

ORDINANCE NO. 2010-13-221

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING A MORATORIUM ON THE SUBMISSION, PROCESSING AND ISSUANCE OF CERTIFICATES OF USE AND BUSINESS TAX RECEIPTS FOR THE OPERATION OF PAIN CLINICS AND PAIN MANAGEMENT CLINICS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A STUDY(S); PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Miami Gardens is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law, and

WHEREAS, the City and surrounding neighboring municipalities have experienced an influx of "pain clinics" and "pain management clinics", and

WHEREAS, a pattern of illegal drug use and distribution has been associated with pain management clinics, which dispense on-site narcotic drugs, and

WHEREAS, Staff is requesting time to research and study the nature and scope of possible measures for regulating "pain clinics" and "pain management clinics" and businesses involved in the dispensing of narcotic prescription drugs,

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. ESTABLISHMENT OF MORATORIUM: A moratorium on the submission, processing and issuance of Certificates of Use and Business Tax Receipts for the operation of pain clinics and pain management clinics, as defined herein is hereby established for a period of sixty (60) days from the effective date of this ordinance. The moratorium is subject to the provisions of Section 3 herein. Except as otherwise provided herein, no department of the City shall issue any permits, development orders, or undertake the review and approval of any site plans, building permits, or development plans with respect to such uses within the City during the term of the moratorium established hereby.

Section 3. EXEMPTION: This moratorium shall not affect any business currently operating within the City pursuant to a validly issued Business Tax Receipt until the renewal date of such business tax receipt.

Section 4: STUDY: The City Manager and City Attorney, as well as such other departments of the City, as the City Manager shall deem appropriate shall continue to study pain management clinics and shall report back to the Mayor and City Council the results of any studies.

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

PASSED ON FIRST READING ON THE 12TH DAY OF MAY, 2010.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 26<sup>th</sup> DAY OF MAY, 2010.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA K. DICKENS, CITY ATTORNEY

SPONSORED BY: DANNY O. CREW, CITY MANAGER

Moved by: Vice Mayor Campbell  
Second by: Councilman Gilbert

VOTE: 7-0

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



## City of Miami Gardens Agenda Cover Memo

<b>Council Meeting Date:</b>	May 26, 2010		<b>Item Type:</b>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
			<i>(Enter X in box)</i>		X		
<b>Fiscal Impact:</b>	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>	<b>Yes</b>	<b>No</b>	<b>Yes</b>	<b>No</b>
<b>Funding Source:</b>	N/A		<b>Advertising Requirement:</b>	<b>Yes</b>		<b>No</b>	
				<i>(Enter X in box)</i>		x	
<b>Contract/P.O. Required:</b>	Yes	No	<b>RFP/RFQ/Bid #:</b>	N/A			
		X					
<b>Sponsor Name</b>	Dr. Danny O. Crew, City Manager		<b>Department:</b>	City Manager			

### Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING A MORATORIUM ON THE SUBMISSION, PROCESSING AND ISSUANCE OF CERTIFICATES OF USE AND BUSINESS TAX RECEIPTS FOR THE OPERATION OF "PAIN CLINICS" AND "PAIN MANAGEMENT CLINICS"; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A STUDY(S); PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

### Staff Summary:

The attached ordinance proposes a temporary moratorium on the processing of certificates of use and business tax receipts for pain clinics within the City. By way of history, Councilman Oliver Gilbert contacted the City Attorney to determine whether the City prohibits pain management clinics. Councilman Gilbert was advised that the City does not currently prohibit pain management clinics. As such, Councilman Gilbert requested the City Attorney to draft an ordinance, to prohibit such uses, for consideration by the City Council.

The Miami Gardens Police Department has recently become aware of increased criminal activity, including illegal prescription drug sales, noise, loitering and littering around pain clinics located within the City. As a result, the City Attorney suggested that the City Manager issue an administrative moratorium to allow Staff an opportunity to study the matter and draft the legislation proposed by Councilman Gilbert. On April 13, 2010, the City Manager issued an

**ITEM I-1) ORDINANCE**  
**SECOND READING/PUBLIC HEARING**  
**Moratorium on Pain Management Clinic**

administrative moratorium on the processing of any and all zoning approvals, including certificates of use and business tax receipts, relating to pain management clinics within the City of Miami Gardens.

During the period of the administrative moratorium, Staff has begun conducting research and studying various regulatory options. It is anticipated that a final version of the attached Ordinance regulating pain management clinics will be placed on the agenda for the May 26, 2010 meeting of the City Council.

**Proposed Action:**

Staff recommends that the City Council adopt a moratorium on the processing of any and all zoning approvals, including certificates of use and business tax receipts, relating to pain management clinics within the City of Miami Gardens, until the ordinance requested by Councilman Gilbert can be finalized.

**Attachment:**

None