

ORDINANCE NO. 2009-32-204

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 12 (4(A) AND (B) OF ORDINANCE NO. 2005-31, THE "PROPERTY MAINTENANCE ORDINANCE"; DELETING SECTION 18 AMENDING SECTIONS 19 THROUGH 21 TO AMEND AND MERGE THE SAME; AND RENUMBERING THE REMAINDER OF THE ORDINANCE; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE

WHEREAS, in accordance with Ordinance No. 2005-13-51, as amended, the City adopted a Property Maintenance Ordinance to impose standards for property maintenance in the City, and

WHEREAS, the City is encountering many cases where property owners are neglecting their properties such that they have become a nuisance to adjoining property owners, and

WHEREAS, the City is being required to abate these nuisances on a more frequent basis, by mowing and removing debris from these properties, and

WHEREAS, staff is recommending that the City amend the Property Maintenance ordinance to make it easier for the City to abate these nuisances in a expedited manner, while still providing due process to property owners,

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 12(4)(A) and (B) of Ordinance No. 2005-13-51 is amended as follows:

(4) The owners of all unimproved lots, including cleared lots, shall maintain said lots in accordance with the following requirements:

- (A) ~~On all unimproved lots, shall not have grass, weeds, and/or undergrowth that exceed the height of twelve (12) inches from the ground that occurs within one hundred and fifty (150) (100) feet from the boundary line of any property with a building or structure or within one hundred and fifty (150) (100) feet from the boundary line of any improved road. In the event that the remaining area constitutes less than twenty-five (25) percent of the total square footage of the lot then the entire lot shall require maintenance action.~~

SECTION 3. AMENDMENT: Section 19 of Ordinance No. 2005-13-51 is amended as follows:

A. UNSANITARY VACANT PROPERTIES DECLARED A NUISANCE

The existence of excessive accumulation or untended growth of leaves, weeds, undergrowth or other dead or living plant material, any garbage or rubbish upon any vacant lot, tract or parcel of land improved or unimproved, or any land containing a vacant building or vacant structure and located within 2100 feet of the boundary line of any improved property within the city to the extent and in the manner that so that such property is or may become infested or inhabited by rodents, vermin or wild animals or may furnish a breeding place of mosquitoes, or threatens or endangers the public health, safety or welfare or may reasonably cause disease or adversely affect or impair the economic welfare of the adjacent property, is hereby prohibited and declared to be a public nuisance. The City shall have the authority to promptly abate public nuisances in whole, or in part, at the expense of the owner, in accordance with Chapter 162, Florida Statutes.

B. NOTICE TO OWNER; MOWING, CLEANING OR REMOVAL BY CITY; LIEN FOR COSTS INCURRED BY CITY.

1. If an owner or occupant of real property shall permit the same to be a public nuisance as described in Section 19, the Code Enforcement Director or his/her designee shall direct a "notice to owner" to the owner and occupant of such real property directing such owner or occupant to mow, cut, clean or otherwise remove such grass, weeds, or other debris, refuse, trash, rubbish, or

waste materials. Said notice to owner shall advise the owner and occupant of such real property that the city shall have the property mowed, cut, cleaned or debris removed, as applicable, unless the owner and/or occupant shall, within five days from the date of such notice, accomplish such mowing, cutting, cleaning and/or removal and thereby cure the violation. Such notice to owner shall be mailed to the owner of such property, return receipt requested and regular first class mail, at the address of such owner as it appears on the latest records of the county tax appraiser's office for ad valorem taxation purposes, with a copy to be posted on the property. The failure or omission of the Director to mail such notice by certified mail, return receipt requested, shall in no way affect the validity thereof, provided that the Director shall give an affidavit that such notice was duly mailed, first class, postage prepared. In all events, it shall be presumed that the addressee of such notice or re-notice received the same within three days of mailing. The Director shall designate in such notice to owner the approximate cost to the owner or occupant that will be incurred if the city should be called upon to accomplish such mowing, cutting, cleaning or removal, which cost shall include the actual cost which the city is obligated to pay to a private contractor or which estimated cost the city suffers as a result of such work being performed by city employees, and such amount shall include all overhead costs and administrative costs, including, but not limited to, personnel, postage, filing fees, attorneys' fees and the like which are estimated to be expended or incurred by the city in the enforcement of the terms of this ordinance. Such costs as are required by the terms of this section to be set forth in the notice shall be based upon an estimate by the Director based upon the information then available, and no variance between such estimate and the actual cost shall invalidate or constitute a defect under the terms of this section.

2. If such owner and/or occupant shall fail to accomplish such mowing, cutting, removal or repair, as applicable, within the set forth in this section, the city shall cause such mowing, cutting, removal or repair to be made, and the costs thereof, including reasonable administrative expenses, filing costs, costs of collection and attorneys' fees, shall be assessed against the subject property on or from where such grass, weeds, or where such debris, refuse, trash, rubbish, or waste materials have been placed, deposited, left, dumped or otherwise allowed to remain or accumulate, or to otherwise create an attraction for insects, vermin or children, or otherwise cause a nuisance.

3. The City shall issue a bill to the property owner at the address of the property owner appearing on the then current real property tax rolls of the county tax appraiser's office, for the costs outlined in subsection 2 above. The property owner shall have thirty (30) days from the date of receipt to submit payment to the city for the cost of said services. After thirty (30) days a late fee of fifty dollars \$50.00 shall be added to the total cost, and, upon the request of the Code Enforcement Director, the City Clerk shall schedule a hearing before the Special Master and shall provide notice to the owner of said property via certified mail, at the address appearing on the then current real property tax rolls of the county

tax appraiser's office. Nothing contained herein shall prevent the City from scheduling a hearing before the Special Master to obtain a lien, if a bill for costs is not mailed. However, if a bill is not mailed, the City shall not be entitled to payment of a late fee.

