

ORDINANCE No. 2009-30-202

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, PROHIBITING THE ELIMINATION OF BODILY WASTE IN PUBLIC; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Miami Gardens have the authority to protect the health, safety, and welfare of all of its residents, and

WHEREAS, the City Council desires to maintain a clean and safe environment and prevent living conditions that would contribute to disease transmission, trespassing, litter, the destruction of private and public property, and other serious conditions, and

WHEREAS, the City finds that it is in the public interest to prohibit public urination and defecation unless a person, due to either age or verified infirmity, lacks full control of their bodily functions that control urination or defecation , and

WHEREAS, the City has a compelling interest in preventing urinating or defecation in public in Miami Gardens, and

WHEREAS, the Mayor and City Council of the City of Miami Gardens, would like to adopt an ordinance to provide protection and safety in public places within the City, and

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: An Ordinance relating to Urinating and Defecating in public is hereby created in the City of Miami Gardens, as follows:

**URINATING AND DEFECATING IN PUBLIC**

**SECTION A. Definitions.**

For the purpose of this ordinance, *Public Place*: shall mean any place where the conduct may reasonably be expected to be viewed or could be viewed by.

**SECTION B. Urinating and Defecation Prohibited.**

1. It shall be unlawful for any person to intentionally urinate or defecate in plain view of the public on any public sidewalk, street, alley, park, mall or other public place in the city. For purposes of this section "in plain view of the public" shall mean where such act may be readily observed by a member of the public.
2. This section shall not apply to urinating or defecating in any restroom facility in a manner for which that facility was designed.
3. This section shall not apply to the following individuals;
  - a. Children under the age of five (5) or younger;
  - b. Persons of any age who violated this ordinance due to a verified medical condition.

**SECTION C. Penalty.**

Any person convicted of a violation of this section shall be punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed sixty (60) days, or both, in the discretion of the County Court.

**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

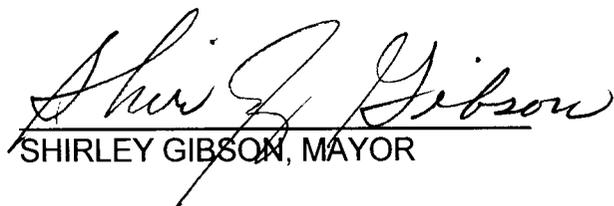
court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

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 14<sup>th</sup> DAY OF OCTOBER.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 28<sup>th</sup> DAY OF OCTOBER, 2009

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

Ordinance No. 2009-30-202

Prepared by SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: Danny Crew, City Manager

MOVED BY: Vice Mayor Gilbert  
SECOND BY: Councilwoman Watson

**VOTE: 7-0**

Mayor Shirley Gibson	<u>  X  </u> (Yes)	___ (No)
Vice Mayor Oliver Gilbert, III	<u>  X  </u> (Yes)	___ (No)
Councilman Melvin L. Bratton	<u>  X  </u> (Yes)	___ (No)
Councilwoman Barbara Watson	<u>  X  </u> (Yes)	___ (No)
Councilman Andre' Williams	<u>  X  </u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	<u>  X  </u> (Yes)	___ (No)
Councilman Aaron Campbell	<u>  X  </u> (Yes)	___ (No)



## City of Miami Gardens Agenda Cover Memo

<b>Council Meeting Date:</b>	<i>October 28, 2009</i>		<b>Item Type:</b> <i>(Enter X in box)</i>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
					<b>X</b>		
<b>Fiscal Impact:</b> <i>(Enter X in box)</i>	Yes	No	<b>Ordinance Reading:</b> <i>(Enter X in box)</i>	<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>	Yes	No	Yes
<b>Funding Source:</b>	N/A		<b>Advertising Requirement:</b> <i>(Enter X in box)</i>		<b>Yes</b>		<b>No</b>
				X			
<b>Contract/P.O. Required:</b> <i>(Enter X in box)</i>	Yes	No	<b>RFP/RFQ/Bid #:</b>				
		X					
<b>Sponsor Name</b>	<b>Dr. Danny O. Crew</b>		<b>Department:</b>	<i>Police Department</i>			
<b>Short Title:</b>							

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, PROHIBITING THE ELIMINATION OF BODILY WASTE IN PUBLIC; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

### Staff Summary:

Since being implemented in December 2007, the Miami Gardens Police Department (MGPD) has consistently responded to calls for service and enforced the laws of the State of Florida as well as Ordinances of the City of Miami Gardens. This enforcement has been done with vigor and success in order to prevent / reduce crime, and provide an environment of safety for our residents and business owners. During this initial implementation, quality of life issues have been at the forefront of complaints from residents and business owners alike. The perception that an area is not safe creates a negative environment and interferes with commerce and resident activity.

This proposed ordinance will enhance the opportunity for residents to be secure in their community by prohibiting individuals from urinating and/or defecating in public. The police department routinely fields calls, observes these acts and receives complaints about such behavior. In addition to the negative public health aspect of these actions, many times perpetrators facilitate these activities in front of minor children and others using public transportation or who are attempting to conduct business within the City of Miami Gardens. This type of indecency creates a negative image for those being exposed to these actions and cast a poor light on our community as a whole. Enabling officers to take enforcement action in these instances will curve repeated instances and enhance public safety.

**ITEM I-2) ORDINANCE  
SECOND READING/PUBLIC HEARING  
Prohibiting the elimination of bodily  
waste in public**

**Ordinance Provisions:**

The ordinance provides that MGPD officers may enforce the ordinance prohibiting urination and/or defecation in public view. The penalty for violation of this ordinance will be punishable by a term not to exceed 60 days in jail and a fine not to exceed \$500.00.

**Recommendation:**

That the City Council enact the attached ordinance prohibiting urination ad/or defecation in public view.

**Attachment:**

None