

Administrative Order



Administrative Order No.: 2-5

Title: Code Enforcement

Ordered: 7/25/2000

Effective: 8/4/2000

AUTHORITY:

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter, and Chapter 8CC, Code of Miami-Dade County.

SUPERSEDES:

This Administrative Order supersedes Administrative Order 2-5 ordered May 25, 1999, and effective June 4, 1999.

POLICY:

It shall be the policy of Miami-Dade County to foster compliance with the ordinances passed by the Board of County Commissioners, as embodied in the Code of Miami-Dade County (hereinafter referred to as the "Code") by encouraging its Code Inspectors to utilize available enforcement mechanisms, including the issuance of Uniform Civil Violation Notices ("CVNs"), to attain this goal. It shall also be the policy of Miami-Dade County to recover enforcement fines levied, administrative hearing and enforcement costs incurred by the departments involved in code enforcement activities, and accrued interest by utilizing administrative settlement and lien procedures.

ENFORCEMENT PROCEDURE FOR MUNICIPALITIES:

Municipalities within Miami-Dade County shall be entitled to utilize the applicable provisions of Chapter 8CC within their municipal boundaries by entering into an interlocal agreement with Miami-Dade County which shall contain, at a minimum, the following:

1. The section or sections of the Code as listed in Section 8CC-10, which the municipality wishes to enforce through this chapter.
2. The job title of the agents or employees of the municipality authorized to perform the enforcement functions and the number of agents or employees so authorized.

3. The amount reimbursable to Miami-Dade County for administrative costs relating to the conduct of hearings on appeals from CVNs issued by the municipality, including, but not limited to, attorney's fees and costs, costs of transcription and clerical costs.
4. The amount of revenue reimbursable to the municipality from any fine collected pursuant to the issuance of a CVN.
5. An agreement to indemnify and save the County harmless from and against any and all liability, actions and cause of action relating to the municipality's utilization of the provisions of Chapter 8CC and the Code of Miami-Dade County, if applicable.
6. A term not to exceed three years.

The County reserves the right to set minimum education, training and background check requirements to be met by municipal employees or agents enforcing the Code. Furthermore, the County shall provide oversight and auditing authority in order to withdraw delegation if it is determined that the municipality is improperly enforcing the code.

Any appeals to the Circuit Court or beyond from CVNs issued by a municipality shall be handled by that municipality and its legal staff.

HEARING OFFICERS:

Passage of Ordinance No. 85-33 created and established a code enforcement position to be filled by Hearing Officers. The County Manager, or his designee, shall prepare and submit for ratification to the Clerk of the Board of County Commissioners a list of qualified candidates nominated for appointment as Hearing Officers pursuant to the provisions of Section 8CC-2 of the Code. Compensation for Hearing Officers shall be \$ 50.00 per hour up to a maximum of \$400.00 per day.

DEPARTMENTS' RESPONSIBILITIES:

Code Enforcement department directors, or their designees, shall be responsible for the following:

1. Prior to being provided the authority to initiate enforcement proceedings under Section 8CC-3(a) of the Code, a Code Inspector shall be required to successfully complete a "Triple I" criminal background check, which shall be conducted by the Miami-Dade Police Department at the request of Code Enforcement departments. This background investigation, which consists of a complete computer search of nationwide law enforcement databases, shall include a

review of Federal, State and local criminal activity. In addition, driving records shall be reviewed as a part of the initial criminal background check and subsequently on an annual basis. Existing Code Inspectors shall be subject to annual driving record checks and shall be provided with notification of this requirement prior to implementation of this Administrative Order. The "Triple I" background check requirements shall be included in all Code Inspector job announcements. Municipal employees shall also be required to successfully complete a "Triple I" background investigation prior to being provided authority to initiate enforcement proceedings under Chapter 8CC of the Code.

