

ORDINANCE NO. 2013-0002

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA RENAMING CHAPTER 13 OF THE CODE OF ORDINANCES ENTITLED "NUISANCES" TO "PROPERTY MAINTENANCE/NUISANCES"; FURTHER AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES BY AMENDING ARTICLE II ENTITLED "MAINTENANCE OF PROPERTY" BY REPEALING SECTION 13-27 ENTITLED "NONCOMPLIANCE; NUISANCE ABATEMENT BY CITY"; REPEALING SECTION 13-28 ENTITLED "BILLING; LIEN AGAINST PROPERTY; INTEREST RATE; ENFORCEMENT THROUGH FORECLOSURE"; REPEALING SECTION 13-29 ENTITLED "APPEALS"; CREATING SECTION 13-31 ENTITLED "BUILDING MAINTENANCE STANDARDS"; CREATING SECTION 13-32 ENTITLED "LANDSCAPE MAINTENANCE"; AMENDING ARTICLE V. ENTITLED "LITTERING" BY CREATING SECTION 13-84 ENTITLED "TRASH/RECYCLE RECEPTACLE PLACEMENT"; CREATING SECTION 13-85 ENTITLED "LITTER AND LITTERING MATERIAL"; CREATING ARTICLE VII ENTITLED "COMPLIANCE INSPECTIONS; MAINTENANCE STANDARDS AND ENFORCEMENT"; CREATING SECTION 13-93 ENTITLED "NONCOMPLIANCE; NUISANCE ABATEMENT BY CITY"; CREATING SECTION 13-94 ENTITLED "BILLING; LIEN AGAINST PROPERTY; INTEREST RATE; ENFORCEMENT THROUGH FORECLOSURE"; CREATING SECTION 13-95 ENTITLED "APPEALS"; CREATING SECTION 13-96 ENTITLED "NON EXCLUSIVE REMEDY"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Staff periodically reviews its Ordinances and makes recommendations to the City Commission to revise its Ordinances; and

WHEREAS, City Staff recommends that the City Commission amend Chapter 13 of the Code of Ordinances, to establish a minimum standard for the maintenance of residential and commercial buildings; landscaping; and property in order to protect public health, public safety, property values, and to prevent nuisance conditions; and

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1           **WHEREAS**, the City Commission deems it to be in the best interest of the residents  
2 and business owners of the City to amend Chapter 13 of the Code of Ordinances, as more  
3 particularly set forth hereinafter.

4           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**  
5 **THE CITY OF WILTON MANORS, FLORIDA, THAT:**

6           **Section 1:**     The foregoing “WHEREAS” clauses are hereby ratified as true and  
7 correct and are incorporated herein by this reference.

8           **Section 2:**     Chapter 13 of the City Code of Ordinances entitled “Nuisances” is  
9 hereby renamed to “Property Maintenance/Nuisances”.

10          **Section 3:**     Section 13-27; 13-28 and 13-29 are hereby repealed.

11          **Section 4:** Chapter 13, Article II of the Code of Ordinances entitled “Maintenance of  
12 Property” is hereby amended as follows:

13       **ARTICLE II. – MAINTENANCE OF PROPERTY**

14  
15       **Sec. 13-26. - Prohibition of litter, untended vegetation, weeds, grass, hard junk and**  
16 **sanitary nuisances.**

17  
18       (a) This section shall be applicable to all persons having legal or beneficial ownership of  
19 or having possession or being in charge of or occupying any real property located in  
20 | the Ccity, as tenant or otherwise, whether vacant or occupied, improved or  
21 unimproved.

22       (b) The owners, resident, tenant, or other person having possession or being in charge of  
23 | or occupying any real property within the Ccity shall keep such property; and the  
24 adjoining portions of the public right-of-way, swales, alley, water’s edge and canal  
25 banks clean and free from any sanitary nuisance. The following conditions existing,  
26 permitted, maintained, kept, or caused shall constitute prima facie evidence of  
27 maintaining a sanitary nuisance.

28       (1) The creation, maintenance, or causing of any condition capable of breeding flies,  
29 mosquitoes or other arthropods capable of transmitting diseases, directly or  
30 indirectly, to humans.

31       (2) Untreated or improperly treated human waste, garbage, offal, dead animals, or  
32 dangerous waste materials from manufacturing processes harmful to human or  
33 animal life and air pollutants, gases, and noxious odors which are harmful to human  
34 or animal life.

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(3) The keeping of diseased animals dangerous to human health.

(4) Unsafe buildings and structures as defined by ~~chapter~~ Section 202 of the ~~South Florida Building Code, Broward County Edition.~~

(5) Swimming pools which are not maintained and/or are lacking safety barriers as required by sections 5-1 of the Code of Ordinances and 045-060 of the Unified Land Development Regulations ~~8-3(b)(6) of the Appendix A, Zoning.~~

(6) Any other condition determined to be a sanitary nuisance as defined in ~~Florida Statute~~ Section 386.01, Florida Statutes.

(c) The owners, resident, tenant, or other person having possession or being in charge of or occupying any real property within the Ceity shall keep such property, and the adjoining paved or unpaved portions of the public right-of-way, swales, alley, water's edge and canal banks clean, and free from any accumulation of garbage, litter or trash.

~~(d) The owners, resident, tenant, or other person having possession or being in charge of or occupying any real property within the city shall not permit untended vegetation upon such property, and the adjoining portions of the public right of way, swales and canal banks. No weeds, grass, undergrowth or other vegetable material, except for trees, shrubs or other permitted landscaping materials, shall be permitted to grow upon real property in the city in excess of eight (8) inches in height, and all such materials shall be cut or trimmed as may be necessary to comply with such maximum height requirement and the cuttings removed. All such material shall also be cut and removed within three (3) calendar days following the receipt of notice from the city that such matter exceeds eight (8) inches in height and is subject to cutting and removal pursuant to this section.~~

~~(ed)~~ The owners, resident, tenant or other person having possession or being in charge of or occupying any real property within the Ceity shall not permit hard junk to be stored, maintained or otherwise kept on any real property in the Ceity. Any such person is required to provide for the removal of any hard junk within three (3) working days following receipt of notice by the Ceity in accordance with this section.

