

ORDINANCE NO. 3867

AN ORDINANCE AMENDING CHAPTER 12 (HEALTH AND SANITATION), ARTICLE I. "PROHIBITED CONDITIONS" OF THE CODE OF ORDINANCES OF THE CITY OF PINELLAS PARK, PINELLAS COUNTY, FLORIDA, BY DELETING IN ITS ENTIRETY SEC. 12-101. "STAGNANT POOLS PROHIBITED"; AND CREATING A NEW SEC. 12-101. "STAGNANT POOLS PROHIBITED; SWIMMING POOL MAINTENANCE REQUIRED"; AND BY DELETING SEC. 12-102 "MAY REQUIRE OWNERS TO DRAIN, FILL, ETC., NOTICE; LIEN"; IN ITS ENTIRETY AND CREATING A NEW SEC. 12-102. "UNMAINTAINED SWIMMING POOLS." PROVIDING FOR THE INCLUSION OF SUCH AMENDED ORDINANCE IN THE CODE OF ORDINANCES; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PINELLAS PARK, PINELLAS COUNTY, FLORIDA, AS FOLLOWS:

SECTION ONE: That Chapter 12 "Health and Sanitation", Article I of the Code of Ordinances of the City of Pinellas Park, Florida, is hereby amended by deleting Sec. 12-101 "Stagnant pools prohibited" in its entirety and creating a new Sec. 12-101 "Stagnant pools prohibited; swimming pool maintenance required" so that said Section shall hereafter be and read as follows:

HEALTH AND SANITATION

ARTICLE I. PROHIBITED CONDITIONS

Sec. 12-101. Stagnant pools prohibited; swimming pool maintenance required.

(A) No property owner or owners, tenant or occupant, or property representative or agent of any property in the City of Pinellas Park shall allow pools of water, including swimming pools, to accumulate thereon, which pools of water are, do, or

are likely to cause disease, or adversely affect the public health, furnish a breeding place for mosquitoes, or impair the personal enjoyment or economic welfare of any property within the City of Pinellas Park.

SECTION TWO: That Chapter 12 "Health and Sanitation", Article I of the Code of Ordinances of the City of Pinellas Park, Florida, is hereby amended by deleting Sec. 12-102. "May require owners to drain, fill, etc., notice; lien" in its entirety and creating a new Sec. 12-102 "Unmaintained swimming pools" so that said Section shall hereafter be and read as follows:

Sec. 12-102. Unmaintained swimming pools.

(A) Unmaintained swimming pools declared a public nuisance. The existence of any swimming pool within the City of Pinellas Park which is found to be in an unclean condition, found to contain accumulations of algae, leaves, trash or other organic and/or inorganic matter, or which does not provide a completely clear view of the entire water surface, all interior formed surfaces including the steps, sides and bottom, and any submerged or partially submerged accessory items is hereby declared to be a public nuisance and is prohibited.

(B) Unlawful to allow existence of a public nuisance. It shall be unlawful for any property owner or owners, tenant or occupant, or property representative or agent of any property within the City of Pinellas Park to allow to exist a public nuisance as defined in this Section. Each day during which the

said owner or owners, tenant or occupant, or property representative or agent allows the said nuisance to exist shall constitute a separate offense.

(C) *Notice of prohibited conditions.* If the City Manager or his/her designee finds and determines that a prohibited condition as described and declared in this Section exists, he/she shall so notify the record owner in writing and demand that such owner cause the condition to be remedied. The notice may be given by mail, addressed to the owner or owners of the property described, as their names and addresses are shown upon the record of the County Property Appraiser, and may be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. The City Manager or his/her designee shall, if possible, cause a copy of the notice to be served upon the occupant of the property or upon any agent of the owner thereof. The City Manager or his/her designee may cause the notice to be accomplished by physical posting on the same premises. The notice shall be in substantially the following form:

NOTICE OF PUBLIC NUISANCE - UNMAINTAINED SWIMMING POOL

Name of Owner
Address of Owner

Our records indicate that you are the owner(s) of the following property in the City of Pinellas Park, Florida:
(describe property - address and/or parcel number)

