

ORDINANCE No. 2005-30-68

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, PROVIDING FOR REGULATIONS FOR TEMPORARY STREET CLOSURES FOR BLOCK PARTIES, PARADES, PUBLIC ASSEMBLIES AND FOR CONSTRUCTION PURPOSES; PROVIDING FOR A PERMITTING PROCESS; PROVIDING FOR INSPECTIONS AND OTHER APPROVALS; PROVIDING FOR AN APPLICATION PROCESS; PROVIDING FOR AN INDEMNIFICATION AND INSURANCE PROVISION; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council would like to establish a process for temporary street closures in the City, and

WHEREAS, the City's Director of Public Works has proposed a process whereby permits will be issued for temporary street closures, depending upon the type of closure involved,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. CREATION OF ORDINANCE: There is hereby created an Ordinance in the City of Miami Gardens to regulate block parties, parades and other public assemblies as follows:

Section 1. Permit types.

(A) Block Party permit.

- (1) Block party permits are required when a planned event will cause or require one (1) or more of the following:
 - a. Temporary obstruction of or redirection of normal traffic flow on public right-of-way or traffic control during abnormally high traffic caused by an event;
 - b. City/Miami-Dade County staff involvement before, during or after the event, such as, but not limited to:
 1. Planning or consultation;
 2. Police officers and Fire Department;
 3. Traffic control personnel.
- (2) Block party permits may be issued to any person, or organization.
- (3) A block party is permitted only after City review and approval of the street closure, a traffic-control plan, and payment of all costs anticipated to be incurred by the City.
- (4) All permits for block parties shall be posted conspicuously in the permitted area.

(B) Parade and Public Assembly permit.

- (1) Parade and public assembly permits are required. When a planned event will cause or require one (1) or more of the following:
 - a. Temporary obstruction of or redirection of normal traffic flow on public right-of-way or traffic control during abnormally high traffic caused by an event;
 - b. City/Miami-Dade County staff involvement before, during or after the event, such as, but not limited to:
 1. Planning or consultation;
 2. Police officers and fire department;
 3. Traffic control technicians.

- (2) Parade and public assembly permits may be issued to any person.
- (3) A parade or public assembly permits is permitted only after City review and approval of street closures, approval of a traffic-control plan , and payment of all costs anticipated to be incurred by the City.

Section 2. Inspections, other approvals:

All installations, work, maintenance and improvements regulated by this Ordinance shall be subject at all times to inspection by the City. The Director may require whatever documents, drawings or certificates necessary to effect approval of such work.

Section 3. Temporary Street Closures--Authorization and powers of Director.

- (A) The Public Works Director or his/her designee is authorized and empowered to issue a permit for the closure and for the use temporarily of any portion of any public street, alley, sidewalk, or any other public way to vehicular or pedestrian traffic, parking or other public use for the following purposes and upon any of the following conditions:
 - (1) Whenever it is necessary, expedient or desirable, in the determination of the Director;
 - (2) Construction related activity, whether such activity be performed by the City, the state, the County or other governmental body, board or authority or any utility, or any contractor employed by any of them or any contractor employed by any private individual or by any person to do or perform the same;
 - (3) Construction related activity, where any part of the City's streets, sidewalks, alleys or public ways shall be used in piling of materials, equipment, or any other activities that restrict the use of the streets, alleys, sidewalks or public ways;
 - (4) Conducting parades or block parties, as provided for hereunder.
- (B) The Director is authorized and empowered to develop a manual of guidelines for the placement of uniform traffic-control devices consistent with state and federal law to provide for the safe and efficient movement of pedestrians and vehicles through and around

areas described in subsections (a)(1) through (a)(4).

- (C) Each permit shall contain the information in connection therewith and shall require the permittee to:
- (1) Indemnify and hold the City harmless from all claims, suits or actions of any kind whatsoever arising out of or resulting from the closure, the issuance of the permit or the operations or activities of the permittee. The final responsibility for all activities and the installation and maintenance of traffic-control devices shall rest with the permittee.
 - (2) Obtain and keep in force at all times during the full period for which the privileges hereunder are granted, a policy or policies of public liability and property damage insurance, protecting the City, its officers, agents and employees against any and all liability due to death, injury or damage to property arising out of, or any way incidental to Permittee's activities. Permittee agrees to provide the policy or policies in comprehensive form, in an amount of not less than One Million (\$1,000,000.00) Dollars combined single limit, per occurrence, bodily injury, including death and property damage. The insurance policy shall also contain broad form contractual coverage applicable to this application and permit and, specifically, including the indemnification and hold harmless clause contained herein. Additionally, Permittee must provide that the City is listed as an additional insured on all required policies. Permittee shall obtain a certificate of insurance evidencing the coverages described on all required policies. The standard insurance certificate language that states "Endeavor To," must be eliminated. Such certificate of insurance shall be submitted to the Public Works Department prior to the date of the Assembly and Parade.
 - a. The Director, with the consent and approval of the City Manager, can waive, the requirements of Section 3(C)(2) for block parties, where the permittee(s) is an owner of a single-family residence, whose property abuts the permitted area. A refundable security deposit to the City of Miami Gardens in the amount of \$500.00, shall be required for each such application. In addition, the prior written consent of all property owners whose property abuts the permitted area is

required. If the Permitted Area, used by Permittee during the block party is not restored to its prior condition and cleaned up by 11:00 p.m. on the date of the block party, the City may draw upon such security deposit to cover the restoration and clean up costs. If the security deposit paid to the City is not sufficient to cover the restoration and clean up costs, Permittee shall immediately pay to the City any additional costs for restoration and clean up costs.

