Implementing Order

Implementing Order No.: IO 2-5

Title: CODE ENFORCEMENT

Ordered: 12/12/23 **Effective:** 12/22/23

AUTHORITY:

The Miami-Dade County Home Rule Charter, including, among others, Sections 1.01, 2.02(A), 5.01 and 5.03, and Chapter 8CC, Code of Miami-Dade County.

SUPERSEDES:

This Implementing Order supersedes Implementing Order 2-5 ordered September 20, 2022 and effective October 1, 2022.

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 (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 as permitted by law.

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 pursuant to Code Section 8CC-11. 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 AND HEARING FEES:

Compensation for Hearing Officers shall be $100.00 per hour for a minimum of $400.00 per day and up to a maximum of $800 per day, when hearing appeals of issued CVNs or notices of assessment of continuing penalties under Chapter 8CC of the Code of Miami-Dade County, except that Hearing Officers adjudicating cases before the Unsafe Structures Appeal Panel shall be paid $150 per hour for a minimum of $600.00 per day and up to a maximum $1,200 per day. Hearing officers shall be compensated for adjudicating hearings, and any assigned administrative responsibilities required to be performed under Chapter 8CC of the Code of Miami-Dade County and this Implementing Order. Any Hearing Officer performing assigned administrative responsibilities shall be compensated for the actual hours worked, but not less than the per day minimum noted above. Assigned administrative responsibilities shall include but not be limited to, the review and approval of liens (orders imposing a civil penalty, or electronic copies of such orders, to be recorded in the public records and which thereafter constitute liens against the land on which the violations exist or upon any other real or

personal property owned by the violator), assessment of CVN continuing penalties that were not appealed by the named violator (pursuant to the filing by the Code Inspector of the requisite documents evincing noncompliance as required by the Code, and the related determination that violations continued to exist beyond the time for correction, and for how long), and review and approval or denial of written requests for continuances. Hearing officers are required to work as many hours as necessary to complete the agenda of scheduled hearings to avoid any inconvenience to the public. Each Hearing Officer decision finding a named violator guilty at the Administrative Hearing shall assess hearing administrative costs to be paid by the named violator, for the Clerk of Court, Code Enforcement Division, in the amount of $75.00 per violation adjudicated guilty, and, as provided in Section 8CC-6(L) and this Implementing Order, additional administrative enforcement costs for the issuing department in relation to the hearing, as determined by the hearing officer.

DEPARTMENTS' RESPONSIBILITIES:

Department directors of those departments charged with code enforcement, 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 "Level 2" state and national criminal history record check, which shall be conducted by the Human Resources Department through the Florida Department of Law Enforcement and the Federal Bureau of Investigation at the request of Code Enforcement departments. This criminal history background check consists of a nationwide search of law enforcement databases and includes a review of federal, state and local criminal activity. The Level 2 criminal history records check requirements shall be included in all Code Inspector job announcements. Municipal employees shall also be required to successfully complete a Level 2 criminal history record check or its equivalent prior to being provided authority to initiate enforcement proceedings under Chapter 8CC of the Code. In addition, driving records shall be reviewed as a part of the initial criminal background check and subsequently on an annual basis.

2. Code Inspectors shall enforce the ordinances listed in Section 8CC-10 of the Code within the jurisdiction of their respective departments.

3. Upon the issuance of a CVN the issuing Department will transmit a copy of the CVN, or the required data, to the Code Enforcement division of the Miami-Dade County Finance Department, or its successor. Processes pertaining to the enforcement of the Code, including, but not limited to the enforcement language written on the CVN, all notices and due process requirements, shall be the responsibility of the Department. The Departments will collaborate with the Finance Department, or its successor, prior to the modification of the stated forms and notices to coordinate efficiencies among the enforcement and collection processes.

4. Named violators shall be notified on the CVN that: (a) 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 the Code Enforcement division of the Miami-Dade County Finance Department, or its successor, with a check made payable to "Miami-Dade County Finance", unless the case is the subject of a settlement agreement; and (b) all appeals of a CVN or Assessment of Continuing Penalties shall be sent directly to, and filed with, Code Enforcement, County Clerk Division.

