

RESOLUTION 2021 - 11

**RESOLUTION OF THE CITY OF DEFUNIAK SPRINGS FLORIDA ESTABLISHING A
POLICY AND PROCEDURE FOR DISPOSITIONS OF IMPOSED CODE
ENFORCEMENT FINES AND LIENS**

WHEREAS, the City of DeFuniak Springs, as a Florida municipal corporation, has adopted an ordinance governing the imposition of fines and placement of liens based on those accrued fines for violations of the City's Code of Ordinances, and;

WHEREAS, a number of outstanding fines and liens based thereon exist that the City desires to dispose of through settlement, foreclosure, or other methods, and;

WHEREAS, the City Council recognizes the need and importance to adopt a written policy setting forth guidelines for such disposition in a manner that is not arbitrary or capricious, and;

WHEREAS, the City Council has tasked staff with developing practical measures to be incorporated into this policy, and;

WHEREAS, the City Council determines the policy(s) set forth herein are in the best interest of the public;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of DeFuniak Springs, Florida hereby adopts the following as a policy of the City:

I. DISPOSITION OF CODE FINES THROUGH FORECLOSURE.

(a) Once fines have been properly levied and assessed as liens against a property, and all times for proper appeal and challenge thereof lapsed, the City shall monitor the accrual of the total outstanding amount due. If the outstanding amounts due remain unpaid for greater than three (3) months from the date of imposition, and at that time the total amount due exceeds the total value as stated by the Walton County Property Appraiser for the property, then the City Manager shall provide written authorization to the City attorney to commence foreclosure proceedings on that property.

(b) The City Manager shall not authorize a foreclosure proceeding against any property that is occupied by the record owner of said property, or property that is

designated as homestead property. If the City Manager determines a property of such qualification should be foreclosed upon, and upon advice of the City Attorney a foreclosure could legally be sought on such a property, the matter shall be presented to the City Council, and proceedings shall commence only upon approval by the City Council by an affirmative vote of four (4) of the five (5) City Council members.

(c) The City may accept a deed in lieu of foreclosure which conveys complete fee simple ownership of the property to the City if it is determined by the City Manager and City Attorney that such a deed in lieu of foreclosure is in the best interests of the City given the specific facts and circumstances of each given case.

II. DISPOSITION PRIOR TO COMMENCEMENT OF FORECLOSURE BY SETTLEMENT.

The City Council recognizes that certain circumstances may make settlement of outstanding code enforcement amounts more beneficial to the City than proceeding with a foreclosure action. The City Manager shall, in his or her sole discretion, have the authority to negotiate a reduced payoff amount of an outstanding fines prior to the commencement of a foreclosure action, provided that the following conditions are met:

(a) No lien release shall be granted until the code violation(s) for which the fines were assessed are completely remedied, and that no additional code violations on said property exist. A code enforcement officer of the City shall inspect the property to make this determination. Any person seeking a settlement shall grant said officer authority to enter onto any and all parts of the property to conduct said inspection, and failure to grant access shall preclude any settlement.

(b) The settlement may include a reduction, in part, of the outstanding fines as determined appropriate by the City Manager, however, no reduction in fines shall serve to

benefit or advantage the code violator upon whose property the fines were imposed. A benefit or advantage to a code violator shall be determined by the City after consideration of all relevant facts but shall automatically be deemed to exist when the code violator will be receiving a monetary amount equal to or greater than the amount the City would be due to receive under a reduced settlement. No lien release shall be granted until the full amount of outstanding fines, or the reduced amount under this provision authorized by the City Manager, has been paid to the City.

(c) The settlement shall be reduced to writing and executed by the City Manager, a City code enforcement official, and the property owners entering into the agreement, along with approval as to settlement form by counsel, if any, for the City and all parties.

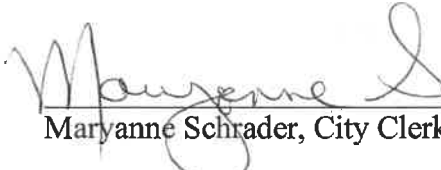
III. Alternative Dispositions.

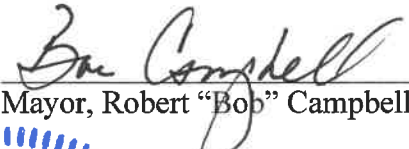
Alternative Dispositions of code liens may be approved on a case-by-case basis by the City Council, upon recommendation of the City Manager, the City Attorney, the Mayor, and the City code enforcement official(s), and a determination that such an alternative disposition is legal, in the best interests of the City, and no other method of disposition herein would better serve the City. This provision does not, however, create the ability for a property owner to make such a request directly the City Council.

Duly passed and adopted by the DeFuniak Springs City Council on this 14th day of June 2021.

DEFUNIAK SPRINGS, FLORIDA

ATTEST:


Maryanne Schrader, City Clerk


Mayor, Robert "Bob" Campbell

