



City of Portland

Bureau of Development Services

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PERMANENT RULE

RELATING TO
Lien Reduction Review Process

FOR INFORMATION CONTACT
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PPD No. ENB 12.07

TITLE Lien Reduction Review Process

AUTHORITY

Portland City Code (PCC) Chapter 29 (Property Maintenance Regulations), specifically Section 29.70, provides authority for the issuance of enforcement fees, costs and penalties for properties found in violation of Chapter 29.

Portland City Code (PCC) Sections 3.30.040(A),(B) and Section 3.30.045, provide authority for the Director of the Bureau of Development Services to adopt administrative rules, policies, and procedures for the enforcement of applicable code provisions and to establish and impose enforcement fees and penalties for non-compliance, to establish enforcement priorities, as set forth in subsection 3.30.040.A.

CODE REFERENCES

3.30.010 Duties of the Bureau of Development Services
3.30.040 Administration and Enforcement
3.30.045 Administrative Rulemaking Procedures
29.70.005 - .040 Costs and Penalties

FINDINGS FOR ADOPTION OF AMENDMENTS

1. Portland City Code Section 3.30.045 delegates the authority to adopt and administer administrative rules appropriate to perform the duties of the Bureau of Development Services (BDS) set forth in Section 3.30.010 and prescribes procedures for administrative rulemaking.
2. BDS worked with stakeholders from Property Compliance key staff, the Portland Housing Bureau (PHB), both the City Treasurer as well as Accounting and Liens section staff from OMF-Bureau of Revenue and Finance, Ombudsman from the office of the City Auditor, along with other internal BDS staff from the Equity and Finance sections, all collaborating to identify issues and best practices that needed to be addressed in the administrative rule.
3. In August of 2021, the BDS Property Compliance team also shared the draft proposed rule and requested feedback from all BDS Section and Division Managers, the Rental Services Commission (RSC) with Portland Housing Bureau (PHB), representatives from Housing Oregon, and NW Affordable Housing Workgroup,
4. In accordance with Section 3.30.045, BDS published a notice of public hearing in *The Oregonian* ([INSERT 3 DATES]) and in *The Daily Journal of Commerce* ([INSERT 3 DATES]). BDS also posted notice of the hearing and made the draft amendments to the administrative rule available on the BDS website. BDS notified the Office of Neighborhood Involvement on _____. BDS then held a public hearing to receive comments on the draft administrative rule on _____, and held the record open until _____. _____ written and _____ oral public comments were received on the proposed amendments. The effective date is more than 30 days after the last date of the required notices.

CONCLUSION

As provided in Portland City Code Section 3.30.040, and following the procedures in Section 3.30.045, the Director of BDS hereby adopts the amended Administrative Rule.

AMENDED: _____ **[Insert Date]**
Director

Adopted [Insert Date]
Amended [Insert Date]

Lien Reduction Review Process

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I. Purpose and Scope

The purpose of this Lien Reduction Review Administrative Rule is to provide guidance for processing requests to reduce existing liens on properties resulting from an enforcement action.

Enforcement fees are issued as a financial incentive to encourage owners to comply and correct their code violations. Unpaid fees are issued as liens and placed against properties when property owners fail to correct cited code violations and bring their properties into compliance within the required timeframe or allowance provided via a waiver.

Historically, code enforcement liens disproportionately affect low-income, elderly, disabled, and non-English speaking residents, who are often members of the Black, Indigenous, and Other People of Color (“BIPOC”) community. Therefore, the Bureau of Development Services (“BDS”) needs to ensure its process for reviewing and reducing liens is fair, consistent, and understandable, so it achieves BDS Property Compliance goals, which are to:

(A) Simplify the lien reduction review criteria;

(B) Ensure BDS addresses equity issues and resolves documentation barriers necessary to qualify for a lien reduction;

(C) Ensure that code enforcement fees and liens serve their intended purpose of motivating owners to work with Property Compliance staff to bring their properties into compliance, which will help preserve generational wealth through home ownership and small business operations; and

(D) Provide for a reasonable of cost recovery for continued operations of the various enforcement programs, which exist to ensure public health and safety for the community.

II. Authority to Issue Lien Reductions

2.1 Assigned Bureau of Development Services (“BDS”) Property Compliance Division (PCD) administrative staff will be responsible for performing lien reduction reviews, and for issuing lien reduction notifications to property owners and to the Portland Office of Management and Finance, Revenue Division.

2.2 Supervisors will have the discretion to perform secondary reviews to support assigned (PCD) administrative t staff.

2.3 To reduce and prevent perceived conflicts of interest, Field Inspectors (*Zoning, Nuisance, Housing, Dangerous Building, Code Violation, Work Without a Permit, Chapter 13, and other inspection programs*) may not approve documentation submitted for a lien reduction review or be involved in any stages of the review process, regardless of case assignment. Inspectors may submit additional, case specific information to advocate on behalf of a homeowner in cases where advocacy will help address any unforeseen equity barriers.

2.4 The BDS Director will retain ultimate authority to issue or deny a lien reduction.

III. Requesting Lien Reductions

All requests for a lien reduction review should be submitted by the property owner or their representative. Exceptions may be made when necessary. Requests may be submitted:

- Online: <https://www.portland.gov/bds/code-enforcement/lien-reduction-review> or via email at: BDSlienreduction@portlandoregon.gov or
- By USPS mail: Attn. BDS Property Compliance Lien Reductions, 1900 SW 4th Ave., Ste. 5000, Portland, Oregon 97201; or
- By phone at: 503-823-1324.

Requests should include property address, case number, reason for the request and contact information.

IV. Lien Reduction Review Process

4.1 Definitions

4.1.1 Owner-Occupied. Any property that is lawfully occupied as the owner’s primary residence where the name and address are the same as listed in

the County Tax Assessor on assessment and taxation records for the property. Additional documentation may be requested to confirm residency.

- 4.1.2 **Owner-Occupied Rental.** Any property occupied as the owner's primary residence where the name and address are the same as listed in the County Tax Assessor on assessment and taxation records for the property, and which may also include: rented rooms, a legal and permitted ASTR (Accessory Short Term Rental), permitted attached ADU (Accessory Dwelling Unit), or a legal duplex or triplex in which the owner occupies one of the units. Additional documentation may be requested to confirm residency.

4.2 Reduction Criteria

- 4.2.1 Lien reduction reviews will be considered on the basis of the following criteria:

- A. **Property is Pending Sale or Refinance for Repairs** (*case may be open or closed*).
- B. **Financial Hardship for Owner-Occupied or Owner-Occupied Rental Properties** (*case is in "closed" status - work complete*).
- C. **Medical Hardship for Owner-Occupied or Owner-Occupied Rental Properties** (*case is in "closed" status - work complete*).
- D. **Other Hardship.** Any enforcement case requesting a reduction for a reason other than pending sale or financial or medical hardship (*case is in "closed" status - work complete*).

- 4.2.2 Only one criteria will be used per lien reduction review. Should the owner qualify for two or more, the criteria that will provide the current property owner with the greatest benefit will be used.

- 4.2.3 **Exclusions:** Liens resulting from a Hearing Officer's penalties and fees, nuisance abatements, vacations, boarding of structures, demolitions, or chronic offender fees will not be reduced or waived, except for administrative charges and any civil penalties, which may be considered for reduction at the BDS Director's sole discretion on a case-by-case basis, for property owners facing extenuating circumstances.

4.3 Criteria Documentation

- 4.3.1 **Pending Sale or Refinance for Repairs.** The property owner or their representative must provide documentation related to their pending sale or refinance loan closing.
- 4.3.2 **Financial Hardship** (only for Owner-Occupied or Owner-Occupied Rental properties). Documentation of Owner's annual household income based

on household size will be necessary. (*reference: area median income (AMI) chart for Portland Metro area as published annually by HUD*)

- 4.3.3 **Medical Hardship** (only for Owner-Occupied or Owner-Occupied Rental Properties). Documentation of a temporary or permanent medical hardship will be necessary.
- 4.3.4 **Other Hardships - Closed Cases** (all property types). The property owner or their Representative will need to provide a request for consideration of a lien reduction review based on other hardships, extenuating circumstances, or other issues and delays beyond the owner's control, not including medical or financial hardships. Proof of extenuating circumstances may be required (example: death or bankruptcy of property owner).

4.4 Review Process Elements

- 4.4.1 Assigned PCD administrative staff will process each lien reduction request based on the lien reduction criteria and documentation requirements of Sections 4.2 and 4.3 above and as follows:
- 4.4.2 Lien reduction amounts do not apply to additional Revenue Division costs, charges, penalties, and interest. However, penalties and interest will be adjusted proportionally to the BDS lien reduction amount on which they are calculated.
- 4.4.3 Lien reduction offers are contingent upon payment arrangements being made on the reduced balance(s) within 30 days from date of reduction offer; exceptions may be made as necessary based on extenuating circumstances. Extensions may result in an adjusted payable balance because of additional Revenue Division costs.
- 4.4.4 Pending sale lien reduction offers are expected to be paid at closing or as part of the closing settlement disbursement. Exceptions may be made if necessary. No more than two extensions to meet the requirements of an offer will be granted. Extensions may result in an adjusted payable balance due to additional administrative and Revenue Division costs.
- 4.4.5 If possible, BDS decisions will be reached within 30 days of receipt of a lien reduction request. Priority will be given to those cases with a pending sale and a scheduled closing date, followed by cases involved in a refinance or loan modification process with their lender.
- 4.4.6 A written decision will be sent to the property owner or their representative and a copy attached in the BDS database case file.

4.4.7 Chronic offenders may not be eligible for additional reviews and/or reductions, unless approved by the Director or their designee.

4.4.8 Once the City Council has put a property on the foreclosure list, the City cannot offer any lien reductions. See Portland City Code 5.30.150.

V. Reduction Caps

5.1 The Chart A Reduction Caps will be used only for processing lien reduction reviews requests and appeals, for owners that qualify. It will not be used for monthly billings on active cases, except for those pending sale or refinance.

5.2 Exclusions: The code enforcement fee caps in the table below do not apply to Hearing Officer’s penalties and fees, nuisance abatements, vacations, boarding of structures, demolitions or Chronic Offender fees, regardless of property type or use.

Chart A: Reduction Caps

Property Type/Usage	Applicable Criteria				For cases closed within 12months (from date of Notice letter, to date of Final)	Caps for Max. Code Enforcement Fees Due after Reduction (Not including Revenue’s costs, charges, & adjusted penalties)
	Financial Hardship	Medical Hardship	Other Hardship	Pending Sale or Refinance		
Owner-occupied - Single Family (1-2 units)	√	√	√	√	May offer up to a 50% reduction of liens	\$3,500
Owner-Occupied Rental - Single Family, Duplex or Triplex						
Residential Rental Properties NON-owner-occupied & Multi-family	n/a	n/a	√	√	Applicable to all property types	Based on # units/property size
						1-2 Units \$ 6,000
						3-10 Units \$ 9,000
						11-19 Units \$12,000
						20 or more Units \$15,000
Occupied Commercial Property ≤ 3,000 sf (based on total size of bldg)	n/a	n/a	√	√		\$10,000
Occupied Commercial Property > 3,000 sf (based on total size of bldg)	n/a	n/a	√	√		\$15,000
Vacant Commercial Buildings	n/a	n/a	√	√		\$12,500
Vacant Lots or Vacant Residential Bldg.	n/a	n/a	√	√		\$7,500 per lot or per case

VI. Appeals

6.1 Appeals may be submitted:

- Online: <https://www.portland.gov/bds/code-enforcement/lien-reduction-review>
- or

- Via email at: BDSlienreduction@portlandoregon.gov;
- By USPS mail: Attn. BDS Property Compliance Lien Reductions, 1900 SW 4th Ave., Ste. 5000, Portland, Oregon 97201; or
- By phone at: 503-823-1324.

6.2 Initial or Informal Appeals. Appeals of the lien reduction review offer will be reviewed by either a section supervisor or by the Property Compliance Division Manager as an “informal” appeal. If possible, BDS review decisions will be reached within 30 days of receipt of an informal appeal request.

6.3 Formal Appeals. Any property owner or their representative appealing the informal appeal findings or adjusted lien reduction offer will be charged an administrative review appeal fee, per the current Council approved fee amount as found in the annual, published BDS Fee and Penalty Schedule. This formal appeal request will be reviewed by the BDS Property Compliance Division Manager or their designee with the final decision to be made by the Bureau Director or their designee. If possible, decisions will be reached within 30 days of receipt of a formal appeal request.

6.4 Administrative Review Appeal fees are not required to be paid at the time of the appeal. Typically, this fee will be added to the current lien balance or to the adjusted lien reduction offer. However, if after the formal appeal review BDS determines that all liens should be waived, then no administrative review appeal fee will be charged. Additionally, administrative review appeal fees may also be waived at the discretion of the Director or their designee.

6.5 Any additional requests to appeal the final decision of a Manager or Director will be made to the City of Portland Hearings Officer. [per Title 22? Cite to the section in Title 22 if so.]

VII. Responsibility

The Bureau of Development Services’ Property Compliance Division is responsible for managing and implementing this rule.

VIII. History

- Revised as of February 15, 2006 and filed for inclusion in PPD February 21, 2006.
- Amended in PPD November 22, 2006.
- Administrative rule amended by Director of BDS May 8, 2008.
- Revised administrative rule filed for inclusion in PPD May 22, 2008.
- Amended by Director of BDS January 31, 2013.
- Amended by Director of BDS:

Date Adopted: _____ **TBD 2021**

Effective Date: _____ **TBD 2021**