

ORDINANCE NO. 2785-09

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA;
AMENDING SECTIONS 1-11 AND 2-108 OF THE CODE OF
ORDINANCES TO PROVIDE FOR SUPER-PRIORITY OF CODE
ENFORCEMENT LIENS; PROVIDING FOR CODIFICATION,
SEVERABILITY, CONFLICTS AND EFFECTIVE DATE.**

WHEREAS, the purpose of this Amendment is to ensure that the City's Code Enforcement liens are not automatically foreclosed when mortgages are foreclosed on properties; and

WHEREAS, the City desires to ensure compliance with the provisions of the Code and the foreclosure of Code Enforcement liens would frustrate this purpose; and

WHEREAS, the City finds and determines that certain portions of Sections 1-11 and 2-108 of the Code of Ordinances must be amended to establish the super-priority of the City's Code Enforcement liens; 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 a deletion from the existing text of the Chapter or Code which is intended to remain unchanged.

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

SECTION 1. Section 1-11 of the Winter Park City Code of Ordinances is hereby amended to read as follows:

Sec. 1-11. Priority of Liens.

Whenever in this Code of Ordinances or in any ordinance of the city a lien is created in favor of the city for unpaid code enforcement fines, fees, service charges, assessments, or other similar charges or obligations owing to the city, such lien shall be on a parity or coequal with the lien of all state, county, district and city taxes, superior in dignity to all other liens, titles and claims.

SECTION 2. Section 2-108(e) of the Winter Park City Code of Ordinances is hereby amended as follows:

Sec. 2-108. Administrative fines; cost 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.

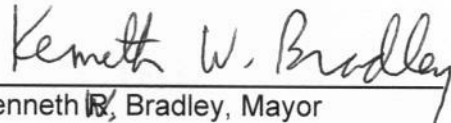
SECTION 3. SEVERABILITY. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 4. 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.

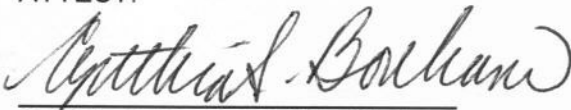
SECTION 5. CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

ADOPTED at a regular meeting of the City Commission of Winter Park, Florida held in City Hall, Winter Park this 9th day of November, A.D. 2009.


Kenneth W. Bradley, Mayor

ATTEST:


Cynthia S. Bonham, City Clerk