



ORDINANCE NO. 2005- 44

AN ORDINANCE WHICH REGULATES AND CONTROLS LITTER, WEEDS, AND EXOTICS WITHIN THE UNINCORPORATED AREA OF COLLIER COUNTY, PROVIDING PURPOSE AND INTENT; TITLE; APPLICABILITY; DEFINITIONS; DECLARATION OF LITTER TO BE A PUBLIC NUISANCE AND TO BE UNLAWFUL; PROHIBITING THE UNAUTHORIZED ACCUMULATION OF LITTER; DECLARING DUMPING OR DEPOSITING OF ABANDONED PROPERTY AS PROHIBITED; REGULATING THE STORAGE OF LITTER (AND CHANGES RELATED TO CONSTRUCTION SITE CONTAINMENT OF LITTER); REGULATING WASTE MATERIALS MANAGEMENT (AND CONTAINMENT PIT AREAS TO CONFORM TO DEP STANDARDS); DECLARING WEEDS AND EXOTICS TO BE A PUBLIC NUISANCE (AND REGULATING THE CONTROL OF WEEDS AND EXOTICS); PROVIDING FOR EXEMPTIONS; PROVIDING FOR (THE ABATEMENT OF NUISANCES AND) NOTICE OF VIOLATION FOR THE ABATEMENT OF THE PUBLIC NUISANCE; PROVIDING FOR ASSESSMENT FOR THE ABATEMENT OF NUISANCES; PROVIDING FOR RIGHT TO HEARING ON THE DECLARATION AND ASSESSMENT OF A PUBLIC NUISANCE; PROVIDING FOR ENFORCEMENT PROCEDURES; PROVIDING FOR IMMEDIATE CORRECTIVE ACTION; PROVIDING FOR PROCEDURES FOR AND EFFECT OF MAILED NOTICES; PROVIDING FOR A MANDATORY LOT MOWING PROGRAM; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF ORDINANCE NUMBERS 99-51, 2000-51, AND 2001-21; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN ARTICLE VI, SECTION 54, THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, welfare and safety of existing and future residents of the County by enacting and enforcement zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners has determined that land which is allowed to become overgrown with weeds, grass, exotics or similar growth on land on which abandoned properties or trash is allowed to accumulate is detrimental to the health, safety and welfare of the citizens of Collier County as harborage for vermin, rodents and other disease vectors; and

WHEREAS, the Board of County Commissioners has determined that unimproved property, which is in close proximity to urban areas, is distinguishable from improved property, because it generally lacks management of vegetative growth; and

WHEREAS, the Board of County Commissioners has determined that certain exotic species, both fauna and flora, grow rapidly and uncontrollably and may drastically change the ecological character of the unimproved property, which is in close proximity to urban areas, if unsupervised or unmanaged; and

WHEREAS, Board of County Commissioners has determined that an annual public notice will enhance public awareness of the requirements imposed by these regulations, and a mandatory County lot mowing procedure for repeat violations be established that will include a retainer account to ensure payment of contracted services and lessen the burden of the County taxpayers; and

WHEREAS, the Board of County Commissioners has determined that pursuant to existing case law, easements, alleys, canals and rights-of-way dedicated to the County on plats create easement interests in favor of the County, unless the plat expressly states another interest is conveyed; and

WHEREAS, the Board of County Commissioners has also determined that pursuant to existing case law, the holder of the fee simple property is responsible for the maintenance of the dedicated easement area unless:

1. The County has expressly assumed this maintenance obligation;
2. The County has voluntarily assumed the obligation by performing maintenance pursuant to the standard set forth by case law; or
3. Other methods established by case law; and

WHEREAS, the Board of County Commissioners has determined that the provision for containment areas on large residential lots would provide an economic benefit to the community at large and if managed inappropriately would create a negative impact on the environment; and

WHEREAS, the Board of County Commissioners has determined that construction site waste when inadequately contained would create a negative impact on surrounding property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that:

**SECTION ONE: Purpose and Intent**

The code is hereby considered to be remedial and shall be construed and interpreted to secure the public safety, health and general welfare through clean and sanitary property, free from wind-blown debris and materials.

1. The accumulation of Litter and Abandoned Property on public and private property constitutes a hazard and is detrimental to the health, safety and welfare of the citizens of Collier County.
2. The accumulation of weeds, grass, or Exotics or similar growth on, or in close proximity to, residentially, commercially, or industrially-zoned land is detrimental to the health, safety, and welfare of the citizens of Collier County.

**SECTION TWO: Title**

This Ordinance shall be known and may be cited as the "Collier County Litter, Weed and Exotics Control Ordinance".

**SECTION THREE: Applicability**

This Ordinance shall apply to, and be enforced in, all unincorporated areas of Collier County.

**SECTION FOUR: Definitions**

When used in this Code, the following words, phrases, or terms shall have the following meanings, unless the content clearly indicates otherwise:

1. **ABANDONED PROPERTY** – any wrecked, inoperative, derelict, or partially dismantled property having little, if any, value other than nominal salvage value, which has been left unattended and unprotected from the elements, which shall include, but not be limited to, motor vehicles, trailers, boats, machinery, appliances such as refrigerators and washing machines, plumbing fixtures, furniture, and any other similar articles.
2. **ABATE** – to mow a Mowable Lot to a height of less than six (6) inches, or to remove Exotic Plants to a height of equal to surrounding natural elevation and poison any stumps, if remaining, with an EPA approved herbicide containing a visual tracer dye; or to remove Litter; or to remove Abandoned Property, in accordance with this Ordinance. Mulching of Exotic Plants is allowed as long as the mulching occurs in an Enclosed Container, and is removed from the site.
3. **CONSTRUCTION & DEMOLITION DEBRIS** – means discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, including such debris from construction of structures at a site remote from the construction or

demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project; clean cardboard, paper, plastic, wood, and metal scraps from a construction project; effective January 1, 1997, except as provided in *Section 403.707(12)(j), F.S.*, unpainted, non-treated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, non-treated wood pallets provided the wood scraps and pallets are separated from other solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the commingling of wood scraps or pallets with other solid waste; and de minimis amounts of other non-hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the construction and demolition industries. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

