ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, CREATING A NEW CHAPTER 21 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES ENTITLED "CODE COMPLIANCE" TO UPDATE, ORGANIZE, AND CLARIFY THE FUNCTION OF THE CODE COMPLIANCE PROCESS FOR THE CITY OF NORTH MIAMI, SUBSEQUENT TO THE RECENT AMENDMENT OF CHAPTER 2 ENTITLED "ADMINISTRATION", APPROVED BY THE MAYOR AND CITY COUNCIL; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") Code of Ordinances ("Code") is a compilation of the governing rules and regulations of the City, carefully arranged and officially promulgated by the Mayor and City Council, from time to time; and

WHEREAS, the periodic review, analysis and rendition of improved versions of the City Code is an essential ingredient in the pursuit of equity, the proper and efficient administration of City services, and the preservation and improvement of the quality of life of all City residents; and

WHEREAS, on November 12, 2013, the Mayor and City Council facilitated the mission and function of City government when it passed a recent amendment to Chapter 2 of the City Code of Ordinances, entitled "Administration"; and

WHEREAS, the amendment to Chapter 2 of the City Code of Ordinances, offered the unique opportunity to dedicate an entire chapter to those code sections pertaining only to the enforcement of City Codes, which directly affect the quality of life of City residents and the operations of businesses; and

WHEREAS, the Mayor and City Council find the proposed, revitalized Code Compliance Chapter will fundamentally promote, protect and improve the health, safety and welfare of City residents, in conjunction with the business community.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

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Section 1. Mayor and City Council Approval of Chapter 21 of the Code of Ordinances. The Mayor and City Council of the City of North Miami, Florida, hereby approve the creation of a new Chapter 21 of the City of North Miami Code of Ordinances entitled "Code Compliance" to update, organize, and clarify the function of the code compliance process for the City of North Miami, subsequent to the recent amendment of Chapter 2 entitled "Administration", approved by the Mayor and City Council, as follows:

CHAPTER 21 – CODE COMPLIANCE

DIVISION 1. IN GENERAL

Sec. 21-1. Legislative intent.

The intent of this chapter is to promote, protect and improve the health, safety and welfare of the residents of the city by creating an equitable, expeditious, and effective code compliance process to educate residents and enforce the city code of ordinances and land development regulations, as may be amended from time to time.

Sec. 21-2. Legal counsel.

The city attorney, or city attorney's designee, shall act as prosecutor for the city on all matters relating to code compliance.

Sec. 21-3. Nonexclusive remedy.

None of the provisions contained in this chapter shall be considered exclusive. The code compliance officer shall have the option to use any method provided by this chapter or at law to enforce the provisions of the various codes. Nothing contained in this chapter shall prohibit the city from enforcing the code by any other means.

Sec. 21-4. Definitions.

For the purposes of this chapter, the following terms, phrases, and words shall have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural form include the singular form and vice versa. The word "shall" is always mandatory and not merely permissive. Words used in the masculine gender include the feminine gender. Any reference to Federal, Florida Statutes, Florida Administrative Code, Comprehensive Plan, or any other official code shall be construed to be a reference to the most recent enactment of such statute or rule, and shall include any amendments as may from time to time be adopted.

Code means collectively the City of North Miami code of ordinances, including the land development regulations, as may be amended from time to time.

Code compliance officer ("*officer*") means any designated employee or agent of the city whose duty it is to ensure compliance with codes and ordinances enacted by the city. Employees or

agents hereby designated as code compliance officers include, but are not limited to, code inspectors, building and zoning director, building official, code enforcement officers, zoning and code administrator, police officers of the city, and animal control officers of the city, or other designated employee.

Repeat violation means a violation of a provision of the code by a person who has been previously found by a special magistrate or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provision of the code within five years prior to the current violation, notwithstanding the violations occur at different locations.

Special magistrate means a person(s) appointed by the city council, or pursuant to city council authorization, to preside over code compliance hearings. Special magistrates shall have same status as a code enforcement board pursuant to Chapter 162, Florida Statutes.

Uncorrectable violation means a violation which is irreparable or irreversible in nature, and which cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an ongoing condition or circumstance.

Violator means a person or entity responsible for a violation of the code.

Secs. 21-5—21-15. Reserved.

ARTICLE I. CODE COMPLIANCE PROCEDURES

DIVISION 1. CODE COMPLIANCE NOTICE OF VIOLATION PROCEDURE

Sec. 21-16. Notice of violation.

(a) It shall be the duty of the code compliance officer to initiate enforcement proceedings of the various codes. The special magistrate shall not have the power to initiate such enforcement proceedings.