(1) Any person owning, living on, having possession or being in charge of or occupying any real property within the Ceity as to which a utilities service account is maintained may arrange with the utilities department for an individual hard junk pickup. A fee equal to the amount of actual costs and expenses incurred by the Ceity, including administrative expenses, shall be charged for an individual hard junk pickup, provided that the junk shall have been properly piled on the swale or in the alley adjacent to the property to facilitate pickup. Such fee shall be added to the next regular utility bill mailed by the Ceity utility division to the location at which the pickup was requested, or to the person maintaining a utility account requesting the pickup.

(2) Except where an individual hard junk pickup shall have been arranged as above provided, where hard junk has been placed or stored on such property, where utility service is provided, the Ceity shall post a notice in a conspicuous place on the property giving the person owning, living on, or having possession or being in charge of or occupying any real property, three (3) working days to remove such hard junk or to arrange for its removal by the Ceity. Unless the hard junk shall have been removed within such three-day period or an arrangement for its removal shall have

1 | been made within such time, the Ceity shall pick up such hard junk and the cost  
2 thereof as above provided, together with an administrative charge in the amount of  
3 twenty-five dollars (\$25.00), shall be shall be assessed against the person owning,  
4 living on, or having possession or being in charge of or occupying any real property;  
5 added to the next regular utility bill mailed by the city utility division to the location  
6 of the pickup or to the person maintaining a utility account with the city; provided,  
7 however, in the event that the hard junk shall not have been properly piled on the  
8 swale or in the alley as above provided, the cost of removal, together with an  
9 administrative charge of fifty dollars (\$50.00), shall be assessed against the person  
10 owning, living on, or having possession or being in charge of or occupying any real  
11 property, and may be billed to such person by addition to the utility charges billed on  
12 the next ensuing utility service statement or otherwise.

13 (3) Except where an individual hard junk pickup shall have been arranged as above  
14 provided, where hard junk is placed or stored on vacant real property or on improved  
15 real property in the Ceity where utility service is not provided, the Ceity shall post a  
16 notice in a conspicuous place on the property giving the owner or other person in  
17 charge thereof three (3) working days to remove such hard junk. Unless removed  
18 within such three-day period, the cost of removal, together with an administrative  
19 charge of fifty dollars (\$50.00), shall be assessed against the person owning, living  
20 on, or having possession or being in charge of or occupying any real property and  
21 shall constitute a debt, subject to collection by legal process.

22 (4) ~~Except with respect to charges added to utility service bills and paid in a timely~~  
23 ~~manner, a~~Any unpaid charge for removal of junk, pursuant to subsections 13-26(e)(1)  
24 through (3) above, shall become a lien upon the real property in which the junk has  
25 been removed and shall be dealt with as provided in ~~section 13-28~~section 13-94. The  
26 remedies provided in this section shall be cumulative to all other remedies provided  
27 by this chapter and otherwise provided by law.

### 28 29 **Sec. 13-27. Noncompliance; nuisance abatement by city.**

30 ~~(a) [Required acts to commence following notice.] The time within which all acts required~~  
31 ~~by this article shall be performed shall commence to run on the day following the day of~~  
32 ~~posting notice on the affected property as provided below, or on the day on which personal~~  
33 ~~service of notice is made or when notice by mail is actually received, whichever is earliest.~~

34 ~~(b) City enforcement procedures for noncompliance and repeat violations. Any alleged~~  
35 ~~violation or repeat violation of this article may be pursued by the city by appropriate remedy~~  
36 ~~in court, code enforcement board, city hearing officer, or as set forth in subsection (c) herein~~  
37 ~~below, at the option of the city. This section is supplemental and will not preclude the city~~  
38 ~~from enforcing its Code by any other means available at law or in equity.~~

39 ~~(c) Notice of noncompliance; service of such notice.~~

40 ~~(1) Notice, where required by the provisions of this article, may be accomplished by affixing~~  
41 ~~in any conspicuous place on any structure on such premises, or in any other manner~~  
42 ~~calculated to be openly visible on the premises, a notice stating the date of the posting and~~  
43 ~~the time within which the weeds or high grass, hard junk, or any other materials referred to,~~

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1 shall be removed, and by either mailing, postage prepaid, a copy of such notice to the last  
2 known address of the property owner and other person above described, or by leaving a copy  
3 of such notice with any person of suitable age residing on the premises.

4 (2) All notices shall include:

5 a. A statement of the nature of the violation.

6 b. A demand that the owner or tenant, resident or other person having possession or being in  
7 charge of or occupying any real property remedy the violation within three (3) working days  
8 from the date of mailing, delivery or posting of such notice, whichever is earlier.

9 c. A statement that failure to remedy the violation will cause the city to correct the violation  
10 at the expense of the owner, tenant, resident or other person having possession or being in  
11 charge of or occupying any real property as provided for in this article.

12 d. A statement that any violation of the provisions of this article is a civil infraction in  
13 violation of a duly enacted code and that in the event that the violation is not corrected  
14 within the allotted time period, or the charges provided for in this article are not paid in a  
15 timely manner, a lien will be placed on the real property as provided for in Section 13-28.

16 e. If a violation presents an immediate danger to the public health, safety, or welfare, the  
17 demand that the violation be remedied shall require immediate corrective action.

18 In the event that a property owner has not been notified after a reasonable effort has been  
19 made to do so, the city manager may authorize immediate corrective action to protect the  
20 public health, safety, and welfare.

21 *(d) Failure to bring property into compliance.*

22 (1) In the event any person required by the terms of this article to remove rubbish, garbage or  
23 garden trash and/or to cut down and remove weeds, grass or undergrowth, or remove hard  
24 junk, shall fail to do the same, the city may cause such cutting and/or removal to be done and  
25 shall charge the cost of such service plus a fifty-dollar administrative charge to the person,  
26 unless another amount is otherwise specifically provided for herein.

27 (2) Abatement by city. If the corrective action to bring the property into compliance with this  
28 article by the date specified in the notice is not taken, the city manager or his designee may  
29 direct the appropriate city department to enter upon the premises to correct the condition,  
30 which may be accomplished by either city work forces or an independent contractor and  
31 charge the cost of such services and an administrative charge of fifty dollars (\$50.00) to that  
32 person for each lot, unless another amount is otherwise specifically provided for herein.

