



Office of the Mayor and Town Council

Tim Meerbott
Mayor

MEMORANDUM

To: Honorable Members of the Town Council

From: Tim Meerbott, Mayor

Date: October 28, 2020

Re: Creating Chapter 9 – “Public Nuisances” - Nuisance Abatement Process

REQUEST

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING CHAPTER 9, TITLED “PUBLIC NUISANCES,” AUTHORIZING A SPECIAL MAGISTRATE TO PRESIDE OVER NUISANCE ABATEMENT CASES AND IMPOSE FINES AND OTHER NONCRIMINAL PENALTIES PURSUANT TO SECTION 893.138, FLORIDA STATUTES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

In the best interest of the health, safety and welfare of its residents, the Town desires to broaden its administrative remedies for properties that become public nuisances due to continuous presence of certain illegal activities that significantly impact our community and diminish property values for property owners within the Town and adjacent jurisdictions.

The Town finds that in order to intervene and cure properties that have become public nuisances, the Town must have the appropriate mechanisms to afford property owners due process and proper notice of the presence of a public nuisance located in their property. Section 893.138 of the Florida State Statutes (*Attachment “A”*) allows municipalities to create administrative board or appoint special magistrates to impose fines up to \$5,000.00 and/or other non-criminal penalties against the owner or operator of a business which has generated multiple valid police calls, and in the determination of Police and Community Development is creating a public nuisance negatively impacting the quality of life of our residents.





The Town desires to adopt a Nuisance Abatement Process and utilize a Special Magistrate or Administrative Board with the power to issue orders that mitigate and cure the effects of public nuisances within privately owned properties. The adoption of a Nuisance Abatement Process will not only enhance the effectiveness of both our Police and Community Development Departments in addressing truly problematic properties but will also maintain the health, safety and welfare of our residents.

RECOMMENDATION

It is recommended that the Town Council adopt at first reading the attached Ordinance, creating Chapter 9, titled “Public Nuisances,” authorizing a special magistrate to preside over nuisance abatement cases and impose fines and other noncriminal penalties pursuant to section 893.138, Florida State Statutes.

ATTACHMENTS

- Attachment “A” – Section 893.138, Florida Statutes