4. **EXOTICS or EXOTIC PLANTS** – Australian pine (Casuarina, all species), Melaleuca (all species), Brazilian pepper (Schinus terebinthifolius), downy rose myrtle (Rhodomyrtus tomentosus), earleaf acacia (Acacia auriculiformis), Java plum (Syzygium cumini), Woman's tongue (Albizia lebbek), catclaw mimose (Mimosa pigra), and any prohibited exotic species that may be added to County Ordinance No. 04-41, as amended, (Section 3.05.08, Collier County Land Development Code).

5. **ENCLOSED CONTAINER** – any container having a physical structure which prevents materials from falling out, spilling, blowing out by wind action, or coming out by other accidental means during transport or on-site storage, and shall include, but not be limited to, garbage cans, truck bodies capable of being enclosed for transit purposes only, roll-off containers, and any other container sufficient to prevent the accidental scattering or leaking of said materials on surrounding properties and on public roads. A dumpster enclosure is not an enclosed container.

6. **IMPROVED PROPERTY** – real property that contains buildings, streets (or paved areas) or other structural improvements.

7. **INERT WASTE MATERIALS** – brick, block, concrete, rock, stone, earth and sand, free from contamination or other types of waste, free from protruding rebar and/or other metals, and capable of serving as fill material without harm to, or pollution of, ground or surface waters

8. **LITTER** – any discarded, used, or unconsumed substances or wastes. Litter shall include, but shall not be limited to, garbage, trash, refuse, debris, paper product (including newspapers and magazines), glass, metal, plastic or other containers, cloth, wood and wood products, sweepings, liquids (other than uncontaminated water), sludge, grass clippings, tree limbs, trunks and roots, undergrowth and materials produced by clearing and grubbing and other horticulture wastes, motor vehicle parts and tires, furniture, oil or grease, hazardous wastes (including gasoline, paint thinners and other similar types), the carcass of a dead animal, any obnoxious or offensive matter of any kind, any object likely to injure any person or create a traffic or pedestrian hazard, or any other condition of any unsightly nature, which may have been discarded, abandoned or otherwise disposed of improperly.

9. **MOWABLE LOT**–

a. Any portion, piece, division, or parcel of land in any Recorded or Unrecorded Subdivision of this County, of which fifty percent (50%) or more of unimproved property, can be mowed with bushhog-type or smaller mowing equipment, without damage to the lot or equipment. For purposes of determining lot size, rights-of-way, alleys, and all easements shall be included in the calculation of the Mowable Lot; or

b. Any portion of Improved Property, which can be mowed with bushhog-type, or smaller, mowing equipment without damage to the lot or equipment.

10. **PROHIBITED ACCUMULATION OF EXOTICS**– any accumulation of Exotics, which is located on improved or unimproved property.

11. **RECORDED SUBDIVISION** – Land subdivided into three (3) or more lots, parcels, sites, units, or any other division of land for which a plat has been filed with Clerk of Courts of Collier County.

12. **RECEPTACLE** – A container made of material that will protect the property and environment from leakage, spillage and overflow of any type of litter, waste, or debris. A dumpster enclosure is not a receptacle.

13. **STORAGE OF LITTER** – the interim containment of Litter in a manner approved by the Board of County Commissioners, after generation of such Litter and prior to proper and final disposal.

14. **UNAUTHORIZED ACCUMULATION OF LITTER** – the accumulation of Litter in or upon any public or private property or body of water, which is not contained within proper containers or receptacle provided for control of Litter, or is not otherwise permitted or authorized, by any other Collier County Ordinance. This term shall not include building materials used in construction or repair of a building or structure which materials are properly stored at the site of such activity, so long as:

- a. the subject building is being constructed, remodeled, repaired, or demolished under the authority of an active, valid Collier County building permit and for which the materials are to be used; and
- b. the building materials are secured during construction, remodel, repair, or building demolition, to prevent the material from falling out, spilling, blowing out by wind action, or coming out by other accidental means so that it trespasses on adjacent properties, or creates a negative visual impact to surrounding properties.

Unauthorized accumulation of Litter shall also include, but not be limited to, the accumulation or storage of Litter or containerized Litter or Abandoned Property adjacent to public right-of-way if such materials are placed upon a right-of-way earlier than six (6) p.m. of the night prior to the regularly scheduled pickup for that location by the County solid waste collection contractor, or allowing said accumulation, or container to remain adjacent to the public right-of-way after six (6) p.m. of the day of the scheduled pickup.

15. **UNLAWFUL ACCUMULATION OF WEEDS, GRASS OR SIMILAR NON-PROTECTED OVERGROWTH** – any accumulation of weeds, grass or similar non-protected overgrowth if any part of such accumulation is in excess of eighteen (18) inches in height and located on a Movable Lot, in any Recorded or Unrecorded subdivision of Collier County.

16. **UNRECORDED SUBDIVISION** – any land which for the purpose of sale or transfer has been subdivided for the purpose of sale or transfer, prior to the enactment of Ordinance 76-6, as amended, or any other division of land for which a plat has not been filed with the Clerk of Courts of Collier County.

17. **WRITTEN CORRECTIVE NOTICE**– a written statement issued to the violator or his/her agent identifying and which states the violation, date of the violation, location of the violation, the corrective measures required to be taken, and the date by which the corrective measures are to be completed.

**SECTION FIVE: Litter Declared to be A Public Nuisance**

The Unauthorized Accumulation of Litter or improper Storage of Litter or improper dumping of Abandoned Property or Litter as described in Sections Six, Seven, Eight, Nine, or Ten, in or upon public or private property, is hereby declared to be a public nuisance.

**SECTION SIX: Unlawful to Litter**

It shall be unlawful for any person to throw, discard, place, drop, or deposit Litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way or body of water within the unincorporated areas of Collier County, Florida, except in such areas and Enclosed Containers

specifically provided and appropriately designated for the disposal of Litter. In any case where Litter is ejected or discarded from a motor vehicle, except at approved and permitted disposal sites, the operator of the motor vehicle shall be deemed in violation of this Ordinance.

**SECTION SEVEN: Unauthorized Accumulation of Litter**

Any Unauthorized Accumulation of Litter in or upon any property, vacant or improved, or on or upon any public street, alley or other public or private place is a violation of this Ordinance. Any property owner, tenant, occupant, agent, manager, or other person who owns, maintains, or controls private property, whether improved or unimproved, is hereby declared to be in violation of this Ordinance where any such Unauthorized Accumulation of Litter is maintained or is allowed to remain on such property.

**SECTION EIGHT: Dumping or Depositing of Abandoned Property Prohibited.**

It shall be unlawful for any person to engage in or permit the dumping, storing, placing, or depositing of Abandoned Property on any public or private real property, street, or highway. However, Abandoned Property kept in a completely enclosed building or a business enterprise, which is lawfully licensed and zoned for receipt and storage of Abandoned Property, shall be an exception to this provision. If Abandoned Property is kept or stored in connection with a lawfully licensed business enterprise, all Abandoned Property shall be screened so that it is not visible from any public right(s)-of-way or from any property used for residential purposes. It shall be unlawful to engage in or permit the dumping, storing, placing, or depositing of Abandoned Property in any residential area, unless such Abandoned Property is kept in a completely enclosed building.

**SECTION NINE: Storage of Litter**

1. All commercial establishments shall store Litter in containers so as to eliminate wind-driven debris and Litter in or about their establishments. The number and size of containers necessary for each commercial establishment shall be that number required to maintain clean, neat, and sanitary premises. Spillage and overflow around containers regardless of whether located within an enclosure, will constitute an Unlawful Accumulation of Litter and must be immediately cleaned up as it occurs.

2. All loading and unloading zones at commercial establishments shall be provided with Litter receptacles by the owner of the business to store Litter.

3. Each person owning or operating any establishment open to the public shall provide receptacles adequate to contain Litter generated from such establishment.

4. Any and every person in possession, or in charge or in control of any place, public or private where Litter is accumulated or generated, at all times shall provide and maintain adequate and suitable receptacles and/or containers capable of holding such materials, until proper final disposal is accomplished.

5. All construction and demolition contractors, whether owners or agents, shall provide on-site receptacles for Litter sufficient to prevent wind-driven scattering of such materials if the materials are otherwise not properly disposed of on a daily basis. Receptacles placed or erected on construction sites are limited to the deposit of construction and demolition debris. Food, drink and food wrappers must be removed from the construction site daily. Spillage and overflow around containers or secured building material shall constitute an Unlawful Accumulation of Litter and shall be immediately cleaned up as it occurs.

a. Should a violation of Paragraph 5 of this section occur, the construction/demolition contractor, whether owner or agent, will be required to secure a roll-off container with cover, for containment of Construction Debris on the site with collection scheduled necessary to prevent spillage and overflow around the containers.

**SECTION TEN: Waste Materials Management**

1. Inert Waste Materials may be buried on a site after a valid building permit for such site has been obtained and posted and provided that such disposal is in conformance with federal, state, and local laws and regulations. Inert Waste Materials, which have not been properly buried or disposed of, will be deemed as Litter. On-site containment of downed trees and other vegetative growth shall be permitted on residentially-zoned lots exceeding one (1) acre in size and in the Estates zoned areas and only for vegetative growth which has been cut, cleared or removed on the same property of the permitted construction, providing all of the following conditions are met:

- a. A valid building permit for construction of a single family residence on the applicable lot has been obtained and is posted before removal and containment of such growth; and
- b. The site plan shall identify the location of the containment area; and
- c. The containment area is subject to the following restrictions:
  - i. The downed trees and vegetative growth are placed into an excavated earthen depression which does not exceed three (3) feet in depth from the surrounding natural elevation and does not cover a horizontal surface area greater than ten thousand (10,000) square feet; and
  - ii. All such excavated earthen depressions containing downed trees and vegetative growth shall not be closer than fifteen (15) feet from the side and rear property lines or within a public or private easement or right-of-way; and
  - iii. The nearest point of such excavated earthen depression for containment of on-site downed trees and vegetative growth shall not be closer than seventy-five (75) feet to any structure, one hundred (100) feet from private and/or potable wells, and no closer than one hundred (100) feet to any public or private right-of-way; and
  - iv. All downed trees and vegetative growth contained in such excavated earthen depression shall be so contained to prevent the protrusion of any such growth more than twenty four (24) inches above the surrounding natural elevation including earthen cover; and
  - v. All cleared vegetation four (4) inches and less in diameter shall either be chipped/shredded, or removed from the site. No chipped or shredded material shall be placed in the containment area. Stumps, root balls, tree trunks and other cleared vegetation four (4) inches and larger in diameter may be placed in containment areas; and
- d. No excavated material shall be removed from the site.
- e. Failure to either remove downed trees or downed vegetative growth from residentially-zoned lots exceeding one (1) acre in size, or Estates zoned properties, or to properly contain such material as required by this Ordinance, shall result in such downed trees and/or downed vegetative growth being classified as Litter and thereby subject to property owner, agent, and/or other responsible parties to any and all penalties provided under this ordinance; and
- f. Clearing within wetlands will require a Department of Environmental Protection Permit.