33 (e) *Fines.* Any person who violates this article will be assessed, and liable to pay, the  
34 additional civil penalty found in the schedule of fines set forth in the alternate code  
35 enforcement procedures section of the Code.

36 (f) *Appeals.* Appeal of noncompliance or of any matters relating to notice shall be pursuant  
37 to Section 13-29.

1 **Sec. 13-28. – Billing; lien against property; interest rate; enforcement through**  
2 **foreclosure.**

3 ~~(a) *Billing.*~~

4 ~~(1) Whenever the city, pursuant to this article, acts to correct any violation of this article, the~~  
5 ~~city manager or his designee shall send a separate bill stating the expense incurred in~~  
6 ~~remedying the condition as set forth in this article, unless such amounts are added to the next~~  
7 ~~regular utility bill. This bill shall include a request directed to the owner of the affected~~  
8 ~~property, for payment in full within twenty (20) calendar days of mailing or posting of such~~  
9 ~~notice.~~

10 ~~(2) If the city manager or his designee finds that the provisions of this section have not been~~  
11 ~~met, he shall provide notice in the same manner set forth in section 13-27 thereof.~~

12 ~~(3) The bill shall include the same matters set forth in section 13-27 thereof.~~

13 ~~(b) *Lien against property; interest rate.*~~

14 ~~(1) Any expense incurred to remedy the condition shall become payable by the person within~~  
15 ~~twenty (20) calendar days of the date of the hand delivery of such bill or mailing or posting~~  
16 ~~of such notice.~~

17 ~~(2) If the person fails to either remedy the condition within the time frame set forth in this~~  
18 ~~article or make payment within twenty (20) calendar days of the date of hand delivery,~~  
19 ~~mailing or posting of such notice, the city shall file a notice of lien in the public records of~~  
20 ~~the county. Such lien shall bear interest at the maximum rate allowed by state law, from the~~  
21 ~~date of recordation until paid. The expense and interest shall be a first and prior lien against~~  
22 ~~the property, subject only to the lien for taxes due the county and the state, and of the same~~  
23 ~~character as the lien of the city for municipal taxes.~~

24 ~~(c) *Enforcement through foreclosure:*~~

25 ~~(1) The city attorney may institute foreclosure proceedings to foreclose any lien imposed~~  
26 ~~pursuant to this article. Any such foreclosures shall be initiated ninety (90) days following~~  
27 ~~the date of lien filing.~~

28 ~~(2) The owner of the property against which the lien exists shall be liable to the city for a~~  
29 ~~reasonable attorney's fee to compensate its attorney for services in collecting the amounts~~  
30 ~~due on said lien together with all costs occasioned in foreclosing said lien. The same~~  
31 ~~attorney's fee shall be decreed to be a lien upon the lands described and shall be collected at~~  
32 ~~the time and in the manner provided for the collection of the amount evidenced by said lien.~~

33 ~~(3) The decree rendered in such case for the enforcement and collection and the amount due~~  
34 ~~thereunder shall determine the principal costs and attorneys' fees to be changeable, which~~  
35 ~~amounts shall constitute an additional lien against the property described.~~

36 ~~(4) In foreclosing such liens, the city may pursue and follow any recognized proceeding to~~  
37 ~~enforce liens and any number of assessment liens.~~

1       **Sec. 13-29. – Appeals.**

2       ~~(a) Any appeals of the city's determination of noncompliance pursuant to section 13-27(b) of~~  
3       ~~this article or of the placement of a lien under section 13-28 of this article must be made no~~  
4       ~~later than thirty (30) calendar days after the filing for recordation of the lien on the property~~  
5       ~~in the public records of the county.~~

6       ~~(b) Such appeal shall be made in writing and directed to the city manager, who may present~~  
7       ~~the issue to the city commission for resolution.~~

8       **Sec. 13-30. - Graffiti.**

9           (a) It shall be unlawful for any person to paint or mark any public or private property  
10          without the consent of the respective owner of said property.

11          (b) It shall be unlawful for the owner of any private real or personal property, including  
12          structures or improvements, to permit graffiti or other inscribed material to remain on  
13          their property within the Ceity, providing the Ceity has given the property owner or  
14          the owner's agent, manager, or operator written notice to take corrective action within  
15          three (3) calendar days from receipt or posting of the notice. Notice shall be provided  
16          in compliance with ~~section 13-27~~ section 13-93 of the Wilton Manors Code of  
17          Ordinances.

18          (c) Anyone who fails to comply with this section shall be subject to penalties pursuant to  
19          ~~section 13-27~~ section and ~~section 13-28~~ 13-93 herein. If the matter is brought before  
20          the code enforcement board or a Ceity hearing officer, a violator may be assessed a  
21          penalty of up to two hundred fifty dollars (\$250.00) per day for a first offense and no  
22          more than five hundred dollars (\$500.00) per day for a second offense, in addition to  
23          any actual cost the Ceity has incurred for abatement. In determining the penalty to be  
24          imposed, the Ceity shall consider the efforts taken by the violator to remove the  
25          graffiti in a timely manner as well as how often the violator has been victimized by  
26          graffiti during the preceding calendar year.

27  
28       **Section 13-31. – Building maintenance standards.**

29  
30           (a) Exterior Building Condition.

31           The exterior of buildings and structures shall be maintained by the owner, operator or  
32           occupant in good repair in order to facilitate public safety and so their appearance will not  
33           constitute a blighting factor.

34           (1) Exterior walls shall be maintained in a state of good repair free from damage and  
35           deterioration. To prevent deterioration exterior walls shall be cleaned, repainted or  
36           recovered when twenty five (25) percent or more of any single sight view becomes  
37           discolored or is peeling, chipped, molding, mildewing or rust stained. All parts of  
38           the structure that show dry rot or other deterioration shall be repaired, replaced or  
39           refinished. The exterior faces shall be kept free from graffiti, dirt, grime, stains and  
40           all other adverse conditions.

41           (2) Roofs and gutters.

42           All roofs and gutters shall be free of dirt, grime, stains, mildew, and peeling and free  
43           from any signs of deterioration. Roofs and gutters shall be maintained in good  
44           condition to prevent water from leaking into the building. roofs and gutters must be

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1 cleaned or repainted when twenty five (25) percent or more of any single sight view  
2 shows dirt, grime, stains, mildew, peeling or any sign of deterioration.

