

ORDINANCE NO. 2011-07-249

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 16-57 OF THE CITY OF MIAMI GARDENS CODE OF ORDINANCES TO INCLUDE A PROVISION THAT WILL PROHIBIT RESIDENTIAL PROPERTY OWNERS FROM PLANTING CERTAIN NUISANCE TREES AND PLANTS IN PUBLIC RIGHTS OF WAY (SWALE AREAS); 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 owns all of the swale areas adjacent to public rights of way,  
and

WHEREAS, the City Code provides a process whereby property owners are able to obtain a permit in order to plant in the swale areas, and

WHEREAS, it has come to the attention of Councilman David Williams Jr. that certain property owners are planting “nuisance” plants in the swale areas which proposes a potential danger to pedestrian, and

WHEREAS, Councilman David Williams Jr. would like to propose an amendment to the City’s Property Maintenance Ordinance whereby residential property owners would be prohibited from planting these nuisance trees in the swale areas of the City, and

WHEREAS, the proposed Ordinance would also authorize the Director of Public Works or his/her designee to remove any such trees and plants without prior notice,

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 paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Section 16-57 of the City of Miami Gardens Code of Ordinance shall be amended as follows:

**Sec. 16-57. Maintenance of property, buildings, structures, walls, fences, signs, pavement, landscaping and drainage facilities.**

\* \* \* \* \*

- (e) It shall be the responsibility of the owner of property in a residential-zoned district and adjacent to a city right-of-way to maintain the swale area which abuts their property. Residential property owners shall not plant trees/plants that are prickly to the touch, in any public rights-of-way (swale areas), and the director of public works, or his/her designee shall have the authority to remove said trees/plants without prior notice.

\* \* \* \* \*

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 CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.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

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

PASSED ON FIRST READING ON THE 13<sup>TH</sup> DAY OF APRIL, 2011.

PASSED ON SECOND READING ON THE 27<sup>TH</sup> DAY OF APRIL, 2011.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 27<sup>TH</sup> DAY OF APRIL, 2011.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: COUNCILMAN DAVID WILLIAMS JR.

Moved by: Councilman Gilbert  
Second by: Councilwoman Robinson

VOTE: 4-0

Mayor Shirley Gibson	<u>      </u> (Yes)	<u>      </u> (No)(not present)
Vice Mayor Aaron Campbell, Jr.	<u>      </u> (Yes)	<u>      </u> (No)(not present)
Councilman David Williams Jr	<u>      </u> (Yes)	<u>      </u> (No)(not present)
Councilwoman Lisa Davis	<u>  X  </u> (Yes)	<u>      </u> (No)
Councilman Oliver Gilbert, III	<u>  X  </u> (Yes)	<u>      </u> (No)
Councilwoman Felicia Robinson	<u>  X  </u> (Yes)	<u>      </u> (No)
Councilman Andre' Williams	<u>  X  </u> (Yes)	<u>      </u> (No)