**SECTION ELEVEN: Declaration of Public Nuisance**

1. The accumulation of weeds, grass, or other similar non-protected overgrowth in excess of eighteen (18) inches in height is hereby prohibited and declared to be a public nuisance when located upon any Mowable Lot, and which lot has been specifically described by legal description and which condition has been determined by the County Administrator or his designee to be a public nuisance pursuant to this Ordinance. Such Mowable Lot is, or may reasonably be expected to become, infested or inhabited by non-protected rodents, vermin or wild animals, or may furnish a breeding place for mosquitoes, or threaten or endanger the public health, safety or welfare, or may reasonably be expected to

cause disease, or adversely affect and impair the aesthetic integrity or economic welfare of adjacent or surrounding property.

2. The accumulation of Exotics, weeds, grass, or other similar non-protected overgrowth is hereby prohibited and declared to be a public nuisance when located upon any unimproved property in this County, which condition is adjacent to a private or public right-of-way and is not within a Recorded or unrecorded Subdivision. However, the requirements for abatement of the public nuisance as described in Section Thirteen shall only apply to that portion of the property to a depth of twenty (20) feet from the property line or lines running adjacent and parallel to a private or public right(s)-of-way.

3. The accumulation of Exotics is hereby prohibited and declared to be a public nuisance when located upon any unimproved property in Collier County when the Exotics are located within a two hundred (200) foot radius of any improved property located in a Recorded or unrecorded subdivision. However, the requirements for abatement of the public nuisance as described in Section Thirteen shall only apply to that portion of the unimproved property where the Exotics exist within a two hundred (200) foot radius of any abutting, improved property. Furthermore, the requirements for abatement of the public nuisance as described in Section Thirteen shall only apply when the County received a complaint.

4. The accumulation of Exotics, weeds, grass, or other similar non-protected overgrowth in excess of eighteen (18) inches in height, is hereby prohibited and declared to be a public nuisance when such condition is located on any unimproved property in Collier County which is within five hundred (500) feet of Improved Property when such accumulation has aided any person to conceal or facilitate the commission of criminal acts against passers-by and the citizens of Collier County and is likely to continue to aid in the concealment or commission of future criminal acts if such accumulation is not abated. A report from the Collier County Sheriff's office identifying such unimproved property, which was allegedly utilized by any person to conceal or facilitate the commission of criminal acts against passers-by or the citizens of Collier County shall constitute sufficient evidence. However, the requirements for abatement of the public nuisance as described in Section Thirteen shall only apply to that portion of the unimproved property where the accumulation exists within a five hundred (500) foot radius of Improved Property.

5. Exotic plants located in right(s)-of-way, alley(s), canal(s), and easements(s) on improved property within Recorded or Unrecorded Subdivisions are prohibited and declared to be a public nuisance.

6. The accumulation of weeds, grass or similar non-protected overgrowth in excess of eighteen (18) inches in height is hereby prohibited and declared to be a public nuisance when located upon any unimproved property in the unincorporated Collier County, which is not within a Recorded or unrecorded Subdivision, when the weeds, grass or similar growth are located within one hundred (100) feet of the property line or lines of Recorded or unrecorded Subdivision(s).

#### **SECTION TWELVE: Exemptions**

1. The area zoned Estates shall be exempt from the weed and Exotic plant public nuisance declarations provided in Section Eleven.

2. Accumulations of protected vegetation such as coastal strands, scrub, tropical hammocks, dune vegetation and property officially declared "protected" by any federal, state or local ordinance (such as wetlands), are hereby exempted from being considered public nuisance declarations pursuant to Section Eleven.

3. The lands zoned Agricultural that are located outside of the Urban Boundary as described in the Collier County Future Land Use Map shall be exempt from the weed and Exotic plant public nuisance declarations provided in Section Eleven.

4. All lands zoned agricultural that are not being used for an essential service as defined in the Collier County Land Development Code and/or a bona fide agricultural use shall be exempt from the weed and Exotic plant public nuisance declarations provided in Section Eleven.

**SECTION THIRTEEN: Notice of Violation**

1. Annual Published Notice. Annually, the County Manager, or his designee(s) will publish, or cause to be published, a public Notice, in substantially the following form, which details the abatement procedures for violations described in section Eleven of this Ordinance. This Notice will be published in a newspaper of general circulation for a minimum of four Sundays beginning with the first Sunday in January of each year, and on every other Sunday thereafter:

A PUBLIC NOTICE FROM  
THE CODE ENFORCEMENT DEPARTMENT OF  
COLLIER COUNTY, FLORIDA

NOTICE ABOUT WEEDS OR GRASSES OVER 18 INCHES IN HEIGHT-ORDINANCE 2005-\_\_\_\_  
Section Eleven, requires that all owners of developed and undeveloped lots shall control all excessive growth of grasses or weeds over 18 inches by mowing. All lots with such vegetation over 18 inches in height will be identified by a Code Enforcement Investigator and a Notice of Violation and Order to Correct may, at the County's option, be mailed to the property owner(s) or posted on the lot. If posted, a copy of this notice will also be posted at the Collier County Courthouse at 3301 Tamiami Trail E., Naples FL 34112 or the Immokalee Courthouse at 106 1<sup>st</sup> Street S, Immokalee FL, 34142, as applicable.

A posted notice may, at the option of the County, be used in lieu of mailing individual letters to property owners. After ten (10) days from the date of posing or mailing, if no action is taken, the County will abate the violation by contracting for the lot to be mowed by a mowing contractor. A bill will then be sent to the lot's owner of record for the mowing fees plus an administrative fee of \$100.00. Additional charges can be assessed for oversized lots or extremely overgrown lots. Repeat violators may be subject to additional fees or charges, or after three violations may be included in a mandatory lot mowing program instituted by the County.