3 (3) Fascia/Borders/Decorative Bands/Soffits.

4 All fascia boards, borders, decorative bands, soffits, other edging and other  
5 decorative devices shall be maintained in a state of good repair free from damage and  
6 deterioration. All fascia boards, borders, decorative bands, soffits, other edging and  
7 other decorative devices shall be securely fastened to their support system. To  
8 prevent deterioration fascia boards, borders, decorative bands, soffits, other edging  
9 and other decorative devices shall be cleaned, repainted or recovered when twenty  
10 five (25) percent or more of any single sight view becomes discolored or is peeling,  
11 chipped, molding, mildewing or rust stained.

12 (4) Doors/Windows/Miscellaneous Openings.

13 All doors and windows shall be maintained in a state of good repair free from  
14 damage and deterioration. All doors and windows shall be securely fastened to their  
15 support system. To prevent deterioration, windows and doors shall be cleaned,  
16 repainted or recovered when twenty five (25) percent or more of any single sight  
17 view becomes discolored or is peeling, chipped, molding, mildewing or rust stained.  
18 All window and door security mechanisms shall be maintained in a state of good  
19 repair free from damage and deterioration.

20 (5) Unsecure Structures.

21 All windows, doors and miscellaneous openings shall have the immediate ability of  
22 being secured to prevent a public safety hazard and unwanted entry into a structure.  
23 Shall an unsecure structure present a public safety hazard, the City reserves the right  
24 to take necessary and reasonable measures to immediately correct the hazard. All  
25 costs associated with the City abating a public safety hazard violation shall be  
26 incurred by the occupant or property owner.

27 (6) Screens, shutters and awnings.

28 All screens, shutters and awnings shall be stretched and fitted and maintained  
29 without rips and tears. There shall be no deterioration of said screens, shutters and  
30 awnings.

31 (7) Stairs, porches and railings

32 The stairs, porches and railings affixed to the exterior of every structure shall be kept  
33 in good repair and structurally sound. Protective railings shall be required on any  
34 unenclosed structure over thirty (30) inches above the ground level or any steps  
35 containing four (4) risers or more. There shall be no deterioration of said stairs,  
36 porches and railings.

37 (8) Canopies and coverings

38 All canopies shall be maintained in a state of good repair without rips, tears or  
39 deterioration. Canopies shall be stretched and securely attached to its support  
40 structure. Canopies and coverings used in miscellaneous capacities shall be  
41 maintained in a state of good repair without rips, tears or deterioration.

42 (9) Tarps

43 A tarp is a covering or sheet of canvas or other material, waterproofed with tar or  
44 paint and used to protect something exposed to weather or moisture. All tarps must  
45 be maintained without rips and tears. Tarps shall not be permitted to be utilized as a



1 wall, or to create a fully or partially enclosed temporary structure that is visible from  
2 the street.

3 (b) Exterior Property Maintenance Regulations.

4 The exterior of the property and any auxiliary structures thereon shall be kept free of  
5 all nuisances and hazards to the safety of the occupant, pedestrians and other persons  
6 utilizing the property and free of deterioration and any of the foregoing shall be  
7 promptly removed and abated by the owner, operator or occupant. It shall be the  
8 duty of the owner, operator or occupant to keep the property free of hazards and  
9 unsafe and unsightly conditions which include but are not limited to:

10 (a) Overhangs – loose and overhanging objects which by reason of location above  
11 ground level constitute a danger of falling on persons in the vicinity thereof or other  
12 safety hazard shall not be permitted.

13 (b) Ground surface hazards – holes, excavations, breaks, projections, obstructions and  
14 excretion of pets on paths, driveways, parking lots and other parts of the property  
15 which are accessible to the public shall not be permitted. Holes and excavations  
16 shall be filled and repaired, walks replaced and conditions removed where necessary  
17 to eliminate hazards or unsanitary conditions with reasonable dispatch upon their  
18 discovery.

19 (c) Sources of infestation – all parts of the property shall be maintained so as to prevent  
20 infestation.

21 (d) Visible gas tanks, filtration systems and other similar devices or machines, on  
22 installation shall be concealed by a fence or landscape border so that the item will not  
23 be seen from the street in accordance with Section 150-180 of the Unified Land  
24 Development Regulations. Such fence or landscape border shall be maintained in  
25 good repair and condition.

26 (e) Parking areas – all paved areas reserved for parking and driving of motor vehicles,  
27 including aprons, must be seal coated, not faded, in a smooth condition, free from  
28 ruts, potholes loose aggregate and deterioration.

29 (f) Driveways and other parking areas – all driveways and other parking surfaces shall  
30 be kept free from mildew, mold or discoloration. All driveways and other parking  
31 areas shall be kept free of weeds and/or other vegetative matter.

32 (g) Curbing and wheel stops – curbing must be maintained free from cracks and  
33 deterioration by the owner of the property or homeowners association. Commercial  
34 and residential developments where wheel stops are required by other provisions of  
35 the ULDR's or The Code of Ordinances shall be maintained by the property owner or  
36 homeowners association free from cracks and deterioration. All wheel stops must  
37 remain affixed in those locations where such wheel stops were to be placed in  
38 accordance with approved site plans for all parking areas.

39 (h) Drainage – All drainage facilities and catch basins must be maintained in a manner  
40 allowing for the storm flow for which said facilities were designed, free from  
41 obstructions. All catch basin drains must be maintained in their original condition  
42 and must be replaced, including surrounding blacktop immediately if damaged.

43 (i) Striping – To the extent required by applicable regulations, the property owner or  
44 homeowners association must stripe all paved areas and fire zones. Such striping  
45 shall be maintained in such a manner free from peeling and shall be sufficient  
46 contrast with the surface upon which such striping is placed, so as to readily

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1 delineate to persons of normal visual ability the location of a parking space or fire  
2 zone.

3 (j) Traffic control devices – To the extent required by applicable law, all property  
4 owners and homeowners associations shall be responsible for the immediate repair  
5 and or replacement of any traffic control device which is damaged or has been  
6 removed.