(b) Except as provided in subsections (c)(1) or (c)(2) below, if a violation of any code is found, the code compliance officer shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code compliance officer shall notify the special magistrate and request a hearing.

(c) The special magistrate shall conduct hearings on a regularly scheduled monthly basis or more frequently upon request of the city manager or the city manager's designee. Written notice of such hearing shall be hand delivered or posted or mailed to the violator, as provided in Section162.12, Florida Statutes. At the option of the special magistrate, notice may be served by publication as provided in Section 162.12, Florida Statutes.

(1) If the code compliance officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety or welfare, or if the violation is uncorrectable in nature, the code compliance officer shall make a reasonable effort to notify the violator and may immediately notify the special magistrate and request a hearing.

(2) If a repeat violation is found, the code compliance officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code compliance officer, upon notifying the violator of a repeat violation, shall notify the special magistrate and request a hearing. The special magistrate, through city staff, shall schedule a hearing and shall provide notice pursuant to Section 162.12, Florida Statutes. The case may be presented to the special magistrate even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.

Sec. 21-17. Conduct of hearing.

(a) Minutes shall be kept of all hearings and all hearings and proceedings shall be open to the public. The city manager shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the special magistrate's duties.

(b) Each case before the special magistrate shall be presented by a code compliance officer or member of the administrative staff of the city. The city attorney or his designee shall serve as legal counsel to the city.

(c) The special magistrate shall proceed to hear the cases on the agenda for that day. The special magistrate shall take testimony from the code compliance officer or staff member and alleged violator. All testimony shall be under oath and shall be recorded and may be transcribed at the expense of the violator. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any matter relevant to the issues, to impeach any witness and to rebut the evidence against the witness. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. If the city prevails in prosecuting a case before the special magistrate, the city shall be entitled to recover all costs incurred in prosecuting the case.

(d) At the conclusion of the hearing, the special magistrate shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted in this division. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified under section 21-20, the cost of repairs may be included along with the fine, if the order is not complied with by such date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, an order shall be issued acknowledging compliance which shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

Sec. 21-18. Legal standard.

In order to make a finding upholding the code compliance officer's decision, the special magistrate must find by substantial competent evidence that the named violator was responsible for the violation of the relevant section of the code.

Sec. 21-19. Repeat violations.

(a) *Evidence.* Where the code compliance officer alleges a repeat violation, the city shall present evidence at the violation hearing to support the allegation that the violation is a repeat violation. The special magistrate may take "judicial notice" of matters in previous cases and in other city files.

(b) *Notice/fines.* The notice of hearing must recite that the alleged violation is a repeat violation, and if the property is again brought into compliance before the hearing, the special magistrate shall make a determination that future findings of the same violation shall make said violations eligible to be "fined" in the amount of repeat violations. The notice of hearing is in addition to the notice that the code compliance officer shall provide to the violator.

Sec. 21-20. Fines; costs of repair.

(a) The special magistrate, upon notification by the code compliance officer that a previous order of the special magistrate has not been complied with by the set time, or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the special magistrate for compliance or in the case of a repeat violation, for each day the repeat violation continues beginning with the date the repeat violation is found to have occurred by the code compliance officer. In addition, if the violation is a violation described in section 21-16(c)(1), the special magistrate shall notify the city manager or city manager's designee, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. If a finding of a violation or repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. A fine imposed pursuant to this section shall not exceed two hundred fifty dollars ($250.00) per day for a first violation and shall not exceed five hundred dollars ($500.00) per day for a repeat violation and, in addition, may include all costs of repairs pursuant to this subsection. In determining the amount of the fine, if any, the 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.

(b) The special magistrate may reduce a fine imposed pursuant to this section.

Secs. 21-21—21-30. Reserved.

DIVISION 2. CIVIL VIOLATION TICKETS PROCEDURE

Sec. 21-31. Issuance of civil violation tickets by code compliance officers; contents of civil violation ticket.

(a) A code compliance officer may issue a civil violation ticket to a person or entity when the

code compliance officer upon personal investigation has reasonable cause to believe that a person or entity has committed an uncorrectable violation of a code . Prior notice of the violation shall not be required. The penalties to be imposed are listed under division 7 of this chapter, as may be amended from time to time by resolution of the city council.