4. Upon providing competent substantial evidence of proper notice and an affidavit of all amounts incurred, a lien in such aggregate amounts shall be filed in the public records of the County against such real property. A copy of such recorded lien shall be mailed to the owner or occupant by the city clerk at the address appearing on the then-current real property tax rolls of the county tax appraiser's office; provided, however, that the failure or omission of the city clerk to mail such facsimile copy of the recorded lien or to otherwise notify the property owner or occupant thereof shall in no way affect the validity of such lien.

5. Such lien as described in subsection (3) of this section shall bear interest at the rate of 18 percent per annum from the date when such monies became due and payable to the city, which date shall be when the city first commenced work on the subject property or incurred any obligation in connection therewith, including the obligation of administrative expenses, and such interest shall continue to accrue until payment is made. If such owner and/or occupant fails and/or omits to satisfy such lien within 30 days from the date the same is recorded in the public records, the City shall have the right to foreclose such lien as provided by the laws of the state, and the city shall have the right to have assessed against such defaulting owner and/or occupant, in addition to the amount set forth in such lien, all costs and expenses occasioned or necessitated by such foreclosure, including, but not limited to, reasonable attorneys' fees and court costs.

SECTION 4: AMENDMENT: Sections 20 and 21 of Ordinance No. 2005-13-51 are deleted.

SECTION 5: RENUMBERING: The remaining sections of Ordinance No. 2005-13-51 as amended are hereby renumbered.

Section 6. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 7. 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 8. 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 section of this Ordinance may be renumbered or relettered and the 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.

Section 9. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 14<sup>th</sup> DAY OF OCTOBER, 2009  
ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF  
MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 28<sup>TH</sup> DAY OF  
OCTOBER, 2009.

  
SHIRLEY GIBSON, MAYOR

**ATTEST:**

  
RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY CREW, City Manager

Moved by: Vice Mayor Gilbert  
Second by: Councilman Bratton

**VOTE: 7-0**

Mayor Shirley Gibson	<u>  X  </u> (Yes)	____(No)
Vice Mayor Oliver Gilbert, III	<u>  X  </u> (Yes)	____(No)
Councilman Melvin L. Bratton	<u>  X  </u> (Yes)	____(No)
Councilman Aaron Campbell	<u>  X  </u> (Yes)	____(No)
Councilman Andre' Williams	<u>  X  </u> Yes)	____(No)
Councilwoman Sharon Pritchett	<u>  X  </u> (Yes)	____(No)
Councilwoman Barbara Watson	<u>  X  </u> (Yes)	____(No)



## City of Miami Gardens Agenda Cover Memo

<b>Council Meeting Date:</b>	<i>October 28, 2009</i>		<b>Item Type:</b>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
			<i>(Enter X in box)</i>		<b>X</b>		
<b>Fiscal Impact:</b> <i>(Enter X in box)</i>	Yes	No	<b>Ordinance Reading:</b> <i>(Enter X in box)</i>	<b>1<sup>st</sup> Reading</b>		<b>2<sup>nd</sup> Reading</b>	
		<b>X</b>		<i>(Enter X in box)</i>	Yes	No	Yes
<b>Funding Source:</b>	<b>N/A</b>		<b>Advertising Requirement:</b> <i>(Enter X in box)</i>	<b>Yes</b>		<b>No</b>	
				<b>X</b>			
<b>Contract/P.O. Required:</b> <i>(Enter X in box)</i>	Yes	No	<b>RFP/RFQ/Bid #:</b>				
		<b>X</b>					
<b>Sponsor Name</b>	<b>Dr. Danny Crew, City Manager</b>		<b>Department:</b>	<b><i>Building and Code Compliance</i></b>			

### Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 12 (4(A) AND (B) OF ORDINANCE NO. 2005-31, THE "PROPERTY MAINTENANCE ORDINANCE"; DELETING SECTION 18 AMENDING SECTIONS 19 THROUGH 21 TO AMEND AND MERGE THE SAME; AND RENUMBERING THE REMAINDER OF THE ORDINANCE; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE

### Staff Summary:

In accordance with Ordinance No. 2005-13-51, as amended, the City adopted a Property Maintenance Ordinance to impose standards for property maintenance in the City. Since that time the Code Compliance Division has encountered many cases where property owners are neglecting their properties allowing the landscaping to become overgrown thereby creating a nuisance to adjoining property owners.

The City is required to abate these nuisances on a more frequent basis, by mowing and removing debris from these properties. The abatement of the above-mentioned nuisances can take 60 -90 days under the existing process, which in turn increases the cost to the city and eventually the homeowner as the cost of clearing is tied to the severity of the overgrowth that exists on the property. As such, staff is recommending that the City amend the Property Maintenance ordinance to make it easier for the City to abate these nuisances in an expedited manner, while still providing due process to property owners.

**ITEM I-4) ORDINANCE  
SECOND READING/PUBLIC HEARING  
Amending the  
Property Maintenance Ordinance**

<b>Old Procedure</b>	<b>Day Total</b>
Warning Notice Period	7
Civil Violation Notice Period	7
Special Master Hearing Period	60
Total days to possibly abate nuisance	74

<b>New Procedure</b>	<b>Day Total</b>
Notice to Owner	8
Total days to possibly abate nuisance	9

**Proposed Action:**

That City Council approve the attached ordinance amending the City's property maintenance provisions.

**Attachments:**

None