

City of Coral Gables City Commission Meeting
Agenda Item E-2
March 12, 2024
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Rhonda Anderson

Commissioner Melissa Castro

Commissioner Ariel Fernandez

Commissioner Kirk Menendez

City Staff

City Attorney, Cristina Suárez

City Manager, Amos Rojas, Jr.

City Clerk, Billy Urquia

Assistant City Attorney, Gus Ceballos

Public Speaker(s)

Agenda Item E-2 [2:52 p.m.]

An Ordinance of the City Commission providing for a text amendment to the City of Coral Gables Official Zoning Code, Creating Section 5-314 “Window and Hurricane Shutters” to regulate the closure of window and hurricane shutters and amending the City Code, Chapter 1-General Provisions, Section 1-7 entitled “Penalties” to provide a penalty for the closure of window and hurricane shutters outside of the hurricane season; providing for severability clause, repealer provision, codification, and providing for an effective date. (02 20 2024 PZB approved with conditions, Vote: 5-0) (Sponsored by Commissioner Fernandez)

Mayor Lago: Moving onto item E-2.

City Attorney Suarez: E-2 is an Ordinance of the City Commission providing for a text amendment to the City of Coral Gables Official Zoning Code, Creating Section 5-314 “Window and Hurricane Shutters” to regulate the closure of window and hurricane shutters and amending the City Code, Chapter 1-General Provisions, Section 1-7 entitled “Penalties” to provide a penalty for the closure

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of window and hurricane shutters outside of the hurricane season; providing for severability clause, repealer provision, codification, and providing for an effective date. This is a public hearing item.

Planning Official Garcia: Jennifer Garcia, Planning Official. So, there's been some changes since the ordinance went to the Planning and Zoning Board. Recommendations to allow on the rear on the side, as long as it's not visible from the street, the shutters I'm talking about, just for safety concerns, and I think that was the main change that happened since then.

Commissioner Fernandez: The changes that were suggested by Planning and Zoning, I thought were fair. There are some elderly folks who rely on these for safety concerns, and I believe as long as they are not visible from the street, I did not have an issue with that. So, staff included them in the current language.

Mayor Lago: Anybody else.

Vice Mayor Anderson: I would agree with that. I mean having my obligations when my father was alive, to go up and make sure that his place was shuttered. There's always a time constraint for the family member whose obligation it is to take care of that. So, that's why I wanted the warning period, and you don't start immediately fining folks and if they are not visible from the street, we're not hurting anybody, because I literally would leave his shutters up and just take off a few in the front to accommodate light and needs. Any other comments folks?

Commissioner Fernandez: I'll move it.

Mayor Lago: So, I only have one comment. My issue is, I support this, but what do we do about a person, for example, who has a real hardship. I know it sounds absurd and ridiculous that a person cannot remove one shutter, but if you have a person, I received a few phone calls from residents that told me, I can't afford it, or I'm retired, or I'm disabled, I have to pay somebody to come and do it. How are we going, because it's going to happen, how are we going to address somebody that says, again, I'm in favor of the ordinance, this is a beautification issue for me. How are we going to address a person who comes before us and says, especially an elderly person, a retired person, or there's many reasons why people fall, not only elderly, but again, a person who is on tough times, let's say, and hasn't had anybody that can help them and go and remove it. I know that we're giving them a window to remove the shutters, but the next resort if we fine them...

Planning Official Garcia: In addition to the 30-day kind of warning period, there's also language at the very end allows the City Manager or designee in cases where you need, circumstances are emergencies, closure of the windows so you have some flexibility as far as regulating.

Mayor Lago: If the person says you know, I can't remove it, and it should be removed, and I can give you two or three examples in the city where I drive by where, again, the person just does not want to remove their shutters. Do we put ourselves in a position where we start having rolling fines for these individuals. Do we offer them assistance through maybe Police, Fire, Public Works.

There are not many people in the community, it's a handful, maybe people who just for one reason or another, they are not inclined to remove the shutters, or they are not in a position to do it.

