

ORDINANCE NO. 17- _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA; RELATING TO THE MITIGATION OF CODE COMPLIANCE LIENS; AMENDING CHAPTER 8, ENTITLED “CODE ENFORCEMENT”, TO PROVIDE FOR MITIGATION OF CODE ENFORCEMENT LIENS THAT EXISTED PRIOR TO MARCH 27, 2015; INCORPORATING RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 8 of the Town of Miami Lakes (the “Town”) Code, entitled “Code Enforcement” provides tools to implement compliance procedures that ensure high property standards and values are maintained throughout the Town, and establish penalties for failure to maintain standards; and

WHEREAS, the Town recognizes that a lien on property and the strict application of the Town’s system of fines and penalties relating to building and land development code violations can make it difficult for a property owner to sell or refinance their property; and

WHEREAS, on September 9, 2014, in response to a significant number delinquent code enforcement cases, the Town adopted Ordinance No. 14-172, entitled “Code Enforcement Lien Amnesty Program,” in order to provide residents the ability to obtain fine/lien reductions; provided, among other requirements, that eligible properties were in good standing and the adjusted fees were paid within prescribed time frames; and

WHEREAS, pursuant to Ordinance No. 14-172, residents were required to enroll in the Lien Amnesty Program by December 31, 2015; and

WHEREAS, pursuant to Ordinance No. 15-188, the Lien Amnesty Program was extended through December 31, 2016; and

WHEREAS, during the life of the Lien Amnesty Program, over one hundred seventy-five (175) property owners obtained relief under the Lien Amnesty Program; and

WHEREAS, despite the program's success, one hundred seventy-one (171) Code Enforcement Cases, eligible under the expired Lien Amnesty Program remain delinquent; and

WHEREAS, the imposition of such liens can prevent the refinancing, equity lines of credit, or sale, of such properties until such liens are paid in full; and

WHEREAS, the Town Council of the Town of Miami Lakes desires to provide property owners, that were eligible to participate in the Lien Amnesty Program, but failed to do so, an opportunity to comply and mitigate their fines; and

WHEREAS, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is necessary, appropriate and advances the public interest.

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 are true and correct and are incorporated herein by this reference.

Section 2. Amendment. Chapter 8, of the Town Code of Miami Lakes, Titled, Code Enforcement, is hereby amended as provided at Attachment "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 _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed on first reading this _____ day of March, 2017.

SECOND READING

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

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on second reading this _____ day of _____, 2017.

Manny Cid
MAYOR

Attest:

Approved as to form and legal sufficiency:

Gina Inganzo
TOWN CLERK

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

ATTACHMENT A
PROPOSED AMENDMENT

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.
Omitted portions of the Code are shown as “* * *”.

Chapter 8 - CODE ENFORCEMENT

* * *

Sec. 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.

* * *

- (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.

* * *

- (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 reduction of a civil penalty shall not be granted to a violator or applicant that was eligible for a lien reduction pursuant to ordinance number 14-172.

- (a) Qualified liens. Outstanding liens that do not conform to Subsection 8-7(e)(9)(b), that where 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 seventy percent (70%).
 - (2) All other qualified liens shall be reduced by fifty percent (50%).
- (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 Town of Miami Lakes Code of Ordinances Chapter 12, Article III, Burglar Alarms, is ineligible.
 - (2) A special assessment lien and charge imposed pursuant to Town of Miami Lakes Code of Ordinances Section ~~16-25(2)(d)~~, Chapter 16, Article II, Lot Maintenance, is ineligible.
 - (3) A lien arising from a fine imposed pursuant to a violation of Town of Miami Lakes Code of Ordinances 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 Subsection 8-7(e)(9) must be met.
- (e) All eligible liens reduced by the Hearing Officer pursuant to Subsection 8-7(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.

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