

RESOLUTION ADOPTING A POLICY REGARDING THE WAIVER OF FINES AND PENALTIES ASSOCIATED WITH CODE VIOLATIONS

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WHEREAS, under provisions of the Las Vegas Municipal Code, civil fines and penalties may be assessed against properties with various types of code violations; and

WHEREAS, the City Council deems it advisable to establish a formal process by which persons associated with such properties may request that such fines and penalties be waived or reduced; and

WHEREAS, the City Council desires to establish that process by means of an ordinance amendment and the adoption of a policy on the subject; and

WHEREAS, Bill No. 2021-23, adopted by the City Council as Ordinance No. 6785, contemplates and requires the adoption of a policy that describes the processes, standards and guidelines for obtaining the waiver or reduction of fines and penalties; and

WHEREAS, under Ordinance No. 6785, the policy may establish an alternative administrative process by which a person who seeks a waiver of costs and penalties may elect to forgo a hearing process and instead enter into a compliance agreement with the City, pursuant to which waivers may be granted by the City administratively; and

WHEREAS, by means of this Resolution, the City Council desires to adopt such a policy consistent with Ordinance No. 6785.

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NOW, THEREFORE, BASED UPON THE FOREGOING, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA, to adopt the attached policy.

PASSED, ADOPTED, AND APPROVED this 20th day of October, 2021.

CITY OF LAS VEGAS

BY 
CAROLYN G. GOODMAN, Mayor

ATTEST:


LUANN D. HOLMES, MMC
City Clerk

APPROVED AS TO FORM

Val Steed 7-7-21
Val Steed, Date
Deputy City Attorney

**Waiver of Fines and/or Civil Penalties
Associated with Code Violations Policy**

Purpose

To establish standards and guidelines for waiving civil penalties that have been approved as assessed liens on properties arising from code violations and/or city abatement actions.

Scope: Code Enforcement Division.

Policy

A. Assessment of fees and/or fines

Assessing fees is a cost recovery measure for the time, resources, and expenses the City expended to resolve code violations. The code enforcement process involves assessing fees and/or fines that accrue over a period of time and can be an effective tool to encourage the property owner to resolve outstanding issues in a timely manner. The penalties serve as a deterrent for property owners who are not responsive and continue to neglect their properties and create blighted conditions in the immediate neighborhood and surrounding community.

B. Consideration to waive civil penalties and/or fines

1. Standard Requirements

- a) A request of waiver, which is initiated by a Waiver Application submitted by the property owner, is evaluated on a case-by-case basis in order to review and determine extenuating circumstances associated with the property.
- b) Properties that have current open cases will not be processed for waiver until the property is brought into compliance.
- c) Waivers of fines and/or penalties are considered in instances when there is a recognizable public benefit, there is a positive impact on the immediate neighborhood and surrounding community, and deteriorating conditions will be resolved.
- d) A waiver of civil penalties will only apply to outstanding, unpaid balances and will not include reimbursement for any civil penalties previously paid.

2. Recommendations for the Reduction of Out-of-Pocket Expenses

- a) Out-of-pocket expenses are incurred when, after the issuance of a Notice and Order, the property owner failed to take required corrective action; and, as a result, taxpayer funds have been expended to bring the property into compliance. Accordingly, staff recommendations regarding the reduction and/or waiver of out-of-pocket expenses are limited to the following:

b)

REDUCTION AND/OR WAIVER OF OUT-OF-POCKET EXPENSES		
	Criteria	Percent of Reduction
1.1	The property owner was not properly noticed as required by Title 9 of the Las Vegas Municipal Code	100%
2.1	There was an obvious error in the method that out-of-pocket expenses were calculated or assessed	Sufficient to Correct Errors

3. Alternative Administrative Waiver Process

- a) Approved list of requirements to be completed and included in Waiver Application submittal.
- b) If the property owner agrees to complete the list of requirements, signs a compliance agreement, provides all requested documentation, obtains all required permits and inspections, and completes work to approved workmanlike building standards, civil penalties will be reduced administratively by the City.
- c) Reduction will be 75% of the outstanding abatement civil penalty lien. (Therefore, the standard maximum would be \$4,875 for each outstanding abatement civil penalty lien.)
- d) If a property has multiple abatements completed, the total amount of all civil penalties will be reduced to no more than \$19,500.
- e) If a property owner does not wish to enter into a compliance agreement, a Code Enforcement Hearing will be scheduled after the property has been rehabbed. The City Council Designee shall conduct the hearing, review the rehab, and order any reduction in costs and fees (which will be capped at a lower percentage than the compliance agreement route). A subsequent appeal to the City Council is available in accordance with LVMC 9.04.100(E).