- b. The Director, with the consent and approval of the City Manager, can also waive the requirements of Section 3(C)(2) for City-franchised, the state, the County or other governmental body, board or authority which are self-insured in limits exceeding those set forth therein; provided further, however, that this waiver shall not be applicable to any contractor or subcontractor employed by any of them.
- (2) In the event that the City is required to file legal action against Permittee to collect any amounts, the City shall be entitled to its costs of collection, attorney's fees and costs, and interest at the maximum rate allowable by law.
 - (3) During the period of the permit and closure, under all conditions described in subsections (A)(4), insurance requirements may be waived by the City Manager.

Section 4. Duty of permit holders; correction of deficiencies.

- (A) A permittee for a temporary street closure under this article shall comply with all permit directions and conditions and with all applicable laws, provisions of this Code and other County and City ordinances.
- (B) A permittee shall suitably and effectively place, in accordance with federal, state and City guidelines, proper signs, barricades and other traffic-control devices at all times during the period of closure.
- (C) A permittee shall provide off-duty police officers for vehicular and/or pedestrian traffic control as required by the Director.
- (D) Upon notification to the Director of a deficiency in the placement of traffic-control warning devices and if an investigation confirms the deficiency, the Director shall give written notification of the deficiency in the placement of traffic-control warning devices to the permittee. The permittee shall make

the required corrections within the period specified by the Director. If the required corrections are not made within this period, the Director may take action to place the required traffic-control devices, or at his election shall revoke the permit. The rate to be charged for the traffic-control devices placed by the City shall consist of fees and allied costs as determined by the Director.

- (E) Violation due to failure or neglect on the part of the permittee to conform to all provisions as described in this Ordinance and such other conditions of the permit shall be reason for halting the activity and/or revocation of the permit by the Director.

Section 5. Construction permits.

- (A) Each such permit for street closures for activities described in this Ordinance shall be requested in advance of the proposed street closure. Advance notification is waived when it is documented that the proposed work is of an emergency nature involving the public health, safety or welfare and such documentation is submitted to the Director.
- (B) Each application and permit for closure shall accurately describe the part or parts of the street, alley, sidewalk or other public way to be closed, the period of such closure by the time and date of beginning and end thereof, and the purpose therefore. A copy of each such permit shall be promptly delivered to the Public Works Department, and the Police and Fire Departments.
- (C) The Director may waive the required permit for closure under the following conditions:
 - (1) All conditions excepted from the permit requirements in this Ordinance, subject to the limits described in subsections (C)(2) and (C)(3);
 - (2) For all proposed work conditions on local or residential streets, as defined by the Director in the functionally classified street system, which is for less than eight (8) hours duration and does not require more than one (1) consecutive eight-hour period; provided, however, appropriate traffic-control devices for the maintenance of vehicular and pedestrian traffic in accordance with City, state and federal guidelines shall be required; and, further provided, that persons performing work shall assume all responsibility and all liability for any and all damages, death or injuries resulting in any way from such work; and the performance of any work without a permit shall be deemed assumption of such responsibility and

liability;

- (3) For all proposed work on collectors, minor arterials and principal arterials, as defined by the Director in the functionally classified street system, which is for less than four (4) hours duration; provided, however, that the Miami-Dade County Traffic division shall be notified twenty-four (24) hours in advance of the commencement of the work, and further provided that all traffic lanes shall be open from 6:00 a.m. to 9:30 a.m. and 4:00 p.m. to 6:00 p.m. or as directed by the Miami-Dade Traffic division, and appropriate traffic-control devices for the maintenance of vehicular and pedestrian traffic in accordance with City, state and federal guidelines shall be required, and further provided that persons performing work assume all responsibility and liability for any and all damages, death or injuries resulting in any way from such work; and the performance of any work without a permit shall be deemed assumption of such responsibility and liability.

Section 6. Parade or Public Assembly Permit--Required; exception.

- (A) No person shall engage in, participate in or aid any parade, unless a Parade or Public Assembly Permit shall have been obtained from the Director after approval of the issuance of such permit from the City Council.
- (B) This requirement shall not apply to:
 - (1) Funeral processions by vehicle under the most reasonable route from the funeral home, church or residence of the deceased to the place of interment;
 - (2) A governmental agency acting within the scope of its function; or
 - (3) Lawful picketing or other orderly processions on the sidewalk or other public right-of-way not utilized for the movement of vehicular traffic that do not constitute loitering.
- (C) Any other activities, which in the discretion of the Director, do not require a permit.

