

**CITY OF WINTER HAVEN
CODE ENFORCEMENT LIEN AMNESTY
SUMMARY AND ELIGIBILITY REQUIREMENTS**

PLEASE BE ADVISED that, pursuant to City of Winter Haven Resolution No. R-20-66, the City of Winter Haven, Florida, is offering a City of Winter Haven Code Enforcement Lien Amnesty Program (the “Program”) for a limited period of time.

The Program shall commence on January 1, 2021, and the Program shall terminate on June 30, 2021 (the “Term”).

During the Term of the Program, property owners shall submit a fully-executed and complete Code Enforcement Lien Amnesty Program Participation Agreement (the “Agreement”) (see attached Exhibit “A”) to the City of Winter Haven Code Compliance Division.

In addition to the Eligibility Criteria (see below), to qualify for the Program and receive a lien reduction and/or release of lien for qualifying code enforcement case(s) and lien(s), the Agreement shall be (i) submitted during the Term; (ii) executed by the property owner(s) or an authorized agent of the property owner(s); and (iii) complete (all required information and documentation) at the time of submission.

Execution Requirements (required at time of submission):

1. **Notarized Application** (*form application required*)
2. **Administrative Fee** – \$50.00 non-refundable fee.
3. **Letter of Authorization** – If the applicant is not the property owner, the applicant shall provide a notarized letter of authorization or agent affidavit.
4. **Corporate Documentation** – If the applicant is representing an entity, the applicant shall provide the documentation and/or information set forth in the Execution Requirement(s) (see Exhibit “B”).
5. **Trust Documentation** – If the applicant is a Trustee of a Trust, the Trustee/applicant shall provide the documentation and/or information set forth in the Execution Requirement(s) (see Exhibit “B”).

Eligibility Criteria:

1. An Order Finding Violation must be entered for the code enforcement case¹;

¹ For purposes of the Program, the term “code enforcement case” means a case which the City of Winter Haven Code Enforcement Special Magistrate has entered an Order Finding Violation (OFV) or order finding a Repeat Offense (RO). The purposes of this definition, an OFV includes any Order Imposing Fine (OIF) and Supplemental Order Imposing Fine (SOIF) arising out of the OFV.

2. An Agreement and Administrative Fee shall be required for each code enforcement case;
3. The Administrative Fee (the “Fee”) shall be required in order for an Agreement to be considered complete;
4. The City of Winter Haven Code Compliance Division shall only accept, review, and process a complete and timely Agreement;
5. The City of Winter Haven Code Compliance Division shall perform an inspection of the real property identified by the applicant in the Agreement in order to determine whether the code enforcement case and cited violation(s) have been brought into compliance;
6. By executing and submitting the Agreement, the applicant knowingly and voluntarily consents to the terms set forth in the Agreement which includes, but shall not be limited to, consenting to any inspection(s) deemed necessary by the City of Winter Haven Code Compliance Supervisor to determine and/or confirm whether the subject code enforcement case (as identified in the Agreement) is in compliance;
7. Any inspection(s) contemplated herein may be performed by the City of Winter Haven Code Compliance Division, a City of Winter Haven Code Compliance Officer, and/or a City of Winter Haven Law Enforcement Officer;
8. In the sole discretion of the City of Winter Haven Code Compliance Supervisor, any inspection(s) contemplated herein may be performed by virtual means; and
9. In the sole discretion of the City of Winter Haven Code Compliance Supervisor, the City of Winter Haven Code Compliance Division may perform one (1) or more inspection(s) of the subject real property prior to approving or denying an Agreement.

Program Terms:

1. If an Agreement (see Exhibit “A”) is denied, an applicant will be required to submit a new Agreement and Fee in order to reapply and qualify for the Program.
2. Upon the expiration of the Term, the City of Winter Haven Code Compliance Division shall not accept, review, and/or process an Agreement.
3. If an Agreement is complete, timely, and satisfies the Eligibility Criteria (see above), the Code Compliance Division Supervisor is authorized to approve the Agreement, as follows: the lesser of (i) payment of \$1,000.00; or (ii) payment of an amount equal to five percent (5%) of the outstanding accrued fine(s)² plus the City of Winter Haven Code Compliance Division administrative and/or prosecutorial costs (the “City Costs”).

² For purposes of this provision, the term “outstanding accrued fines” means the cumulative sum total of all daily fine amounts related to the code enforcement case and includes daily fine amounts which are not certified by the City of Winter Haven Code Enforcement Special Magistrate.

