

ORDINANCE NO. 2010-19-277

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 10 ENTITLED "CIVIL PENALTIES AND RELATED TERMS CONSTRUED" OF ORDINANCE NO. 2004-11-27 (CODE ENFORCEMENT PROCEDURES); DELETING SECTION 18 ENTITLED "SCHEDULE OF CIVIL PENALTIES" OF ORDINANCE NO. 2004-11-27; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING SECTION 8CC-10 OF THE MIAMI-DADE COUNTY CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 24, 2004, the City Council of the City of Miami Gardens adopted Ordinance No. 2004-11-27 to enact code enforcement procedures for the City of Miami Gardens, and

WHEREAS, the City continued to rely upon the schedule of civil penalties established by Miami-Dade County when it adopted its own ordinance, and

WHEREAS, City Staff recommends repealing the current schedule of penalties, and to assess fines in accordance with Section 162.09(2)(a), Florida Statutes,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Section 10 of Ordinance No. 2004-11-27 is hereby amended as follows:

Section 10. Civil Penalties and Related Terms Construed.

~~(A) Penalties for violations of the provisions to be enforced through this Ordinance shall be in the amounts prescribed in the schedule of civil penalties contained herein. Provided however, that the maximum allowable civil penalty shall be \$500.00 for a single violation. A fine imposed pursuant to this Section shall not exceed Two Hundred Fifty Dollars (\$250.00) per day for a first violation and Five Hundred Dollars (\$500.00) per day for a repeat violation.~~ (A) Penalties for violations of the provisions to be enforced through this Ordinance shall be in the amounts prescribed in the schedule of civil penalties contained herein. Provided however, that the maximum allowable civil penalty shall be \$500.00 for a single violation. A fine imposed pursuant to this Section shall not exceed Two Hundred Fifty Dollars (\$250.00) per day for a first violation and Five Hundred Dollars (\$500.00) per day for a repeat violation. ~~†~~This part does not limit the authority of a Special Master as prescribed in Section 6 herein. If the violation is continuing or repetitive, a single violation will occur each day beyond the time for correction set forth in the civil violation notice. Failure to pay the imposed fine(s) even after correction of the violation may be considered non-compliance and a continuing violation for the purposes of assessing continuing penalties.

(B) For each day of a Continued Violation, an additional penalty in the same amount as that prescribed for in the original violation shall be added.

(C) Civil penalties assessed as provided herein are due and payable to the City on the last day of the period allowed for the filing of an appeal of the Code Enforcement Officer's decision, or if proper appeal is made, when the appeal has been finally decided adversely against the named violator.

~~(D) For the first Repeat Violation, the amount of the civil penalty shall not exceed \$500.00.~~

~~(E)~~ A Repeat Violation which remains uncorrected beyond the time prescribed for correction in the Notice of Violation shall be treated as a Continuing Violation, and the additional penalty for each day of continued violation shall be double the amount due for the first day of the Repeat Violation.

~~(F)~~ (E) A Repeat Violation includes a violation committed by an entity that has one or more officers, major shareholders or general partners in common with another entity, which violated the same code provision within five (5) years of the current violation. For purposes of this Section a major shareholder shall be one who owns at least 25% of the shares of that corporation. This paragraph shall apply only where the common officer(s), major shareholder(s), or general partner(s) are or were actively involved in the management of the entity committing the violation at the time when the violation occurred.

~~(G)~~ (F) Continuing Violation penalties shall accrue from the date of correction given in the Civil Violation Notice until the correction is made, and compliance is obtained or until a request for administrative hearing is filed, whichever comes first. If the named Violator requests an administrative hearing and loses his appeal, the Special Master shall determine a reasonable time period within which correction of the violation must be made, based on the considerations set forth herein. If correction is not made within the period set by the Special Master, Continuing Violation penalties shall begin to accrue after the time allowed for correction has

run. No continuing violation penalties shall accrue during the time period from the date of the civil violation notice until the date of the administrative hearing, if the named violator timely requests an administrative hearing to appeal the decision of the Code Inspector. Continuing violation penalties cannot be imposed by the hearing officer for uncorrectable violations.

(H) (G) Civil penalties assessed pursuant to this Chapter by the Special Master and due and payable to the City at the close of hearing, or, if a proper appeal of the Special Master's decision is made, when the appeal has been finally decided adversely against the named Violator.

Section 3. AMENDMENT: Section 18 of Ordinance No. 2204-11-27 is hereby deleted as follows:

~~(A) The schedule of civil penalties, as may be amended from time to time, shall be the same as set forth in Section 8CC-10 of the Code of Miami-Dade County.~~

~~(B) For violations of any section of this Code for which a specific penalty is not prescribed herein a penalty shall be imposed which shall not be less than \$25.00 nor more than \$500.00 per day for a first violation and shall not be less than \$50.00 nor more than \$750.00 per day for a repeat violation. For the purposes of continuing violations, each day shall constitute a separate violation.~~

Section 4. CONFLICT: Section 8CC-10 of the Miami-Dade County Code of Ordinances is hereby repealed.

Section 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the

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word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

Section 7. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 14th DAY OF JULY, 2010.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 28TH DAY OF JULY, 2010.



SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: DR. DANNY CREW, CITY MANAGER

Moved by: Councilman Gilbert
Second by: Councilwoman Watson

VOTE: 6-0

Mayor Shirley Gibson	<u> X </u> (Yes)	<u> </u> (No)
Vice Mayor Aaron Campbell	<u> X </u> (Yes)	<u> </u> (No)
Councilman Melvin L. Bratton	<u> X </u> (Yes)	<u> </u> (No)
Councilman Oliver Gilbert III	<u> X </u> (Yes)	<u> </u> (No)
Councilman Andre' Williams	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Sharon Pritchett	<u> </u> (Yes)	<u> </u> (No)(not present)
Councilwoman Barbara Watson	<u> X </u> (Yes)	<u> </u> (No)