Section 7. Application; filing period; contents.

- (A) A person seeking issuance of a Parade or Public Assembly Permit shall file an application with the City's Public Works Director on

forms provided.

- (B) An application for a Parade or Public Assembly Permit shall be filed with the City not less than thirty (30) days nor more than ninety (90) days before the date of the proposed parade or block party.
- (C) The application for a Parade or Public Assembly Permit shall set forth the information required by This Ordinance.
- (D) The Director shall notify any person who has submitted a complete application for a permit under this section of the date on which City council shall consider the issuance of the permit for a parade or public assembly.

Section 8. Standards for issuance; notice to City officials.

The Director shall issue a parade or public assembly permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- (A) The conduct of the parade or public assembly will not substantially interrupt the safe and orderly movement of the other traffic contiguous to the route;
- (B) The conduct of the parade or public assembly will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto as to prevent adequate police protection of the City;
- (C) The conduct of the parade or public assembly will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the City other than that to be occupied by the proposed line of march and areas contiguous thereto;
- (D) The concentration of people, animals and vehicles at the assembly point of the parade will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to the assembly areas;
- (E) The conduct of the parade will not interfere with the movement of firefighting equipment in route to a fire;
- (F) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays in route;

- (G) The parade is not to be held for the sole purpose of advertising any product, goods or event and is not designed to be held primarily for private profit; however, the prohibition against advertising any product, goods or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring floats or transportation for the parade.

Section 9. Costs for parade services.

- (A) Each person obtaining a permit shall be responsible for all costs for services provided by the City and County required in support of any parade. These costs shall include, but not be limited to, the following:
 - (1) All signs, barricades and related traffic-control support, manpower, equipment and materials;
 - (2) All police services, manpower, equipment and material;
 - (3) All sanitation, parks services, manpower, equipment and material;
 - (4) All street sweeping and cleaning required, manpower, equipment and material; and
 - (5) Administrative costs.
- (B) All costs will be determined by the department responsible for the provision of the appropriate service. The costs will be assembled by the Public Works Department and shall be paid by the person requesting the permit a minimum of fifteen (15) days in advance of the parade. The City's Public Works Department is authorized to issue the permit to the person upon payment to the City all costs as determined by the Public Works Department and further upon approval by the Director, Miami-Dade Fire and Police Department.

Section 10. Late application.

The Director, upon good cause shown, shall have the authority to consider any application hereunder which is filed less than thirty (30) days before the date on which the parade is proposed to be conducted.

Section 11. Duties of parade permittee.

A permittee for a Parade or Public Assembly permit shall comply with all permit directions and conditions and with all applicable laws and ordinances. The permittee shall produce the permit on request from any officer of the City and/or County.

Section 14. Rights reserved.

The City reserves the right to cancel any event permitted, pursuant to this

Ordinance.

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

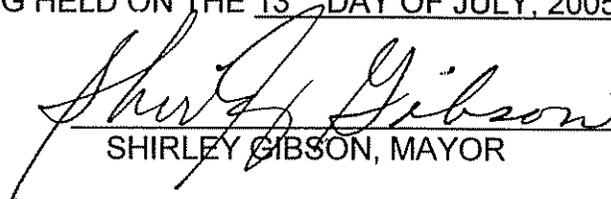
SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

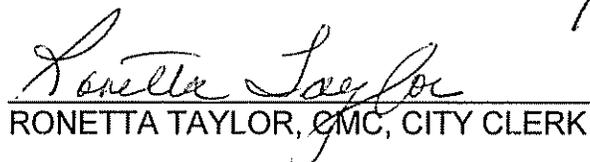
PASSED ON FIRST READING ON THE 22ND DAY OF JUNE, 2005.

PASSED ON SECOND READING ON THE 13TH DAY OF JULY, 2005.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 13TH DAY OF JULY, 2005.

ATTEST:


SHIRLEY GIBSON, MAYOR


RONETTA TAYLOR, CMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

Ordinance No. 2005-30-68

SPONSORED BY: Danny Crew, City Manager

MOVED BY: Vice Mayor Campbell
SECONDED BY: Councilwoman King

VOTE: 6-0

Mayor Gibson	<u>x</u>	(Yes)	<u> </u>	(No)
Vice Mayor Campbell	<u>x</u>	(Yes)	<u> </u>	(No)
Councilman Melvin L. Bratton	<u>x</u>	(Yes)	<u> </u>	(No)
Councilman Oscar Braynon, II	<u>x</u>	(Yes)	<u> </u>	(No)
Councilwoman Audrey J. King	<u>x</u>	(Yes)	<u> </u>	(No)
Councilwoman Sharon Pritchett	<u>x</u>	(Yes)	<u> </u>	(No)
Councilwoman Barbara Watson	<u> </u>	(Yes)	<u> </u>	(No) Not present

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