

ORDINANCE NO. 21-O-07

AN ORDINANCE OF THE CITY OF CRYSTAL RIVER, FLORIDA, CONCERNING CITY LIENS; ADDING A SECTION TO BE NUMBERED 2-6 PROVIDING FOR REDUCTION, SATISFACTION AND RELEASE OF CITY LIENS; DESCRIBING CITY LIENS GOVERNED BY SUCH SECTION; PROVIDING AUTHORITY TO THE CITY MANAGER, MUNICIPAL CODE ENFORCEMENT BOARD AND CODE ENFORCEMENT SPECIAL MAGISTRATE; PROVIDING FOR PROCEDURE, CRITERIA, FORM AND LIMITATIONS CONCERNING REDUCTION, SATISFACTION AND RELEASE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Crystal River, Florida as follows:

Section 1. That the Code of Ordinances, City of Crystal River, Florida, is hereby amended by adding a section to be numbered 2-6 which shall read as follows:

Sec. 2-6. – Reduction, satisfaction and release of city liens.

(a) *City liens subject to this section.* For purposes of this section only, a “city lien” is a lien, under Florida law, held by the city on real property owned by another party (“lienee”) requiring the payment of outstanding money owed in an amount less than One Hundred Thousand Dollars (\$100,000.00). A city lien may include, without limitation:

- (1) A mortgage.
- (2) A judgment lien.
- (3) A lien arising under an agreement between city and a property owner providing that the city will have a lien on the property owner’s real or personal property, including but not limited to a developer’s agreement entered into pursuant to chapter 14 of the land development code.
- (4) A lien arising under article VI of chapter 2 of this code concerning code enforcement.
- (5) A lien arising under article III of chapter 6 of this code concerning abatement of nuisances.

(6) A lien arising under article II of chapter 16 of this code concerning water and sewer services.

(7) A lien arising under article I of chapter 10 of this code concerning health, sanitation and public welfare.

(8) A lien arising under chapter 14 of this code concerning streets and sidewalks.

(9) A lien arising under chapter 19 of this code concerning Florida-friendly use of fertilizer on urban landscapes.

(b) *Authority for reduction, satisfaction and release.*

(1) The city manager or his or her designee is authorized to satisfy and release city liens pursuant to this section, when the city manager determines that all obligations secured by the lien, including the payment of money (if required), have been performed.

(2) Pursuant to the criteria set forth in subsection (c)(3), below, the city manager is authorized to reduce the obligations of a licensee pursuant to a city lien, including the outstanding money owed, or satisfy and release a city lien absent the performance of all obligations of the city lien (collectively “reduce”). Notwithstanding the foregoing, the city manager’s authority to reduce such obligations is limited and the benefit conferred through such reduction shall not exceed Fifty Thousand Dollars (\$50,000).

(3) Pursuant to the criteria set forth in subsection (c)(3), municipal code enforcement board or code enforcement special magistrate is authorized to reduce or satisfy and release the obligations of a licensee pursuant to any lien arising under article V of chapter 2 of this code concerning code enforcement may be satisfied, released or reduced as follows:

(a) By the chairman or vice-chairman of the municipal code enforcement board, if the lien arose under an order issued by such board, pursuant to procedures established by the code enforcement board and approved by the city manager.

(b) By the code enforcement special magistrate, if the lien arose under an order issued by the code enforcement special magistrate, pursuant to procedures established by the special magistrate and approved by the city manager.

(c) Notwithstanding the foregoing, the authority of the municipal code enforcement board or code enforcement special magistrate to reduce such obligations is limited and the benefit conferred through such reduction shall not exceed One Hundred Thousand Dollars (\$100,000).

(4) Any reduction of obligations of a lienee conferring a benefit exceeding One Hundred Thousand Dollars (\$100,000) require approval of city council.