7 (k) Pools/Hot Tubs/ Fountains - Swimming pools, hot tubs and fountains must be  
8 maintained with a functioning pump/filter and/or not cause any condition capable of  
9 breeding flies, mosquitoes or other arthropods capable of transmitting diseases,  
10 directly or indirectly, to humans.

11 (l) Stagnant water means any accumulation of water which lacks flow; which may be  
12 a breeding or feeding place for mosquitoes, rodents, snakes, or other species of insect  
13 or animal; which constitutes a habitat for disease bearing organisms; or which is a  
14 host for algae and other growth indicative of water that is not disinfected. Stagnant  
15 water is prohibited.

16  
17 (m) Swales/Right-Of-Way.

18 (a) Objects such as pyramid stones, poles, rope, chains, railroad ties, rebar, pipes, sticks,  
19 stumps, or any object that creates an unsafe condition are prohibited from being  
20 placed in the swale/right of way.

21 (b) All decorative objects to be placed in a swale/right of way shall be placed at a  
22 distance no less than three (3) feet from an adjacent roadway, sidewalk or other  
23 passageway used by motorists, pedestrians or cyclists.

24 (c) Hazardous/Unsanitary Conditions.

25 (1) For purposes of this Chapter, a hazardous condition is defined as: a condition at the  
26 property that involves or causes a danger or risk; is liable to hurt or harm; or presents  
27 a danger to the health, safety and welfare of the citizens and residents of the City.

28 (2) An unsanitary condition is defined as: a condition that is dirty, filthy, germ-ridden,  
29 infected, insanitary, unclean, unhealthy, or unhygienic, which tends to harbor or  
30 spread disease. This condition may exist by reason of inadequate or malfunctioning  
31 sanitary facilities or waste disposal systems

32 (3) Any property deemed to have unsanitary or hazardous conditions that presents an  
33 immediate danger to the safety and welfare of the residents, occupants or other  
34 persons of the property and/or to the surrounding neighbors shall be declared an  
35 “Unsafe Property”. Shall a property be declared an “Unsafe Property”, the City  
36 reserves the right to remove all people from this property and prevent anyone from  
37 entering onto the property until the hazardous condition(s) no longer exists. The City  
38 shall post a notice declaring a property an “Unsafe Property” in a conspicuous  
39 location. Any person violating the provisions of entering onto the property without  
40 written authorization by the appropriate City official while it is declared an “Unsafe  
41 Property”, may be subject to arrest for violating trespassing laws as governed by  
42 Chapter 810, Florida Statutes.

43 (4) The owner and/or resident of a property declared to be an “Unsafe Property” shall  
44 immediately coordinate the correction of any hazardous condition. Should the owner  
45 and/or resident of a property declared to be an “Unsafe Property” fail to make these  
46 corrections, the City reserves the right to enter onto the property and correct the

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1 hazardous condition(s). Any and all costs incurred by the City associated with the  
2 City correcting said hazardous conditions shall be incurred by the occupant and/or  
3 owner of the property.

4 (d) Fences, Walls And Hedges

5 The continued maintenance of any fence, wall or hedge within the City shall be the  
6 responsibility of the property owner and/or other person responsible for the property  
7 upon which the fence, wall or hedge lies or abuts. All fences and walls both  
8 residential and commercial shall be maintained in a state of good repair and good  
9 condition to prevent deterioration at all times. The Code Compliance Department  
10 and City Manager and/or his/her designee is hereby charged with enforcement of this  
11 section though the procedures as set forth in section 2-72 (b) of the City Code which  
12 provides for notice of violation and reasonable time for compliance and procedures  
13 to be taken by the City upon failure of reasonable party to comply. All fences shall  
14 require a permit prior to installation or erection. Prior to issuance of such permit,  
15 plans for fences and walls shall be determined to be in compliance with requirements  
16 of the City's Codes, the Florida Building Code and any other applicable codes.

17  
18 The height of fences, walls and hedges located in a sight triangle must adhere to the  
19 appropriate state, county and City standards. All fences, walls and hedges installed  
20 or constructed pursuant to this section shall be maintained as set forth in the  
21 approved plans and in a structurally sound and aesthetically attractive manner,  
22 specifically:

- 23  
24 (1) A fence or wall shall be maintained in a vertical position, and shall not be permitted  
25 to sag or lean at more than ten (10) degrees from vertical, unless the fence or wall is  
26 specifically designed and permitted to be maintained at such an angle.  
27 (2) Each support post or footer shall be solidly attached to the ground.  
28 (3) Each fence stringer shall be securely fastened to the support posts and fence facing.  
29 (4) Each fence face shall be securely fastened to the support post and/or fence stringers.  
30 (5) All fence and wall surfaces shall be stained, painted, treated or otherwise maintained  
31 so as to present a uniform appearance; however, this section is not intended to  
32 prohibit the maintenance of fences in which a deteriorated section of fence is  
33 replaced with new material which will take some time to "age" or "weather" to  
34 replicate the appearance of the original fence. All fence's finish/color shall match  
35 that which exists in the existing fence line directly to each side of that which is  
36 installed or to be installed. Provided:  
37 (a) Walls shall be maintained in a neat condition, free from cracks greater than  
38 one sixteenth (1/16) of an inch in width, dirt, grime, stains, graffiti, peeling paint,  
39 missing materials, discoloration, fading, mold and mildew and be aesthetically  
40 pleasing to surrounding properties, and shall be in good repair.  
41 (b) All walls finish/color shall match that which exists in the existing wall line  
42 directly to each side of that which is installed or to be installed.  
43 (6) When any single sight view of a fence or wall is subject to any of the above  
44 mentioned deficiencies, then the owner shall, upon notice from the City, take  
45 immediate steps to correct the violation.

- (7) All fences surrounding pools, spas or other bodies of water must have gates that are self-closing/self-latching and remain closed when not in use (to include all gates).
- (8) Any accessory structure on a plot, including attached or detached carports and garages, awnings, gazebos/tiki huts, screen porches, utility buildings/sheds, other structures, docks and decking shall be maintained free of visual disrepair, including bent, broken or missing fence posts, slats or other fencing materials, cut or missing mesh screening or broken or missing decking materials. Concrete fencing or walls shall be finished with stucco or other approved siding on all sides.
- (e) Anyone who fails to comply with this section shall be subject to penalties pursuant to section 13-93 herein. If the matter is brought before the code enforcement board or a City hearing officer, a violator may be assessed a penalty of up to two hundred fifty dollars (\$250.00) per day for a first offense and no more than five hundred dollars (\$500.00) per day for a second offense, in addition to any actual cost the City has incurred for abatement. In determining the penalty to be imposed, the City shall consider the efforts taken by the violator.