Planning Official Garcia: I can't speak for Code Enforcement.

Mayor Lago: No, no, I know. I'm just going a little back and forth. I'll give you an example. One of the individuals that I spoke has a second-floor house, it's an older house, they can't get up there and remove the shutter. He told me, look, it's been up there for years. It's an adjacent bedroom, no one sleeps there, doesn't really bother me, I haven't even thought about removing it. I said, well, that could be an issue. I've got to pay somebody a few hundred dollars to get up there on the second floor and remove the shutter. I don't have an issue with the legislation at all. I'm in favor of it. Again, I just foresee that's a perfect example that we're going to be facing. Yes sir.

Assistant City Attorney Ceballos: Good afternoon, Mr. Mayor, Vice Mayor, Commissioners, Assistant City Attorney, Gus Ceballos. So, in regard to the Code Enforcement aspect of it, the way it's currently drafted, it's a civil penalty, it's a ticket, so there wouldn't be any running fines, at least with what's currently proposed. It's basically an equivalent of if you parked your vehicle on the grass in front of your home, that's not an approved surface. It's a \$100-dollar ticket. You can appeal that ticket if you so choose.

Mayor Lago: How much is that ticket, if you don't mind me asking.

Assistant City Attorney Ceballos: \$100.

Mayor Lago: Okay. And does the ticket accrue?

Assistant City Attorney Ceballos: No, as of right now it wouldn't accrue. Typically, if you appeal there's an additional \$108.75 which is an administrative fee for requesting the appeal. The magistrate does have the ability to waive the entire fee and the cost. What we can look at is always, maybe some sort of special assessment process, similar to what we do for lawn maintenance. Once again, this is just something we have to really look into before we can even propose it. That's something we can always consider. You don't cut your lawn, we can always go onto your property and cut your lawn.

Mayor Lago: And that's a perfect example, because we already have that issue and we've already had to do it on multiple occasions.

Assistant City Attorney Ceballos: Yes.

Mayor Lago: But that also accrues.

Assistant City Attorney Ceballos: That's a cost recovery, so typically there's no fine, but if it costs us \$300 to mow your lawn, we will assess that.

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City Attorney Suarez: The overgrown lot is a fine.

Mayor Lago: Yes, it is a fine.

City Attorney Suarez: There's a fine for the overgrown lot and then there is a special assessment for the work done by the city.

Mayor Lago: It eventually turns into a lien, correct.

Assistant City Attorney Ceballos: Yes. I'm referring to the special assessment, so yes, it will eventually turn into a lien.

Mayor Lago: What ends up happening is, for example, we've all had them. We've had, excuse me, a potential homeowner, who's buying a property in the city that was in a trust, the person has passed away, they had multiple liens on the property. It happens here probably a few times a year. We've seen it multiple times.

Assistant City Attorney Ceballos: Happens all the time.

Mayor Lago: I think I brought you a resident the other day that had a very similar issue. They are trying to buy the property and they have these massive liens that have accrued and a lot of them have to do with, for example, cutting the grass, because you have a lot of these residents, the neighbors who justifiably complain to Code Enforcement saying this person hasn't cut their yard. Well, the person is no longer alive. It's in a trust and the trust or the bank that has the mortgage is in another state and at the end of the day, we've had to address that issue on multiple different fronts. But my concern is, again, it's not a concern, I'm voting in favor of it. I'm saying, how do you deal with a person that says, hey, I'm disabled, and I can't afford to pay for somebody on the second floor to remove my shutters. I believe the shutters should be removed, it's not in question. How are we going to address that. Tell me.

Vice Mayor Anderson: Well, I do think that there's something more that we can do in a way of outreach. Aside from aesthetics though, these shutters being left up outside of hurricane season when you're dealing with so much of the house shuddered up, it also becomes a fire issue, because you can't get people out without breaking down those shutters. If you had a HUD piece of property, they'll be telling you that you'd have to take it off, they'd make you take the bars off the windows, things of that nature that would impede the ability of somebody to escape a fire. But I do think there's more outreach that we could do, trying to get people some help and get some volunteers together to take down those shutters for folks that can't handle it.

