

ORDINANCE NO. 30-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 100, "NUISANCES", OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTION 101.01(D), "EXISTENCE OF WEEDS, TRASH AND VEGETATION UPON LANDS PROHIBITED"; BY NO LONGER REQUIRING CONTIGUOUS PROPERTY OWNERS TO MAINTAIN PUBLIC RIGHT-OF-WAYS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 101 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of Delray Beach finds that the maintenance of the public alleyways should be the responsibility of the City and not of the owner having possession or control of the contiguous real property; and

WHEREAS, the City Commission finds that this ordinance serves a municipal purpose and deems the amendment contained herein to be in the best interest of the health, safety and welfare of the residents and citizens of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That Chapter 100, "Nuisances", Section 101.01(D), "Existence of Weeds, Trash and Vegetation Upon Lands Prohibited", shall be amended to read as follows:

Sec. 100.01. - EXISTENCE OF WEEDS, TRASH AND VEGETATION UPON LANDS PROHIBITED.

- (A) (1) The existence of weeds, dead or living plant life, undergrowth, brush, trash, filth, garbage or other refuse on any lot, tract or parcel of land in the City, whether improved or unimproved, which has caused the property to become, or which may reasonably cause the property to become infested or inhabited by rodents, snakes, vermin or wild animals, or may furnish a breeding place for mosquitoes or threatens the public health, safety or welfare, or may reasonably cause disease, or adversely affects and impairs the economic welfare of other property, is declared to constitute

a public nuisance and is prohibited. Every owner of real property in the City has a duty to keep his property free of any nuisance at his expense.

- (2) The existence of weeds or other dead or living plant life or vegetation which has attained a height of twelve (12) inches or more, on any lot, tract or parcel of land in the City, whether improved or unimproved, shall be presumed to be detrimental to the public health, safety and welfare, and thus shall be presumed to constitute a public nuisance under the terms and conditions of this subchapter.
- (3) The existence of accumulations of vegetative (i.e. yard and garden) trash mixed with other types of refuse is deemed to be detrimental to the public health, safety and welfare and thus deemed to be a public nuisance and prohibited. Such mixed accumulations shall not be picked up by the City's sanitation franchisee during regular collection routes but shall be subject to abatement or citation or code enforcement action or other enforcement as are other nuisances in any manner set forth in this Chapter.
- (4) The existence of accumulations of loose, uncontainerized, or unbundled refuse; other than heavy, bulky items; is deemed to be detrimental to the public health, safety and welfare and thus shall be deemed a public nuisance and is prohibited. Such accumulations shall not be picked up by the City's sanitation franchisee during regular collection routes but shall be subject to abatement by citation, or code enforcement action or other enforcement as are other nuisances in any manner set forth in this Chapter.
- (B) The existence of any kind of vegetation, including trees and shrubs, upon any lot, tract or parcel of land, improved or unimproved, within the City, to the extent that the vegetation impairs or interferes with traffic safety or traffic flow is prohibited and declared to be a public nuisance.
- (C) The existence of any kind of vegetation, including trees and shrubs, upon any lot, tract or parcel of land, improved or unimproved, within the City, to the extent that the vegetation interferes with the use of streetlights, signs, sidewalks, utility lines or other public improvements is hereby prohibited and declared to be a public nuisance.
- (D) For purposes of this Chapter, the terms lot, tract and parcel shall include all lots, tracts and parcels within the City and shall also include any contiguous Public Right-of-Way or easement, or portion thereof ~~or public alleyway to the centerline~~, upon which no publicly maintained structural improvements exist or any planted area between the property line and a paved alley. Every owner or person having possession or control of the contiguous real property shall ensure that the adjoining Public Right-of-Way complies with the provisions of this Chapter. Nothing herein

shall be construed to require the maintenance of medians or public alleyways by contiguous property owners or persons in control of such property.

- (E) Dome-shaped decorative markers, also known as button markers, may be placed in the Public Right-of-Way, provided that such markers are no larger than six (6) inches in height, have rounded surfaces and no straight edges, and are separated by a minimum of two (2) feet. The property owner shall assume all risk of liability for such markers. The placement of pyramid-shaped markers or any other similar type marker within a Public Right-of-Way is prohibited.

Section 2. All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 3. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 4. Specific authority is hereby given to codify this Ordinance.

Section 5. This Ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2017.

ATTEST

M A Y O R

City Clerk

First Reading_____

Second Reading_____