

ORDINANCE NO. 24-332

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA; CREATING AMENDING CHAPTER 8, SECTION 8-7 OF THE TOWN OF MIAMI LAKES CODE OF ORDINANCES TITLED “RECOVER OF UNPAID CIVIL PENALTIES; UNPAID PENALTY TO CONSTITUTE A LIEN; INTEREST TO BE PAID ON LIENS; FORECLOSURE; PROHIBITION OF THE ISSUANCE OF PERMITS, LICENSES, CERTIFICATES OF USE AND OCCUPANCY OR ZONING APPROVALS TO VIOLATORS WITH UNPAID CIVIL PENALTIES OR LIENS; CIVIL PENALTY REDUCTION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (RUANO)

WHEREAS, the Town of Miami Lakes (the “Town”) Code provides for the imposition of fines related to violations of the Town Code, and provides mechanisms for fine mitigation; and

WHEREAS, it is desirous to review the current fine reduction model in light of best practices; and

WHEREAS, on October 15, 2024, the Town Council met and passed the proposed Ordinance in First Reading; and

WHEREAS, on October 29, 2024 the Town Council met and passed the proposed Ordinance in Second Reading.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:

Section 1. **Recitals.** Each of the above stated recitals is true and correct and is incorporated herein by this reference.

Section 2. **Amending Chapter 8, Section 8-7, of the Town Code of Ordinances.** The Town Council hereby amends Chapter 8, Section 8-7, as further described in Exhibit “A.”

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary, the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

FIRST READING

The foregoing ordinance was offered by Councilmember Ruano who moved its adoption on first reading. The motion was seconded by Councilmember Morera and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	No
Vice Mayor Tony Fernandez	No
Councilmember Luis E. Collazo	Yes
Councilmember Josh Dieguez	Yes
Councilmember Ray Garcia	Yes
Councilmember Bryan Morera	Yes
Councilmember Marilyn Ruano	Yes

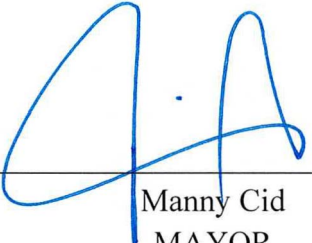
Passed on first reading this 15th day of October 2024

SECOND READING

The foregoing ordinance was offered by Councilmember Ruano who moved its adoption on second reading. The motion was seconded by Councilmember Morera and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	No
Vice Mayor Tony Fernandez	Yes
Councilmember Luis E. Collazo	Yes
Councilmember Josh Dieguez	Yes
Councilmember Ray Garcia	Yes
Councilmember Bryan Morera	Yes
Councilmember Marilyn Ruano	Yes

Passed and adopted on second reading this 29th day of October 2024.



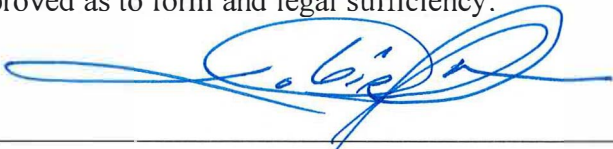
Manny Cid
MAYOR

Attest:



Gina M. Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:



Lorenzo Cobiella
Gastesi, Lopez and Mestre, PLLC
DEP. TOWN ATTORNEY

EXHIBIT “A”

CHAPTER 8, Code Enforcement:

Section, 8-7. Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; interest to be paid on liens; foreclosure; prohibition of the issuance of permits, licenses, certificates of use and occupancy or zoning approvals to violators with unpaid civil penalties or liens; civil penalty reduction.

- (a) The Hearing Officer, upon notification by the Code Inspector that a final order of the Hearing Officer issued in accordance with Section 8-6(k) has not been complied with by the set time or upon finding that a repeat violation has been committed, may enter a final order requiring the violator to pay a fine for each day the violation continues past the date set by the Hearing Officer for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the Code Inspector.
- (b) The Town of Miami Lakes may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties. A certified copy of an order imposing a civil penalty may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this State, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After three months from the filing of any such lien which remains unpaid, the Town of Miami Lakes may foreclose or otherwise execute on the lien.
- (c) Liens created pursuant to this section may be discharged and satisfied by paying to the Town of Miami Lakes the amount specified in the notice of lien, together with interest thereon from the date of the filing of the lien computed at the rate of 12 percent per annum or the highest interest rate allowed by Florida law, together with the administrative costs, filing and recording fees and fees paid to file a satisfaction of the lien in the public records. When any such lien has been discharged, the Town of Miami Lakes shall promptly cause evidence of the satisfaction and discharge of such lien to be recorded in the public records. Any person, firm, corporation or legal entity, other than the present owner of the property involved, who pays any such unsatisfied lien shall be entitled to receive an assignment of the lien held by the Town and shall be subrogated to the rights of the Town in respect to the enforcement of such lien, as permitted by law.
- (d) Notwithstanding any provision of this Code, no Town officer, agent, employee or board shall approve, grant or issue any operating permit, license, building permit, certificate of use and occupancy, municipal occupational licenses, platting action or zoning action to any named violator with:
 - (1) Unpaid civil penalties;
 - (2) Unpaid administrative costs of hearing;
 - (3) Unpaid Town investigative, enforcement, testing or monitoring costs; or