(b) The form of the civil violation ticket issued pursuant to this division shall provide the following information:

(1) The date and time of issuance;

(2) The name and address of the violator;

(3) A civil violation ticket number;

(4) The number or section of the code or ordinance violated;

(5) The name and title or position of the code compliance officer;

(6) A brief description of the nature of the violation, including the location, date and time of the violation;

(7) The procedure for the violator to follow in order to pay the penalty or to contest the civil violation ticket;

(8) The applicable penalty if the person elects to contest the civil violation ticket;

(9) The applicable penalty if the person elects not to contest the civil violation ticket;

(10) A conspicuous statement that if the violator fails to correct the violation or fails to pay the penalty within the time allowed and fails to contest the civil violation ticket by requesting a hearing before a special magistrate within ten (10) days after service of the civil violation ticket, the violator shall be deemed to have waived his or her right to contest the civil violation ticket and that such waiver shall constitute an admission of the violation;

(11) Notice that unpaid civil violation tickets may cause liens to be filed against violator's real or personal property; and

(12) Notice that the violator may be liable for the reasonable costs and expenses of the administrative hearing upon a finding of guilt.

Sec. 21-32. Rights of violators; payment of fine; right to appeal civil violation ticket; failure to pay and correct, or appeal.

(a) A violator who has been served with a civil violation ticket shall elect either to:

(1) Pay the penalty in the manner indicated on the civil violation ticket and correct the violation within the time specified on the ticket; or

(2) Request an administrative hearing before a special magistrate to appeal the determination of the code compliance officer that resulted in the issuance of the civil violation ticket.

(b) The request for an administrative hearing shall be done by filing a request in writing with the code compliance clerk or designee to set a hearing to contest the civil violation ticket. The request must be mailed or delivered to the address indicated on the civil violation ticket not later

than ten (10) days after the service of the ticket.

(c) If the named violator, after notice, fails to pay the civil violation ticket and correct the violation within the time specified or fails to timely request an administrative hearing before a special magistrate, such failure shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate. A waiver of the right to administrative hearing shall be treated as an admission of the violation, and penalties shall be assessed pursuant to the amount stated in the civil violation ticket.

Sec. 21-33. Civil violation ticket appeals.

(a) Upon receipt of the named violator's timely request for an administrative hearing pursuant, the code compliance clerk or designee shall set the matter down for a hearing on the next available regularly scheduled hearing date or as soon thereafter as possible.

(b) The code compliance clerk or designee shall send a notice of hearing by first class mail to the violator's last known address. The notice of hearing shall include but not be limited to the following:

(1) The name of the code compliance officer who issued the ticket;

(2) A description of the alleged violation;

(3) The date of the alleged violation;

(4) The section of the code allegedly violated;

(5) The place, date and time of the hearing;

(6) The right of the violator to be represented by an attorney;

(7) The right of the violator to present witnesses and evidence;

(8) Notice that failure of the violator to attend the hearing may result in a civil penalty being assessed against the violator; and

(9) Notice that requests for continuances will not be considered if not received in writing by the code compliance clerk or designee at least five (5) calendar days prior to the date set for hearing.

(c) All ticket appeals before the special magistrate shall be open to the public and all testimony shall be under oath. If proper notice has been given, a hearing may proceed in the absence of the named violator.

(d) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting transcripts.

(e) Each case before a special magistrate shall be presented by the city attorney or city attorney's designee.

(f) The hearing is not bound by the formal rules of evidence, but fundamental due process shall be observed and govern the proceedings. Any relevant evidence shall be admitted if the special magistrate finds it competent and reliable, regardless of any common law or statutory rule to the

contrary.

(g) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any matter relevant to the issues, to impeach any witness and to rebut the evidence against the witness.

(h) The special magistrate shall make findings of fact based on the evidence presented. In order to uphold the decision of the code compliance officer, the special magistrate must find that the greater weight of the evidence shows the existence of a code violation and that the named violator committed or was responsible for the violation. The special magistrate shall either affirm or reverse the determination of the code compliance officer as to the issuance of the civil violation ticket. If the special magistrate reverses the determination of the code compliance officer and finds the named violator not responsible for the alleged violation on the ticket, the named violator shall not be liable for the payment of any civil penalty unless the city successfully appeals the ruling of the special magistrate. If the decision of the special magistrate is to affirm the code compliance officer's determination of violation and finds the violator guilty, the following elements may be included in the special magistrate's decision:

(1) The amount of the civil penalty;

(2) Reasonable costs and expenses of the administrative hearing; and

(3) The date by which the violation must be corrected to prevent a continuing violation.

(i) If the violator is found guilty of the violation, the violator may be held liable for the reasonable costs and expenses of the administrative hearing at the discretion of the special magistrate.

(j) The special magistrate shall have the power to:

(1) Adopt procedures for the conduct of hearings;

(2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served by the police department or such other persons authorized to deliver subpoenas;

(3) Subpoena evidence;

(4) Take testimony under oath; and

(5) Assess and order the payment of civil penalties and the reasonable costs and expenses of the administrative hearing.