(c) *Procedure; criteria for reduction.* Upon request of city staff, the owner of the property subject to a city lien, or another interested person (including a proposed purchaser, proposed mortgagee, or title insurance company or agent) (“requesting party”), that a city lien be satisfied, released or reduced under this section, the city manager shall:

(1) Request appropriate city staff to review the city lien to determine whether it should be satisfied, released or reduced under this section.

(2) Request the city attorney to review the city lien to determine whether it should be reduced, satisfied or released under this section, and whether there are any provisions thereof that should be preserved for the benefit of the city.

(3) If the city lien arose under article V of chapter 2 of this code concerning code enforcement, then the request and accompanying staff report shall be forwarded to the municipal code enforcement board or code enforcement special magistrate for consideration pursuant to section (b)(3), above.

(4) *Criteria for reduction.* In the case of a request that a city lien be reduced, the city manager, municipal code enforcement board, or code enforcement special magistrate shall consider the following criteria:

- (i) whether the subject property complies with all city codes and ordinances;
- (ii) whether the lienee has paid all actual costs and expenses incurred by the city in connection with the city lien;
- (iii) whether the lienee or requesting party owns any other properties in the city and whether such properties have active code enforcement violations or are encumbered by additional city liens;
- (iv) whether the lienee or requesting party owned the property for which the lien was recorded at the time the lien was recorded;
- (v) whether the lienee or requesting party took proactive action to correct the acts, omissions, or violations resulting in the recording of the lien;
- (vi) whether third parties or adjacent property owners have suffered damages as a result of the acts or omissions giving rise to the city lien, and if so, whether restitution has occurred; and
- (vii) any other specific information or factor which may show a hardship on the lienee or requesting party or which may provide a reasonable basis for the requested relief.

(d) *Form of satisfaction or release.*

(1) If the city manager, municipal code enforcement board or special magistrate determines the city lien should be satisfied, released or reduced under this section, the city manager shall direct the city clerk to prepare the appropriate document satisfying, releasing, or reducing the city lien.

(2) Such document may satisfy the city lien in whole or in part, may release the city lien from portions of the property encumbered by the city lien, or reduce the lienholder's outstanding obligations or money owed, and may reserve, for the benefit of the city, owner or developer, certain provisions of the city lien.

(3) The city manager, chair or vice chair of the municipal code enforcement board, or code enforcement special magistrate, together with the city attorney, may thereafter execute the document satisfying or releasing the city lien, and the city clerk shall attest such document and record it in the public records.

(e) *No further action by city council required.* The execution of a document satisfying or releasing a city lien under this section shall constitute approval of the document pursuant to the City Charter, as if executed by the city council president, and it is not necessary that city council further approve the document or that it be executed by the city council president.

(f) *Limitations.* A satisfaction, release or reduction of a city lien under this section shall be effective only to satisfy, release or reduce the city lien and shall not be effective to satisfy or release any other provisions of any agreement or other document pursuant to which the lien arose. Further, any satisfaction, release or reduction of city liens requiring payment of money in an amount exceeding One Hundred Thousand Dollars (\$100,000.00) shall require city council approval.

(g) *Not exclusive.* The provisions of this section are not intended to be the exclusive means of satisfying or releasing a city lien. Thus, nothing set forth herein shall preclude the satisfaction or release of a city lien by city council, or as otherwise permitted by applicable law.

Section 2. *Severability.* Should any provision or section of this ordinance be held by a court of competent jurisdiction to be held unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall take effect immediately upon passage.

APPROVED on the first reading after due public notice and public hearing the _____ day of _____, 2021.

APPROVED on the second reading after due public notice and public hearing the _____ day of _____, 2021.

ATTEST:

CITY OF CRYSTAL RIVER

MIA FINK, CITY CLERK

JOE MEEK, MAYOR

PASSED on First Reading _____, 2021

NOTICE Published on _____, 2021

PASSED on Second & Final Reading _____, 2021

Approved as to form and legality:

VOTE OF COUNCIL:

Robert W. Batsel, Jr., City Attorney

Brown _____

Guy _____

Holmes _____

Fitzpatrick _____

Meek _____