- (4) Unpaid liens, any or all of which are owed to Town of Miami Lakes pursuant to the provisions of this Code.
- (e) Civil penalty reduction. The violator, or the violator's successors or assigns (the "applicant"), who has an ownership interest in the property encumbered by a lien for civil penalties, may file a request for a reduction of the civil penalty before the Hearing Officer only after a compliance inspection is completed during which a code inspector finds that all violations were corrected. Upon receipt of a written request for a reduction of a civil penalty, and the filing of an affidavit of partial compliance by the code inspector which sets forth that all outstanding violations of the Hearing Officer's order have been corrected, except for payment of any outstanding civil penalties, the Town Manager or the Town Manager's designee shall set the matter for penalty reduction hearing by the Hearing Officer. However, if a court action has been commenced to obtain compliance with the order of the Hearing Officer, no hearing shall be held for a reduction of the civil penalty.
 - (1) At the hearing on the request for reduction of the civil penalty, the fact-finding determination of the Hearing Officer shall be limited to evidence establishing:
 - a. Good cause for a reduction of the civil penalty,
 - b. The amount of the reduction, and
 - c. Any equitable considerations, not related to any prior findings of fact or conclusions of law set forth in any prior order of the Town, in any prior hearing or procedure, raised by the applicant or the Town relating to the amount of the reduction.

Said hearing shall not be an opportunity to appeal any finding of fact or conclusions of law set forth in any prior order of the Hearing Officer or any administrative determination of the Town.

- (2) The Hearing Officer may reduce a civil penalty once the applicant has otherwise complied with an order of the Hearing Officer based on a showing of good cause, but in no event shall the civil penalty be reduced below the costs incurred by the Town in its prosecution of violations, including but not limited to, any attorney's fees and staff time. In no event, however, shall any administrative fees previously ordered by the Hearing Officer be waived or reduced, and the applicant may be held liable for the reasonable cost of any additional hearing at the discretion of the Hearing Officer. Property owners with existing liens at the time of ordinance adoption will have six (6) months to reduce their liens in accordance with the schedule provided in Ordinance 17-202. Staff will notify property owners with existing liens of these changes by sending notices via first-class mail. After the six-month period has elapsed, all remaining liens shall be reduced in accordance with the schedule adopted in Sec. 8.7(e)(4).
- (3) In determining good cause, and the amount of the reduction, if any, the Hearing Officer shall consider:
 - a. The gravity of the violation.
 - b. Any actions taken by the violator or the applicant to correct the violation.

- c. The time frame within which the violator or the applicant complied with the Hearing Officer's order.
 - d. Any previous, or other outstanding violations whether committed by the applicant, or pertaining to the property to which the lien attaches, unless an order finding a violation is under appeal at the time of the determination.
 - e. Whether the applicant's failure to timely comply with an order of the code inspector or the Hearing Officer is due to an inability to comply based on factors beyond the control of the applicant.
- (4) With regard to the amount of the civil penalty in excess of the costs referenced in subsection (e)(2), upon a finding of good cause, the Hearing Officer has the sole discretion to grant or deny the request for a reduction of the remaining civil penalty according to the following guidelines:
- a. For owner-occupied residential property:
 - i. An approximate reduction to an amount equal to the value of one (1) day's fine if compliance and request for reduction hearing application is received within six (6) months of date of compliance on order imposing fines.
 - ii. Seventy-five (75) percent reduction of the total civil penalty if compliance and request for reduction hearing application is received after six (6) months but less than twelve (12) months of date of compliance on order imposing fines.
 - iii. Fifty-percent (50) percent reduction of the total civil penalty if compliance and request for reduction hearing application is received after twelve (12) months but less than eighteen (18) months of date of compliance on order imposing fines.
 - iv. Twenty-five (25) percent reduction of the total civil penalty if compliance and request for reduction hearing application is received after eighteen (18) months but less than twenty four (24) months of date of compliance on order imposing fines. No reductions considered for a lien that remain active after twenty four (24) months.
 - b. For non-owner occupied residential property and entity-owned property:
 - i. Maximum reduction of fifty (50) percent of the total civil penalty (the original civil penalty plus the continuing civil penalty amounts, if any, including interest) if compliance and request for reduction hearing is received within six (6) months of date of compliance on order imposing fines.
 - ii. Twenty-five (25) percent reduction if compliance and request for reduction hearing application is received after six (6) months but less than twelve (12) months of date of compliance on order imposing fines. No reductions considered for a lien that remain active after twelve (12) months.
 - c. For bank-owned properties:
 - i. Maximum reduction of twenty five (25) percent of the total civil penalty (the original civil penalty plus the continuing civil penalty amounts, if any, including
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interest) if compliance and request for reduction hearing is received within six (6) months of date of compliance on order imposing fines. No reductions considered for a lien that remain active after six (6) months.