(k) The special magistrate shall be bound by the interpretations and decisions of the duly authorized city and county boards of appropriate jurisdiction concerning the provisions within their respective jurisdictions.

Secs. 21-34—21-40. Reserved.

DIVISION 3. CIVIL CITATIONS TO COUNTY COURT PROCEDURE

Sec. 21-41. Citations in general.

(a) A code compliance officer is authorized to issue a citation to an alleged violator when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code and that the county court or special magistrate will hear the violation.

(b) The issuance of a citation shall comply with the following requirements:

(1) The maximum civil penalty for each violation is five hundred dollars ($500.00), per day.

(2) A code compliance officer shall only issue a citation upon reasonable cause to believe that a person has committed an act in violation of a code or an ordinance.

(3) A citation issued hereunder shall be subject to contest in the county court, or by a special magistrate.

(4) Such additional procedures and provisions as are necessary to provide for the enforcement of a code under the provisions of this chapter shall be those which are utilized under Chapter 4, Article III, of the city code.

(c) Any person who willfully refuses to sign and accept a citation issued by a code compliance officer may be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.

(d) The provisions of this section shall not apply to the enforcement of the Florida Building Code pursuant to Chapter 553, Part IV, Florida Statutes, as they apply to construction, provided that a building permit is either not required or has been issued by the city. For the purposes of this subsection, "building codes" means only those codes adopted pursuant to Section 553.73, Florida Statutes.

(e) The city manager, or his designee, shall determine, in his discretion, on a case by case basis, as to whether the enforcement method provided by this division shall be utilized. The police chief, deputy police chiefs, building and zoning director, building official and zoning and code administrator shall be designees of the city manager hereunder, unless otherwise provided by the city manager. These enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear before the county court, or arrest for violation of municipal ordinances as provided for in Chapter 901, Florida Statutes. Unless otherwise specifically authorized and provided for by law, a person convicted of violating a municipal ordinance may be sentenced to pay a fine, not to exceed five hundred dollars ($500.00), and may be sentenced to a definite term of imprisonment, not to exceed sixty (60) days, in a municipal detention facility or other facility as authorized by law.

Sec. 21-42. Procedure for issuing citations.

Prior to issuing a citation, a code compliance officer shall provide notice of violation of the code to the alleged violator and shall establish a reasonable time period within which the person must

correct the violation. Such time period shall be no more than thirty (30) days. If, upon personal investigation, an officer finds that the person has not corrected the violation within the time specified period, the officer may issue a citation to the violator responsible for the violation. A code compliance officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is uncorrectable in nature.

Sec. 21-43. Form of citation.

(a) A citation issued by a code compliance officer shall be in a form approved by the city attorney and shall contain:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the civil infraction was committed.

(4) The facts constituting reasonable cause.

(5) The number or section of the code or ordinance violated.

(6) The name and authority of the code compliance officer.

(7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

(8) The applicable civil penalty if the person elects to contest the citation.

(9) The applicable civil penalty if the person elects not to contest the citation.

(10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(b) After issuing a citation to an alleged violator, a code compliance officer shall deposit the original citation and one (1) copy of the citation with the county court, unless the citation is submitted to a special magistrate for an administrative hearing.

(c) In the event the citation is presented to the County Court for adjudication by the code compliance officer, the form of the citation may be revised as requested by the Chief Judge of the Eleventh Judicial Circuit.

Secs. 21-44—21-50. Reserved.

ARTICLE II. ADMINSTRATIVE HEARINGS

DIVISION 4. SPECIAL MAGISTRATES

Sec. 21-51. Appointment, terms.

(a) Pursuant to the constitutional home rule powers granted to municipalities by the Florida Constitution, and Chapter 166 and Section 162.22, Florida Statutes, the city creates the position of special magistrate to enforce any provision of the City Code. Special magistrates shall be appointed by city council.

(b) No more than three (3) special magistrates shall be appointed for service for any one (1) period.

(c) A special magistrate's term of appointment shall be limited to one (1) year. A special magistrate may be reappointed by the city council provided that said magistrate possesses the qualifications required by this division. If a special magistrate is unable to hear a case, the case may be assigned to another special magistrate.
(d) The city council, at its sole discretion, may remove any special magistrate from service at any time.

(e) To be eligible for service as a special magistrate, a person must either:

(1) Be a retired Florida judge; or

(2) Be a member in good standing of the Florida Bar for at least five (5) years; and

(3) Have a background in local government.

Sec. 21-52. Compensation.

Subject to compliance with recordkeeping and other documentation requirements of the city manager or his designee, a special magistrate shall be compensated at a rate commensurate with the level of experience and qualifications.

Sec. 21-53. Powers.