The owner must remit payment for the amounts billed within twenty (20) days from the mailing of the County's invoice. If the invoiced bill is not paid within this twenty-day period a Determination Order assessing a lien will be imposed by the Special Master. If certified and recorded, this order may constitute a lien on ALL of the violator's real and personal property in Collier County. This lien may be paid without further costs, within twenty (20) days from the date of determination by the Special Master for Collier County. If the lien remains unpaid after one (1) year from the date of the recording of the lien, Collier County may bring suit to foreclose the lien as set for in Chapter 173, Florida Statutes.

All property owners are requested to make arrangements for the proper maintenance of their land as the practice of sending mailed Notices of Violation to owners, in particular absentee owners, will be at the option of the County. The cooperation of all affected property owners will assist in reducing the large number of complaints about such nuisances received each year by the Code Enforcement Department. Compliance with this requirement will also help to control vermin and improve the appearance of the affected areas of the unincorporated County.

Any questions regarding these procedures can be addressed to the Code Enforcement Department. Phone number (239) 403-2440; located at 2800 North Horseshoe Drive, Naples, FL 34104.



a. Annual publication of this Notice is intended to provide continuing constructive notice to all affected property owners in Collier County of the procedures for abatement of the specified violations, and of the consequences of failing to timely abate cited violations.

b. Failure of the County to timely, or fully, publish the Annual Notice will not be a grounds for challenging any enforcement action brought under this article.

2. Whenever the County Manager or his designee determines that a public nuisance as described in Sections Five, Eight, Ten and Eleven of this Ordinance, he will cause one or more of the following forms of notice of violation to be provided to the record owner or owners of said property informing the owner(s) of said property of the existence of the nuisance and the corresponding violations(s). The form and manner of the notice provided will be determined by the Director of Code Enforcement and will depend on the number of violations cited to a particular property owner(s), the number of frequency of any prior violations at property owned by the violator(s), the timeliness of any prior abatement(s) of similar violation(s), the existence of other code violations, and of any previously satisfied, foreclosed, or outstanding code enforcement liens. As a general rule, certified mail, return receipt requested, should be provided to all first time violators as set forth in the corresponding procedures below. Posted notices are generally considered appropriate for repeat violations at the same location or for the same violator(s) especially when there is a pattern of certified mail sent to property owners who are not Collier County residents being returned unclaimed or being refused.

a. A Notice of Violation may be served on a violator, i.e., the record owner(s) of the cited property, either by:

i. Certified mail, return receipt requested, notifying the record owner(s) of the cited violations via a Notice in substantially the following form:

Code Enforcement Department  
Notice of Violation and Order to Correct

To:

Date:

Ordinance:

Violation/Case No.:

Property:

Folio #:

Dear Property Owner:

According to the official records of this County, you are the owner of the above-described property. As such, you are hereby notified that the Code Enforcement Director, on \_\_\_\_[date]\_\_\_\_ determined that a public nuisance exists on your property pursuant to County Ordinance No. 2005-\_\_\_\_, caused by: \_\_\_\_[describe violation]\_\_\_\_.

You are further notified that you shall abate this nuisance within ten (10) days of the date of this notice by \_\_[describe how to abate]\_\_. Failing this action on your part, the Board of County Commissioners will cause the nuisance to be abated. **YOUR FAILURE TO ABATE THE NUISANCE MAY RESULT IN THE RECORDING OF A LIEN AGAINST YOUR PROPERTY.** The lien shall include the direct cost plus an administrative fee of up to \$200.00 and will be levied as an assessment against all of the property you own.

**IN THE EVENT YOU RECEIVE THREE NOTICES OF VIOLATION DURING YOUR OWNERSHIP OF THE REFERENCED PROPERTY, EVEN THOUGH YOU ABATE EACH VIOLATION, YOU MAY BE CHARGED A PENALTY OF FIFTY DOLLARS AND AN ADMINISTRATIVE FEE.**

You may contest this determination of the existence of a public nuisance by applying in writing, for a hearing before the Special Master within fifteen (15) days from the date of this notice of violation.

Or:

ii. by posting a Notice in a substantially the following form in a clearly visible location on the cited property, and at the Collier County Courthouse, or Immokalee Courthouse. The posted Notices must be in substantially the following form:

**POSTED**

Collier County Code Enforcement Department

Notice of Violation of Section \_\_\_ of Ordinance 2005-\_\_\_, and Order to Correct

To: [Owner(s) of Record]

Date Posted:

Violation/Case No.

Property [Insert address where violation occurred]

Folio #:

As the official record owner(s) of the above-described property, you are hereby notified that a public nuisance exists on this property as of [insert date] in the form of: \_\_\_[describe violation]\_\_\_ on the subject property.

You are further notified that you must immediately abate this nuisance within ten (10) days of the date of posting of this Notice by causing the above-described property to be: \_\_\_[ mowed/exotics removed, or otherwise describe how to abate]\_\_\_. If the violation is not abated within the time required, the County may act to cause the nuisance to be abated. **FAILURE TO ABATE THIS NUISANCE MAY RESULT IN THE RECORDING OF A LIEN AGAINST THE LAND ON WHICH THE VIOLATION EXISTS AND UPON ANY OTHER REAL OR PERSONAL PROPERTY YOU OWN IN COLLIER COUNTY.** Such liens may include the County's costs to abate the violation plus an administrative fee of up to \$200.00, all of which may be levied as an assessment against your property(s).

