## Chapter 11D DISEASED PALM TREES [[1]](#BK_AF074C82C0AE9EAD8E8F6F81F81EED86)

[Sec. 11D-1. Title; applicability; to constitute minimum standard.](#BK_F8AD9DDBAB282B36F4F0E7D2296683B4)

[Sec. 11D-2. Declaration of legislative intent.](#BK_20FC33A7009D732A1FA3853AC313846A)

[Sec. 11D-3. Public nuisance declared.](#BK_9F017774189E482985369455C771BED1)

[Sec. 11D-4. Notice to remedy condition.](#BK_CF407D0DFDC43FDC31B2F92A1648F051)

[Sec. 11D-5. Form of notice.](#BK_5D3DCB12738421C5D341E8157BDC620B)

[Sec. 11D-6. Hearing.](#BK_62BF2AD04EFE9F42EA579177A1560DCA)

[Sec. 11D-7. Trees may be removed by County; lien for expenses.](#BK_B138F64AFE68AE740711B2EF7D795037)

[Sec. 11D-8. Duty of Director of Finance to keep records of liens.](#BK_E9DA91D4722266AEEF915846EC934764)

[Sec. 11D-9. Review by certiorari.](#BK_B437D848B3FD2A5C6F1C59E45BC8939F)

Sec. 11D-1. Title; applicability; to constitute minimum standard.

This chapter shall be known as the "Diseased Palm Tree Removal Ordinance" and shall be applicable in the unincorporated areas of Dade County and shall also constitute a minimum standard for all municipalities in Dade County, Florida. All references to County personnel shall therefore be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to either by specific assignment by their municipality or by virtue of their general area of responsibility as assigned. Nothing herein shall prevent the municipality from enacting standards which are more stringent than those contained herein.

(Ord. No. 74-99, § 1, 12-3-74)

Sec. 11D-2. Declaration of legislative intent.

The Board finds that the palm blight disease known as lethal yellowing has reached epidemic proportions within Dade County, that the disease is a highly infectious one and that those trees which are infected with lethal yellowing to the point that they are beyond treatment should be quickly removed so as to reduce spreading of the disease.

(Ord. No. 74-99, § 2, 12-3-74)

Sec. 11D-3. Public nuisance declared.

The existence of palm trees infected with lethal yellowing to the point that they are beyond treatment are declared a public nuisance as those trees continue to be infectious and are a threat to healthy palm trees in the area.

(Ord. No. 74-99, § 3, 12-3-74)

Sec. 11D-4. Notice to remedy condition.

If the Director of the Park and Recreation Department finds and determines that a public nuisance as described and declared in [Section 11D-3](../level2/PTIIICOOR_CH11DDIPATR.docx#PTIIICOOR_CH11DDIPATR_S11D-3PUNUDE) hereof exists, he shall so notify the record owner of the offending property in writing and demand that such owner cause the condition to be remedied. The notice shall be given by registered or certified mail, addressed to the owner or owners of the property described, as their names and addresses are shown upon the record of the County Tax Assessor, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. In the event that such notice is returned by postal authorities the Director shall cause a copy of the notice to be served by a law enforcement officer upon the occupant of the property or upon any agent of the owner thereof. In the event that personal service upon the occupant of the property or upon any agent of the owner thereof cannot be performed after reasonable search by a law enforcement officer the notice shall be accomplished by physical posting on the said property.

(Ord. No. 74-99, § 4, 12-3-74)

Sec. 11D-5. Form of notice.

The notice shall be in substantially the following form:

NOTICE OF PUBLIC NUISANCE

Name of owner \_\_\_\_\_

Address of owner \_\_\_\_\_

Our records indicate that you are the owner(s) of the following property in Dade County, Florida:

 (described property)

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 Dade County Diseased Palm Tree Removal Ordinance in that there exists on the above-described property one (1) or more palm trees which are infected with "Lethal Yellowing" and are beyond treatment, and which trees are designated by a red circle painted around said tree.