The special magistrate shall have the power to:

(1) Adopt rules for the conduct of its hearings;

(2) Hear appeals by alleged violators from civil violation tickets; affirm in whole or in part, or reverse, the charge of violation; and affirm or modify the order of corrections and the fine levied in the ticket;

(3) Hear cases from code compliance officers for citations issued to alleged violators; affirm in whole or in part, or reverse, the charge of violation; and affirm or modify the order of corrections and the fine levied in the citation;

(4) Subpoena and swear alleged violators and witnesses to its hearings. Subpoenas may be served by the police department of the city;

(5) Subpoena evidence to the hearing;

(6) Take testimony under oath;

(7) Issue orders having the force of law commanding whatever stages necessary to bring a violation into compliance.

Secs. 21-54—21-60. Reserved.

DIVISION 5. NOTICES

Sec. 21-61. Notice requirement.

(a) All notices required shall be provided to the alleged violator by certified mail, return receipt requested, if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the local government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subsection (b) and by first class mail directed to the addressees furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing; by hand delivery by the sheriff or other law enforcement officer, code compliance officer, or other person designated by the city council; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and information such person of the contents of the notice. In the case of commercial premises, leaving the notice with the manager or other person in charge shall constitute proper notice.

(b) In addition to providing notice as set forth in subsection (a) of this section, at the option of the special magistrate, notice may also be served by publication or posting as follows: Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in the county where the special magistrate is located. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes, for legal and official advertisements. Proof of publication shall be made as provided in Sections 50.041 and 50.051, Florida Statutes. In lieu of publication as described above in this section, such notice may be posted for at least ten (10) days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one (1) of which shall be the property upon which the violation is alleged to exist and the other of which shall be, at the North Miami City Hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting. Notice by publication or posting may run concurrently with or may follow attempts to provide notice by hand delivery or by mail as required under subsection (a) of this section.

(c) Evidence that an attempt has been made to hand delivery or mail notice as provided in subsection (a) of this section, together with proof of publication or posting as provided in subsection (b) of this section, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator actually received such notice.

Secs. 21-62—21-65. Reserved.

DIVISION 6. APPEALS, COLLECTIONS AND LIENS

Sec. 21-66. Recovery of unpaid penalties; unpaid penalty to constitute a lien; foreclosure and other relief.

(a) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties and to compel compliance, make repairs and other equitable and injunctive relief.

(b) A certified copy of any order imposing a civil penalty or a civil penalty plus repair costs may be recorded in the county public records and thereafter shall constitute a lien against the land upon which the violation exists or existed or upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment, including execution and levy against personal property of the violator, but shall not be deemed to be a court judgment except for enforcement purposes. After three (3) months from the filing and recording of such lien that remains unpaid, the city may foreclose or otherwise execute on the lien.

Sec. 21-67. Appeals of orders of special magistrates.

(a) The violator or the city may appeal an order of a special magistrate by filing a petition for certiorari with the circuit court, appellate division. Such appeal shall be filed within thirty (30) days of the date of issuance of the order by the special magistrate. The city attorney shall represent the city in any appeal.

(b) In the absence of reversal of a special magistrate's ruling by a court of competent jurisdiction acting in an appellate capacity, the findings of the special magistrate shall be conclusive as to a determination of responsibility for the code violation, and such findings shall be admissible in any proceeding to collect unpaid penalties or for equitable or injunctive relief.

Sec. 21-68. Liens.

(a) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator; and, upon petition to the circuit court may be enforced in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property, but such order shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. A fine imposed pursuant to this division shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city and the city manager or its designee, may execute a satisfaction or release of lien entered pursuant to this section. The city may also recover reasonable attorney's fees and court costs in connection with such enforcement actions. After three (3) months from the filing of any such lien which remains unpaid, the city council may authorize the city attorney to foreclose on the liens or to sue to recover a money judgment for the amount of the lien plus accrued interest and costs.

(b) No lien provided for by this section shall continue for a longer period than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to Section 162.09(3), Florida Statutes, in a court of competent jurisdiction. In an action to foreclose on a lien or for money judgment, the prevailing party is

entitled to recover all costs, including a reasonable attorney's fee that it incurs in the action. The city council shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien, effected by the commencement of the action, shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(c) No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under Section 4, Article X of the Florida Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under Section 4(a), Article X of the Florida Constitution.

Secs. 21-69—21-75. Reserved.

DIVISION 7. CIVIL PENALTIES AND FINES

Sec. 21-76. Schedule of civil penalties and fines.

(a) The table contained herein in subsection (c) of this section lists the sections of the code or ordinances, as they may be amended from time to time by resolution of the city council; which may be enforced pursuant to the provisions of this division; and prescribes the dollar amount of civil penalty for the violation of these sections.