You may contest this Notice of violation and determination of the existence of a public nuisance by applying in writing, for a hearing before the Special Master within fifteen (15) days from the date of posting this notice of violation.

b. If the same violator(s) receives three or more Notices of violation of this Ordinance during their ownership of any property in Collier County, even though the violations may have been timely abated, a penalty of Fifty (\$50.00) dollars will be charged for each notice received thereafter. An administrative fee of One Hundred (\$100.00) dollars will also be assessed for each invoice processed for the payment of said penalty. In addition, all cited property(s), may at the discretion of the County Manager or his designee, become subject to the County's mandatory lot mowing program provisions in Section Nineteen.

c. If the property owner or his agent has not abated the identified nuisance as described in said notice within ten (10) days from the date of the notice of violation, the County will Abate the condition and shall, through its employees, servants, agents, or contractors, be authorized to enter upon the property and take such steps as are reasonably required to Abate the nuisance. However, the County Manager, in his discretion may extend the time allowed for taking corrective action up to 180 days for natural disasters as determined by the State or Federal government.

**SECTION FOURTEEN: Assessment for Abating Nuisance**

1. After abatement by the County or its agent, the cost thereof to the County as to each parcel shall be calculated and reported to the Collier County Manager or his/her designee. An invoice shall be mailed to the property owner(s) for the cost of abatement. The invoice shall also include an administrative fee of One-hundred (\$100.00) dollars per parcel of property.

2. In the event the property owner abates the violation, but has received a total of three notices of violation for separate violations during the property owners ownership of the referenced property, the County shall mail an invoice to the property owner including a penalty of Fifty (\$50.00) per parcel, plus an administrative fee of One Hundred (\$100.00) dollars for the repeat violation invoice. Each notice of violation thereafter to the same property owner, shall be processed in the same manner.

3. If the invoice sent by the County Manager or his/her designee is not paid at the expiration of the twenty (20) days of the date of the invoice, the Special Master and may impose a lien against the property. The Special Master, by determination order, shall assess such cost against such parcel. Said determination order shall:

- a. describe the land and show the cost of abatement, and shall include the initial administrative fee of One-hundred (\$100.00) dollars per parcel as mentioned in paragraph 1 of this section, plus an additional administrative fee of One-hundred (\$100.00) for lien processing , or
- b. describe the land and shall include the penalty and initial administrative fee of per parcel as mentioned in paragraph 2 of this section.

Such determination order shall constitute a lien, which shall run with the property until paid. The determination order shall also specify that interest shall accrue on the unpaid balance beginning on the date the resolution is recorded at the rate of twelve (12) percent per annum.

4. A copy of the Resolution approved by the Board of County Commissioners will be accompanied by a legal notice of assessment of lien substantially in the following form:

**BOARD OF COUNTY COMMISSIONERS  
THROUGH ITS CODE ENFORCEMENT DEPARTMENT  
COLLIER COUNTY, FLORIDA**

**LEGAL NOTICE OF ASSESSMENT OF LIEN**

<Insert Property Owner's Name and Address>

DATE:

REF. INV.#

FOLIO#

LIEN NUMBER:

LEGAL DESCRIPTION:

You, as the owner of the property above-described, as recorded in the records maintained by the office of the Property Appraiser, are hereby advised that the Code Enforcement Director, did on \_\_[date]\_\_\_\_, 20\_\_, order the abatement of a certain nuisance existing on the above property prohibited by Ordinance 2004-\_\_, and served a notice of violation upon you. The nuisance is:

\_\_[describe the nuisance]\_\_

You failed to abate such nuisance, whereupon, it was abated by the expenditure of public funds at a direct cost of \$\_\_\_\_\_, and an administrative cost of Two-hundred (\$200.00) dollars for a total of \$\_\_\_\_\_. [or, You abated the nuisance but failed to pay the \$\_\_\_\_\_ penalty imposed and caused the County to incur an administrative cost of Two Hundred (\$200.00) dollars. Such cost, by determination order of a Special Master for Collier County, Florida, will become a lien on your property within twenty (20) days of determination by the Special Master when recorded. You may request a hearing before the Special Master to show cause, if any, why the expenses and charges incurred by the County under County Ordinance No. 2005- \_\_\_\_, are excessive or unwarranted or why such expenses should not constitute a lien against the property. Said request for hearing shall be made to the Secretary to the Special Master, Collier County Government Center, 2800 North Horseshoe Drive, Naples, Florida 34104 in writing within ten (10) days from the date of this notice. **FAILURE TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE WILL RESULT IN A LIEN AGAINST ALL OF YOUR PROPERTY IN COLLIER COUNTY.**

5. After the expiration of one year from the date of the Lien, as provided herein, a suit may be filed to foreclose said lien. Such foreclosure proceedings shall be instituted, conducted and enforced in conformity with the procedures for the foreclosure of municipal special assessment liens, as set forth in Chapter 173, Florida Statutes, which provisions are hereby incorporated herein in their entirety to the same extent as if such provisions were set for the herein verbatim.

6. The liens for delinquent assessments imposed hereunder shall remain liens, coequal with the lien for all state, county, district and municipal taxes, superior in dignity to all other filed liens and claims, until paid as provided herein.

7. After recording of the Lien, the County Manager or his designee may accept partial payment and recommend satisfaction of the Lien to the Board if he/she determines an error has been made based upon his/her judgment.

**SECTION FIFTEEN: Assessment Right to Hearings on Declaration of Public Nuisance and Assessment**

1. Any property owner receiving the notice of violation pursuant to Section Thirteen may contest this determination by filing an application for a hearing before the Special Master within fifteen (15) days from the date affixed on the notice of violation, **dependent upon the notice and type of proceeding.**

2. Every owner of real property within unincorporated Collier County is required to maintain such property in a manner so as not to violate the provisions of this ordinance, and such owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such property.

3. If, after said hearing, the Special Master determines that the assessment is fair, reasonable, and warranted, the assessment determination order shall be recorded forthwith. If the Special Master determines that the charges are excessive or unwarranted, it shall direct the County Administrator to re-compute the charges and the Special Master shall hold a further hearing after notice to the owner upon the re-computed charges.