**Sec. 13-32. –Landscape Maintenance.**

The owner, tenant, property owner or their agents, if any, shall be jointly and severally responsible for the maintenance and protection of all landscaping existing or hereafter installed, which shall be maintained in a healthy growing condition and shall be kept free from refuse and debris. Maintenance shall include watering, weeding, mowing, fertilization, treating, mulching, pruning, removal/replacement of dead or diseased trees, limbs, branches and removal of refuse and debris on a regular basis so as to present a neat and well-kept appearance at all times. Hatracking is considered a violation of this code. Hatrack shall mean to flat cut the top or sides of a tree, to sever the leader or leaders, or to prune a tree by stubbing of mature wood, except where removal of branches is necessary for the protection of property or for public safety purposes.

- (a) Trees, bushes, shrubs, hedges, vegetable matter and/or other landscape matter shall not encroach onto sidewalks, walkways, pathways and roadways.
- (b) Trees, bushes, shrubs, hedges, vegetable matter and/or other landscaping matter shall not extend over or into the path of a sidewalk, walkway or other pathway at heights of less than 8 feet in single family residential zoning districts and 10 feet on properties abutting State or County roads in order to maintain a safe and clear passageway for bicycle and pedestrian traffic.
- (c) Trees, bushes, shrubs, hedges, vegetable matter and/or other landscape matter shall not extend over the roadway at heights of less than 15 feet in order to maintain a safe and clear passageway for vehicular, pedestrian or bicycle traffic.
- (d) Trees, bushes, shrubs, hedges, vegetable matter and/or other landscape matter shall not obstruct the view of any traffic control devices or permanent signage erected by the City, county or state.
- (e) Trees, bushes, shrubs, hedges, vegetable matter and/or other landscape matter shall not extend onto or over an abutting property.
- (f) It shall be the responsibility of the resident(s), occupants(s) and/or property owner where the trees, bushes, shrubs, hedges, vegetable matter or other landscape matter originates from to correct any violations of the above sections.

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- (g) Refuse brush to include but not limited to weeds, stumps, roots, noxious growth, litter, debris and hard junk is prohibited.
- (h) Natural growth to include but not limited to dead and dying trees, limbs or other natural growth which, by reason of rotting or deteriorating conditions, or storm damage, constitutes a hazard to persons in the vicinity thereof shall be removed. Trees, bushes, shrubs and other natural growth shall be kept pruned, trimmed and maintained in a healthy growing condition at all times.
- (i) The owners, resident, tenant, or other person having possession or being in charge of or occupying any real property within the Ceity shall not permit untended vegetation upon such property, and the adjoining portions of the public right-of-way, swales alley, water's edge and canal banks. No weeds, grass, undergrowth or other vegetable material, except for trees, shrubs or other permitted landscaping materials, shall be permitted to grow upon real property in the Ceity in excess of eight (8) inches in height, and all such materials shall be cut or trimmed as may be necessary to comply with such maximum height requirement and the cuttings removed. All such material shall also be cut and removed within three (3) calendar days following the receipt of notice from the Ceity that such matter exceeds eight (8) inches in height and is subject to cutting and removal pursuant to this section.
- (j) Additional landscape requirements can be located in Article 150 of the ULDRS.
- (k) Anyone who fails to comply with this section shall be subject to penalties pursuant to section 13-93 herein. If the matter is brought before the Magistrate or a City hearing officer, a violator may be assessed a penalty of up to two hundred fifty dollars (\$250.00) per day for a first offense and no more than five hundred dollars (\$500.00) per day for a second offense, in addition to any actual cost the City has incurred for abatement. In determining the penalty to be imposed, the City shall consider the efforts taken by the violator.

**Section 5:** Chapter 13, Article V of the Code of Ordinances entitled "Littering" is hereby amended as follows:

## **ARTICLE V. - LITTERING**

### **Sec. 13-84. - Trash/Recycle Receptacle Placement.**

- (a) Trash receptacles and recycle bins shall be placed in a location behind the front façade of a building or residential unit or directly adjacent to the building or residential unit to which they are assigned when not roadside for pickup.
- (b) If solid waste, trash or recycling pickups are made from areas adjacent to the sidewalk or street, then receptacles for such purpose shall only remain in areas adjacent to the sidewalk or street the preceding night to and during the day of pickup.
- (c) Trash, recycling and other similar receptacles shall not be positioned on sidewalks, walkways, pathways or roadways when out for pickup.

### **Sec. 13-85. - Litter and littering material.**

The accumulation, placing, sweeping, blowing, scattering, throwing, or dumping of litter or littering material, such as dead plants, yard clippings, stagnant water, rubbish, debris, trash, including any wrecked, derelict or partially dismantled motor vehicles, trailers, boats,

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1 machinery, appliances, furniture or similar articles, or any unsanitary, hazardous or  
2 significant material, upon any surface area, storm water management system, or water body  
3 within the City is hereby prohibited. Blowing leaves and grass clippings into the street  
4 and/or sidewalk is prohibited.

5  
6 **Sec. 13-8486. - Dumping litter prohibited.**

7 (a) It shall be unlawful for any person to dump litter in or upon:

8 (1) Any public or private highway, road, street, alley, or thoroughfare, including any  
9 portion of the right-of-way thereof, except in containers or areas lawfully provided  
10 therefor.

11 (2) Any public property, except in containers or areas lawfully provided therefor.

12 (3) Any lake, river, canal, pond or stream.

13 (4) Any private property within the Ccity except in containers provided therefor.

14 (b) In an instance where litter is dumped from a motor vehicle or a boat, the operator or  
15 owner of the motor vehicle or boat, or both the owner and operator, shall be deemed  
16 in violation of provisions of this section.

