



Memorandum

To: Honorable Members of the Town Council

From: Mayor Tim Meerbott

Date: January 20, 2021

Re: **Creating Chapter 9 – “Public Nuisances” - Nuisance Abatement Process (Second Reading)**

** Changes between 1st and 2nd reading are **highlighted in yellow** ~~double strikethrough~~ / double underline*

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.





OFFICE OF THE TOWN COUNCIL

Tim Meerbott

Mayor

ASSOCIATED ORDINANCE DOCUMENTS

The following documents are available for public review with the Office of the Town Clerk's Department.

➤ January 10, 2021: Notice of Adoption of Ordinance Miami Herald Neighbors Section Advertisement

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.

ATTACHMENT

➤ Attachment "A" – Section 893.138, Florida Statutes