**SECTION SIXTEEN: Enforcement Procedures**

Investigators of the Collier County are hereby empowered to issue Written Corrective Notices and/or notices to appear in County court, or before the Special Master, to any person violating the provisions of this Ordinance. All such notices issued, shall be maintained by the issuing authority for public inspections, during normal office hours.

Written Corrective Notices issued by Investigators of this ordinance shall state the date observed, nature of the offense committed, corrective measures to be taken and the date on or before which such corrections shall be made.

Any person who has been served with such notice in accordance with the provisions of this Ordinance, and who neglects or refuses or fails to fully comply with the corrective notices so ordered and/or to comply within the time frame so ordered therein, shall be in violation of this Ordinance.

**SECTION SEVENTEEN: Immediate Corrective Action**

In the event the County Manager, or his designee, determines or has reason to believe that a violation including, but not limited to, accumulation of weeds or litter presents a serious threat to the public health, safety or welfare of the public or that the violation is of such a nature as to require immediate correction, the violator may be required by notice to effectuate immediate corrective measures upon receipt of the notice. The notice, substantially in the form set forth in Section Thirteen, shall advise the owner that the County will remedy the hazardous condition as soon as possible. To be effective, the notice shall be served upon the occupant if the property is occupied or physically posted on the property and sent by certified mail to the owner as his/her name appears on the records of the property appraiser.

**SECTION EIGHTEEN: Procedures for and Effect of Mailed Notices**

Notices shall be mailed to the violator's address indicated on the records of the Collier county Property Appraiser of such lot or parcel of land for ad valorem taxation purposes, whether mailed by regular U.S. Postal Service upon the person, for the purpose of this article. A property owner is deemed to have received a mailed notice on the tenth (10<sup>th</sup>) day after the notice is placed in the United States mail. Evidence that the proper notice has been mailed is sufficient to demonstrate that the notice requirements of this article have been met, without regard to whether the property owner actually received such notice. Refusal to accept service of such notices by a property owner or its agent will not defeat this personal service, nor bar the County from proceeding with enforcement, creating lawful liens, and performing the necessary abatement under this article. It is the property owner's responsibility to maintain a current address with the Collier County Property Appraiser's office at all times.

**SECTION NINETEEN: Procedures for Mandatory Lot Mowing Program**

1. Inclusion in Mandatory Lot Mowing Program. If a public nuisance is determined to exist three or more times after July 15, 2001, on a particular lot or parcel of unimproved property while under the same ownership, then at the discretion of the County Manager, or his designee, such property will be placed in the Mandatory Lot Mowing Program, as set forth below.

2. Exemption from lot mowing program. Individual property owners of record whose real property is included in the County's mandatory lot mowing program, may request an exemption from inclusion in the program by submitting to the County Manager, or his designee, a signed written agreement, acceptable to the County, covenanting that the property owner will maintain the property so that the height of any grass, weeds, or otherwise regulated vegetative matter will not constitute a public nuisance or exceed eighteen inches in height. In addition, the property owner must provide a letter of credit, contract agreement, escrow agreement, or some other surety with a mowing company that is acceptable to the County. The surety provided may vary, but must remain in effect throughout the property owner's ownership of the property(s). The agreement must also include a provision of

understanding by the owner that should he/she fail to keep the contract agreement and ensure no violation to this code exists on the property(s), the agreement approved by the County will become null and void. In that event the property owner would be provided written notice that the lot mowing program exemption would be revoked by a date certain, the property would be placed in the Mandatory Lot Mowing Program, and not be entitled to any further exemptions so long as owned by the same property owner(s).

3. Mandatory Lot Mowing Invoice Billing. The County Manager, or his designee, will mail an invoice to the owner(s) of property(s) included in the Mandatory Lot Mowing Program. Invoice billing amounts will include actual costs incurred for mowing, plus an administrative fee. The invoice will be mailed to the address listed with the Collier County Property Appraiser's Office as the tax roll address of record. Notice to owner(s) of account balance requirements are accomplished in this Section, and receipt of the invoice will not defeat this personal service, nor bar the County from proceeding with enforcement, creating lawful liens, and performing the necessary abatement under this ordinance.

4. Failure to comply with payment of a Mandatory Lot Mowing invoice, as set forth in Subsection (3) above, will constitute a violation to this Ordinance. If, after 30 days of mailing, the invoice has not been paid, the County Manager, or his designee, will proceed with enforcement procedures to file a lien. The Legal Notice of Assessment of Lien will be submitted to the Special Master who shall impose a lien against the property. The Special Master shall assess all applicable costs and fees against such parcel and all other properties owned by the violator in Collier County. Said action shall: A) describe the land that has been included in the Mandatory Lot Mowing Program and show the cost of abatement, which shall include the initial administrative expense of one-hundred (\$100) dollars plus one-hundred (\$100) dollars per parcel for lien processing. Such action, when recorded, shall constitute a lien on all personal and real property located in Collier County, which runs with the owner's real property until paid. The action will also specify that interest will accrue on the unpaid balance beginning on the date the resolution is recorded at the statutory interest rate per annum.

5 Legal Notice of Assessment of Lien. The Legal Notice of Assessment of Lien will substantially be in the following form:

BOARD OF COUNTY COMMISSIONERS  
THROUGH IT'S CODE ENFORCEMENT DEPARTMENT  
COLLIER COUNTY, FLORIDA

TO: \_\_\_[Insert Property Owner's Name and Address]\_\_\_

DATE:

REFERENCE INVOICE#:

VIOLATION FOLIO #:

VIOLATION LEGAL DESECRPTION:

You, as the owner of the property above-described, as recorded in the records maintained by the office of the Property Appraiser, are hereby advised that the Code Enforcement Director, did determine a public nuisance existed and constituted a violation of county regulation on \_\_\_\_\_, 200\_, and ordered the abatement of certain nuisance existing on the above property prohibited by Ordinance No. 2005-\_\_, and served a notice of violation upon you. The nuisance is:

\_\_[describe the nuisance]\_\_.

You have failed to timely abate such nuisance: whereupon, it was abated by the expenditure of public funds at a direct cost of \$\_\_\_\_\_.00 and an administrative cost of \$\_\_\_\_\_.00 for a total of \$\_\_\_\_\_.\_\_.

Such costs, by order of the Special Master, will become a lien on your property when recorded. **FAILURE TO TIMELY PAY THE AMOUNT SPECIFIED IN THIS NOTICE WILL RESULT IN A LIEN AGAINST ALL OF YOUR PROPERTY IN COLLIER COUNTY.**

Upon determination order by the Special Master Secretary to the Special Master will immediately mail a copy of each approved order and Notice Assessment of Lien via regular U.S. mail. If full payment for the assessed amount, is not made by the property owner within twenty (20) days from the date of signature of the determination order by the Special Master, then the Secretary to the Special Master will automatically and without further direction record both the Order and Notice of Assessment of Lien in the public records of Collier County. Recording said determination order will act to impose a lien on the violator's property.

6. **Limitation on time to contest levy of lien.** Any person aggrieved by the action of the board must commence an action in circuit court within thirty (30) days from the date the order is rendered. Unless such action is begun within this thirty (30) day period, all objections of that person to the imposition of the lien will be deemed to have been waived.

7. **Prepayment and recording of lien.** For a period of twenty (20) days after the date of the order of the Special Master levying the delinquent lot-mowing lien, the lien may be paid without additional interest. Properties, for which payments are received or postmarked within twenty (20) days from the date the order is signed, will stay the recording of the lien. If, after expiration of the prepayment period payment expires and said payment is not received. A certified copy of the order will be recorded in the office of the Clerk of the Circuit Court in Collier County.

8. **Release of Lien.** Owners who have paid the delinquent lien in full after the recording of the lien are entitled to a release and satisfaction of lien from the County. The recording of the release and satisfaction of lien and any charges therefore are the responsibility of the property owner.

9. **Foreclosure.** Liens associated with this Section may be foreclosed in the same manner as liens for property taxes or special assessments. In the event the County prevails, owners of property(s) against whom a foreclosure action is commenced will be liable for all fees, costs and expenses incurred by the County or its agents, including reasonable attorney's fees, and the same may be assessed as a cost in the foreclosure action.

10. **Validity of liens not affected by irregularities.** Any informality or irregularity in the proceedings to impose a lien for delinquent lot mowing fees will not affect the validity of the same after the order levying the lien has been as adopted, and no deviation from the procedures prescribed above will affect the validity of the lien unless it can be clearly shown that the party objecting was materially injured thereby.

11. **Alternate methods of collection permitted.** Nothing herein prohibits the County from utilizing other means to collect delinquent lot mowing fees including, but not limited to, an action for damages filed in the appropriate court in Collier County, Florida.

**SECTION TWENTY: Penalties**

If any person fails or refuses to obey or comply with or violates any of the provisions of this ordinance, such person upon an order by the Code Enforcement Board or Special Master may be fined as authorized by the Ordinances establishing the Enforcement Board and Special Master. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be guilty of a separate offense.

Nothing herein contained shall prevent or restrict the County from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Any person convicted of such offense, shall be guilty of a misdemeanor and shall be

punished by a fine not to exceed Five Hundred (\$500.00) dollars or by imprisonment not to exceed sixty (60) days in the County jail, or both, in the discretion of the Court.

Further, nothing in this Section shall be construed to prohibit the County from prosecuting any violation of this Ordinance by means of a Code Enforcement Board, or Special Master, established pursuant to the authority of Chapter 162, Florida Statutes.

All remedies and penalties provided for in this Section shall be cumulative and independently available to the County and the County shall be authorized to pursue any and all remedies set forth in this Section to the full extent allowed by law.

**SECTION TWENTY-ONE: Repeal of Ordinances**

Ordinance Numbers 99-51, 2000-51, and 2001-21 are hereby expressly repealed by the enactment of this Ordinance.

**SECTION TWENTY-TWO: Conflict and Severability**

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any court of competent jurisdiction holds any phrase or portion of this Ordinance invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remainder of the ordinance.

**SECTION TWENTY-THREE: Inclusion in the Code of Laws and Ordinances**

The provisions of this Ordinance shall become and be made a part of the Code of laws and Ordinances of Collier County, Florida. The sections of the ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word with the Department of State.

**SECTION TWENTY-FOUR: Effective Date**

This ordinance shall become effective upon filing with the Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 13<sup>th</sup> day of September, 2005.

ATTEST: BOARD OF  
DWIGHT BROCK, CLERK  
BY: Patricia L. Morgan, DC  
Patricia L. Morgan, Deputy Clerk  
Attest as to Chairman's  
signature only  
Approved as to form and legal  
Sufficiency:

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA  
BY: Fred W. Coyle  
FRED W. COYLE, CHAIRMAN

J. A. Belpedio  
Jennifer A. Belpedio  
Assistant County Attorney

This ordinance filed with the  
Secretary of State's Office this  
20 day of September, 2005  
and acknowledgement of that  
filing received this 27 day  
of September, 2005  
By: Michelle Morales  
Deputy Clerk



STATE OF FLORIDA)

COUNTY OF COLLIER)


I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2005-44

Which was adopted by the Board of County Commissioners on the 13th day of September 2005, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 16th day of September, 2005.

DWIGHT E. BROCK  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners

  
*Heidi R. Rockhold*  
By: Heidi R. Rockhold,  
Deputy Clerk