



# City of Miami

## Legislation

## Ordinance

**Enactment Number: 14057**

**File Number: 11529**

**Final Action Date: 3/10/2022**

AN ORDINANCE BY THE MIAMI CITY COMMISSION AMENDING CHAPTER 2/ARTICLE X/SECTION 2-817 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, TITLED "ADMINISTRATION/CODE ENFORCEMENT/ADMINISTRATIVE COSTS, FINES; LIENS," TO AMEND AND PROVIDE THE CODE ENFORCEMENT BOARD A GUIDELINE FOR MITIGATION OF CODE ENFORCEMENT LIENS BY HOMESTEAD AND NON-HOMESTEAD PROPERTY OWNERS, INCLUDING TIME LIMITATIONS AND AMOUNT OF MITIGATION ALLOWED; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Section 2-817(d) of the Code of the City of Miami, Florida, as amended ("City Code"), provides guidance for the Code Enforcement Board or Special Magistrate (collectively, "CEB") when a property owner is seeking mitigation of a lien for complied violations; and

WHEREAS, Section 2-817(d) of the City Code also provides the City of Miami ("City") to administratively mitigate liens, by certain percentages, if the lien has been running for less than two hundred seventy-one (271) days; and

WHEREAS, on a regular basis, property owners have allowed the outstanding liens to remain open for many years after compliance was reached, creating a backlog of files and cases that the City must maintain; and

WHEREAS, it is the goal of the City to incentivize properties to come into compliance, assure that fines are timely paid, and properties are cleared of any outstanding violations; and

WHEREAS, diligent property owners should receive a benefit for being timely and efficient with correcting violations; and

WHEREAS, it is the goal of the City to have property owners understand the mitigation process, absolutely know what to expect with regard to mitigation, and not be treated unfairly or arbitrarily by the CEB; and

WHEREAS, providing clear language for property owners to understand their duties and obligations when they fail to attend hearings and cause liens to be recorded against their properties can only help foster a better living and working environment for all property owners, business owners, and residents of the City; and

WHEREAS, Section 2-817(b)(2) of the City Code also provides for enhanced penalties for non-residential and commercial properties and the CEB regularly hears matters related to use and abuse of use of residential properties that are being used for improper commercial purposes and such properties should not receive the same benefit as those being used as legally authorized; and

WHEREAS, Homestead property owners will be allowed to mitigate further pursuant to this Section since liens are unenforceable against Homestead properties while the owner has a Homestead exemption pursuant to Chapter 162, Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted and incorporated as if fully set forth in this Section.

Section 2. Chapter 2, Article X of the City Code is amended in the follow particulars:<sup>1</sup>

“CHAPTER 2

ADMINISTRATION

\* \* \*

ARTILCE X

CODE COMPLIANCE

\* \* \*

Sec. 2-817. Administrative costs, fines; liens.

(a) The board or special magistrate, upon notification by the code inspector that an order has been complied with within the time specified in the order, shall accept such notification as acknowledgment of compliance and no fines shall be imposed.

(b) The board or special magistrate, upon notification by the code inspector or city attorney that an order of the board or special magistrate has not been complied with by the set time for compliance, may order the violator(s) to pay a fine as follows:

- (1) Residential properties. By the board and/or special magistrate for not more than \$250.00 per day that continues past the date of the order for compliance by the notice of violation and not more than \$500.00 per day for a repeat violator.
- (2) Non-residential/commercial properties. By the board only for not more than \$1,000.00 per day per violation that continues past the date of the order for compliance and not more than \$5,000.00 per day per violation for a repeat violator. Non-Residential shall also mean any residential property being used outside the scope of its allowable use pursuant to Ordinance No. 13114, the Zoning Ordinance of the City of Miami, Florida, as amended (“Miami 21 Code”).
- (3) If the violation, whether the property is homestead, non-homestead, or commercial and is a violation of chapter 4 of the City Code, titled "Alcoholic beverages," chapter 17, article I of the City Code, titled "Environmental protection/tree protection in general," chapter 22 of the City Code, titled "Garbage and other solid waste," or chapter 62, article XIII, division 5 of the City Code, titled "Planning and zoning/planning and zoning approval for

<sup>1</sup> Words/and or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

temporary uses and occupancies; permit required/murals," then the fine issued by the board shall not exceed \$1,000.00 per day per violation for a first time offender and not more than \$5,000.00 per day per violation for a repeat violator, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature in accordance with the criteria set forth in subsection (c) below.