An inspection of this property discloses, and I have found and

determined, that a public nuisance exists thereon so as to constitute a violation of the Unmaintained Swimming Pool Ordinance in that:
(describe here the condition which places the property in violation)

You are hereby notified that unless the condition above described is remedied so as to make it nonviolative of the Unmaintained Swimming Pool Ordinance within ten (10) days from the date hereof, the City of Pinellas Park will proceed to remedy this condition by cleaning, draining, filling in, covering and/or demolition of the same, in such manner as the City shall determine, and the cost of all work necessary to remedy this condition, including advertising costs, administrative costs and other expenses, will be imposed as a lien on the property described, and a hold placed on the utilities account for such property, and utility service to such property shall not be reconnected until such time as such costs are paid and satisfied in full.

Furthermore, should this violation reoccur within five (5) years of the original violation, the City will take immediate corrective action to remedy this condition and the cost of all work necessary to remedy the condition, including advertising costs, administrative costs and other expenses, will be imposed as a lien on the property described, and if not already done so, a hold placed on the utilities account for such property, and utility service to such property shall not be reconnected until such time as such costs are paid and satisfied in full.

CITY OF PINELLAS PARK, FLORIDA

BY:
CITY MANAGER OR HIS/HER DESIGNEE

(D) Hearings. If notification has been accomplished according to the provisions of this Section, then within ten (10) days after the Notice is served, the owner of said property may make a written request to the City Manager or his/her designee for a hearing before a person or persons designated by the City Manager, to show cause as to why the alleged condition does not constitute a public nuisance.

The hearing shall be held at such reasonable place and time, not to exceed sixty (60) days from the date of receipt of such written request by the City Manager or his/her designee. Written notice of the date, time and place of such hearing shall be mailed to the property owner not later than ten (10) days prior to the date thereof. For the purposes of this Section, service shall be completed when written notice is deposited in the United States Mail with proper postage prepaid. The City Manager or his/her designee shall establish rules and regulations governing the procedure to be followed at such hearings. At the hearing, the City and property owner may call such witnesses and introduce such evidence as is reasonably deemed necessary.

A written decision shall be prepared, and copies served by mail upon the City Manager or his/her designee and the property owner within three (3) working days after the conclusion of the hearing. For the purposes of this Section, service shall be completed when the copies of the decision are deposited in the United States Mail, with proper postage prepaid.

(E) Condition may be remedied by City. If notification has been accomplished according to the provisions of this Section and the condition described in the notice has not been remedied, the City of Pinellas Park, or an independent contractor employed by the City, may cause the condition to be remedied at the

expense of the property owner. The City Manager or his/her designee shall have authority to cause the cleaning, draining, filling in, covering and/or demolition of the swimming pool as the City deems necessary to effectuate the remedying of the condition, and the costs of such work, as well as an administrative fee as outlined in the City's Administrative Fee Schedule, shall be an expense of the property owner.

(F) Preparation of lien. After causing the condition to be remedied, the City Manager or his/her designee shall determine the cost involved in effectuating the remedying of the condition, including all costs described in Subsection (E) above and shall cause a lien document to be prepared, indicating the property upon which the condition was remedied under the provisions of this Section and the cost of doing said work, which said record shall be known as "Unmaintained Swimming Pool Lien", which said unmaintained swimming pool lien upon completion shall be submitted to the City Clerk, and upon recordation shall become a lien against such real property, as provided for below.

(G) Notice to property owner. At least ten (10) days prior to lien recordation by the City Clerk, the City Manager or his/her designee shall provide a written notice by mail to the property owner in substantially the following form:

NOTICE TO PROPERTY OWNER - UNMAINTAINED SWIMMING POOL

You are hereby notified that the City of Pinellas Park, Florida has remedied a prohibited condition upon your property as described below, and the City of Pinellas Park, Florida has determined the amount of the lien to be filed against your property (which represents the costs of the work performed plus an administrative fee as listed in the City's Administrative Fee Schedule), as shown below:

Property Description (Address and/or Parcel Number)

Lien Amount

The above-described lien file is open for inspection in the office of the Neighborhood Services Administrator of the City of Pinellas Park.