17  
18 **Sec. 13-857. - Trash receptacles required.**

19 Any business engaged in the sale of take-out foods as primary or accessory use shall have a  
20 trash receptacle located on the exterior of and adjacent to all customer exits.

21  
22 **Sec. 13-868. - Enforcement and penalties.**

23 (d) Fines:

24 (1) Any person convicted by a court of competent jurisdiction of a violation of  
25 ~~section 13-85~~ section 13-87 shall be subject to ~~the penalties pursuant to section~~  
26 13-93 herein. If the matter is brought before the Magistrate or a City hearing  
27 officer, a violator may be assessed a penalty of up to two hundred fifty dollars  
28 (\$250.00) per day for a first offense and no more than five hundred dollars  
29 (\$500.00) per day for a second offense, in addition to any actual cost the City has  
30 incurred for abatement. In determining the penalty to be imposed, the City shall  
31 consider the efforts taken by the violator. ~~imposition of a fine in an amount not to~~  
32 ~~exceed five hundred dollars (\$500.00).~~

33 (2) Any person convicted by a court of competent jurisdiction, ~~the Magistrate, or a~~  
34 City hearing officer, of a violation of ~~section 13-84~~ section 13-86 involving the  
35 dumping of litter, for a noncommercial purpose, excluding hazardous waste, in  
36 an amount not exceeding live (5) pounds in weight shall be fined an amount of  
37 fifty dollars (\$50.00).

38 (3) Any person convicted by a court of competent jurisdiction, ~~the Magistrate, or a~~  
39 City hearing officer, of a violation of ~~section 13-84~~ section 13-86 involving the  
40 dumping of any one of the following types of litter shall be subject to the  
41 imposition of a fine in an amount not less than fifty dollars (\$50.00) and no more  
42 than five hundred dollars (\$500.00).

43 a. Litter in an amount which exceeds five (5) pounds in weight.

44 b. Litter in any amount dumped for commercial purposes.

1 c. Litter in any amount which constitutes a hazardous waste or biohazardous  
2 waste.

3 (b) *Restoration, restitution, and public services:* In addition to the imposition of a fine  
4 for a violation of ~~section 13-84~~ section 13-86, the court, the Magistrate or a City  
5 hearing officer, may impose civil penalties upon the violator including any one or  
6 more of the following:

7 (1) Order the violator to remove the litter dumped in violation of this article.

8 (2) Order the violator to repair or restore any property damaged or destroyed by his  
9 dumping of litter in violation of this article.

10 (3) Order the violator to pay the injured party damages caused by his dumping litter  
11 in violation of this article.

12 | (4) Order the violator to pay the Ceity or the injured party the cost of removal and  
13 proper disposal of litter.

14 (5) Order the violator to perform public service commensurate with the offense.  
15

16 **Sec. 13-879. - Presumptions and burden of proof.**

17 In any prosecution or trial of any person charged with violating the provisions of ~~section 13-~~  
18 ~~84~~ section 13-86(b), there is a rebuttable presumption that litter dumped from a commercial  
19 vehicle was dumped for commercial purposes.  
20

21 **Section 6:** Chapter 13, Article VII of the Code of Ordinances entitled “Compliance  
22 Inspections; Maintenance Standards and Enforcement” is hereby created as follows:  
23

24 **ARTICLE VII. – COMPLIANCE INSPECTIONSAND ENFORCEMENT**  
25

26 The City’s Code Compliance Officers or Police Officers shall have the authority to make or  
27 cause to be made inspections to determine the condition of commercial and residential  
28 buildings and premises and surrounding property in the interest of safeguarding the health  
29 and safety of the occupants of such buildings and of the general public. If actual inspection  
30 of the premises is necessary to determine whether a violation exists, the City’s Code  
31 Compliance Officer, Police Officer or his/her agent is hereby authorized to enter, examine  
32 and survey, with the consent of the owner, operator or occupant, all commercial and  
33 residential buildings or premises. In an appropriate case, the Code Compliance Officer or  
34 Police Officer may pursue all legal means to secure inspection of all commercial and  
35 residential buildings or premises where permission by the owner, operator or occupant has  
36 not been given, which may include an inspection warrant issued by the County Court.  
37

38 **Sec. 13-93 Noncompliance; initiation of code enforcement proceedings; nuisance**  
39 **abatement by City.**

40 (a) Violation of Maintenance Standards. All commercial and residential buildings,  
41 building exteriors and auxiliary buildings; landscaping; and properties, which fail  
42 to meet the maintenance standards set forth in this Chapter are hereby declared to  
43 constitute a public nuisance.

- (b) Enforcement. The City's Code Compliance Officers, as well as the City's Police Officers shall enforce the provisions of this Chapter and initiate code enforcement proceedings.
- (c) Notice of noncompliance; service of such notice. Upon failure of the owner or occupant to comply with the standards set forth above, the City shall provide notice in accordance with the provisions of Section 2-74 of the City Code of Ordinances and Chapter 162, Florida Statutes, as amended from time to time. The notice shall advise the owner that unless the condition is corrected within three (3) days, the City shall take action to have the condition corrected at the owner's expense, including reasonable administrative expenses, cost and attorney's fees. The City may also require the violator to appear before the City's Code Enforcement Board or Special Magistrate for a hearing to determine if the alleged violator is, in fact, guilty of a violation, and assess an appropriate fine.
- (1) All notices shall include:
- (a) A statement of the nature of the violation.
- (b) A demand that the owner or tenant, resident or other person having possession or being in charge of or occupying any real property remedy the violation within three (3) working days from the date of mailing, delivery or posting of such notice, whichever is earlier.
- (c) A statement that failure to remedy the violation will cause the City to correct the violation at the expense of the owner, tenant, resident or other person having possession or being in charge of or occupying any real property as provided for in this article.
- (d) A statement that any violation of the provisions of this article is a civil infraction in violation of a duly enacted code and that in the event that the violation is not corrected within the allotted time period, or the charges provided for in this article are not paid in a timely manner, a lien will be placed on the real property as provided for in section 13-94.
- (e) If a violation presents an immediate danger to the public health, safety, or welfare, the demand that the violation be remedied shall require immediate corrective action.
- In the event that a property owner has not been notified after a reasonable effort has been made to do so, the City manager may authorize immediate corrective action to protect the public health, safety, and welfare.
- (d) Required acts to commence following notice. The time within which all acts required by this article shall be performed shall commence to run on the day following the day of posting notice on the affected property as provided below, or on the day on which personal service of notice is made or when notice by mail is actually received, whichever is earliest.
- (e) City enforcement procedures for noncompliance and repeat violations. Any alleged violation or repeat violation of this article may be pursued by the City by appropriate remedy in court, code enforcement board, or City hearing officer, at the option of the City. This section is supplemental and will not preclude the City from enforcing its Code by any other means available at law or in equity.
- (f) Failure to bring property into compliance; abatement by City.