(b) The "description of violations" below are for informational purposes only and the civil penalties attached are meant only as proposed figures not intended to limit the nature, number of or amount of fines to be imposed for the violations that may be cited in this section. To determine the exact nature of the activity prescribed or required by this Code, the relevant code section, ordinance or treatise cited in the specific violation must be examined.

TABLE INSET:

Code Section	Description of Violation	Civil Penalty
4-7	No animal kept, harbored, maintained or possessed by any person in the city shall be permitted to run at large or to remain in or upon public or private property.	$100.00
4-9	It shall be unlawful for any person to own or harbor any animal that disturbs the comfort, repose or peace of any person in the vicinity.	$100.00
4-10	The cruelty, neglect or abandonment of animals is unlawful.	$500.00
4-11	Keeping fowl, poultry, wild animals or farm animals is prohibited.	$100.00
4-12	Feeding wild animals is prohibited.	$100.00

4-15	Failure to confine dangerous, vicious or fierce animals.	$150.00
4-16	It is unlawful for any person to refuse to surrender an animal to an animal control officer.	$500.00
4-17	Unlawful disposal of a dead animal.	$100.00
4-21	It is unlawful to keep more than four dogs over the age of three months.	$100.00
4-22(a)	Failure to have current rabies vaccine on a dog or cat.	$100.00
4-22(b)	It is unlawful to own, possess, keep or harbor an unlicensed dog.	$100.00
4-23(a),(b)	Failure to have a proper leash, collar or harness.	$100.00
4-23(c)	Unlawful tethering of a dog.	$150.00
4-24	It is unlawful to allow one or more dogs or cats to become a public nuisance.	$150.00
4-25	Failure to remove and properly dispose of fecal matter deposited deposited by a dog on public or private property.	$100.00
4-26	Failure to confine a female dog during heat (estrus).	$100.00
4-27	It is unlawful to keep, harbor, maintain or own a pit bull dog within the city.	$500.00
5-19(b)	Failure to place property address on front footage, rear entrance, or on canal or alleyway frontage.	$100.00
5-19(c)	Failure to display identification number or letter on the door of each individual apartment or condominium unit.	$100.00
5-20	Failure to supply a roof with the required finishing materials.	$100.00
5-22	Failure to remove storm shutters in accordance with city code.	$250.00
5-30	Failure to maintain private space in a clean and sanitary condition.	$250.00
5-31	Failure to maintain non-dwelling structures and fences. in accordance with city code.	$250.00

5-32	Failure to maintain plumbing fixtures and sanitary facilities and equipment, in accordance with city code.	$250.00
5-33	Failure to dispose of rubbish, waste and other matter in accordance with city code.	$500.00
5-34	Failure to exterminate rodents, vermin or other pests.	$250.00
5-35	Failure to maintain in a clean and sanitary condition the shared or public areas of a dwelling and premises.	$250.00
5-36	Failure of keeping supplied amenities and facilities in in proper operating condition.	$250.00
5-37	It is unlawful to discontinue any service, facility, equipment or utility for any occupied dwelling unit.	$500.00
5-38	It is unlawful to occupy a vacant dwelling until it is in good repair, clean, sanitary, in habitable condition and in full compliance with city code.	$500.00
5-40	Failure to keep exterior property areas free from conditions likely to create a health, accident or fire hazard.	$500.00
5-41	Failure to maintain storm water drainage facilities in good working order.	$500.00
5-42	Failure to keep accessory structures on exterior property areas in good repair, free from health, fire and accident hazards and vermin.	$250.00
5-43	Exterior property areas shall be kept free from health, fire and accident hazards so as not to depreciate surrounding property.	$500.00
5-44	Failure to maintain stairs, porches, and railings in good repair and structurally sound.	$250.00
5-45	Failure to maintain a structure, used for human habitation, in accordance with city code.	$500.00
5-46	Failure to use protective coating on exterior surfaces of a structure as required by city code.	$250.00
5-47	It shall be unlawful to have loose and unsecured objects	$250.00