4. In the event the City Costs for a code enforcement case exceed \$1,000.00, the City of Winter Haven Code Compliance Division Supervisor shall only require payment in-full of the City Costs arising out of the code enforcement case.
5. Any Agreement contemplated herein and approved³ shall require payment in-full within thirty (30) days from the date on which the City of Winter Haven Code Compliance Division Supervisor approves the Agreement.
6. The failure of the applicant to deliver timely payment for an approved Agreement shall render the Agreement “null and void” (i.e., restoring the original fine/lien amounts).
7. Upon the receipt of timely payment, the City of Winter Haven City Manager shall review the Agreement and, if approved and ratified, shall issue and record a release of lien⁴ for the code enforcement case in accordance with Resolution R-20-66.

³ For purposes of the Program, the City of Winter Haven Code Compliance Supervisor shall approve an Agreement in strict accordance with the terms and conditions set forth herein.

⁴ The non-refundable administrative fee (\$50.00) shall be used to setoff the City’s administrative costs and any cost(s) associated with recording the release of lien in the public records of Polk County, Florida.

EXECUTION REQUIREMENTS

LIMITED LIABILITY COMPANIES:

- a) Statement of Authority. (F.S 605.0302) A Certified Statement of Authority (good for 5 years) may be filed with the Department of State and recorded in the Public Records, if the LLC is in good standing. A Statement of Authority may limit apparent authority of members and managers. This is conclusive absent knowledge by the person relying on it.
- b) Management Designation. Review a certified copy of the Articles of Organization to determine if member-managed or manager-managed. (New Act – effective January 1, 2014: new LLCs are member managed absent election F.S. 605.0407.) If the Articles do not indicate the management authority, check the Operating Agreement to see who has authority to sign. A member of member-managed or a manager of a manager-managed is authorized to sign a conveyance of real estate.
- c) Obtain a Certificate of Good Standing.
- d) Beginning January 1, 2015, the Annual Report on the Department of State website will list the person authorized to manage and control the Limited Liability Company. AMBR–Authorized Member or MGR-Manager.
- e) Affidavit. Obtain an affidavit that all MEMBERS ARE NOT IN BANKRUPTCY. (Can be included in Affidavit of No Liens.)

FOREIGN LIMITED LIABILITY COMPANIES:

One possible approach:

- 1) Obtain state laws governing foreign LLCs;
- 2) Obtain state corporate information;
- 3) Obtain certified copy of Certificate of Formation filed with the Secretary of State;
- 4) Obtain certified copy of the Certificate of Good Standing from the Secretary of State;
- 5) Review Operating Agreement of the LLC (normally not filed with the Secretary of State); and
- 6) If the LLC is not willing or able to provide all the above, then all managers must sign if manager-managed; and all members must sign if member-managed.

GENERAL PARTNERSHIPS:

- a) Statement of Partnership Authority. A Statement of Partnership Authority setting forth the partners with authority to sign can be filed in the Public Records. Should be recorded with deed.
- b) Affidavit. If Statement of Partnership Authority not obtained, an affidavit of the general partnership should be recorded. The affidavit should be signed by the partners, setting forth that the general partnership is in existence, the partner authorized to execute documents, none of the partners are in bankruptcy, none of the partners have been dissolved, and state the principal place of business of the partnership.
- c) Good standing certificate not available.

LIMITED PARTNERSHIPS:

- a) Certificate of Limited Partnership. A Limited Partnership must register and file a Certificate of Limited Partnership with the Department of State.
- b) The General Partner is the authorized representative to execute on behalf of a Limited Partnership.

- c) Affidavit. Obtain an affidavit from the Limited Partnership to be recorded. The affidavit should set forth the following: the Limited Partnership and General Partner are in existence, the partner authorized to execute documents, none of the partners are in bankruptcy, none of the partners have been dissolved, and state the principal place of business of the partnership. The affidavit should be signed by an officer of the General Partner of the Limited Partnership.
- d) Obtain a Certificate of Good Standing. If dissolved, must be reinstated.
- e) Obtain affidavits of approval from any Limited Partner required to approve. No need to record.

CORPORATIONS:

- a) The President, Vice President or CEO have authority to execute deeds without proof of authority, (F.S. 692.01). Two witnesses required unless the Secretary attests the signature of the President, and corporate seal is affixed. (Corporate seal can substitute a witness.)
- b) Corporate Resolution. Must obtain a corporate resolution or written consent from the Board of Directors, if authorizing an individual who is not the President, Vice President or CEO. The Resolution must be recorded. (No POA allowed.)
- c) Article of Incorporation. Obtain a certified copy of the Articles of Incorporation to show existence at the time it took title, etc.
- d) Certificate of Good Standing. Obtain Certificate of Good Standing.
- e) Foreign Corporations. In addition to the above, make sure the corporation is authorized to transact business in Florida. Good idea to obtain Certificate of Authority to transact business in Florida.
- f) Record copy of name change.