Assistant City Attorney Ceballos: My apologies Vice Mayor, I didn't...

Vice Mayor Anderson: We were going to make a volunteer squad and you're going to lead it.

[Laughter]

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Assistant City Attorney Ceballos: I have removed many shutters in my day. I'd be happy to help with that program.

Vice Mayor Anderson: While you weren't listening.

Assistant City Attorney Ceballos: There may be a county option as well, I believe they have a program to assist elderly residents and residents that may not be able to put up and remove their shutters. So that's something we could also explore. In regard to those previous fines for the special assessment that you're concerned with. Typically, those onetime, I stepped onto your property to mow your lawn, those don't grow to these large amounts, that's the \$500, that just stays the same \$500 for ten years or two years. In regard to the running fines, this is a \$100 a day ticket, but the Code Enforcement officers do have the discretion to put a running fine. So, because this is a, unlike your parking situation where you can just simply move your vehicle, the violation existed, you pay the \$100, but the violation can be cured easily. If you fail to do so, there can be a \$100 daily running fine. So that may be a concern. We can definitely explore some different options on how we can address that with our residents, and we can take it on a case-by-case basis.

Commissioner Fernandez: And I think, Mr. Mayor, we can implement this following the upcoming hurricane season because we're less than 75 days from the current hurricane season. So, with the 30 days, I think it just doesn't make sense to implement it effective immediately. I think it should be implemented following the upcoming hurricane season, so it will us plenty of time to get the information out to the community and to residents.

Mayor Lago: Again, I'm willing to implement it today. I think it's important. There are standards and we have to follow those standards, but we're going to have to face that person that's going to come and say, I can't do this and I need to offer that person a mechanism, because I know there's nobody on this Commission that's going to say, sorry, the law's the law, that's the way it works, because what ends up happening is, we're going to have to end up getting called and I'm going to end up calling Gus, I'm going to say, Gus, we've got to go remove this gentleman's or this lady's shutters, and it's going to happen. Trust me, because I used to do it on Minorca at my grandmother's house, because she didn't have impact windows. And trust me, pretty able-bodied and it took me a long time to remove those shutters, and on many occasions, I almost cut my arm off, that's how sharp those shutters are, especially when you have the cheap metal shutters. So, my point is that you don't want that liability on your hands. I'm in favor of this today. I'm just saying, let's move forward and think about, not just pass the law because we are going to get a situation where someone's going to come to you and say, okay, I got fined, what do I do now, because Code Enforcement is going to uphold the law. Always just trying to make sure that, again, when we pass certain things that there's an opportunity to help the most needy in our community, because like what these individuals told me, Vince, if you pass this, you know you're going to be hurting certain people in the community that, again, maybe can't afford it, but I think it's the right thing to do.

Vice Mayor Anderson: Gus is going to come up with the procedures of the volunteer network can help.

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Commissioner Fernandez: We can offer free pickleball afterwards, for those that come out.

Vice Mayor Anderson: Right.

Mayor Lago: Alright. Anything else for the good of the order.

Commissioner Fernandez: A motion.

Vice Mayor Anderson: Second.

Assistant City Attorney Ceballos: Just to confirm, the motion includes the effective date taking place in 2025.

Commissioner Fernandez: November.

Assistant City Attorney Ceballos: After this year.

Commissioner Fernandez: After this hurricane season, correct.

Assistant City Attorney Ceballos: Okay.

Commissioner Fernandez: At the conclusion of the 2024 hurricane season.

Assistant City Attorney Ceballos: Understood.

City Attorney Suarez: So, November – December 1st, I guess, 2024.

Assistant City Attorney Ceballos: Right.

Commissioner Fernandez: Right.

Vice Mayor Anderson: Yes

Commissioner Castro: Yes

Commissioner Fernandez: Yes

Commissioner Menendez: Yes

Mayor Lago: Yes

(Vote: 5-0)