	and materials on exterior walls, roof or on other parts of a structure.	
5-48	Failure to screen exterior windows, doors and other openings as required by city code.	$100.00
5-49	Failure to maintain the exterior of a structure in good repair as required by city code.	$250.00
5-50	Failure to maintain floors, walls, ceilings, and stairs in the manner required by city code.	$250.00
5-51	Failure to maintain plumbing systems and fixtures in the manner required by city code.	$250.00
5-52	Failure to provide electrical service as required by the Florida Building Code.	$500.00
5-53	Failure to provide cooking facilities as required by city code.	$250.00
5-54	Failure to provide refrigeration equipment or adequate space with utility connections.	$250.00
5-52	Failure to comply with occupancy standards as required by city code.	$500.00
5-56	Unlawful use of rooms.	$250.00
5-57	Unlawful subdivision of habitable rooms by an installed partition or divider.	$500.00
5-58	Property with defects constituting dwelling unfit for human habitation.	$500.00
5-60	Construction or work without a permit.	$500.00
9-10(c)	Failure to use the required garbage can, container, or dumpster for city garbage disposal.	$100.00
9-10(d)	Failure to provide private waste collection service with a minimum collection frequency of 2 times per week.	$100.00
9-10(e),(f)	Failure to provide a dumpster with a minimum collection frequency of 2 times per week.	$100.00
9-10(f)	Failure to maintain minimum required dumpster capacity.	$200.00

9-10(h)	Failure of private waste collector to remove garbage container when required to do so by the city.	$100.00
9-12(a)	Placing or storing a dumpster upon a swale area or upon a public right of way is prohibited.	$150.00
9-12(b)	It is unlawful not to provide a city approved dumpster enclosure.	$200.00
9-12(b)(1)	Failure to maintain secured dumpster enclosure.	$50.00
9-12(b)(2)	Failure to maintain dumpster enclosure gates or doors closed.	$50.00
9-12(d)	It is unlawful to collect trash or garbage between the hours of 10:00 p.m. and 7:00 a.m.	$500.00
9-13(a)	It is unlawful to place bulk trash in open containers.	$150.00
9-13(b)	It is unlawful for a contractor or landscaper to leave tree trimmings and/or tree trunks for the city to collect.	$150.00
9-13(c)	It is unlawful to place bulk trash at curbside earlier than 24 hours prior to its collection.	$100.00
9-13(d)	It is unlawful to use a dumpster which contains defects.	$100.00
9-14(a)	It is unlawful to commingle garbage with bulk trash.	$100.00
9-15(c)	Illegal disposal of garbage, garden trash or any other waste.	$500.00
9-16(a)	Failure to remove accumulation of garbage within the time prescribed by the city.	$250.00
9-16(c)	It is unlawful to have overflowing dumpsters and/or littered enclosures.	$250.00
9-18	Failure to drain garbage of liquids or not wrapping the garbage in a paper or plastic bag.	$100.00
9-19(a)	Failure to relocate garden trash for proper disposal within the time prescribed by the city.	$100.00
9-19(b)	Failure to modify the height/weight of tree trunks or	$100.00

	branches for proper city disposal.	
9-19(d)	Failure to bag or otherwise properly dispose of landscaping debris.	$150.00
9-20	It is unlawful to dispose or commingle dangerous materials or hazardous waste with garbage or bulk trash.	$500.00
9-32(a)	Failure of private waste collector to properly mark or identify its vehicles and/or garbage containers.	$100.00
9-35	It is unlawful to conduct business within the city without a current business tax receipt.	F.S § 205.053
9-37(c)	Failure to file a placement permit application prior to placing a container within the city.	$250.00
9-37(d)	Failure of private waste collector to service and sanitize garbage container.	$100.00
9-37(e)	Failure of private waste collector to remove overflowing roll-off container after notification from the city to do so.	$250.00
9-37(f)	Failure of private waste collector to remove garbage container from a closed commercial establishment.	$250.00
9-37(g)	Failure of private waste collector to notify city of interruption of garbage collection service.	$100.00
10-19(a)	Illegal to keep, park, store, or allow any derelict, junk, wrecked, inoperable, or dismantled motor vehicle or other materials.	$250.00
10-19(b)	Commercial areas are restricted to one (1) inoperable vehicle or boat while being repaired.	$250.00
10-21	Illegal to keep, park, store, or allow any junk or derelict, wrecked, inoperable, or dismantled vehicle on public property.	$250.00
11-19	Procurement of business tax receipt is required prior to engaging in business, profession or occupation.	$500.00
11-21	False statements given in the procurement or use of a business tax receipt.	$500.00
11-24	Failure to pay business tax receipt when due.	F.S. § 205.053

