

ORDINANCE NO. 2933-13

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 2-107(e), ADMINISTRATIVE FINES; COSTS OF REPAIR; LIENS, OF CHAPTER 2, ADMINISTRATION, REPEALING THE CLAUSE DECLARING THAT CODE ENFORCEMENT LIENS TAKE PRIORITY OVER OTHER LIENS; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND EFFECTIVE DATE.

WHEREAS, Winter Park Code section 2-107(e) needs to be amended to repeal the clause according code enforcement liens priority over other liens, due to the Florida Supreme Court ruling in *City of Palm Bay v. Wells Fargo Bank, N.A.*, 114 So. 3d 924, (Fla. 2013); and

WHEREAS, words with double underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text, and asterisks (* *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. Section 2-107(e), Administrative fines; costs of repair; liens, of Chapter 2, Administration, is hereby amended as follows:

Sec. 2-107. – Administrative fines; costs of repair; liens.

* * *

(e) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. ~~All liens filed by the code enforcement board shall be co-equal with the liens of all state, county, district and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid or extinguished.~~ Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of the state, including execution and levy against the personal property of the violator, but such order shall not be deemed otherwise to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city, and the city may execute a satisfaction

or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, the code enforcement board may authorize the city attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. Actions for money judgments may be pursued only on fines levied after October 1, 2000. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Fla. Const. art. X, § 4. The money judgment provisions of this section shall not apply to real property or personal property which is covered under Fla. Const. art. X, § 4.

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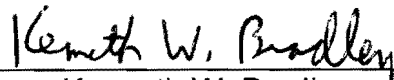
SECTION 2. SEVERABILITY. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 3. CODIFICATION. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION 4. CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 12th day of August, 2013.



Mayor Kenneth W. Bradley

ATTEST:



City Clerk, Cynthia S. Bonham