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), or in which the Department has extended the date of compliance by Agreement, a Code Inspector must prepare the required paperwork as set forth in Section 8CC-4(g) of the Code concerning compliance or non-compliance with the date of correction given in the CVN or the agreed upon

extended date of compliance and shall send a copy to Code Enforcement, County Clerk Division. The documents must indicate whether payment of the civil penalty has been made and whether the violation has been corrected by the applicable date of correction set forth in the CVN or by the Hearing Officer; and, if the violation has not been corrected or payment of the civil penalty has not been made, the documents required by Section 8CC-4(g) of the Code must so reflect and must set forth a request that a Hearing Officer issue an Order finding the violator guilty of a continuing violation and assess continuing penalties based upon the length of time the civil penalty remained unpaid and/or the violation continued to exist beyond the applicable date of compliance.

6. Departments shall be authorized to enter into agreements, extending dates of compliance with the Code, 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 the Code Enforcement division of the Miami-Dade County Finance Department, or its successor, and 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. 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 the Code Enforcement division of the Miami-Dade County Finance Department, or its successor, and will collect the remainder of the settlement amount directly. The Departments shall provide to the Code Enforcement division of the Miami-Dade County Finance Department, or its successor, a written settlement memorandum 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, then, upon the assessment of continuing penalties by a Hearing Officer, the named violator will be advised that if payment of the assessed penalties is not received, a lien shall be placed against the named violator's real and/or personal property unless the Department enters into a settlement agreement with the named violator. The departments shall notify the violator of Miami-Dade County's intent to file said lien against the violator's real or personal property when permitted by law. 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 Official Records of Miami-Dade County, and the Code Enforcement division of the Miami-Dade County Finance Department, or its successor, 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 or extenuating circumstances. In order to ensure 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 shall be notified of the lien placement by the department. The department may notify credit bureaus, 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 may notify the Office of the County Attorney and 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. If payment has not been received for a Civil Violation Notice and/or the violation of the Code Section has not been corrected, Code Enforcement, County Clerk Division shall issue a notice 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 shall be 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. Upon the assessment of continuing penalties by a Hearing Officer, a Notice of Assessment of Continuing Penalties will be sent to the named violator pursuant to Section 8CC-4(g) of the Code.

2. All requests for administrative hearings appealing either a CVN or an Assessment of Continuing Penalties shall be filed with Code Enforcement, County Clerk Division. Code Enforcement, County Clerk Division shall accept and process all requests for appeal that have been timely filed by the named violators such that it shall notify the issuing Department, and the Code Enforcement division of the Finance Department, or its successor, of each appeal that has been filed; and request that the issuing Department provide the next available date and location for which to conduct the hearing.

3. Upon the notification from the issuing Department of the available location and next available date to conduct the Administrative Hearing, the Code Enforcement, County Clerk Division shall select and assign a Hearing Officer to hear such appeal and shall send a Notice of Hearing to the named violator pursuant to Section 8CC-6(b).

4. The Code Enforcement, County Clerk Division shall maintain the docket of the administrative

hearings and shall provide same to the issuing Department confirming the appellant, date, location, and time that each appeal will be heard by the assigned Hearing Officer.

5. Upon a Hearing Officer finding a named violator guilty at the Administrative Hearing, a copy of the Hearing Officer's decision will be provided to the violator which shall include, the amount of time or specific date by which to correct the violation (if applicable) and the requirement to pay the civil penalty, hearing administrative costs, enforcement costs, assessed penalties (if applicable), and instructions that the total amount is to be paid to the Code Enforcement division of the Finance Department, or its successor. The violator shall be further advised that if payment of the assessed penalties is not received and the violation is not corrected within 30 days, a lien may be placed against the violator's real and/or personal property unless the Department enters into a settlement agreement with the named violator.

6. If a violator files a written request to reschedule the hearing and that written request is provided ten days or more prior to the administrative hearing date, Code Enforcement County Clerk Division shall advise the issuing department in writing of the request. The affected issuing department will then either agree or object to the continuance request. If the issuing department objects to the request, the Code Enforcement County Clerk Division shall forward the request to the standby Hearing Officer for ruling on the written request for rescheduling, and the Clerk shall notify the violator and the affected department of the Hearing Officer's ruling. If the standby Hearing Officer is not able to be reached or is unable to rule on the request prior to the scheduled hearing, the Code Enforcement Clerk Division shall notify the named violator that the request for rescheduling shall be presented and heard by the Hearing Officer at the scheduled hearing. The Code Enforcement County Clerk Division shall inform the violator that they have not been excused from the hearing and must appear or send a legally authorized representative on their behalf, including but not limited to a duly authorized power of attorney or attorney in fact.