11-26	Failure to post business tax receipt on the premises.	$ 50.00
11-126	It shall be unlawful for any person to place any merchandise for sale on public right-of-ways.	$100.00
11-212	It is unlawful to tow motor vehicle(s) from property, without first obtaining a license.	$100.00
12-4(a)	Illegal to maintain pool water whereby the clarity does not allow visibility from water surface to the pool bottom.	$500.00
12-4(c)	Prohibited to construct, alter or maintain a swimming pool without a fence, barrier or safety devices.	$500.00
12-45	It is unlawful to dump, dispose of or otherwise place in any canal, bay or waterway any trash, debris, garbage or waste.	$500.00
12-46	Swale areas in the residential districts shall be maintained by the adjacent property owner.	$100.00
12-47	Swale areas must be kept free from any debris, trash, litter and or any discarded materials.	$100.00
14-16	It is unlawful to operate any boat or watercraft above posted speed limit or in a manner as to endanger life or property.	$150.00
17-22(c)	It is unlawful to place pyramid, cinder blocks, steel, or similar devices in the dedicated right-of-ways.	$100.00
17-76	The fill, excavation or alteration in any way of the natural grade of the land shall require necessary permits.	$500.00
20-16	It is unlawful to dispense injurious substances around trees.	$500.00
20-17	It shall be unlawful to cut down, destroy, remove or move any tree without first obtaining a permit.	$500.00
20-22	Failure to satisfy tree removal permit conditions.	$250.00
20-27	Failure to provide tree protection in accordance with city code.	$250.00
20-29	It is unlawful for any person to abuse a tree.	$500.00
29-4-202, 29-4-302	Use of property not specifically permitted in the zoning district.	$250.00

29-3-212	Failure to obtain the required certificate of use.	$250.00
29-5-102.A	In multiple family dwellings, balconies shall not be used for storage, laundry drying, cooking, barbecuing, or as sleeping quarters.	$100.00
29-5-103.D	Existing, unattached, covered carport structure structures shall have a maintained cover on at all times.	$100.00
29-5-601.E	Improperly mooring a boat is prohibited.	$150.00
29-5-601.F.2	It shall be unlawful to moor any boat found to be unsightly or in badly deteriorated condition.	$150.00
29-5-901.B	Installation of a fence using prohibited materials.	$250.00
29-5-901.F	All exterior or inside masonry walls viewed from adjacent property or public right-of-way must be of stucco and paint finish.	$150.00
29-5-1401.F.2	No parking shall be located on the lawn in the front yards of homes.	$50.00
29-5-1406.A	No recreational vehicle, trailer, camper, truck, van or bus shall be used for human habitation.	$100.00
29-5-1406.B	No recreational vehicle or un-mounted boat in a state of disrepair or partial disrepair shall be parked upon any residential zone.	$100.00
29-5-1406.C	No recreational vehicle or bus shall be stored or parked upon a street or public right-of-way, park or public land.	$100.00
29-5-1406.D	No truck in excess of one (1) ton load capacity shall be stored or parked in any residential area of the city, unless actively engaged in the loading or unloading of materials.	$250.00
29-5-1406.E	No bus shall be stored or parked in any residential area of the city.	$250.00
29-5-1406.F	No wrecker shall be maintained, parked or stored in any single-family zoning districts.	$250.00
29-5-1502	Sign displayed or erected not in compliance with city code.	$250.00
29-5-1610	Short-term rental of single family dwelling more than four (4) times in a twelve-month period.	$500.00

(c) Any violation of the code that is not specified within this section, shall be assessed a civil penalty of one hundred dollars ($100.00).

(d) A person or entity who receives a civil violation ticket from a code compliance officer for code or ordinance violation has committed a civil infraction and shall be subject to a fine in accordance with the following schedule:

(1) For the first civil violation ticket, penalties for violation of the code or ordinances to be enforced shall be in the amount prescribed in the schedule of civil penalties listed under this section;

(2) For a civil violation ticket which includes a repeat violation, by a civil penalty of fifty dollars ($50.00) in addition to the civil penalty amount prescribed under this section;

(3) Any person or entity requesting a hearing who fails to appear before a special magistrate to contest the civil violation ticket shall be deemed to have waived his or her right to contest the ticket, and a penalty may be assessed against the person or entity for an amount not to exceed five hundred dollars ($500.00). A violation of the judgment issued by the special magistrate shall be deemed to be a continuing violation and carry the penalties set forth in subsection (d)(4) below; and

(4) Continuing violations shall carry a civil penalty, not to exceed fifty dollars ($50.00) per day, for each day the violation continues. Repeat violations shall carry a civil penalty, not to exceed one hundred dollars ($100.00) per day, for each day the violation continues, beginning with the date the repeat violation is found to have occurred by the code compliance officer.

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Section 2. **Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 5. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2013.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2013.

_____
LUCIE M. TONDREAU
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Lucie M. Tondreau	_____ (Yes)_____ (No)
Vice Mayor Scott Galvin	_____ (Yes)_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)_____ (No)
Councilperson Philippe Bien-Aime	_____ (Yes)_____ (No)

Additions shown by underlining. Deletions shown by overstriking.