

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2018-___

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, AMENDING SECTION 101-143 OF THE CITY CODE OF CORAL GABLES TO PROVIDE FOR PROCEDURES AND A FEE FOR PARTIAL RELEASES OF LIENS FOR CODE ENFORCEMENT FINES; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City receives requests for the release of code enforcement liens that have not been satisfied in order to confirm of record that the liens do not encumber the property, whether as a result of a legal proceeding or by operation of law; and

WHEREAS, there is a cost associated with assessing the validity of the request and preparing and recording the partial release of the lien; and

WHEREAS, the City Commission desires to provide for a fee to recover those costs in order to maximize the City's ability to recover the public funds expended to provide this service;

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. That Section 101-143 of the Code of the City of Coral Gables, Florida, is hereby amended to read as follows:¹

Sec. 101-143. – Mitigation and partial release of recorded fines.

A property owner who has corrected a violation that is the subject of a code enforcement order or admitted citation may seek to reduce a fine as follows:

- (a) The property owner shall obtain confirmation from the code enforcement division that the violation has been corrected. Thereafter, the property owner shall request a mitigation hearing by filing a written request for same with the code enforcement division detailing the reasons supporting the request for mitigation of fines;
- (b) Hearings on requests for mitigation.

¹/ Deletions are indicated by ~~striketrough~~. Insertions are indicated by underlining

- (1) Hearings on requests for mitigation of fines shall be before the city's special magistrate, whose decision may be appealed to the code enforcement board, which decision shall be final and binding;
 - (2) An application for mitigation of fine before a special magistrate shall be filed with the clerk of the code enforcement division, with a copy to the city attorney, together with a fee in the amount established in section 1-8 for administrative costs;
 - (3) A determination on whether to reduce a code enforcement fine shall be guided by principles of fairness and equity and take into consideration the good faith efforts of the property owners to come into compliance expeditiously with the code enforcement order. The determining body may impose reasonable conditions on the reduction of the fine.
 - (4) An application for appeal of the special magistrate's decision to the code enforcement board shall be filed with the development services director, with a copy to the city attorney, together with a fee in the amount established in section 1-8 for administrative costs.
- (c) The city attorney or designee may, enter into settlement and fine reduction agreements on behalf of the city. ~~A~~Factors to be considered in mitigating, reducing or eliminating the fine is whether ~~the new~~ owner is cited for a violation that existed on the property before he/she purchased the property, the egregiousness of the violation, the degree of fault, the time it took to come into compliance, any record of previous violations, the proportionality of the fine to the violation, the party's acceptance of responsibility and any other factors commonly considered by a party in determining whether to settle a matter. ~~Under these circumstances,~~ Conditions to require correction of the violations and ensure compliance may be imposed on the new property owner.
- (d) A property owner may, as an alternative to the procedures in subsections (a) and (b) above, request a release of code enforcement liens that have not been satisfied in order to confirm of record that the liens do not encumber the property, whether as a result of a legal proceeding or by operation of law. An application for partial release of the lien shall be filed with the city attorney, with a copy to the development services director, together with a fee, which is the greatest of \$500, the actual costs, or the amount established in section 1-8 for administrative fees and charges. The property owner shall provide the information and documents necessary to process the request, including, but not limited to, the liens sought to be released, the basis for the request, the address and legal description of the properties encumbered by the liens, and any other supporting documentation that the city requests in order to assess the request. In assessing the request, the city may consider the factors in subsection (c) above and may impose conditions on the property owner to require correction of the violations and ensure compliance and to require payment of any fees, fines, or liens that do pertain to or encumber the property, including, but not limited to, any special assessment liens. Nothing herein shall require the city to release a lien that is valid or to provide a release where it is not required to do so by law.

SECTION 3. SEVERABILITY. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 4. REPEALER. All ordinances or parts of ordinances in conflict herewith, are hereby repealed. This Ordinance is intended to provide authority to the City Attorney without limiting any other authority of the City Attorney or other city officers provided in other parts of the City Charter, City Code, and Zoning Code. Accordingly, any other ordinances or parts of ordinances that provide authority to the City Attorney or other city officers are not repealed by this Ordinance.

SECTION 5. CODIFICATION. It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention, and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions. Upon adoption by resolution by the City of Coral Gables of a fee schedule by that incorporates the fee provided for in this Ordinance, this Ordinance, as codified, shall be modified to remove the reference to a fee amount of \$500 and shall only provide for a fee which is the greater of the actual costs or the amount established in section 1-8 of the City of Coral Gables Code of Ordinances Code for administrative fees and charges, which section shall also be modified to add this fee.

SECTION 6. EFFECTIVE DATE. This ordinance shall become effective upon adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D., 2018.

APPROVED:

RAUL VALDES-FAULI
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

MIRIAM SOLER RAMOS
CITY ATTORNEY