

ORDINANCE NO. 281

AN ORDINANCE OF THE CITY OF WEST MIAMI, FLORIDA, DEFINING NUISANCES, MAKING IT UNLAWFUL TO CAUSE SAME OR TO SUFFER SAME TO EXIST, PROVIDING FOR NOTICE TO ABATE TO OWNER AND OCCUPANT, ESTABLISHING METHOD OF APPEAL TO CITY COUNCIL, AUTHORIZING CITY TO ABATE NUISANCES UPON FAILURE OF OWNER OR OCCUPANT TO DO SO, AND PROVIDING METHOD OF FILING LIEN AGAINST PROPERTY FOR COSTS INCURRED BY CITY AND PROVIDING METHOD FOR ENFORCING LIEN; PROVIDING PENALTY FOR VIOLATION OF ORDINANCE, AND PROVIDING FOR INCLUSION OF ORDINANCE IN CITY CODE.

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WEST MIAMI, FLORIDA:

Section 1. DEFINITIONS.

(a) All definitions contained in Section 1-2 of the City Code are incorporated herein by reference and made a part hereof.

(b) The term "nuisance" as used herein shall include the following:

(1) Wrecked, abandoned or partially dismantled or otherwise inoperative automobiles, trucks, trailers, house trailers, boat trailers, boats and machinery of whatever nature which are unsightly and are in the open upon private or public premises within the limits of a municipality, unless stored in a completely enclosed garage or other completely enclosed building.

(2) Lawns, grass, weeds, shrubbery, hedges and other plants which have grown to an excessive height or are wild or untrimmed and are unsightly.

(3) Any other condition not specified herein which would constitute a nuisance at common law.

Section 2. NUISANCES PROHIBITED. It shall be unlawful for any person to cause any nuisance or unlawful condition described herein upon any private or public property within the limits of West Miami or to suffer or permit such condition to exist upon any private or public property within West Miami.

Section 3. NOTICE TO ABATE. Upon determining that any owner or occupant of real estate in West Miami shall have caused or suffered or permitted to exist any nuisance or other unlawful condition described herein, the Mayor shall notify in writing the owner and occupant of said property that: (1) that said parties must abate said nuisance or other unlawful condition in the manner and within the time set forth in said notice; or, (2) that said parties may file with the City Clerk a written appeal to the City Council within fifteen (15) days of the mailing of said notice appealing from the determination of the Mayor that the condition described in the notice is a nuisance or otherwise unlawful within the meaning of this Ordinance. The notice provided above shall be given by registered or certified mail addressed to the occupant at the property address and addressed to the owner at the address shown therefor upon the tax rolls used by the City, and said notice shall require the owner and occupant to abate the nuisance or other unlawful condition by taking the action described in said notice within a reasonable time after the mailing of such notice, which time shall not be less than fifteen (15) days nor more than sixty (60) days.

Section 4. APPEAL.

(a) Upon the filing of a notice of appeal by the owner or occupant of real estate as provided in Section 3 the Mayor shall give written notice to the owner and occupant to appear before the City Council on the date specified in the notice to show cause why the nuisance or other unlawful condition described in the notice to abate provided in Section 3, should not be abated in the manner set forth in said notice.

(b) The City Council shall promptly hold a hearing after written notice as provided above and hear such testimony as the Mayor or owner or occupant shall offer relative to the alleged nuisance.

(c) The Council shall thereupon determine whether or not the condition in question is a nuisance within the terms of this Ordinance. If the Council shall determine that the condition in question is not a nuisance within the terms of this Ordinance it shall then order the findings and notice of the Mayor revoked. If the Council shall determine that the condition in question is a nuisance within the meaning of this Ordinance it shall direct the Mayor to issue an order directing the owner and occupants to abate said nuisance within a period not less than fifteen (15) days, nor more than sixty (60) days from date of mailing said order by certified or registered mail to the occupant at the address of said property and to the owner at the address shown therefor upon the tax rolls used by the City.

Section 5. ABATEMENT BY THE CITY.

(a) Upon the occurrence of any of the following:

(1) The owner and occupant of real estate having been served with notice to abate as provided in Section 3 shall have failed to comply with said notice or to appeal to the City Council within the time provided therefor; or

(2) If the owner and occupant of real estate having been served with notice to abate as provided in Section 3 and having appealed to the City Council within the time provided therefor, and the Council having determined that the condition complained of constituted a nuisance within the meaning of the Ordinance and the Mayor having thereafter issued order to abate, shall not comply with said order;

the Mayor shall thereupon promptly cause the nuisance or other unlawful condition complained of to be abated and the costs of such abatement shall thereupon be and become a lien or charge against the land in question upon the filing by the City of a Notice of Lien with the Circuit Court of Dade County, Florida; and the Mayor with the assistance of the City Attorney shall thereupon take such steps to perfect a lien of the City against such real estate. The liens herein provided for shall bear interest at the rate of six percent (6%) per annum from date of filing until paid, and shall remain in full force and effect for a period of ten (10) years or until earlier satisfied. Such liens may be enforced by suit in Chancery in the

manner provided by law for enforcement of other liens upon real estate. In the alternative, the City may collect the costs of such abatement by suit at common law or by any other procedure or method provided by law.

(b) Abatement of any such nuisance shall be carried out by the Mayor in the manner deemed by him most economical and considered by him to best preserve any property interest therein for the owner. He shall have authority to sell any salvage material in such manner as he shall deem proper and apply all proceeds from such sales against the expense of abating such nuisance.

Section 6. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding Five Hundred Dollars, or be imprisoned in the City Jail not exceeding sixty days, or by both such fine and imprisonment.

Section 7. If any provision or portion of this Ordinance shall be declared to be invalid the remaining portion shall not be affected, but shall remain in full force and effect.

Section 8. This Ordinance shall become effective January 1, 1967.

Section 9. This Ordinance is enacted pursuant to Article I, Section 28 of the City Charter, and shall be incorporated into the City Code and for such purpose may be renumbered or relettered.

PASSED and ADOPTED this 21st day of December, 1966.

Harvey H. Stall
President, City Council

Attest:

Bessie Blumen
City Clerk

APPROVED:

Ernest Hooper
Mayor