

CITY OF PALM COAST SUBORDINATION POLICY

Background

Homeowner recipients of financial assistance from the City of Palm Coast frequently request the City to subordinate its interest in their property to a new loan mortgage/deed of trust for the purposes of refinancing an existing first mortgage, for obtaining a new line of credit, for home improvement, or debt consolidation. The following Subordination Policy is intended to protect the City's financial interest in the homeowner's property without unduly restricting the homeowner's access to the equity in their property.

The language of the documents (grants, mortgages, deeds of trust) filed as liens against a property to secure the City's interest prohibit the transfer of title, or portion thereof, without prior consent by the City. Executing an additional lien, subsequent to the execution of the City's security instruments, constitutes a transfer of title that would make the City's loan/grant immediately due and payable.

Consent to Place Subordinate Lien

The City will generally consent to the placement of a Subordinate Lien upon written request from the homeowner(s) under the following conditions:

1. Requests for Subordination of Lien must be approved by the Director of the Community Development Department, or his/her designee.
2. The following documentation must be provided to the Program Manager for consideration of Subordination requests:

- Proof of licensure of refinancing lender to do business in the State of Florida.
- Authorization for Release of Information signed by the homeowner(s). Signatures will be verified.
- Written statement from the Homeowner(s) stating reason for the subordination request.
- Supporting documentation as to the validity of the reason.
- Lender's Good Faith Estimate.
- Complete terms and conditions of the existing loan and the new loan.
- Documentation about payment of taxes and insurance and their status.
- Copy of appraisal or property valuation information with method of determining same.

Note: Consideration will not be given to any request for Subordination of Lien without this information. Additional information may be required.

3. Requests for Subordination of Lien will be reviewed and a decision made on a case by case basis on such merits as the following:

- Emergency needs arising from a natural disaster.
- Emergency housing repairs which eliminate a threat to the health or safety of the occupants or that eliminate an immediate or imminent danger to the dwelling itself.
- Refinancing to lower the interest rate on the first mortgage if the closing costs and/or fees can be recovered within four (4) years.
- There is sufficient property value to support all outstanding mortgages.
- Refinancing for educational purposes.
- Refinancing for medical emergencies.

4. Request for Subordination of Lien will not be considered under the following circumstances:

- The interest rate on the new mortgage exceeds the interest rate of the existing mortgage.
- The cumulative loan-to-value ratio exceeds 100%.
- The housing debt-to-income exceeds 30%.
- The total debt-to-income ratio exceeds 40%.
- There is cash paid out to the borrower(s).
- The mortgage lender and applicant fail to provide all required documentation.

5. Additionally, no subordination request shall be approved if it contains any of the following provisions:

- Adjustable rate mortgage (ARM)
- Balloon payment(s)
- Open line of credit
- Reverse mortgage
- Prepayment penalty
- Interest only mortgage
- Negative amortization

6. In the event the City agrees to subordinate its affordable housing liens or mortgages.

Usually such consideration is given only for proven hardship. **Payment of credit card debt is not a basis for approval in accordance with the City's Subordination Policy. It is the intent that granting of subordination shall be one time only and shall not include any liens/mortgages recorded subsequent to the City's lien interest.**

Refinancing Existing Superior Liens

The City will generally agree to subordinate its interest in a rehabilitated or newly constructed owner-occupied residential property assisted under programs administered by the City's Community Development Department if the proposed new loan is in an amount that does not exceed the current aggregate balance of existing superior lien(s) plus reasonable closing costs. This policy applies to both repayable and deferred payment loans. Requests for a Subordination Lien due to hardship will be considered on a case-by-case basis.

Deferred Payment Loan

Deferred Payment Loans (DPL) provided to homebuyers to assist them in purchasing a primary residence depreciate by fifty percent (50%) after a period of time specified in the Promissory Note or authorized retroactively by the City's Housing Assistance Plan. While under the terms of the loan documents, homeowners would have to repay the appropriate depreciated balance in accordance with the terms of the Promissory Note. However, if the transfer is prior to the full fifty percent (50%) depreciation date and in the form of a new loan or refinance loan, the City will consider a modification of that policy. A homeowner may request debt subordination in exchange for early payment of the scheduled fifty percent (50%) depreciated loan balance. The remaining portion of the other fifty percent (50%) of the loan balance that would normally be forgiven during the depreciation period would be subordinated to the new loan and remain as a lien against the property until the scheduled date of full depreciation at which time it would be released.

Investor Loans

Due to the individualized terms of most investor repayable and Deferred Payment Loans, subordination recommendations will be made on a case-by-case basis by the Subordination Review Committee.

Process Subordination

All applications for debt subordination must be submitted by the property owner in a form approved by the Planning Director and reviewed by the Planning Director or his designee. The Application must be accompanied by a good faith estimate and rate confirmation from the lender. In the case of refinancing, a copy of the payoff statement(s) for those debts being refinanced must also accompany the Application. The proposed interest rate and closing costs must be reasonable and reflect the homeowner(s) financial abilities and current market rates. If the original funding for the project had to be approved by the City Council, the debt subordination may also have to be approved by the City Council and executed by the Mayor. If the original funding was not subject to City Council approval, the Mayor, or his designee, may approve the debt subordination without review by the City Council.

Applicability

All new loans, as well as existing loans, shall be subject to these debt subordination policies.

Housing Program Lien Placements

The City provides certain grants which result in liens generally zero percent (0%) interest, zero (0) payment which require a mortgage note to file against the real property to obtain housing funds to insure that recipients of Community Development grants, or low interest loans for housing rehabilitation, abide by the agreements in the housing rehabilitation program.

The lien is customarily in the form of a second mortgage, meaning that the lien is subordinate to an existing "primary" lien. Periodically there are occurrences in which the City's lien position may have to be recorded and placed in a position lower than second position due to any number of previously existing liens.

It is the policy of the City when the assistance lien would occupy a position other than second to consider each presented occurrence on a case by case basis and will require the written approval of the Program Manager.

Taking any lien position lower than third will require approval by the Affordable Housing Action Committee (AHAC) or Citizens Advisory Task Force (CATF) with final approval being granted by the City Council.

Nothing in the above stated policy shall be construed as a guarantee of approval.