

ORDINANCE No. 2009-15-187

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 12 ENTITLED "MAINTENANCE OF PROPERTY, BUILDINGS, STRUCTURES, WALLS, FENCES, SIGNS, PAVEMENT AND LANDSCAPING" OF ORDINANCE NO. 2005-13-51, AS AMENDED, TO PROVIDE FOR ADDITIONAL REGULATIONS RELATING TO MAINTENANCE OF FENCES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City of Miami Gardens, adopted ordinance number 2005-13-61 ("Property Maintenance Ordinance") in order to impose more stringent standards for property maintenance within the City, and

WHEREAS, Councilman Melvin Bratton is recommending that the Property Maintenance Ordinance be amended to provide for additional regulations relating to fences within the City, to prohibit the use of fences for hanging clothes, rugs, or other items,

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 Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. AMENDING SECTION 12 ENTITLED "MAINTENANCE OF PROPERTY, BUILDINGS, STRUCTURES, WALLS, FENCES, SIGNS, PAVEMENT AND LANDSCAPING" as follows:

**MAINTENANCE OF PROPERTY, BUILDINGS, STRUCTURES, WALLS, FENCES
SIGN, PAVEMENT LANDSCAPING AND DRAINAGE FACILITIES.**

(1) The owners of all lots, improved and unimproved, residential, commercial, industrial or any combination thereof, within the City shall maintain said lots, including any building structures (accessory or otherwise) walls, fences, signs, pavement and landscape, and drainage facilities in good and safe condition, so as to present a healthy, clean and orderly appearance. All lots shall be kept free from any accumulation, storage, or maintenance of garbage, junk, abandoned property, trash, litter, or solid waste. All vegetation shall be maintained to minimize property damage and public safety hazards, including removal of dying or dead plant material, removal of low-hanging branches, trimming or removal of plant material obstructing sidewalks, street lighting and safe sight distance triangles. All drainage facilities shall be kept free of obstructions, sediments, or other waste materials and shall be inspected at least one time per year to ensure that this Section is complied with. "Drainage facility" shall mean any system or components of a system, including but not limited to storm sewer inlets, catch basins, curb and gutter, retention or detention ponds, swales, manholes, junction boxes, culverts, or other related components, designed to convey stormwater runoff and to dispose of runoff to appropriate and approved locations and or methods.

(2) Every building, every accessory structure, including but not limited to garages, carports, cabanas, storage buildings and swimming pools, every wall, fence and sign and every parking lot, driveway, deck, patio, drainage facility and other paved surface shall comply with the following requirements:

- (A.) Every foundation and footer, every exterior and interior wall, roof, floor, ceiling, window and door, every wall, fence and sign and every parking lot, driveway, deck, patio and other paved surface shall be structurally sound and maintained in good repair.
- (B.) Every building and structure shall be kept in a clean and sanitary condition free from junk, trash, rodents, insects and vermin.
- (C.) Every exterior yard, parking lot, driveway and approach, patio, swimming pool and deck shall be kept in a clean and sanitary condition free from junk, trash, rodents and vermin.
- (D.) The roof of every building and structure shall be maintained in a waterproof condition and be well drained of rainwater. All roofs and gutters shall be kept free of debris, mold, mildew and faded or chipped paint and must be repainted, recovered or cleaned when twenty-five (25%) percent or more of any exposed surface becomes discolored or is scaling.

- (E.) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved coating, applied in a workmanlike fashion. All exterior surfaces including walls, trim, doors and signs shall be properly maintained in a clean and sanitary condition, free of dirt, mold, mildew and faded or chipped paint, and must be repainted, recovered or cleaned when twenty-five (25%) percent or more of any exposed surface becomes discolored or is peeling. Exterior walls, rooftops, and other exterior features of structures shall be maintained free of graffiti. Cracks, holes and other similar damage or deterioration shall be repaired in accordance with applicable codes.
- (F.) Every parking lot, and attendant drainage facility, driveway and approach, deck or other paved surface shall be maintained free of cracks and potholes, and any required pavement markings shall be maintained in a clearly legible condition. Drainage facilities shall be kept free of all obstructions, sediments, or other waste materials. Repairs to parking and paved areas or drainage facilities shall require prior permit approval of the Development Services and Public Works Departments. Repairs shall be defined as: application of seal coating, resurfacing parking or alteration of paved areas, including the application of new striping. All work shall be performed in accordance with the applicable code(s). Parking and paved areas shall be maintained free of deterioration. Deterioration shall be defined as visible holes exceeding a depth of two inches and more than 5 square inches in area, damaged parking stops or missing striping or lot markings, including striping of parking spaces, required striping and pavement markings for disabled parking spaces, as well as access ramps and access paths for wheelchair traffic. Parking areas and paved areas shall be maintained in accordance with the approved site plan as well as all approved public works, building, or zoning permits and all other applicable codes and laws.
- (G.) Items such as clothes, rugs, bedding or other miscellaneous items shall not be hung on, across or over fences, except in connection with a bonafide yard sale to be held no more than twice a year.

(3) The owners of all improved lots within the City shall maintain the landscaping on said lot in accordance with the following requirements:

- (A) Landscaping shall be maintained to prevent property damage and public safety hazards, including removal of diseased dying or dead plant material, removal of branches hanging low over adjoining streets or sidewalks, and trimming or removal of plant material obstructing sidewalks, parking lot and street lighting, and safe sight distance triangles.
- (B) Landscaping should be kept free of visible signs of insects and disease, and be irrigated and fertilized to maintain a healthy condition. Additionally,

existing landscaping shall be irrigated, cultivated, and otherwise maintained as required by the site plan or City Code whichever controls.

- (C) Lawns and other sodded areas (including easements, alleyways, and common areas) shall be mowed on a regular basis so that the grass does not exceed eight (8) inches in height. It shall be the responsibility of each owner of an improved lot to undertake maintenance action on their lot to maintain clean and free of weeds, brush and undergrowth every calendar month.
 - (D) All pavement areas shall be edge-trimmed to prevent encroachment of sod and ground covers.
 - (E) Irrigation systems shall be maintained to prevent water loss due to damaged, missing or improperly operating sprinkler heads, emitters and pipes. The irrigation system shall not over-spray public roads or sidewalks.
 - (F) All lots should be maintained free of nuisance plant species, including but not limited to Brazilian Pepper, Australian Pine, and Melaleuca.
 - (G) The property owner is responsible for replacing any plant material required by this Code which has died or been removed.
 - (H) Roots that show evidence of damaging structures, utilities, streets, sidewalks or other paved areas shall be removed and appropriate root barriers shall be installed.
- (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, grass, weeds, and/or undergrowth that exceeds the height of twelve (12) inches from the ground that occurs within one hundred and fifty (150) feet from the boundary line of any property with a building or structure or within one hundred and fifty (150) 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.
 - (B) All unimproved lots shall be kept free from any accumulation of construction debris, garbage, trash or litter. It shall be the responsibility of each owner of an improved lot to undertake maintenance action on his or her lot every calendar month.
 - (C) Any vegetation shall be maintained to minimize property damage and public safety hazards, including removal of dead plant material removal of

low-hanging branches, and trimming or removal of plant material obstructing sidewalks, street lighting and safe sight distance triangles.

- (D) All cleared lots shall be maintained in a condition to prevent blowing sand or dust and erosion onto adjoining properties, rights of way and water bodies. Lots that have been cleared shall be cleaned of any demolition debris.
- (E) All unimproved lots that have been the subject of two or more code enforcement actions, within any 12 month period, involving illegal dumping, illegal vending, unauthorized vehicle sales, and/or other similar violative conditions shall be subject to the following:
 - 1. Said property shall be fully enclosed with either a natural barrier or berm, CBS concrete wall, wood wall or coated chain link.
 - 2. No CBS, concrete wall, wood wall or coated chain link shall be placed on vacant property closer than five (5') feet from front or side street property lines at the discretion of the Director.
 - 3. The area between the fence and the side street property lines shall contain a continuous extensively landscaped buffer that must be maintained in a good healthy condition by the property owner. The landscaped buffer shall contain one or more of the following planting materials at the discretion of the Director:
 - a. Shrubs and Hedges -- shall be a minimum of three (3') in height when measured immediately after planting.
 - b. Vines -- shall be a minimum of 36 inches in height.
 - c. Trees shall have a minimum height of ten (10') feet with a clear trunk of four (4') feet at time of planting. Trees shall be spaced 20' on center.

(5) It shall be the responsibility of the owner of property in any zoning district that is adjacent to a City right-of-way to maintain the swale that abuts their property. Such swale or right of way shall be maintained in accordance with the City Code of Ordinances.

(6) It shall be the responsibility of the property owner to maintain their property in accordance with the provisions of this section. Where applicable, tenants or lessees may receive enforcement notices in connection with enforcement; however, the property owner is ultimately responsible for compliance.

(7) Open-air storage in residential-zoned and commercial-zoned districts is subject to the following provisions:

(A) Open-air storage in a residential zoned district including but not limited to the following items and materials is prohibited:

1. Junk, as defined in this Ordinance.
2. Merchandise or manufacturing materials. Evidence of one or more of the following shall create a rebuttable presumption that merchandise or manufacturing materials are being stored on the premises:
 3. Multiple boxes of uniform appearance bearing shipping labels;
 4. Multiple articles of similar type in unused condition, including without limitation raw materials for manufacturing furniture and computer components;
 5. Pallets containing multiple boxes;
 6. Commercial equipment, including without limitation vending machines.
 7. Motor vehicle parts, including without limitation automobile engines and transmissions.
 8. Household furniture, including without limitation sofas and recliners.
 9. Construction materials, including without limitation lumber and cement blocks.
10. Construction and demolition equipment, including without limitation cement mixers, jack hammers, and roof tar pots, provided, however, that light-use equipment customarily used for do-it-yourself home repair, including without limitation hand tools, power tools, and table saws, shall not be prohibited.
11. Commercial Storage containers; except that PODs or other similar temporary moving aids shall be removed within thirty (30) calendar days.
12. All other outside storage of any similar items and materials.
13. Properties with bona fide agricultural uses shall be exempt from this subsection.
14. The above listed restrictions are in addition to and cumulative with the City Zoning code.
15. Open Air-Storage on commercial zoned property shall be governed by the City Zoning Code.

(8) The property owner shall be required to maintain his or her property (parking lot, drive ways, sidewalks, alley ways, easements, and common areas), as well as abutting right-of-way areas free and clear of litter and articles. Abutting area shall be defined as the public right-of-way immediately abutting the premises. The area to be maintained shall be from the edge of pavement to the property line and shall include sidewalk areas and swales.

(9) All shopping centers, strip malls, grocery stores, restaurants or commercial establishments that sell takeout beverages or food shall provide a litter container near every entrance and at every 100 feet along any established pedestrian walkway within the footprint of such property. Litter containers shall be well designed and secured in a manner that will cause them to remain stationary where placed. They shall be maintained free of graffiti and overflow trash. Placement of the containers shall not interfere with access to the facilities by pedestrians or by individuals with disabilities, as required by the Americans with Disabilities Act Accessibility Guidelines in the Code of Federal Regulation, Title 36, Pt. 1191, App. A. The civil penalty for a violation of this section is \$100.00.

(10) All establishments that sell merchandise or food for take out, shall post an anti-litter sign in a prominently visible location outside the establishment, as well as at all drive through lanes for restaurants and retail sales establishments. All signs required under this section shall be a minimum of 14" by 14" in size and shall state: "Littering is Prohibited by Law- Punishable by a Minimum Fine of \$250.00 per violation.

SECTION 3 CONFLICT All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 4 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 5. INCLUSION IN THE 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 sections 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; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 6. EFFECTIVE DATE This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 11th DAY of JUNE, 2009.

PASSED AND ADOPTED on second reading this 9th day of JULY, 2009


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

Reviewed by SONJA K. DICKENS ESQ.
City Attorney

SPONSORED BY: Councilman Melvin Bratton, Sr.

MOVED BY:

VOTE:

Mayor Shirley Gibson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Vice Mayor Barbara Watson	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No) (out of town)
Councilman Melvin L. Bratton	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No) (out of town)
Councilman Aaron Campbell	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilman Oliver Gilbert, III	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilman André Williams	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilwoman Sharon Pritchett	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	<i>July 8, 2009</i>		Item Type:	Resolution	Ordinance	Other		
					X			
Fiscal Impact:	Yes	No	Ordinance Reading:		1st Reading		2nd Reading	
							X	
		X	Public Hearing:		Yes	No	Yes	No
						X		
Funding Source:	N/A		Advertising Requirement:	Yes		No		
						X		
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:	N/A				
		X						
Sponsor Name	Councilman Melvin Bratton		Department:	<i>Mayor/Council</i>				

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 12 ENTITLED "MAINTENANCE OF PROPERTY, BUILDINGS, STRUCTURES, WALLS, FENCES, SIGNS, PAVEMENT AND LANDSCAPING" OF ORDINANCE NO. 2005-13-51, AS AMENDED, TO PROVIDE FOR ADDITIONAL REGULATIONS RELATING TO MAINTENANCE OF FENCES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

The City Council adopted ordinance number 2005-13-61 ("Property Maintenance Ordinance") in order to impose more stringent standards for property maintenance within the City. This ordinance provides guidance to the City's Code Department, especially in the residential area.

The attached ordinance revision provides for additional regulations relating to fences within the City, to prohibit the use of fences for hanging clothes, rugs, or other items.

Proposed Action:

Councilman Melvin Bratton recommends that City Council approve the amendment to the Property Maintenance Ordinance to provide for additional regulations relating to fences within the City, to prohibit the use of fences for hanging clothes, rugs, or other items.

Attachment:

None