

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2009 - _____

AN ORDINANCE AMENDING CHAPTER 34 OF THE “CODE OF THE CITY OF CORAL GABLES” ENTITLED “NUISANCES” AND IN PARTICULAR SECTIONS 34-1, ENTITLED “CLEARING OF LAND” 34-22, ENTITLED “FAILURE TO COMPLY; FORMS OF NOTICE TO PROPERTY OWNER”, 34-23, ENTITLED, “COST OF CLEARING AS LIEN ON PROPERTY-COLLECTION, FORECLOSURE AND SALE” BY CHANGING THE DATES UPON WHICH A PROPERTY OWNER IS PROVIDED NOTICE UPON WHICH TO REMEDY THE SITUATION; AND PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of Coral Gables intends to maintain the City free of weeds, trash, debris or other unsightly or unsanitary matter in order to maintain the public health, safety and welfare of its residents; and

WHEREAS, in recent years, it has come to the City’s attention that there are properties which are maintaining overgrown grass and weeds at a height greater than 12 inches; and

WHEREAS, the cost of maintaining these properties is borne by the City’s residents; and

WHEREAS, the City Commission wishes to update the notice requirements for a property owner’s failure to clear the land of these unsightly and unsanitary matters by reducing the time frame from 15 days to 3 days.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA THAT:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The code of the City of Coral Gables, Florida is hereby amended by adding the following to Sections 34-1, entitled “Clearing of Land” 34-22, entitled “Failure to Comply; Forms of Notice to Property Owner”, 34-23, entitled, “Cost of Clearing as Lien on Property-Collection, Foreclosure and Sale”.

Sec. 34-1 Clearing of land.

(a) *Authority to enter upon.* Specific authority is hereby granted the city to enter upon improved or unimproved properties and clean up the same of weeds, trees, debris and other like matter whenever the owner or occupant of such property has neglected to do these things and has been given ~~15~~ three (3) days after in which to do so and has failed ~~registered notice or~~ certified notice has been served.

(b) *Authority to impose penalties; lien.* The city commission is hereby vested with the right, power and authority, by nonemergency ordinance, to impose penalties for the nonpayment of charges and fees incurred by it in cleaning up improved or unimproved property of weeds, trees, debris and other like matter whenever the owner or occupant thereof has neglected to do such and has been given ~~15~~ three (3) days after receipt of ~~registered notice in which to do so and has failed~~ and/or posting. including the right and power to declare such unpaid charges and fees to

be a lien against the property served and to provide methods for collection of such fees and charges, including the right to declare such unpaid fees and charges a lien against the real and personal property of the owner and occupant of such property, collectible in the same manner as unpaid liens for special assessments are collectible.

(c) *Cumulative effect.* This power conferred by subsections(a) and (b) of this section is cumulative in addition to any other powers which the city now has or may hereafter have.

ARTICLE II. WEEDS, WILD GROWTH, RUBBISH, DEBRIS

Sec. 34-22 Failure to comply; form of notice to property owner.

(a) Upon the failure of the owner of any lot, parcel or tract of land within the city to keep such premises free of weeds, grass or undergrowth of a height of 12 inches or more from the ground, or of rubbish, trash, debris, dead trees or other unsightly or unsanitary matter, or to keep such premises free of excavations or depressions, as provided in this article, ~~it shall be the duty of city manager to give notice,~~ as provided herein, requesting the owner or owner's of such property to remedy the condition within ~~15~~ three (3) days after service of such notice.

(b) Such notice shall be given by registered or certified mail and or posting, addressed to the owner of the property described, to the home record, as recorded in the current county tax rolls, and shall be deemed complete and sufficient notice when so addressed and deposited in the United States mail with proper postage prepaid. The notice shall be in substantially the following form:

"Date _____

"Name of owner: _____

"Address of owner: _____

"Our property records indicate you to be the owner(s) of the following described property in the City of Coral Gables:

~~"An inspection of this property discloses and the city manager has found and determines it that it has been determined~~ to be in such condition as to be in violation of section 34-21 of the Code of the City of Coral Gables, because (state why property is in violation, i.e., height of weeds, grass or undergrowth, debris, dead trees, etc.).

"Section 34-21 of the Code of the City of Coral Gables, provides that it shall be unlawful for you to permit this condition to continue. You are hereby notified that unless this condition is remedied ~~so as to make it nonviolating and brought it into compliance of section 34-21 of the Code of the City of Coral Gables,~~ within ~~15~~ three (3) days from the date of service hereof, the City of Coral Gables will proceed to remedy such condition, and the cost of such work will be imposed as a lien upon this property. The estimated cost to remedy this condition will be _____, plus administrative charges, for a total cost of _____.

"This notice will be the only notice given to you in a period of one year from this date. And other violations occurring under this section shall be remedied by the City without further notice.

Sincerely,

~~City Manager~~ Code Enforcement Division

Sec. 34-23. Cost of clearing as lien on property – Collection, foreclosure and sale.

Upon failure of the owner of property to remedy the conditions existing in violation of the requirements of this article within ~~15~~ three (3) days after service of notice to do so, then the city

shall proceed to have such condition remedied by contract or direct labor, or both, and the cost thereof shall be and become a lien against such property 30 days after notice of completion of work by the city, to the same extent and character as the lien for special assessments, and with the same penalties and with the same rights of collections, foreclosure, sale and forfeiture as obtained for special assessment liens. The cost chargeable to the owner shall not exceed the amount of cost as set forth in the notice served to the property owner or owners required herein.

Section 3. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Repealer.

All ordinances or parts of ordinances in conflict herewith, be and the same, are hereby repealed.

Section 5. Codification.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. Effective Date.

This ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED AND ADOPTED this _____ day of _____ 2009.

DONALD D. SLESNICK II, MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY