

ORDINANCE 21- 05

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE AMENDED BY REVISING SECTION 2-625, RELATING TO CODE ENFORCEMENT BY SPECIAL MAGISTRATE, PROVIDING FOR ADMINISTRATIVE FINES, COSTS, AND LIENS; PROVIDING FOR SEVEREABILITY; PROVIDING FOR THE AREA EMBRACED; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; AND PROVIDING FOR FILING OF ORDINANCE AND EFFECTIVE DATE.

WHEREAS, Pinellas County is Florida's most densely populated county and many of its homes were constructed before 1990;

WHEREAS, Fla. Stat. § 162.09 permits Pinellas County to impose daily accruing fines and impose liens on properties for noncompliance with its code;

WHEREAS, Pinellas County's primary code enforcement goal is compliance, and maintaining safe, healthy, welfare, and preservation of properties;

WHEREAS, Pinellas County determines that lien caps are appropriate to ensure a proportionality between its code compliance efforts and curtailing excessive liens; and

WHEREAS, Pinellas County continues to be an innovative leader in promulgating citizen-friendly policies.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, that:

SECTION 1. Chapter 2, Section 625 of the Pinellas County Code is hereby amended to read as follows:

Sec. 2-625. - Administrative fines; costs; liens.

- (a) The Special Magistrate, upon notification by the Enforcing department that a code enforcement order has not been complied with within the set time, may order the Violator to pay a fine in an amount specified in this section for each day the violation continues past the date for compliance set forth in the order, or upon notification by the Enforcing department that a Repeat violation has occurred in the case of a Repeat Violator, for each day the Repeat violation continues, beginning with the date the Repeat violation is found to have occurred by the Enforcing department. If a finding of a Repeat violation has been made, a hearing shall not be necessary for issuance of the order imposing the fine. An order imposing a fine shall be sent to the Violator with a notice that the Violator may request a hearing to challenge the fine amount within 20 days of the order. Orders imposing fines shall not be filed as liens until the latter of the expiration of such 20-day notice period, or the completion of such timely requested

challenge. A challenge to an order imposing a fine shall be limited to a consideration of only such new findings necessary to impose an appropriate fine and create a lien.

- (b) In addition, if the violation is a violation described in subsection 2-622(e), the Enforcing department shall notify the Special magistrate. The Enforcing department may immediately take all corrective actions necessary which are required to secure the property and ensure public health and safety, and charge the Violator with the reasonable costs of the corrective actions along with the fine imposed pursuant to this section. Taking such actions does not create a continuing obligation on the part of the local governing body to take further actions or to maintain the property and does not create any liability against the local governing body for damages to the property if such repairs were completed in good faith.
- (c) A fine imposed pursuant to this section shall not exceed \$ 1,000.00 per day for a first violation and shall not exceed \$5,000.00 per day for a Repeat violation and, in addition, may include all costs of repairs or other corrective action pursuant to subsection (a) of this section. If, after due notice and hearing, the Special Magistrate finds a violation to be irreparable or irreversible in nature, the Special Magistrate may impose a fine not to exceed \$15,000.00 per violation or as otherwise authorized by Florida State Statute. In determining the amount of fine, if any, the Special Magistrate shall consider the following factors:
 - (1) The gravity of the violation;
 - (2) Any actions taken by the Violator to correct the violation; and
 - (3) Any previous violations committed by the Violator.
- (d) The Special Magistrate may, in its discretion, adopt a consent order proposed by the Enforcing department setting forth agreed terms for payment of any fine in lieu of execution or foreclosure as set forth in subsection (e), below.
- (e) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records in the Office of the Clerk of the Circuit Court in and for Pinellas County, Florida. Once recorded the certified copy of an order shall constitute a lien against the land on which the violation(s) exists and upon any other real or personal property owned by the violator in Pinellas County, and it shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the Violator, but such order shall not be deemed 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 comes first. Once recorded the lien shall be superior to any mortgages, liens, or other instruments recorded subsequent to the filing of the code enforcement lien.
- (f) After three months from the filing of any such lien which remains unpaid, the county may foreclose the lien in the same manner as mortgage liens are foreclosed. Such lien shall bear interest at the rate allowable by law from the date of compliance set forth in the recorded order acknowledging compliance. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. No lien created pursuant to the provisions of

this ordinance may be foreclosed on real property that is a homestead under Article X, Section 4, of the Florida Constitution.

- (g) The aggregate amount of any lien(s) imposed by a Special Magistrate for Code Enforcement Division violations pursuant to this Section may not exceed twenty thousand dollars (\$20,000.00) for a property or structure lawfully utilized as a single-family residence. Up to a twenty thousand dollar (\$20,000.00) aggregate lien will remain on the property or structure until the lien is paid and compliance is achieved.
- (h) The aggregate amount of any lien(s) imposed by a Special Magistrate for Code Enforcement Division violations pursuant to this Section may not exceed one hundred thousand dollars (\$100,000.00) for a property or structure that is lawfully utilized, but not as a single-family residence. Up to a one hundred thousand dollar (\$100,000.00) aggregate lien will remain on the property or structure until the lien is paid and compliance is achieved.
- (i) *Aggregate*, as used in this Section, refers to the total dollar amount of any lien(s) imposed by a Special Magistrate for one or more Code Enforcement Division violations on a single property or structure. Aggregate does not mean the total number of any lien(s) imposed by a Special Magistrate for Code Enforcement Division violations in separate proceedings against different properties or structures where Code Enforcement Division violations occurred, that are in Pinellas County, and are owned by the same owner(s).
- (j) Any hard costs or fees incurred by Pinellas County are not subject to the limitations set forth in this Section. Hard costs or fees may include any expenses incurred by Pinellas County in conjunction with enforcing a Code Enforcement Division violation.
- (k) Nothing in this Section may be construed as a limit or cap on any other liens imposed by Pinellas County against a property or structure for any other reason, including, but not limited to, a lien imposed for the failure to pay any applicable taxes or pay any applicable utility payments.
- (l) Nothing herein may be construed to limit or cap any liens imposed by the federal government, the State of Florida, another local government, or any other government entity against a property or structure, or to apply to any lien, judgment, order, or decree imposed by a court of competent jurisdiction, imposed as a result of another quasi-judicial proceeding, or an administrative proceeding.
- (m) For the purposes of this Section, an individual unit intended for occupancy by a single family in a multi-family residential building, included, but not limited to, condominiums and townhouses, may be considered a lawfully utilized single-family residence.

SECTION 2. Severability. If any Section, Subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 3. Areas Embraced. This article shall be in effect in the unincorporated areas of Pinellas County.

SECTION 4. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. Filing of Ordinance; Effective Date. Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the ordinance with the Department of State.

APPROVED AS TO FORM
By: Diriki T. Geuka
Office of the County Attorney