   If the request for rescheduling is made less than 10 days before the hearing date, Code Enforcement County Clerk Division shall advise the issuing department in writing of the request. The affected issuing department will then either agree or object to the continuance request. If the affected issuing department objects to the request the Code Enforcement County Clerk Division shall inform the violator that request is pending and that the Hearing Officer will adjudicate the request at the scheduled hearing prior to the commencement of testimony and the presentation of evidence. The Code Enforcement County Clerk Division shall inform the violator that they have not been excused from the hearing and must appear or send a legally authorized representative on their behalf, including but not limited to a duly authorized power of attorney or attorney in fact.

7. Management information reports for administrative hearings appealing either a CVN or the Assessment of Continuing Penalties will be generated twice per month for distribution to Departments sequenced by department, name of alleged violator, date of citation issuance, date of request for appeal, Code Inspector Name, address of violation, mailing address for named violator, and citation number.

RESPONSIBILITIES OF THE CODE ENFORCEMENT DIVISION WITHIN MIAMI- DADE COUNTY FINANCE DEPARTMENT

1. The County Mayor, through the Code Enforcement Division of the Finance Department, or its successor, in collaboration with the issuing departments, shall develop and distribute to all issuing departments templates for all CVN notices to be issued, for the documents required by Section 8CC-4(g) concerning compliance and non-compliance with the date of correction given in the CVN or the agreed upon extended date of compliance, and for all other notices and records required to be sent to violators and to be maintained so as to ensure consistency and

reasonable uniformity in the code enforcement process. Departments that issue CVNs pursuant to Section 8CC of the Code will provide notification to the Finance Department, or its successor, of desired modifications to the format of all CVNs, related compliance or noncompliance documents, and all other notices and records required to be sent to named violators that pertain to the collection of fines, penalties, costs, liens, or related debt associated with the CVNs. Processes pertaining to the collection of debt, as provided herein, relating to fines, costs, penalties, and debt, as stated herein, shall be the responsibility of the Finance Department, or its successor.

2. Within five (5) days of issuance of a CVN to a violator, 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.

3. 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, any other applicable obligations, and enforcement costs that are due and payable within ten (10) days. The violator shall be 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 when permitted by law.

4. When appropriate, a Satisfaction of Lien will be filed in the Official Records of Miami-Dade County.

5. 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. A report will be generated on an annual basis, by department, detailing outstanding violations for the previous year.

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 or implementing order or by approval of the County Commission.

ADMINISTRATIVE REIMBURSEMENT:

In order to cover the actual administrative expenses incurred by the County Clerk Division in supporting the Code Enforcement system, the Code Enforcement division of the Finance Department, or its successor, shall remit to the County Clerk its administrative hearing costs that are assessed by a Hearing Officer. The expenses incurred by the Code Enforcement Division of the Miami-Dade County Finance Department, or its successor, as well as any expenses incurred by the County Clerk, not fully reimbursed by its administrative hearing costs, will be covered from remaining code enforcement collections. Code enforcement departments shall be further entitled to compensation for costs and expenses pursuant to 8CC-6(l) and are not precluded from further assessment of such costs. The manner and timing of cost allocations and the subsequent distribution of remaining funds to Miami-Dade County code enforcement departments shall be determined by the Miami-Dade County Finance Department, or its successor, Code Enforcement Departments, the County Clerk and the Budget Director, but shall in any event occur on not less than an annual basis. The continuing penalties, enforcement costs, and departmental supplemental costs collected shall be distributed to 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 Implementing Order.

3. Where the department voids or administratively closes the CVN.

4. Where the Miami-Dade County Finance Department, or its successor, has been delegated the authority by the issuing department and administratively dismisses the CVN.

5. Where the Hearing Officer finds the named violator not guilty and no appeal is taken by the County or issuing municipality.
6. Where there is a final settlement, judgment, order or other resolution of a case by a court of competent jurisdiction.

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

Approved by the County Attorney
as to form and legal sufficiency _____