4. Code Enforcement Hearing

- a) **Initial Hearings by the City Council Designee (with appeal to Council possible)**
- b) **Recommendations Regarding Reduction of Fines and Daily Civil Penalties**
Code Enforcement fines and daily civil penalties are assessed when a property owner has failed to bring property into compliance after issuance of a Notice and Order.

The following criteria are hereby established regarding Code Enforcement staff recommendations to the Designee regarding the reduction and/or waiver of fines and daily civil penalties:

REDUCTION AND/OR WAIVER OF FINES AND CIVIL PENALTIES		
	Reduction Criteria	Reduction
1.1	The current property owner was not the primary and legal owner when penalties were assessed, subsequently acquired the property without full disclosure by the Title Company, and enters into an agreement with the City of Las Vegas to ensure improvements are made within a timely manner and the property will be kept in compliance with all applicable code requirements.	50%
2.1	A prospective buyer is a non-profit, defined as an organization that is exempt from federal income tax (i.e. 501(c)(3)) and has entered into an agreement with the City of Las Vegas that includes submittal plans with a timeline for future rehabilitation and/or redevelopment for affordable housing and/or public facility that meets a national objective as defined by the Federal Department of Housing and Urban Development (HUD).	90%
3.1	A new owner plans to rehabilitate the blighted property to a standard that is comparable or exceeds the conditions of surrounding properties within the neighborhood and has entered into an agreement with the City of Las Vegas to ensure improvements are made within a specified time and the property will be kept in compliance with all applicable code requirements.	50%
4.1	It is the desire and intent of the City of Las Vegas to acquire the subject property to satisfy the public purpose doctrine and aid in the rehabilitation and/or redevelopment of a neighborhood (e.g., public facility, affordable housing).	100%
5.1	Extenuating circumstances have occurred that warrant further consideration, as determined by the Department Director or City Manager's Office.	50%
6.1	The property has come under the jurisdiction of the Clark County Office of the Public Administrator, who has requested a reduction of assessed fines and daily civil penalties in order to assist in the disposal of the property.	50%
7.1	The property has come under the jurisdiction of the Clark County Tax Assessor for delinquent taxes, has been offered for sale at a public auction, and the Tax Assessor has determined that the assessment of Code Enforcement fines and daily civil penalties has resulted in the inability of the Tax Assessor to sell the property.	50%

Definitions

ITEM	DEFINITION
Waivers	<p>A deferment or intentional relinquishment of civil penalties that has been calculated and assessed on a property that is the subject of code violations.</p> <p>A waiver is not used for corrections to a clerical error or error(s) associated with miscalculation or misinterpretation of codes and/or ordinances that resulted in unwarranted fees, fines and/or penalties.</p>
Civil Penalties	<p>Civil penalties are additional fines assessed by the City Council or the designee on properties where the property owner has failed to respond to notice of violations, and/or the property has been in a blighted condition for an extended period of time (LVMC Title 9.04.100).</p> <p>The value of civil penalties for residential properties is an assessment of \$500 per day and for commercial properties \$1000 per day.</p> <p>Pursuant to NRS 268.4122, the City Council or designee may order that civil penalties assessed under this Chapter be made part of an assessment lien authorized by Title 9, but any action to do shall be subject to the limitations contained in NRS 268.4122.</p> <p>An appeal of action taken by a designee may be taken to the City Council for record review in accordance with the procedure described by ordinance. Subsequent appeals/reviews would be through a court of competent jurisdiction.</p>