You are hereby notified that unless the above-described trees are removed within twenty (20) days from the date hereof, Dade County will proceed to remove said trees and the cost of the work, including advertising costs and other expenses, will be imposed as a lien on the prop-erty if not otherwise paid within thirty (30) days after receipt of billing.

|  |  |
| --- | --- |
|  | DADE COUNTY, FLORIDA |
|  | By:  \_\_\_\_\_ |
|  | Park and Recreation Director |

(Ord. No. 74-99, § 5, 12-3-74)

Sec. 11D-6. Hearing.

Within twenty (20) days after the mailing of notice to the property owner, the property owner may make written request to the County Manager for a hearing before him or one (1) of his assistants to show that the palm trees referred to in the notice are not infected with lethal yellowing or that their infection has not progressed to the point that said trees are beyond treatment. At the hearing the County or the property owner may introduce such evidence as is deemed necessary. The County Manager or an assistant designated by him shall hold hearings at appropriate times and places, and the County Manager shall establish rules and regulations for the review procedure. Following the review by the County Manager or the assistant designated by him, the owner will be deemed to have exhausted his administrative remedies.

(Ord. No. 74-99, § 6, 12-3-74)

Sec. 11D-7. Trees may be removed by County; lien for expenses.

If within twenty (20) days after mailing of the notice no hearing has been requested and the trees described in the notice have not been removed, the Director of the Park and Recreation Department shall have the trees removed by Dade County at the expense of the property owner. If a hearing has been held and has concluded adversely to the property owner, the Director of the Park and Recreation Department shall have the trees removed by Dade County at the expense of the property owner.

After removal of the trees the Director of the Park and Recreation Department or the County Manager shall certify to the Director of Finance the expense incurred and shall include a copy of the notice above-described and a copy of the decision of the County Manager, or his designated assistant, if a hearing was held, whereupon such expense shall become payable within thirty (30) days, after which a special assessment lien and charge will be made upon the property, which shall be payable with interest at the rate of six (6) percent per annum from the date of such certification until paid.

Such lien shall be enforceable in the same manner as a tax lien in favor of Dade County and may be satisfied at any time by payment thereof including accrued interest. Upon such payment the Clerk of the Circuit Court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof and notify the Tax Collector of such satisfaction. Notice of such lien shall be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Dade County, Florida.

(Ord. No. 74-99, § 7, 12-3-74)

Sec. 11D-8. Duty of Director of Finance to keep records of liens.

The Director of Finance shall keep complete records relating to the amount payable for liens above-described and the amounts of such liens shall be included in tax statements for ad valorem taxes thereafter submitted to the owners of lands subject to such liens.

(Ord. No. 74-99, § 8, 12-3-74)

Sec. 11D-9. Review by certiorari.

Any party aggrieved by the administrative decision may have such decision reviewed by the filing of a petition for writ of certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, for a review of the record upon which the decision is based, in accordance with the procedure and within the time provided by the Florida Appellate Rules for the review of the rulings of any commission or Board, which rules of practice and procedure are hereby adopted. For such purposes, the County Manager shall make available for public inspection and copying the record of each such decision to be reviewed; provided, the Manager may make a reasonable charge commensurate with the cost, in the event he is able to and does furnish copies of all or any portion of the record at the hearing. Prior to certifying a copy of any record or portion thereof, the Manager or his designee shall make all necessary corrections in order that the copy is a true and correct copy of the record, or those portions thereof requested, and shall make a charge of not more than twenty-five cents ($0.25) per page, instrument or exhibit; provided the charges here authorized are not intended to repeal or amend any fee or schedule of fees otherwise established.

(Ord. No. 74-99, § 9, 12-3-74)

FOOTNOTE(S):

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**Editor's note—** Ord. No. 74-99, enacted Dec. 3, 1974, provided that said ordinance be included in this Code, but did not specify the manner of inclusion. Codification of §§ 1—9 of said ordinances as Ch. 11D, §§ 11D-1—11D-9, was at the discretion of the editors. [(Back)](#BK_B2CCB188A74A112ED7BE65BF3B9475C5)

**Cross reference—** Landscaping, Ch. 18A; tree preservation and protection, § 24-60 et seq. [(Back)](#BK_B2CCB188A74A112ED7BE65BF3B9475C5)