

ORDINANCE No. 2009-13-185

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 2 "PERMITTED, CONDITIONAL AND PROHIBITED USES OF THE CITY'S TOWN CENTER ZONING CODE TO CLARIFY THAT IF USES ARE NOT SPECIFICALLY PERMITTED IN THE TOWN CENTER ZONING DISTRICT, SAID USES SHALL BE DEEMED PROHIBITED; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City adopted the Town Center Zoning Code on April 5, 2006,  
and

WHEREAS, it has come to the attention of City staff that the Code needs to be clear that uses that are not specifically permitted in the Town Center District are deemed to be prohibited, and

WHEREAS, the Amendment as outlined herein accomplishes that goal, and the City Council would like to adopt the proposed amendment,

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. AMENDMENT: Section 2A of the Town Center Zoning Code shall be amended as follows:

*All uses, if not prohibited below or specifically permitted above ~~but which can be construed to be allowed under these permitted uses,~~ shall be deemed ~~permitted~~ prohibited.*

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 CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.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

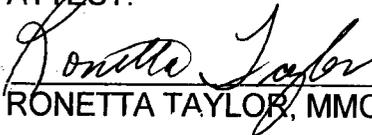
SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 6<sup>TH</sup> DAY OF MAY, 2009.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 3<sup>RD</sup> DAY OF JUNE 2009.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

Ordinance No. 2009-13-185

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Gilbert  
SECOND BY: Vice Mayor Watson

**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 Aaron Campbell	<u>  X  </u> (Yes)	<u>    </u> (No)
Councilman Oliver Gilbert, III	<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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1515 NW 167 Street, Building 5 Suite 200  
Miami Gardens, Florida 33169

## City of Miami Gardens Agenda Memo - Town Center Zoning District

<b>Council Meeting Date:</b>	June 3, 2009		<b>Item Type:</b>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
					X		
<b>Fiscal Impact:</b> <i>(Enter X in box)</i>	Yes	No	<b>Ordinance Reading:</b>		<b>1<sup>st</sup> Reading</b>		<b>2<sup>nd</sup> Reading</b>
		X	<b>Public Hearing:</b> <i>(Enter X in box)</i>		<b>Yes</b>	<b>No</b>	<b>Yes</b> X
<b>Funding Source:</b>			<b>Advertising Requirement:</b>	<b>Yes</b>		<b>No</b>	
				X			
<b>Contract/P.O. Required:</b>	Yes	No	<b>RFP/RFQ/Bid #:</b>				
		X					
<b>Sponsor Name</b>	Dr. Danny Crew, City Manager		<b>Department:</b>		Planning and Zoning		

### Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 2 "PERMITTED, CONDITIONAL AND PROHIBITED USES OF THE CITY'S TOWN CENTER ZONING CODE TO CLARIFY THAT IF USES ARE NOT SPECIFICALLY PERMITTED IN THE TOWN CENTER ZONING DISTRICT, SAID USES SHALL BE DEEMED PROHIBITED; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

### Staff Summary:

**Previous Action.** The City Council approved this ordinance on first reading at its May 13, 2009 meeting.

**Background.** The City adopted the Town Center Zoning Code by Ordinance No. 2006-09-90 on April 5, 2006. Based on a recent review of the permitted use verbiage in the Code by the City Manager, the City Attorney, and the Planning and Zoning Department, an amendment is deemed necessary to clarify wording under that section. In general, the City's zoning code is based on the principal that if a use is not listed, it is prohibited. The new town center district was written with language that, in essence, says that unless a use is specifically prohibited, anything goes. This provision needs to be amended to reflect the balance of the City's zoning code.

**Proposed Revisions.** The following amendment is proposed. Also see Exhibit A.

1. Revise language, per strike-out and underline (added) to **Section 2. Permitted, Conditional and Prohibited Uses, Subparagraph A. Permitted Uses** to read as follows:

1515 NW 167 Street, Building 5 Suite 200  
Miami Gardens, Florida 33169

*All uses, if not prohibited below or specifically permitted above ~~but which can be construed to be allowed under these permitted uses~~, shall be deemed permitted-prohibited.*



Staff recommends City Council approval of the attached ordinance to revise the Town Center Zoning District Regulations.



Exhibit "A" Excerpt of Code

Exhibit "A"  
EXCERPT FROM TOWN CENTER ZONING DISTRICT  
Adopted April 5, 2006

Section 2. Permitted, Conditional and Prohibited Uses

A. Permitted Uses – No building or structure, or part thereof, within the district shall be erected, altered or used, or land used in whole or in part for other than one or more of the following specific uses, subject to all other applicable standards and requirements contained in this ordinance:

- (a) Multifamily apartments and townhouses
- (b) Hotels and motels
- (c) Commercial services and retail goods, including spas and health clubs, beauty salons, clothing, florists, gift shops, banking services, pharmacy, news stands, and restaurants.
- (d) Conferencing facilities and meeting rooms
- (e) Offices – business, medical and professional
- (f) Public and private educational facilities
- (g) Parking lots and garages
- (h) Public parks and recreation facilities
- (i) Government uses
- (j) Recreational uses, including cinemas and theatres

~~All uses, if not prohibited below or specifically permitted above but which can be construed to be allowed under these permitted uses, shall be deemed permitted.~~

~~All uses, if not prohibited below or specifically permitted above, shall be deemed permitted.~~

B. Conditional Uses

- 1) Bars, taverns, cabarets, and lounges provided that individual establishments shall not exceed three thousand (3,000) square feet in gross floor area.
- 2) Religious uses.

C. Prohibited Uses

The permitted uses listed in this district shall not be construed to include, either as a principal or accessory use, any of the following:

- 1) Pawnshops
- 2) Automobile and light truck new sales agency or rental
- 3) Automobile service stations
- 4) Automobile self-service gas stations
- 5) Automobile storage within a building
- 6) Installation of automobile tires, batteries and accessories
- 7) Automobile washing
- 8) Adult entertainment as defined in Article II.
- 9) Apartment Hotels
- 10) Single-Family, Duplex Homes.

