

Village of Estero Administrative Procedure

Title: Code Compliance Lien Administration

Authority: Village Code § 2-2 authorizes the Village Manager to adopt rules and procedures regarding the operation or conduct of Village business.

Purpose: The purpose of this procedure is to establish a process to prevent accumulation of code compliance liens older than one year where foreclosure of liens older than one year may be accomplished based on the facts and applicable law.

Overview and Scope: The code compliance process always begins with a cooperative effort aimed at achieving compliance with Village Code. So long as a violator is working in good faith with code compliance staff, informal resolution of cases is the standard.

Where compliance is not achieved after warning, violators will be referred to the Village's Code Compliance Special Magistrate. The first step in that process (other than for repeat violators) will always be, if guilt is found, that the Magistrate will require compliance within a reasonable period. Again, if compliance occurs, no fines will be imposed (although the cost of investigation will be sought by staff).

Where the Magistrate has found guilt but compliance still has not occurred, the Magistrate will then impose a fine. While certain "irreversible or irreparable" violations will result in a flat fine up to \$5,000, most cases result in a daily fine of up to \$250 (\$500 for repeat violators). If the violator fails to come into compliance (daily fines stop if compliance is certified by the code officer), daily fines (which, when recorded in the public record become liens) can accumulate to very large amounts over years.

The goal of this procedure is to prevent recorded code liens from becoming too old, and to incentivize violators to come into compliance and to voluntarily resolve older pending code liens.

Procedures:

- **Master List**

The Code Compliance Manager shall maintain a master list of all imposition orders recorded in the public record (creating a code lien). At a minimum, this master list shall include the date the lien was created, the violator's name, a brief description of the violation, the cost of investigation and daily fine imposed, and the total fines and costs then due based on the number of days the daily fine has been accruing.

This master list shall be updated quarterly in January, April, July and October, and shall be provided to the Village Manager, Community Development Director, and Village Attorney.

- **Initial Homestead Assessment**

When the Code Compliance Manager files an imposition order in the public record (creating a lien), he or she shall, at that time, note on the master list whether the property at issue is homesteaded as noted in the official records of the Property Appraiser.

- **Aged Liens**

For all Village code liens which have been recorded for at least 12 months, and which do not involve homestead property, the Code Compliance Manager shall recommend foreclosure of the lien to the Village Attorney.

- **Foreclosure Authorization Sought**

Pursuant to Village Code § 1-48(h):

After three months from the filing of any such lien which remains unpaid, the village council may authorize the village attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is homestead under Section 4, Article X of the Florida Constitution.

Therefore, the Village Attorney will, upon receiving the foreclosure recommendations from the Code Compliance Manager, review each case to confirm homestead status, and to verify sufficient assets are available to satisfy the lien.

For those qualifying cases, the Village Attorney will develop a consent agenda memorandum requesting Council's authorization to foreclose the liens.

- **Foreclosure Action/Compromise**

For all code liens for which the Village Council has approved foreclosure, the Village Attorney will file the necessary foreclosure action in circuit court, and upon receiving a final judgment of foreclosure, will undertake the measures necessary to satisfy the judgment.

During the pendency of a foreclosure case, should the violator seek to voluntarily resolve the case under terms acceptable to the Village staff, the Village Attorney will prepare a Council agenda item proposing the terms of the resolution of the foreclosure action. Council approval of any compromise of the lien prior to final judgment is required since both the statute and Village Code § 1-48(g) provides:

A lien arising from a fine imposed pursuant to this section runs in favor of the village, and the council may execute a satisfaction or release of lien entered pursuant to this section.

No pre-judgment resolution will be recommended to Council which is not supported either by the Code Compliance Manager's certification that compliance has been achieved, or that the violator is willing to execute a consent judgment outlining how compliance will be achieved within a reasonable time, enforceable by the court.

If Council approves of a voluntary resolution, the foreclosure will be resolved. If it does not, the foreclosure action will proceed to final judgment.

Once the judgment is satisfied (either through satisfaction of the judgment or by Council compromise), the Village will file a Lien Release.

Conclusion: This administrative process is intended to eventually result in a significant reduction of "aged" code compliance liens (at least where the properties involved are not homestead protected), and to provide an incentive for violators to resolve outstanding liens and come into compliance. The Village Manager will monitor the long-term effectiveness of this procedure and modify it as necessary to continue to achieve these goals.

Effective Date: March 4, 2026

Approval:

Steve Sarkozy, Village Manager