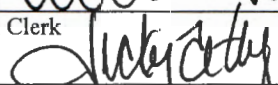
STATE OF FLORIDA, COUNTY OF ST JOHNS

The St Augustine Record, a daily newspaper published in St Johns County, Florida; and of general circulation in St Johns County; and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issues dated or by publication on the newspaper's website, if authorized, on:

03/21/2023

and that the fees charged are legal.
Sworn to and subscribed before on 03/21/2023



Legal Clerk


Notary, State of WI, County of Brown
919.25

My commission expires

Publication Cost: \$125.12
Order No: 8559727 # of Copies:
Customer No: 764114 1
PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

VICKY FELTY
Notary Public
State of Wisconsin

NOTICE OF PUBLIC HEARING
OF THE
ST. JOHNS COUNTY BOARD OF
COUNTY COMMISSIONERS
NOTICE IS HEREBY GIVEN that
the Board of County Commissioners
of St. Johns County, Florida, will
hold a public hearing to consider
adoption of the following ordinance
at a regular meeting on Tuesday,
April 4, 2023, at 9:00 a.m. in the
County Auditorium at the County
Administration Building, 500 San
Sebastian View, St. Augustine,
Florida:
AN ORDINANCE OF ST. JOHNS
COUNTY, A POLITICAL SUBDIVI-
SION OF THE STATE OF
FLORIDA, ESTABLISHING
PROCEDURES FOR THE
RELEASE OR REDUCTION OF
CODE ENFORCEMENT LIENS;
MAKING FINDINGS OF FACT;
PROVIDING FOR DEFINITIONS;
PROVIDING FOR SATISFACTION
OR RELEASE OF LIENS; ESTAB-
LISHING MINIMUM APPLI-
CATION REQUIREMENTS FOR
REDUCTION OR FORGIVENESS
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APPLICATION FEES; PROVID-
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PROCESSING OF APPLI-
CATIONS; PROVIDING FOR CODE
ENFORCEMENT BODY HEAR-
ING, REVIEW, AND RECOM-
MENDATION; PROVIDING FOR
PRESENTATION TO THE BOARD
AND BOARD ACTION; PROVID-
ING FOR PAYMENT; PROVID-
ING FOR EFFECT OF DENIAL
OF APPLICATION; PROVIDING
FOR NO RIGHT OF APPEAL;
PROVIDING FOR SEVERABIL-
ITY; AND PROVIDING FOR AN
EFFECTIVE DATE.
The proposed ordinance is on file in
the office of the Clerk of the Board
of County Commissioners at the
County Administration Building, 500
San Sebastian View, St. Augustine,
Florida, and may be examined by
interested parties prior to the said
public hearing. Please take note that
the proposed ordinance is subject to
revision prior to hearing or adop-
tion. All parties having any interest
in said ordinance will be afforded an
opportunity to be heard at the public
hearing.
If a person decides to appeal any
decision made with respect to any
matter considered at the hearing,
such person will need a record of the
proceedings, and for such purposes
he/she may need to ensure that a
verbatim record of the proceedings
is made, which record includes the
testimony and evidence upon which
the appeal is to be based.
NOTICE TO PERSONS NEEDING
SPECIAL ACCOMMODATIONS
AND TO ALL HEARING
IMPAIRED PERSONS: In accor-
dance with the Americans with
Disabilities Act, persons needing a
special accommodation to partici-
pate in this proceeding should
contact ADA Coordinator, at (904-
209-0400 or at the Facilities Man-
agement Department, 2416 Dobbs Road,
St. Augustine, FL 32086. For hearing
impaired individuals: Florida Relay
Service: 1-800-955-8770, no later than
5 days prior to the date of this hear-
ing.
BOARD OF COUNTY COMMISS-
IONERS
OF ST. JOHNS COUNTY, FLORIDA
BRANDON J. PATTY, ITS CLERK
By: Yvonne King, Deputy Clerk

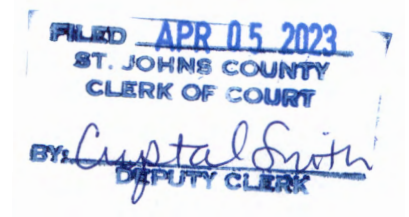


FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

April 6, 2023



Honorable Brandon Patty
Clerk of Courts
St. Johns County
500 San Sebastian View
St. Augustine, FL 32084

Attention: Crystal Smith

Dear Honorable Brandon Patty,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of St. Johns Ordinance No. 2023-13, which was filed in this office on April 5, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh