City of Portland
Portland Permitting & Development

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PERMANENT RULE

RELATING TO
Lien Reduction Review Process

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Portland Policy Document 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 Portland Permitting & Development 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, and to establish enforcement priorities, as set forth in subsection 3.30.040.A.

CODE REFERENCES

3.30.010	**Duties of Portland Permitting & Development**
3.30.040	**Administration and Enforcement**
3.30.045	**Administrative Rulemaking Procedures**
29.70.005 - .040	**Property Maintenance Regulations; 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) [as of July 1, 2024 bureau name changed to Portland Permitting & Development (PP&D)] set forth in Section 3.30.010 and prescribes procedures for administrative rulemaking.

2. BDS worked with internal stakeholders from Property Compliance staff to complete corrections and draft minor amendments to this administrative rule.

3. In January of 2024, BDS shared draft amendments to the administrative rule and requested feedback from relevant BDS stakeholders as well as staff in the Revenue and Auditor's offices.

4. In accordance with Section 3.30.045, BDS published a notice of public hearing in *The Oregonian* (April 19, 20, and 24, 2024) and in *The Daily Journal of Commerce* (April 19, 22, and 24, 2024). BDS also posted notice of the hearing and made the draft amendments to the administrative rule available on the BDS website. Zero public comments were received on the proposed amendments.

5. A notice was sent to the Office of Community & Civic Life on 5/31/2024.

6. 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 Adminstrative Rule.

AMENDED: [David Kuhnhausen] ***June 24, 2024***
Interim Director

Adopted – May 8, 2008

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 taken pursuant to Portland City Code Section 3.30.040 and Chapter 29.70.

Enforcement fees are issued as a financial incentive to encourage owners to correct their code violations. Portland Permitting & Development ("PP&D") routinely provides fee waivers and time extensions to help property owners complete the repairs necessary to make the property safe. Enforcement fees only accrue after PP&D staff have reached out to the property owner and attempted to work with them to address the code violations. If a property owner fails to correct cited code violations and bring the property into compliance within the required timeframe, PP&D begins issuing fees which are invoiced and managed by the City's Revenue Division. Unpaid fees become a lien against properties. Enforcement fees are imposed only after all other attempts to gain compliance have failed.

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, PP&D needs to ensure its process for reviewing and reducing the liens is fair, consistent, and understandable, so it achieves PP&D Property Compliance goals, which are to:

(A) Simplify the lien reduction review criteria;

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

(C) Ensure that existing code enforcement fees and liens are reduced if the owner's situation is such that financial penalties are not a motivator to work with Property Compliance staff to bring their properties into compliance, and can have the effect of creating greater hardship and potential displacement; and

(D) Provide for reasonable 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 PP&D 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 Revenue Division.

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 PP&D 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 as follows:

- Online: https://www.portland.gov/ppd/code-enforcement/lien-reduction-review;
- Via email at: PPDLienReductionReview@portlandoregon.gov
- By USPS mail: Attn. PP&D 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 based on 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** (*case is in "closed" status - work complete)*. Any enforcement case requesting a reduction for a reason other than pending sale or financial or medical hardship.

Exception: Legal non-profit owners may request a lien reduction for any of the criteria except medical hardship. Cap amounts in the Chart A Reduction Caps will be applied based on property type and usage.

4.2.2 Only one criteria may be used per lien reduction review. Should the owner qualify for two or more, the criteria that provides the current property owner with the greatest benefit will be used. (See 4.4.1 & 4.4.2.)

4.2.3 A property with multiple liens, resulting from multiple, different cases will not have all liens from all cases grouped nor considered together. Only multiple liens issued on the same case # will be considered together with each lien review. Lien reviews will be specific for each closed case, regardless of the number of liens per case.

4.2.4 **Exclusions**: Liens resulting from a Hearing Officer's penalties and fees, nuisance abatements, vacations, boarding of structures, demolitions, citations, chronic offender fees, or properties with outstanding liens that have been placed on Revenue's foreclosure list pursuant to PCC 5.30.100 will not be reduced or waived, except for administrative charges and any civil penalties, which may be considered for reduction at the PP&D

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 the pending sale or refinance loan closing.