The City of Pinellas Park requires payment of the above amount within ten (10) days of the date of this notice. Otherwise, the City Clerk of the City of Pinellas Park, Florida, will file a lien against your property in the office of the Clerk of the Circuit Court of Pinellas County, Florida, and a hold placed on the utilities account for such property, and utility service to such property shall not be reconnected until such time as such costs are paid and satisfied in full.

CITY MANAGER (OR HIS/HER DESIGNEE)

If a hearing is requested as provided in Section 12-102(D), the City shall proceed with remedying the condition as provided in Section 12-102(E), however the City shall not file a lien against a property for which a hearing has been requested pending the outcome of such hearing. Should the property owner prevail, the City will not seek payment of its costs and shall not file the lien nor place a hold on the utilities account. Should the City prevail, the City will seek payment of its costs and, if unpaid, shall file the lien and may place a hold on the utilities account as provided herein.

(H) Lien recordation. When the said unmaintained swimming pool lien is prepared, notice has been served as provided in Section 12-102(G), and the lien amount remains unpaid, the City Clerk shall file and record the unmaintained swimming pool lien in the office of the Clerk of the Circuit Court of Pinellas County, Florida, showing thereon the amount and nature of the lien and a legal description of the property listed thereon, and a hold shall be placed on the utilities account for such property, and utility service to such property shall not be reconnected until such time as such lien is paid and satisfied in full. Recordation shall be and constitute a lien against the respective property superior in dignity to all other liens and encumbrances of whatever kind and character save and except ad valorem taxes levied and assessed by the State of Florida, County of Pinellas or City of Pinellas Park and shall remain a lien against said property until paid. Such document shall be filed in the office of the City Clerk, and shall be kept there for public inspection during business hours.

(I) Enforcement of liens. At any time after the expiration of thirty (30) days from the date of lien recordation, the City may proceed to foreclose the said lien in the manner prescribed by law.

(J) Procedure declared supplemental. Other than specified

herein, this Section shall not be construed to repeal any other Ordinance, Special Act, or Section of the Code of Ordinances of the City of Pinellas Park, relating to the subject matter of said Sections, but shall be deemed to provide a supplemental, additional and alternative method of procedure.

(K) Action to abate taken pursuant to Chapter declared cumulative. Any action taken pursuant to this Section in regard to the disposal, abatement or removal of the conditions herein declared public nuisances shall be considered cumulative and in addition to penalties and to other remedies provided elsewhere by Ordinance or law.

(L) Partial invalidity not to invalidate entire Section. The provisions of this ordinance shall be deemed to be severable and in the event any section, paragraph, word or phrase of this Section shall be held unconstitutional or invalid in any Court of competent jurisdiction, it shall in no way invalidate the remaining portions thereof.

SECTION THREE: It is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the "Code of Ordinances" of the City of Pinellas Park, Florida, and the publisher of the Code of Ordinances may renumber, reclassify or otherwise insert this ordinance in an appropriate place to accomplish such intention.

SECTION FOUR: That all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance be, and they are hereby repealed insofar as the same affect this Ordinance.

SECTION FIVE: That this Ordinance shall become effective immediately upon its final passage and adoption.

PUBLISHED THE _____ DAY OF _____, 2013.

FIRST READING _____ DAY OF _____, 2013.

PUBLIC HEARING THE _____ DAY OF _____, 2013.

PASSED THIS _____ DAY OF _____, 2013.

AYES: (5) Council Members; Butler, Johnson, Mullins, Taylor, Mayor Bradbury

NAYES: (0)

ABSENT: (0)

ABSTAIN: (0)

APPROVED THIS _____ DAY OF _____, 2013.

Sandra L. Bradbury
MAYOR

ATTEST:

Diane Corna, MMC
CITY CLERK