2. Code Inspectors shall enforce the ordinances listed in Section 8CC-10 of the Code within the jurisdiction of their respective departments.
3. Upon issuance of a CVN to a violator, a completed copy of the CVN must be sent to Code Enforcement, County Clerk Division.
4. All original civil penalty payments, continuing civil penalty payments and administrative hearing costs imposed pursuant to the provisions of Chapter 8CC shall be remitted directly to Code Enforcement, County Clerk Division, with a check made payable to the Clerk of the Circuit and County Courts unless the case is the subject of a settlement agreement.
5. For any CVN issued in which a date of correction has been given, or for any case in which a Hearing Officer has set a date of correction (see Sec. 8CC-4(f) of the Code), a Code Inspector must prepare an Affidavit of Compliance or Non-Compliance as appropriate and send a copy to Code Enforcement, County Clerk Division. The Affidavit must indicate whether the violation has been corrected by the date of correction set forth in the CVN or by the Hearing Officer; and, if it has not, the Affidavit must so reflect and must set forth a request that the Hearing Officer issue an Order finding the violator guilty of a continuing violation, if applicable, imposing continuing violation penalties to be effective beginning on the original date of correction and ending at a specified date, and setting forth the total amount of penalties and costs to be paid by the violator.
6. Departments shall be authorized to sign agreements settling civil penalties and liens for amounts less than the maximum continuing penalty, costs and accrued interest. Such agreements shall contain the justification for settlement; the CVN number; the original penalty amount; the settlement amount; the amount collected (indicating full payment or partial payment); and, the signature of the department director, or designee, with notification to Code Enforcement, County Clerk Division. If any penalties have been made the subject of court actions, settlements must also include an approval from the County Attorney's Office, as applicable. Unless otherwise specifically provided in the Code, the department will require the violator to remit the original amount of the ticket and any administrative hearing costs imposed by the Hearing Officer to Code Enforcement, County Clerk Division and will collect the remainder of the

settlement amount directly. The departments shall provide to Code Enforcement, County Clerk Division a written settlement form which includes the following information: CVN number, settlement amount, amount received, date received, and record of collection number. If the settlement is based upon installment payments, the department shall provide the foregoing information for each payment until satisfaction of the agreement.

7. Whenever a violator has corrected a violation but failed to pay the civil penalty, or has failed to correct the violation and pay the civil penalty, or has paid the civil penalty but failed to correct the violation, the departments shall notify the violator of Miami-Dade County's intent to file a lien against the violator's real or personal property. The Notice of Intent to Lien shall offer the violator an opportunity within a specified time period to avoid placement of the lien by executing a settlement agreement which provides for correction of the violation, payment of the original amount of the CVN, payment of continuing penalties, payment of administrative hearing costs where applicable, payment of all enforcement costs incurred by the department and accrued interest. A copy of the Notice of Intent to Lien shall be sent to mortgage holders and may be sent to insurance carriers, credit bureaus and any other parties holding a legal, equitable or beneficial interest in the property.
8. A lien shall be placed on a violator's real or personal property except as provided for herein, if the violator does not respond within the prescribed time period to the Notice of Intent to Lien by correcting the violations and paying all penalties, costs and interest due or executing a settlement agreement and complying with said agreement. The lien document shall make specific reference to the civil violation notice number and the issuing department. The lien shall be recorded in the public records of Miami-Dade County and Code Enforcement, County Clerk Division, shall be notified of same.
9. Departments may offer a payment plan in negotiating settlements prior to or after placement of liens upon written request of the violator and establishment of economic need. In order to insure the department's ability to collect all civil penalties, administrative hearing and enforcement costs and interest due, departments are required to file a lien where possible whenever the violator enters into a payment plan in response to a Notice of Intent to Lien.
10. Upon placement of a lien against real or personal properties, the individual or business entity holding a mortgage on the property and credit bureaus shall be notified of the lien placement by the department. The department may notify insurance carriers and other parties holding a legal, equitable or beneficial interest in the property of the placement of the lien.
11. The department may initiate collection proceedings including, but not limited to, referral to collection agencies and filing of civil suits as warranted in an effort to recover monies owed Miami-Dade County resulting from the issuance of CVNs.