LIFE ESTATE:

The owner and person with the remainder interest must sign, unless an Enhanced Life Estate Deed.

TRUST:

- a) If the vesting deed into the trustee of the trust includes the powers set forth in F.S. 689.071, to protect, conserve, sell, lease, encumber, or otherwise to manage and dispose of the real property and the named trustee (or a successor trustee **identified in the vesting deed**) is deeding/mortgaging and no trust is recorded, there is no need to review the trust, and no need for a trust affidavit. The trustee or successor trustee may sign. IF BENEFICIARY IS A TRUSTEE, THEY MUST SIGN INDIVIDUALLY AND AS TRUSTEE.
- b) If homestead, the Trustee must sign individually and as trustee and the spouse must sign also. (i.e. John Smith, Individually and as Trustee of the Smith Trust dated January 1, 2015.)
- c) Generally need to review the trust agreement to see if the Trustee has the authority to convey real property.
- d) Certification of Trust. A Certificate of Trust can be recorded rather than record the entire trust agreement (F.S. 736.1017). This is only required for conveyance of real property not easements. Must contain all information listed in the statute.
- e) If deed to John Doe as Trustee with no reference to trust, can treat as if owned by John Doe (F.S. 689.07).
- f) REIT if owned by trustee (F.S. 689.071).

**CODE ENFORCEMENT LIEN AMNESTY PROGRAM
PARTICIPATION AGREEMENT**

Date: _____ Case No: _____
Property Address: _____
Parcel ID No: _____
Owner(s): _____
Mailing Address: _____
Phone No: _____ Alternate Phone No: _____
Email: _____

I, _____ (print name), am the legal owner or authorized representative of the legal owner of the above-referenced real property, and I voluntarily agree to participate in the Code Enforcement Lien Amnesty Program (the "Program") as established by City of Winter Haven Resolution No. R-20-66 in order to resolve the above-referenced code enforcement case number (this "Case").

I understand and acknowledge that this Agreement applies only to this Case and does not apply to any special assessment liens for mowing, demolition, or other abatement action.

I understand and agree that this Agreement is not assignable, meaning it cannot be transferred to another party.

I acknowledge and agree that the code violation(s) identified in and/or for this Case existed on the property address identified above; and, as a result of said code violation(s), this Case resulted in administrative code enforcement fines and recorded lien interest(s) in the amount of \$_____.

I represent and warrant that the Property is currently in compliance and agree to pay a reduced fine/lien amount of: *(to be filled out by the City)*

\$_____, plus City Costs of \$_____, for a total settlement of \$_____.

If the Agreement is approved, I shall deliver payment in full to the City of Winter Haven's Code Compliance Division by the due date as specified in the Authorization Section of this Agreement. If not paid in full by said date, the Agreement shall be null and void.

I understand, acknowledge, and agree that entry into this Agreement by the City of Winter Haven shall not bar and/or prevent any future code enforcement action(s) arising out of new or repeat code violations.

I agree to the statements listed above and acknowledge that, to the best of my knowledge, all of the information provided is true and correct.

I HEREBY ACKNOWLEDGE RECEIPT OF THIS AGREEMENT AND, BY MY SIGNATURE, SWEAR AND AFFIRM THAT I AM AUTHORIZED TO ENTER INTO AND AGREE TO THE TERMS(S) AND CONDITIONS(S) OF THIS AGREEMENT.

Signature: _____ Date: _____

STATE OF _____

COUNTY OF _____

Before me, by means of () physical presence or () online notarization, the undersigned authority, this day personally appeared _____, who is personally known to me to be the person described in and/or produced _____ as identification and who executed the forgoing instrument, who acknowledged before me that s(he) executed same for the purposes therein expressed.

Witness my hand and official seal this _____ day of _____, 20_____.

Notary Public

City of Winter Haven Authorization

\$50.00 Administrative Fee received

This Case meets all the condition(s) and requirement(s) of the Program.

DENIED, due to _____

APPROVED

In accordance with the condition(s) and requirement(s) of the Program, the City of Winter Haven has agreed to enter into this Agreement and therefore accept the Settlement of \$_____, if paid in-full on or before _____.

Code Supervisor: _____

Date: _____