- a. ~~For owner-occupied residential property, an approximate reduction to an amount equal to the value of one day's fine.~~
 - b. ~~For non-owner-occupied residential property and entity-owned property, a maximum reduction of 75 percent of the total civil penalty (the original civil penalty plus the continuing civil penalty amounts, if any, including interest).~~
 - c. ~~For bank-owned properties, a maximum reduction of 50 percent of the total civil penalty (the original civil penalty plus the continuing civil penalty amounts, if any, including interest).~~
- (5) If a civil penalty is reduced, the order of the Hearing Officer shall provide that if the applicant fails to pay the reduced civil penalty by the date ordered by the Hearing Officer, then the original amount of the civil penalty shall be automatically reinstated.
 - (6) A certified copy of the order reducing the civil penalty shall not be recorded in the public records unless the terms of the order reducing the civil penalty are fully complied with and the order shall so provide.
 - (7) Upon compliance with the terms of the order reducing the civil penalty, including receipt of timely payment in full of the amount of the reduced civil penalty, and all costs, the Town Manager, or the Town Manager's designee, shall record a copy of the order reducing the civil penalty and a release or satisfaction of the lien.
 - (8) A civil penalty reduction may be granted only once to a property owner for any violation of a specific code section. ~~reduction of a civil penalty may only be granted once as to any violation.~~
 - (9)
 - (9) With regard to outstanding civil penalties for code enforcement cases adjudicated on or before March 27, 2015, the Hearing Officer has sole discretion to reduce said penalties only for those liens that meet the criteria of this subsection.
 - a. *Qualified liens.* Outstanding liens that do not conform to Subsection 8-7(e)(9)b., that were in existence prior to March 27, 2015, and were not previously mitigated pursuant to Ordinance No. 14-172 and 15-188, are eligible for reduction upon a determination by the Hearing Officer of the existence of an extraordinary circumstance.
 - b. *Reduction schedule.* Qualified liens as determined by the Hearing Officer pursuant to this subsection shall be mitigated as according to the following schedule
 1. For non-bank owned or non-entity owned residential properties, the lien amount shall be reduced by 70 percent.
 2. All other qualified liens shall be reduced by 50 percent.

- c. *Ineligible liens.* The following code enforcement liens shall be considered ineligible for reduction.
 - 1. A lien arising from a fine imposed pursuant to a violation of Chapter 12, Article III, Burglar Alarms, is ineligible.
 - 2. A special assessment lien and charge imposed pursuant to Chapter 16, Article II, Lot Maintenance, is ineligible.
 - 3. A lien arising from a fine imposed pursuant to a violation of Chapter 37, Article III, Business Tax, is ineligible.
 - 4. Where the Town of Miami Lakes has commenced a civil action to collect on civil penalties or to foreclose a lien, the property owner(s) will be ineligible. This subsection shall not serve as a defense against any such action or against any enforcement action brought by the Town.
- d. Compliance with all other provisions of Chapter 8 that are not in conflict with this subsection (e)(9) must be met.
- e. All eligible liens reduced by the Hearing Officer pursuant to this subsection (e)(9), shall be paid within 30 days or as otherwise ordered by the Hearing Officer. Failure to pay the reduced fine within the prescribed time shall result in reinstatement of the original fine amount and no further consideration thereafter maybe given to reduce said lien.

(10) A request to reduce a civil penalty shall constitute a waiver of all rights to contest or appeal, in any venue, any findings of fact or conclusions of law set forth in any prior order of the Hearing Officer or any administrative determination of the Town with respect to the violation or violations to which the reduction request pertains.

(Code 2000, § 8CC-7; Ord. No. 02-17, § 7, 5-14-2002; Ord. No. 15-183, § 2, 6-2-2015; Ord. No. 17-202, § 2, 3-7-2017)

Editor's note(s)—Ord. No. 15-183, § 2, adopted June 2, 2015, amended § 8-7 to read as set out herein. Previously § 8-7 was titled "Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; interest to be paid on liens; foreclosure; prohibition of the issuance of permits, licenses, certificates of use and occupancy or zoning approvals to violators with unpaid civil penalties or liens."