12. For any lien placed against real property pursuant to Chapter 8CC or other provisions of the Code which remains unsatisfied one year from the date of recordation of the lien, the departments shall notify the Office of the County Attorney and request mailing of a Notice of Intent to Foreclose. It shall be the responsibility of the County Attorney to initiate foreclosure actions in Circuit Court on non-homestead properties where foreclosure of the property is in the best interest of Miami-Dade County.
13. Upon final payment under a settlement agreement or full payment of a lien, all accrued interest and the costs of lien recordation and satisfaction, the departments shall record a Satisfaction of Lien in the Miami-Dade County public records. The Satisfaction of Lien document shall make specific reference to the civil violation notice number and the issuing department.

CODE ENFORCEMENT, COUNTY CLERK DIVISION RESPONSIBILITIES:

Code Enforcement, County Clerk Division shall be responsible for the following:

1. Upon receipt of a CVN, a letter will be issued to the violator indicating the amount of the civil penalty and the date by which the penalty is to be paid, advising the violator the date by which the violation must be corrected (if applicable), and providing the deadline date to request an administrative hearing in writing, to appeal the issuance of the CVN.
2. If payment has not been received for a Civil Violation Notice and/or the violation of the Code Section has not been corrected, a second letter will be issued to the violator (where no timely appeal has been filed), indicating the civil penalty, accrued penalty, and the total amount due within 30 days. The violator is further advised that if payment is not received or the violation is not corrected within 30 days, a lien shall be placed against the violator's real or personal property.
3. When an appeal has been filed and the Hearing Officer finds the violator guilty at the Administrative Hearing, a letter shall be sent to the violator ordering correction of the violation (if applicable) and requiring payment of the civil penalty, hearing administrative costs, enforcement costs, accrued penalties, and the total amount to be paid. The violator is further advised that if payment is not received or the violation is not corrected within 30 days, a lien shall be placed against the violator's real and personal property. To appeal a Hearing Officer's Final Order, a Notice of Appeal must be filed in the Circuit Court within the time provided by the Florida Rules of Appellate Procedure.
4. If within five days prior to the hearing date a violator requests in writing that a hearing be rescheduled. Code Enforcement, County Clerk Division, will

automatically advise the department in writing. The affected department will then either agree or object to the continuance request.

5. Upon receipt of the Mandate from the Circuit Court, pertaining to an appeal of a Hearing Officer's Final Order, where the County is the prevailing party, a letter will be issued to the violator indicating the amount of the civil penalty, administrative costs, and enforcement costs are due and payable within ten (10) days. The violator is further advised that if payment is not received or the violation is not corrected within ten (10) days, a lien shall be placed against the violator's real or personal property.
6. When appropriate, a Satisfaction of Lien will be filed in the Miami-Dade County public records.
7. Management information reports will be generated monthly for distribution, sequenced by department and badge number, indicating citations paid, citations complied with, and citations not complied with.
8. A report will be generated on an annual basis, by department, detailing outstanding violations for the previous year.
9. A report will be generated, and distributed for each department, providing the estimated cost reimbursement deduction on an ongoing basis.

DEPARTMENT SUPPLEMENTAL COSTS:

Department supplemental costs shall mean certain administrative costs incurred by using departments while processing continuing violations and levying liens and expenses incurred in collection efforts. Department supplemental costs are not provided for under Chapter 8CC and can only be levied or collected if authorized by other statutory Code provisions, administrative order or County Commission approval.

ADMINISTRATIVE REIMBURSEMENT:

In order to cover the actual administrative expenses incurred by the County Clerk Division in supporting the Code Enforcement system, the County Clerk shall retain all original fines and administrative hearing costs assessed by a Hearing Officer. After deduction of actual administrative expenses, the County Clerk, with concurrence of the Budget Director, shall annually return to non-general fund issuing departments on a prorated basis the remainder of retained original fines. The continuing penalties, enforcement costs and department supplemental costs collected which are not the result of a settlement agreement shall be distributed to non-general fund issuing departments on a quarterly basis.

CLOSURE OF CASES:

Cases may be closed in the following circumstances:

1. Where the civil penalty is paid and the violation corrected (if applicable).
2. Where the department has settled with the violator, pursuant to this Administrative Order.
3. Where the department voids the CVN.
4. Where the Hearing Officer finds the named violator not guilty and no appeal is taken by the County or issuing municipality.
5. Where there is a final settlement, judgment, order or other resolution of a case by a court of competent jurisdiction.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

M. R. Stierheim
County Manager