(c) In determining the amount of the fine, if any, the board or special magistrate shall consider the following factors:

- (1) The gravity of the violation.
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

(d) Mitigation of Outstanding Fine/Lien by Code Enforcement Board or Special Magistrate:

(1) Mitigation of Fine for Homestead properties:

An enforcement board or special magistrate may reduce an outstanding fine of a Homestead property based on the criteria above once a violator has complied with the order, after the City has collected its costs as determined by the City Manager or designee, and for good cause shown.

(2) Mitigation of Fine for non-Homestead properties: The board or special magistrate ~~however,~~ is hereby authorized ~~the city~~ to mitigate fines with non-homestead violators, provided that the total amount of the daily fine imposed by the enforcement board or special magistrate may only be reduced to the percentage stated in the schedule below (the percentage on the chart below refers to percentage of the lien to be paid. 100% as reflected in the chart means no mitigation is allowed and the total lien shall be paid):

Number of Days Fine Outstanding	Total Fine Mitigation (percent)
1—30	25
31—60	30
61—90	35
91—120	40
121—150	50
151—180	60
181—210	70

Number of Days Fine Outstanding	Total Fine Mitigation (percent)
211—240	80
241—270	90
271 and up	100

~~(3) Any reduction below the percentages set forth above must be brought before the board or special magistrate for its approval. If the subject fine is reduced and a violator fails to pay said reduced fine within a period of 20 days from the day the offer to settle is mitigation is made, then the original fine shall be reinstated. In addition to daily fines, violators shall pay cost(s) of prosecution, if any, which have been incurred by the city with respect to such violation.~~

~~(4) Exceptions. The above chart and restrictions shall not apply to matters set for hearing at the time of the adoption of this Subsection, for bankruptcy matters, or matters in which the City is involved in litigation has a litigation settlement which may be heard by the City Commission, bankruptcy cases, foreclosure cases, cases where property value with the Miami-Dade County Property Appraiser is less than the amount of the lien wherein maximum mitigation shall be value of the property, subordination matters where loans are sought by property owners as long as compliance occurs within one (1) year of ownership or probated properties. The Code Enforcement Board shall determine mitigation amounts in such cases based upon the facts and circumstances presented by the parties to the matter and grant same for good cause shown.~~

\* \* \*

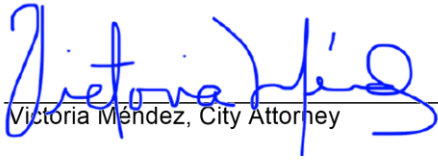
Section 3. If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. Any matter that was already scheduled for a mitigation hearing at the time of the adoption of this Ordinance on March 10, 2022 shall proceed according to Subsection 2-817(d) as it was in effect at the time of scheduling of the hearing.

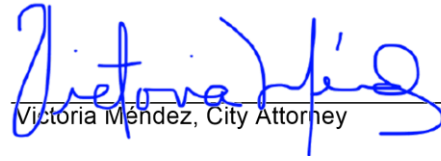
Section 5. This Ordinance shall become effective immediately after final reading and adoption thereof.<sup>2</sup>

<sup>2</sup> This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.

APPROVED AS TO FORM AND CORRECTNESS:

  
Victoria Méndez, City Attorney

2/14/2022

  
Victoria Méndez, City Attorney

3/1/2022