6.3.2 **Financial Hardship** (only for Owner-Occupied or Owner-Occupied Rental properties or non-profit owners). Documentation of Owner's annual household income based on household size will be necessary. In the event that supporting documents, such as current or last year's federal tax return(s) or official IRS tax statement(s) or most recent Social Security Statement(s) are not available, assigned staff may consider alternative documentation as proof of established household income with approval by the Director or their designee. *(reference: area median income (AMI) chart for Portland Metro area as published annually by HUD)*
Exception: *Separate documentation for non-profit owners to demonstrate financial hardship will be required.*

4.3.3 **Medical Hardship** (only for Owner-Occupied or Owner-Occupied Rental Properties). Documentation of a temporary or permanent medical hardship must be provided.

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, that are not covered by one of the other criteria. Proof of extenuating circumstances may be required (example: death or bankruptcy).

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 Assigned PCD administrative staff will provide careful consideration to all requests and any alternative documentation submitted to ensure the lien review process affords the property owner options for consideration in order to reduce the amount of their lien.

4.4.3 Revenue Division penalties and interest will be reduced proportionally to the PP&D lien reduction amount on which they are calculated.

4.4.4 Lien reduction offers are contingent upon payment arrangements being made on the reduced balance(s) within 30 days from date of a 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.

4.4.5 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.

4.4.6 If possible, PP&D 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.

4.4.7 A written decision will be sent to the property owner or their representative and a copy attached in the PP&D database case file.

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

4.4.9 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 review requests and appeals, for owners that qualify. It <u>will not</u> be used for monthly billings on active cases, except for those pending sale or refinance.

5.2 **Exclusions:** The code enforcement fee reduction caps in the table below <u>do not</u> apply to Hearing Officer's penalties and fees, nuisance abatements, vacations, boarding of structures, demolitions, citations, Chronic Offender fees, or properties with outstanding liens that have been placed on Revenue's foreclosure list pursuant to PCC 5.30.100, regardless of property type or use.

Chart A: Reduction Caps

Property Type/Usage	Applicable Criteria: Financial Hardship	Medical Hardship	Other Hardship	Pending Sale or Refinance	For cases closed within 12 months (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)	Additional Contingency Cap Reduction (additional reductions to address mitigating circumstances and Appeals)
Owner-occupied - Single Family (1-2 units) **Owner-Occupied Rental** - Single Family, Duplex or Triplex	√	√	√	√ plus $150 processing fee paid at closing	May offer up to a 50% reduction of liens --- **Applicable to all property types**	$3,500	May reduce the "reduction offer" by an additional % (up to 80%) --- **Applicable to all property types that qualify**
Residential Rental Properties NON-owner-occupied & Multi-family	n/a	n/a	√	√ plus $150 processing fee paid at closing		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 of lien reduction review decisions may be submitted:

- Online: https://www.portland.gov/ppd/code-enforcement/lien-reduction-review;
- Via email at: PPDLienReductionReview@portlandoregon.gov;
- By USPS mail: Attn. PP&D 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, PP&D 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 PP&D Fee and Penalty Schedule. This formal appeal request will be reviewed by the PP&D 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, PP&D 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 Portland City Code Section 29.80.020.

VII. Responsibility

Portland Permitting & Development's Property Compliance Division is responsible for managing and implementing this rule.

VIII. History

- Revised as of February 15, 2006 and filed for inclusion in Portland Policy Documents February 21, 2006.
- Amended in Portland Policy Documents November 22, 2006.
- Administrative rule amended by Director of BDS May 8, 2008.
- Revised administrative rule filed for inclusion in Portland Policy Documents May 22, 2008.
- Amended by Director of BDS January 31, 2013.
- Amended by Director of BDS March 14, 2022.
- Amended by Interim Director of BDS: Date Adopted: **June 24, 2024**
  Effective Date: **June 24, 2024**
- Updated with new bureau name as required by City Council Ordinance 37628 – July 24, 2024.