

**CITY OF HALLANDALE BEACH
ADMINISTRATIVE POLICY**

DATE OF ISSUE: January 14, 1992 **NO:** 2004.002/R7
EFFECTIVE DATE: January 14, 1992 **SUBJECT:** Mitigation of Fines and Liens
REVISION DATE: November 13, 2014

APPROVED: _____
Renee C. Miller, City Manager

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CROSS REFERENCE: City Ordinance 9-50 (Ordinance 2006-06)

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I. PURPOSE/INTENT

The purpose of this policy is to provide a procedure for Mitigation of Special Magistrate and/or Code Enforcement Board Fines and Liens, as well as mitigation of Lot Mowing, Lot Clearing, Demolition and Utility Accounts lien(s).

II. DEFINITIONS

Lien - A claim, encumbrance, or charge on property for payment of some debt, obligation or duty. Accounts Receivables of the City in which lien rights exist to affect collection and/or a deposit is held. Examples are Utility Accounts in the owner's name, Lot Mowing and Clearing, Demolitions, Code Enforcement Board Actions, Code Enforcement Fines/Liens and Special Assessments.

Mitigation - To make less severe. Alleviation, reduction, abatement, or diminution of a penalty or punishment imposed by law.

Neighborhood Improvement Program (NIP) – assists property owners to achieve parking, roof, drainage and property maintenance improvements by offering no interest loans and other incentives.

Special Magistrate – Person who shall conduct Code Enforcement hearings pursuant to Chapter 162, Municipal Code Enforcement, of the Florida Statutes and Chapter 9, of the City's Code of Ordinances.

III. POLICY/PROCEDURES

Requests for Mitigation of Special Magistrate and/or Code Enforcement Board

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liens(s) shall be processed by the Development Services Department, Code Compliance Division and the recommendation may be approved or denied by the City Manager in accordance with Chapter 9, Section 9-50, of the City of Hallandale Beach's Code of Ordinances.

The process is as follows:

- 1) The property owner and/or representative shall submit a completed Mitigation Request Form (Attachment 1) including any documentation to support the Mitigation Request, to the Code Compliance Supervisor. No requests will be considered for the Mitigation process until all violations have been corrected.
- 2) If a property is acquired by a new owner with existing accruing code enforcement liens/fines, the accruing fines may be eligible for suspension as of the date of permit application submission. If the permit is issued within 60 days of the date of application, all the violations are corrected within 90 days of the date of permit issuance, and all conditions are timely met the accruing fines will be deemed ceased as of the date of permit application. The remaining procedure for requests for mitigation of Special Magistrate and/or Code Enforcement Board liens(s) will be processed as below.
- 3) The Development Services Department, Code Compliance Division will review the file and complete a Summary Form (Attachment 2) which will include the following:
 - a) Owner name, address, folio number and case number;
 - b) List of violations;
 - c) Original date cited, final order date to comply and compliance date;
 - d) Fine amount that was assessed per day and amount owed;
 - e) Homestead Status;
 - f) Reason owner requests Mitigation of Fines; and
 - g) Cost incurred by the City.
- 4) The Development Services Department, Code Compliance Division, will submit a Mitigation Memo (Attachment 3) to the City Manager to include a recommended mitigation amount, brief summary of violations and reason for recommendation, brief summary of costs incurred by the City and listing of actual costs. Recommendations will be calculated using the following Criteria:
 - a) Non-Homestead property may be reduced to actual costs or 10 % of total fine amount, whichever is greater.
 - b) Homestead property may be reduced to actual costs or 5 % of total fine amount, whichever is greater.
 - c) Participants in the Neighborhood Improvement Program (NIP) program

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may be reduced to costs incurred by the City and/or if mitigated amount and/or calculated costs are less than \$500.00, amount recommended will be \$500.00 to cover minimum costs.
- d) Hardship cases such as death, illness, elderly, financial, and/or catastrophe may be reduced 100%.
 - e) Owners who have demonstrated lack of attempt to comply and/or due to severity of violation may be subject to an above standard amount of fine.
- 5) Once the City Manager approves the recommended amounts on the Mitigation Memo, an Agreement Letter (Attachment 4) is sent via U.S. regular mail to the person who submitted the request. The letter must be signed and returned with payment of the mitigated amount within (30) days for the agreement to be valid. If the agreement is not signed, the Mitigation request will not be processed. Payment can be made in cash or Certified Bank Check for the Release of Lien document to be prepared. If payment is received in the form of a personal check, the Release of Lien will be prepared after the check clears in approximately (2) weeks. A Thank-you Letter (Attachment 5) is sent to the Property Owner when payment is received. Once the Release of Lien is signed by the City Clerk and the City Manager, the original Release of Lien will be recorded in Broward County and a copy of the recorded Release of Lien will be given to the person who requested Mitigation of the fines.
- 6) The Magistrate has been empowered by the Commission to consider, at a hearing, whether the City Manager has properly considered and made a decision regarding a mitigation request. Such a hearing by the Magistrate can proceed in one of two ways:
- a) A property owner may request the Magistrate to review whether the City Manager properly considered the hardship clause which allows mitigation up to 100%. When such a request is received, the City Manager's written decision shall be provided to the Magistrate for consideration along with any information the applicant chooses to provide. The magistrate may either a) affirm the City Manager's decision, or b) The Magistrate shall make the final determination about the hardship and overturn the CM's decision if there is preponderance of evidence that supports that there is in fact a hardship that meets the guidelines as strictly laid out in the policy
 - b) The City Manager may request the Magistrate consider a mitigation request for which no hardship was claimed but which, in the City's best interest, ought to receive mitigation that exceeds the City Manager's mitigation authority of 90%. When such a request is made, a written recommendation from the City Manager or her designee will accompany any supporting information provided by the affected party. The Magistrate may not reduce the fines to less than 1% of the value of the

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property associated with the fines or less than the City Manager's recommendation, whichever is lower.

In either scenario, a request for a hearing before the magistrate nullifies any previous mitigation offer unless and until the magistrate has ruled or unless and until a new mitigation offer has been approved by the City Manager.

IV. ADDITIONAL INFORMATION, REQUIREMENTS, AND RESPONSIBILITIES

It shall be the responsibility of the Development Services Department, Code Compliance Division, to update this Administrative Policy.