

ORDINANCE NO. 1186

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 12 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "NUISANCES" BY CREATING SECTION 12-9 ENTITLED "PRIVATE PROPERTY NUISANCE ABATEMENT" TO PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE PUBLIC BY REGULATING THE MAINTENANCE OF PRIVATE PROPERTY; PROVIDING FOR REPEAL, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Administration has recommended an amendment to the City's Code of Ordinances to regulate private property nuisance; and

WHEREAS, a required level of North Miami private property maintenance is being proposed which will protect the livability, appearance and social and economic stability of the City and which will also protect the public from health and safety hazards and the impairment of property values that result from the neglect and deterioration of property; and

WHEREAS, the Mayor and City Council wish to revise the Code as recommended to promote the health, safety, and general welfare of North Miami residents.

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

Section 1: Section 12 of the North Miami Zoning Code entitled "Nuisances" is amended as follows:

Section 12-9. Private Property Nuisance Abatement.

(1) Nuisances described – Authority to abate.

- (a) The existence of any condition of blight, including but not limited to, an abandoned building or structure, an attractive nuisance, a building or structure in a state of disrepair sufficient to result in inadequate weather protection or so deteriorated as to foster decay or termite infestation, inadequate maintenance such that the property constitutes a fire hazard or other dangerous condition or is likely to harbor vermin, or an accumulation of solid waste or of discarded or unused materials or equipment stored so as to be visible from a public right of way or neighboring property.

- (b) The parking or storage of any vehicle that violates the provisions of this chapter.
- (c) Any condition pertaining to building maintenance or upkeep that violates any provision of the currently adopted uniform building, housing, mechanical, plumbing, or national electrical code, the uniform code for the abatement of dangerous buildings, or any other federal, state or local codes.

(2) Notice to abate.

- (a) The notice shall be substantially in the following form:
NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION
(Name and address of person notified)

As owner, agent, lessee or other person occupying or having charge or control of the building or premises at _____, you are hereby notified that the undersigned pursuant to Section 12-9 (1) of the City of North Miami Municipal Code has determined that there exists upon or adjoining the building or premises the following condition(s) contrary to the provisions of Section 12-9 (1).

You are hereby notified to abate the condition(s) to the satisfaction of the undersigned within _____ days of the date of this notice or to appear at the office of the _____ at, North Miami, Florida, on _____, 20____, at _____ o'clock _____m., and show cause, if any you have, why the condition(s) should not be abated by the city, and the expenses thereof charged to you as a personal obligation and/or made a lien upon the property. Abatement is to be accomplished in the following manner:

Dated:

By:

(3) Manner of giving notice.

- (a) The code enforcement officer shall notify the property owner in the manner prescribed for notice pursuant to Chapter 162, Florida Statutes, and Section 2-104 of the Code of Ordinances of the City of North Miami. The owner of real property as shown on the latest equalized assessment roll shall be conclusively deemed to be the proper person and address for mailing of notice of any hearing or order pursuant to this chapter and the failure of any addressee to receive notice shall not invalidate any notice or order so issued. Any duly issued notice or order shall be conclusively deemed to be adequate notice to any and all occupants, users, or possessors of the property or its contents, and the failure of any such person to see, read, understand or otherwise receive the notice shall not invalidate any of the proceedings.

(4) Hearing.

- (a) At the time fixed in the notice, the code enforcement officer shall hear testimony offered on behalf of the person or persons sought to be charged which tends to show why the noticed condition should not be abated and the expense thereof charged to such person as a civil debt and/or made a lien upon the property. Such person shall have the burden of producing evidence at the hearing. The code enforcement officer may hear rebuttal testimony on behalf of the city. Within ten days of the conclusion of the hearing, if the code enforcement officer is satisfied that the condition exists and concludes that it should be abated at the expense of such person or persons, he or she shall so advise such persons, either orally at the hearing or in writing. In the event any person given notice of hearing as shown by the evidence of mailing fails to appear at the hearing, then as to that person such evidence of mailing shall, without the taking of further testimony, be sufficient evidence of the existence of facts in support of the conclusion. Written notice of determination shall be given in accordance with Section 12-9 (3).

(5) Violation - Penalties.

- (a) Criminal. It is unlawful for any person to maintain, or allow to be maintained, any condition described as a nuisance in this chapter. Violations may be treated as infractions, and upon conviction shall be punishable as a misdemeanor. Each day of violation constitutes a separate offense and may be separately punished.
- (b) Civil. The director of community planning and development, or the building official may issue a notice of civil penalty and /or administrative fine to be levied against any person or entity which has maintained, created, caused, permitted or violated any condition set forth in Section 12-9 (1) or any order of the City department with respect to the property, pursuant to the procedures set forth in the North Miami Code of Ordinances.

Section 2. Repeal. All Ordinances or parts of Ordinances in conflict or inconsistent are repealed.

Section 3. Severability. If any word, clause, phrase, sentence, paragraph or Section of this Ordinance is held to be invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other word, clause, phrase, sentence, paragraph or Section of this Ordinance.

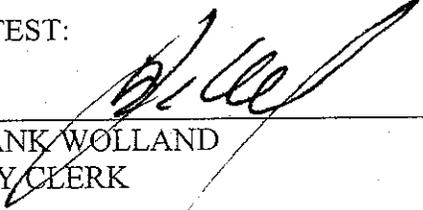
Section 4. Effective Date. This Ordinance shall be effective immediately upon passage by the City on second reading.

PASSED AND ADOPTED by 5-0 vote of the Mayor and City Council on first reading this 28 day of JUNE, 2005.

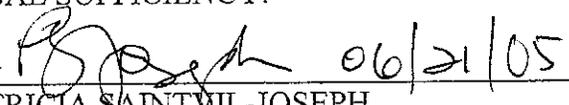
PASSED AND ADOPTED by 4-0 vote of the Mayor and City Council on second reading this 12 day of JULY, 2005.



KEVIN A. BURNS
MAYOR

ATTEST:


FRANK WOLLAND
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:
 06/21/05

PATRICIA SAINTVIL-JOSEPH
INTERIM CITY ATTORNEY

SPONSORED BY: COUNCILMAN SCOTT GALVIN

Moved by: COUNCILMAN GALVIN

Seconded by: COUNCILMAN DESPINOSSE

Vote:

Mayor Kevin A. Burns	<u>X</u>	(Yes)	_____	(No)
Councilperson Scott Galvin	<u>X</u>	(Yes)	_____	(No)
Councilperson Michael R. Blynn	<u>X</u>	(Yes)	_____	(No)
Councilperson Jacques A. Despinosse	<u>X</u>	(Yes)	_____	(No)
Councilperson Marie Erlande Steril	_____	(Yes)	_____	(No) AWAY

Additions shown by underlining. Deletions shown by ~~overstriking~~.