

TAB 12

POINT PAPER  
ORDINANCE NO. 08-963

**PROBLEM:**

Currently, Chapter 2, Section 2-88-Duration of Liens (under the Code Enforcement Board provision) permits the duration of a lien to be a maximum of twenty years. Recently enacted legislation now permits the duration of a lien to be thirty years.

**BACKGROUND:**

On February 26, 2007, City Commission adopted Ordinance No. 07-916 which provides for the priority of City liens and the lien duration. Section 2-68 was created to provide a lien duration of thirty years.

During the proofing of Supplement 20 to the Code, staff determined there was an inconsistency in Chapter 2 regarding lien durations. The proposed ordinance will remedy the different lien durations by deleting redundant language currently stated in Section 2-88.

**ALTERNATIVES:**

1. Adopt Ordinance No. 08-963 amending the Code Enforcement Board provisions in Chapter 2 to provide the current lien duration period of thirty years.
2. Do nothing and have inconsistent lien duration periods.

**RECOMMENDATION:**

Staff recommends Alternative 1, the adoption of Ordinance No. 08-963.

**CITY OF PALMETTO  
ORDINANCE NO. 08 - 963**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 2, SECTION 2-88 OF THE CITY CODE OF ORDINANCES PERTAINING TO LIENS; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

**WHEREAS**, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

**WHEREAS**, the City has the authority to impose liens on property within its jurisdiction and to regulate the nature and direction of such liens consistent with Florida Statutes; and

**WHEREAS**, on February 26, 2007, the City Commission adopted Ordinance No. 07-916 which stated, among other things, that liens recorded by the City would have a duration of 30 years unless otherwise provided by law; and

**WHEREAS**, City staff seeks to revise section 2-88 of the City Code of Ordinances to avoid duplication and create consistency within Chapter 2; and

**WHEREAS**, the City Commission has determined that adoption of this ordinance is necessary and in the best interest of the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF PALMETTO, FLORIDA:**

**Section 1. Findings of Fact.** The above-referenced “whereas” clauses are adopted herein as findings of fact.

**Section 2. Revision language.** Chapter 2, Section 2-88 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

**Sec. 2-88. Fees and costs associated with lien.**

In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in connection with the foreclosure. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien.

**Section 3. Repeal of Inconsistent Ordinances.** This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 4. Severability.** It is the intent of this Ordinance to comply with all applicable law and constitutional requirements. If any provision, paragraph or section of this Ordinance or the standards and codes adopted hereby, shall be determined by a court of competent jurisdiction to be inapplicable, illegal, unenforceable or unconstitutional, then to that extent such provisions or portions shall be deemed null and void, but the remaining provisions of this Ordinance shall be in full force and effect as applicable.

**Section 5. Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14 upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

**FIRST READING**            March 17, 2008

**PUBLICATION DATE**    April 11, 2008

**SECOND READING**        April 21, 2008

**PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA**, with a quorum present and voting, in regular session assembled, this 21st day of April, 2008.

**CITY OF PALMETTO, FLORIDA, BY  
AND THROUGH THE CITY COMMISSION  
OF THE CITY OF PALMETTO**

By: \_\_\_\_\_  
**LAWRENCE E. BUSTLE, JR. MAYOR**

ATTEST: James R. Freeman

By: \_\_\_\_\_  
City Clerk