

ORDINANCE No. 2007-22-128

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE MIAMI GARDENS POLICE DEPARTMENT TO ENFORCE SECTIONS 810.08 AND 810.09, FLORIDA STATUTES, ON PRIVATE PROPERTY, ESTABLISHING THE "ZERO TOLERANCE ZONE TRESPASSING PROGRAM" IN THE CITY OF MIAMI GARDENS; PROVIDING FOR PENALTIES FOR VIOLATION; 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 of Miami Gardens has initiated its own Police Department,  
and

WHEREAS, loitering and trespassing is become a significant problem in the City of Miami Gardens, and

WHEREAS, it is imperative, that property owners be able to work with police in an effort to thwart trespassing and loitering on private properties, and

WHEREAS, in accordance with §810.08 and §810.09, Florida Statutes, private property owners can give permission to the Police Department to order trespassers to leave private property, and

WHEREAS, the City Council deems it important to adopt a "Zero Tolerance Zone Trespassing Program" within the City of Miami Gardens whereby private property owners will authorize the Police Department via affidavit to ask trespassers to leave properties and/or arrest them if they do not, and whereby private property owners will be given signs to be placed on their property authorizing the City's Police Department to enforce this Ordinance,

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. TRESPASS:

- a. It shall be unlawful for any person to commit an act of trespass in the city, either upon private property or public property.
- b. "Trespass," for the purpose of this section, shall mean: entering upon or refusing to leave any private property of another, either where such property has been posted with "No Trespassing" signs, or where immediately prior to such entry, or subsequent thereto, notice is given by the owner or occupant, orally or in writing, that such entry or continued presence is prohibited.

SECTION 3. PRE-AUTHORIZATION:

- a. *Declaration of public purpose.* The City Council hereby declares and finds that pre-authorizing police officers to enforce State trespass statutes - §810.08 and §810.09, Florida Statutes, as amended on private property, serves a valid public purpose. Specifically, the City Council finds that the Florida Legislature has made it a misdemeanor for a person to defy an order from the owner of private property, or an authorized person, to leave the owner's property. Pre-designating police officers to issue warnings to leave on behalf of private property owners will protect the public from breaches of the peace that might occur if property owners are required to protect their property and expel trespassers by force. Additionally, the protection of private property is one of the primary missions of any police agency and, in pursuit of that mission, the Police Department has proposed a program whereby private property owners may pre-authorize police officers to issue warnings to trespassers on their behalf in order to safeguard their property.
- b. *Pre-authorization authority.* City police officers may be pre-authorized in writing by a private property owner within the City to issue orders to trespassers directing them to leave the owner's property. When police officers have been pre-authorized by a private property owner, they shall be considered authorized persons for the purpose of invoking the provisions of §810.08 and §810.09, Florida Statutes.
- c. *Written pre-authorization.* Pre-authorization shall be in writing on a form approved by the City Attorney's Office.

- d. *Refusal to obey an order to leave the premises.* It is unlawful for any person, who enters on private property without being authorized, licensed or invited, to refuse to obey an order to leave the premises given by a police officer that is pre-authorized to issue such an order under the provisions of this section.

SECTION 4. PENALTY: A violation of this section, in addition to being a misdemeanor under Sections 810.80 and 810.09(2)(a), Florida Statutes (as the case may be), shall be a City Code violation punishable in accordance with the City's Code Enforcement Ordinance.

SECTION 5. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 6. 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.

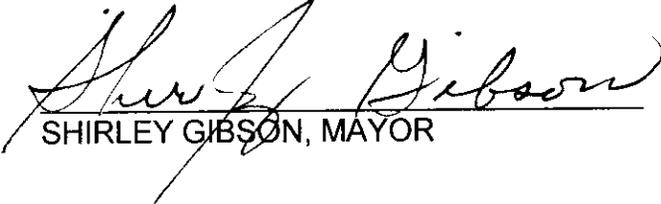
SECTION 7. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the 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 8. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

Ordinance No. 2007-22-128

PASSED ON FIRST READING ON THE 10<sup>th</sup> DAY OF October 2007.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 24<sup>th</sup> DAY OF OCTOBER, 2007.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Williams  
SECONDED BY: Councilman Bratton

**VOTE: 7-0**

Mayor Shirley Gibson	<u>  x  </u> (Yes)	<u>    </u> (No)
Vice Mayor Barbara Watson	<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)
Councilman Aaron Campbell Jr.	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilwoman Sharon Pritchett	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman André Williams	<u>  x  </u> (Yes)	<u>    </u> (No)

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