

ORDINANCE NO. 1494

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2
3 AN ORDINANCE OF THE CITY OF LAKE MARY, FLORIDA,
4 AMENDING SECTION 30.39(E), ADMINISTRATIVE FINES; LIENS, OF
5 CHAPTER 30, BOARDS, COMMISSIONS AND AGENCIES, AND
6 AMENDING SECTIONS 91.74(D), 91.78, OF CHAPTER 91, HEALTH
7 AND PUBLIC SAFETY, LAKE MARY PROPERTY MAINTENANCE
8 CODE, TO REPEAL CLAUSES DECLARING THAT CODE
9 ENFORCEMENT LIENS TAKE PRIORITY OVER OTHER LIENS AND
10 TO REVISE NOTICE REQUIREMENTS; AND TO AMEND SECTION
11 91.70(C), INTENT, DEFINITIONS, AND ADOPTION OF
12 INTERNATIONAL PROPERTY MAINTENANCE CODE, TO ADOPT
13 THE ENTIRE INTERNATIONAL PROPERTY MAINTENANCE CODE;
14 AND TO AMEND SECTION 91.75(F), ABANDONED REAL PROPERTY,
15 TO CLARIFY THE PURPOSE OF THE REGISTRATION FEE;
16 PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND
17 EFFECTIVE DATE.

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19 WHEREAS, previously the City Commission of the City of Lake Mary
20 adopted Chapter 1 of the International Property Maintenance Code; and

21
22 WHEREAS, the City Commission desires to adopt the entire International
23 Property Maintenance Code in order to provide additional standards to help
24 ensure the health, safety and welfare of City residents and to ensure that
25 structures are safe, sanitary and fit for occupation and use; and

26
27 WHEREAS, Lake Mary Code Sections 30.39(E), 91.74(D) and 91.78(C)
28 need to be amended to repeal the clause code enforcement liens priority over
29 other liens, due to the Florida Supreme Court ruling in *City of Palm Bay v. Wells*
30 *Fargo Bank, N.A.*, 114 So. 3d 924 (Fla. 2013); and

31
32 WHEREAS, Lake Mary Code Section 91.75(F), is amended to clarify the
33 purpose of the annual registration fee charged to mortgagees for abandoned
34 properties; and

35
36 WHEREAS, the City Commission desires to amend Lake Mary Code
37 Section 91.78(B) and (C) requiring the record owner of property to remedy,
38 correct, or remove the violation within 10 days instead of 15 days, and to modify
39 Section 91.78(A) to mirror Section 30.41.

40
41 WHEREAS, words with double underlined type shall constitute additions to
42 the original text and ~~strike through~~ shall constitute deletions to the original text, and
43 asterisks (* * *) indicate that text shall remain unchanged from the language
44 existing prior to adoption of this Ordinance.

45
46 IT IS HEREBY ENACTED BY THE CITY OF LAKE MARY AS FOLLOWS:

47
48 **SECTION 1.** Section 30.39(E), Administrative fines; liens, of Chapter 30,
49 Boards, Commissions and Agencies, is hereby amended as follows:

1
2 **Sec. 30.39 ADMINISTRATIVE FINES; LIENS**
3

4 * * *

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6 (E) A certified copy of an order imposing a fine, or fine
7 plus repair costs, may be recorded in the public records and
8 thereafter shall constitute a lien against the land on which the
9 violation exists and upon any other real or personal property owned
10 by the violator. ~~All liens filed by the Code Enforcement Board shall~~
11 ~~be liens co-equal with the lien of all state, county, district and~~
12 ~~municipal taxes, superior in dignity to all other liens, titles, and~~
13 ~~claims, until paid or extinguished. Upon petition to the circuit court,~~
14 ~~the order may be enforced in the same manner as a court judgment~~
15 ~~by the sheriffs of this state, including levy against the personal~~
16 ~~property of the violator, but the order shall not be deemed to be a~~
17 ~~court judgment except for enforcement purposes. A fine imposed~~
18 ~~pursuant to this section shall continue to accrue until the violator~~
19 ~~comes into compliance or until judgment is rendered in a suit to~~
20 ~~foreclose on a lien filed pursuant to this section, whichever occurs~~
21 ~~first. A lien arising from a fine imposed pursuant to this section runs~~
22 ~~in favor of the City Commission and the City Commission may~~
23 ~~execute a satisfaction or release of lien entered pursuant to this~~
24 ~~section. After three months from the filing of any such lien which~~
25 ~~remains unpaid, the Code Enforcement Board may authorize the~~
26 ~~City Attorney to foreclose on the lien. No lien created pursuant to~~
27 ~~the provisions of this section may be foreclosed on real property~~
28 ~~which is a homestead under Sec. 4, Art. X of the State Constitution.~~

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30 * * *

31
32 **SECTION 2.** Section 91.70, Intent, Definitions, and Adoption of
33 International Property Maintenance Code, of Chapter 91, Health and Public
34 Safety, Lake Mary Property Maintenance Code, is hereby amended as follows:

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36 * * *

37 (C) The City of Lake Mary adopts ~~Chapter One of the~~
38 ~~International Property Maintenance Code, 2009~~ 2012 Edition, as
39 may be amended from time to time, for regulating and governing
40 the conditions and maintenance of all buildings and structures
41 within the city and is made a part of this chapter by reference as
42 fully and completely as if set forth herein. A copy of said Code will
43 be on file in the Office of the City Clerk.
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45 **SECTION 3.** Section 91.74, Demolition, of Chapter 91, Health and Public
46 Safety, Lake Mary Property Maintenance Code, is hereby amended as follows:
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48 § 91.74 DEMOLITION

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(D) Contents of notice. The condemnation notice must be in writing and include the following:

* * *

(5) Notice that if the defects are not corrected pursuant to the order or a hearing is not requested within the time allowed, the city may cause correction of the defects and charge the reasonable costs and expenses incurred by the city for such corrections against the property, to include and not be limited to, a property lien ~~equal with the lien of all state, county and municipal taxes, superior in dignity to all other liens~~ until paid.