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- (1) In the event any person required by the terms of this article to remove rubbish, garbage or garden trash and/or to cut down and remove weeds, grass or undergrowth, or remove hard junk, shall fail to do the same, the City may cause such cutting and/or removal to be done and shall charge the cost of such service plus a fifty-dollar (\$50.00) administrative charge to the person, unless another amount is otherwise specifically provided for herein.
- (2) Abatement by City. If the corrective action to bring the property into compliance with this article by the date specified in the notice is not taken, the City manager or his designee may direct the appropriate City department to enter upon the property to correct the condition, which may be accomplished by either City work forces or an independent contractor and charge the cost of such services and an administrative charge of fifty dollars (\$50.00) to that person for each lot, unless another amount is otherwise specifically provided for herein.
- (g) Obstruction of Procedure. It is unlawful for any person to oppose, obstruct or resist the City's Code Compliance Officers; Police Officers, or any person authorized by the Code Compliance Officer in the discharge of his/her duties as provided by Chapter 162, Florida Statutes.
- (h) Fines. Any person who violates this article will be assessed, and liable to pay, a penalty of up to two hundred fifty dollars (\$250.00) per day for a first offense and no more than five hundred dollars (\$500.00) for a second offense, in addition to any actual costs the City has incurred for abatement, as provided by Section 2-75 of the City Code of Ordinances and Chapter 162, Florida Statutes.
- (i) Appeals. Appeal of a determination of noncompliance, or of any matters relating to notice shall be pursuant to section 13-95.

**Sec. 13-94. - Billing; lien against property; interest rate; enforcement through foreclosure.**

(a) Billing.

- (1) Whenever the City, pursuant to this article, acts to correct any violation of this article, the City Manager or his/her designee shall send a separate bill stating the expense incurred in remedying the condition as set forth in this article, unless such amounts are added to the next regular utility bill. This bill shall include a request directed to the owner of the affected property, for payment in full within twenty (20) calendar days of mailing or posting of such notice.
- (2) If the City Manager or his/her designee finds that the provisions of this section have not been met, he/she shall provide notice in the same manner set forth in section 13-93.

(b) Lien against property; interest rate.

- (1) Any expense incurred to remedy the condition shall become payable by the person within twenty (20) calendar days of the date of the hand delivery of such bill or mailing or posting of such notice.
- (2) If the person fails to either remedy the condition within the time frame set forth in this article or make payment within twenty (20) calendar days of the date of hand delivery, mailing or posting of such notice, the City shall file a

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notice of lien in the public records of the County. Such lien shall bear interest at the maximum rate allowed by state law, from the date of recordation until paid. The expense and interest shall be a first and prior lien against the property, subject only to the lien for taxes due the County and the state, and of the same character as the lien of the City for municipal taxes.

(c) Enforcement through foreclosure:

- (1) The City attorney may institute foreclosure proceedings to foreclose any lien imposed pursuant to this article. Any such foreclosures shall be initiated at least ninety (90) days following the date of lien filing.
- (2) The owner of the property against which the lien exists shall be liable to the City for a reasonable attorney's fee to compensate its attorney for services in collecting the amounts due on said lien together with all costs occasioned in foreclosing said lien. The same attorney's fee shall be decreed to be a lien upon the lands described and shall be collected at the time and in the manner provided for the collection of the amount evidenced by said lien.
- (3) The decree rendered in such case for the enforcement and collection and the amount due there under shall determine the principal costs and attorneys' fees to be changeable, which amounts shall constitute an additional lien against the property described.
- (4) In foreclosing such liens, the City may pursue and follow any recognized proceeding to enforce liens and any number of assessment liens.

**Sec. 13-95. – Appeals.**

- (a) Any appeals of the City's determination of non-compliance pursuant to Sec.13-93 of this article or a fine or of the placement of a lien under Sec.13-94 of this article must be made no later than thirty (30) calendar days after the filing of recordation of the lien on the property in the public records of the County.
- (b) Such appeal shall be made in writing and directed to the City Manager who may present the issue to the City Commission for resolution.

**Sec. 13-96—Non Exclusive Remedy.**

The provisions of this article may be in addition to other such remedies as may be provided by law or ordinance.

**Section 7:** It is the intention of the City Commission, and it is hereby ordained

that the provisions of this Ordinance shall become and be made a part of the City's Code of Ordinances.

**Section 8:** That all ordinances and resolutions or parts of ordinances and resolutions in conflict herewith, be and the same are hereby repealed, to the extent of such conflict.

**Section 9:** That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

**Section 10:** That this Ordinance shall become effective on adoption.

**PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA, THIS \_\_\_\_ DAY OF FEBRUARY 2013.**

**PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY  
COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA THIS \_\_\_\_ DAY  
OF 2013.**

CITY OF WILTON MANORS, FLORIDA

By: \_\_\_\_\_  
GARY RESNICK, MAYOR

ATTEST:

## RECORD OF COMMISSION VOTE

KATHRYN SIMS  
CITY CLERK

MAYOR RESNICK \_\_\_\_\_  
VICE MAYOR CARSON \_\_\_\_\_  
COMMISSIONER GALATIS \_\_\_\_\_  
COMMISSIONER GREEN \_\_\_\_\_  
COMMISSIONER NEWTON \_\_\_\_\_

I HEREBY CERTIFY that I have  
approved the form of this Ordinance.

KERRY L. EZROL  
CITY ATTORNEY

H:\\_GOV CLIENTS\WM 2976\\_920129 GM\ORD.13\2013-0002 (Amending Chapter 13 Nuisance Creating Compliance Inspections) (revised Final 05.06.13 for 2nd reading 5.14.13).doc

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