* * *

(G) Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Building Official shall cause the structure to be demolished and removed, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate ~~equal with the lien of all state, county and municipal taxes, superior in dignity to all other liens~~ until paid.

SECTION 4. Section 91.75(F), Abandoned Real Property, of Chapter 91, Health and Public Safety, Lake Mary Property Maintenance Code, is hereby amended as follows:

§ 91.75 PROPERTY MAINTENANCE REQUIREMENTS.

* * *

(F) Abandoned Real Property.

* * *

(4) An annual registration fee in the amount of \$100 per property shall accompany the registration form(s). This fee is to cover administrative and inspection costs incurred by the City to ensure properties are properly maintained and secured for the safety of the public. The City will notify mortgage holders or their management companies of security or maintenance problems with the abandoned properties to facilitate the protection of their collateral.

* * *

SECTION 5. Section 91.78, Notice Provisions, of Chapter 91, Health and Public Safety, Lake Mary Property Maintenance Code, is hereby amended as

1 follows:

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4 § 91.78 NOTICE PROVISIONS

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6 * * *

7 (A) If a Code Official determines that a prohibited condition
8 or public nuisance as described herein exists, the Code
9 Enforcement Officer shall so notify the record owner of the property
10 where the condition exists and order that the owner cause the
11 condition to be removed or corrected. Notices required by this
12 section shall be provided in accordance with F.S. § 162.12, as it
13 may be amended from time to time. ~~The notice shall be given by~~
14 ~~certified mail to the record owner as that name and address is~~
15 ~~shown upon the records of the County Tax Collector.~~ Notice shall
16 be deemed complete when personally delivered or mailed.

17
18 (B) The notice required by division (A) shall contain the
19 following:

20 (1) The name and address of the owner of the
21 property according to the records of the County Tax Collector
22 Property Appraiser for the most current year.

23
24 * * *

25 (5) A requirement that the record owner of the
26 property remedy, correct, or remove the violation within ~~45~~10 days
27 from the date of notice, or alternatively file application for a hearing
28 on the issue of the existence of the alleged violation before the City
29 Code Enforcement Board.

30 (C) In the event that the record owner fails to comply with
31 the requirement to remedy, correct, or remove the violation within
32 ~~45~~10 days of notice, or fails to request a hearing on the issue of
33 the violation before the City Code Enforcement Board, then and in
34 that event, the city is hereby authorized to enter upon the said
35 property, remedy, correct, or remove the violation, and assess the
36 cost thereof together with an administrative charge of \$100 against
37 the property. That special assessment shall constitute a lien
38 ~~coequal with the lien of all state, county, and municipal taxes,~~
39 ~~superior in dignity to all other liens~~ until paid, against the property
40 and shall be recorded upon the public records of the county.

41
42 * * *

43 **SECTION 6. CODIFICATION.** It is the intention of the City Commission
44 that the provisions of this Ordinance shall become and be made part of the Code
45 of Ordinances of the City of Lake Mary, Florida and the word "ordinance" may be
46 changed to "section", "article", or other appropriate word or phrase and the
47 sections of the Ordinance may be renumbered or re-lettered to accomplish such

1 intention.

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3 **SECTION 7. CONFLICTS.** All ordinances or resolutions or parts of
4 ordinances or resolutions in conflict herewith are hereby repealed to the extent of
5 any conflict.

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7 **SECTION 8. SEVERABILITY.** If any section, sentence, phrase, word or
8 portion of this Ordinance is determined to be invalid, unlawful or unconstitutional,
9 said determination shall not be held to invalidate or impair the validity, force or
10 effect of any other section, sentence, phrase, word, or portion of this Ordinance
11 not otherwise determined to be invalid, unlawful, or unconstitutional.

12
13 **SECTION 9. EFFECTIVE DATE.** This Ordinance shall take effect
14 immediately upon passage and adoption.

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16 PASSED AND ADOPTED this 19th day of September, 2013.

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18 FIRST READING: August 22, 2013

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20 SECOND READING: September 19, 2013

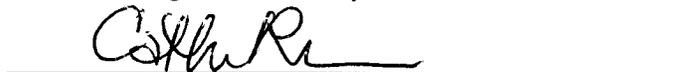
21
22 CITY OF LAKE MARY, FLORIDA

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25
26 MAYOR, DAVID J. MEALOR

27 ATTEST:

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30
31 CITY CLERK, CAROL A. FOSTER

32 For the use and reliance of the City
33 of Lake Mary only. Approved as to
34 form and legal sufficiency.

35
36 
37 CATHERINE REISCHMANN, CITY ATTORNEY