

ORDINANCE OF THE CITY OF WEST MIAMI, FLORIDA,
AUTHORIZING MUNICIPAL JUDGE OR ASSOCIATE
JUDGE TO ISSUE SEARCH WARRANTS UPON PROBABLE
CAUSE IN CONNECTION WITH ENFORCEMENT OF FIRE,
HEALTH, HOUSING, ZONING, OR LICENSING LAWS OF
THE CITY, COUNTY, OR STATE.

WHEREAS, the Supreme Court of the United States in the case of Cammara v. Municipal Court, 18 L.Ed. 2d 930, and in the case of See vs. Seattle, 18 L.Ed. 2d 943, has held that search warrants are necessary for the inspection of private dwellings and commercial structures in connection with periodic or areawide inspections to determine whether or not violations of municipal ordinances pertaining to fire, health, housing, zoning, and licensing exist; and

WHEREAS, the Supreme Court in said decisions recognized the need of periodic areawide inspections in connection with the enforcement of such ordinances as well as the need to inspect upon probable cause of specific violation; and

WHEREAS, the Mayor and Officers and Employees of the City of West Miami who are charged with the enforcement of City Ordinances dealing with fire, health, housing, zoning and licensing, must, on occasion, gain entry into private dwellings and commercial structures for purposes of inspection;

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WEST MIAMI, FLORIDA:

Section 1. A search warrant authorized by this Ordinance may be issued by the Municipal Judge or Associate Judges of the City of West Miami, Florida to search a private dwelling or commercial structure within the City of West Miami, Florida.

Section 2. Upon proper affidavits being made a search warrant may be issued under the provisions of this Ordinance upon either of the following grounds:

A. When any property shall have been used in violation of any fire, health, housing, zoning or licensing ordinance of the City or Dade County or similar laws of the State of Florida and the owner or occupant of said property shall have refused to permit the Mayor, Officers or Employees of the City to enter the premises for purposes of inspection.

B. Whenever it is necessary to make periodic or area-wide inspections for the enforcement of fire, health, housing, zoning or licensing laws of the City, Dade County, or the State of Florida, and the owner or occupant of said property shall have refused to permit the Mayor, Officers or Employees of the City to enter the premises for purposes of inspection.

Section 3. The right of the people to be secure in their private dwellings and commercial structures against unreasonable searches shall not be violated and no search warrant shall be issued except upon probable cause supported by oath or affirmation particularly describing the place to be searched; no search warrant shall be issued in blank and any such warrant shall be returned within ten (10) days after issuance thereof.

Section 4. The Municipal Judge or Associate Judge must, before issuing the warrant, have the application of some person for said warrant duly sworn to and subscribed, and may receive further testimony from witnesses or supporting affidavits, or depositions in writing, to support the application. The affidavit and further proof, if same be had or required, must set forth the facts tending

to establish the grounds of the application or probable cause for believing that they exist.

Section 5. The Municipal Judge or Associate Judge, upon examination of the application and proof submitted, if satisfied that probable cause exists for the issuing of the search warrant, shall thereupon issue a search warrant signed by him with his name of office, to the Mayor or any other Officer or Employee of the City authorized to make inspections required by law, commanding said person forthwith to search the property described in the warrant and to report in writing under oath the results of his search and if any photographs of the premises have been taken in connection with the search to file same or copies with the report of the search.

Section 6. The search warrant shall in all cases be served by the person mentioned in its direction, and by no other person except in aid of the person mentioned in its direction, said person being present and acting in its execution.

Section 7. The person named to serve such warrant may break open any outer door, inner door or window of the private dwelling or commercial structure, to execute the warrant, if after due notice of his authority and purpose he is refused admittance to said private dwelling or commercial structure, or access to anything therein.

Section 8. A search warrant issued under the provisions of this Ordinance may, if expressly authorized in such warrant by the Municipal Judge or Associate Judge issuing the same, be executed by being served either in the daytime or in the nighttime, as the exigencies of the occasion may demand or require.

Section 9. A search warrant may be executed by being served on Sunday, if expressly authorized in such warrant by the Municipal Judge or Associate Judge issuing the same.

Section 10. All search warrants shall be issued in duplicate. The duplicate shall be delivered to the person named to serve the warrant along with the original warrant, and when the warrant is served a copy shall be delivered to the person named in the warrant, or in his absence to some person in charge of, or living on the premises.

Section 11. Upon return of the warrant the person named to serve same shall attach thereto or thereon a written report, under oath, of any condition found on the premises to be in violation of the fire, health, housing, zoning, or licensing laws of the City, County or State, and shall attach any photographs of the premises or portions of the premises taken in connection with said search.

Section 12. The Municipal Judge or Associate Judge to whom the warrant is returned, upon the request of the owner or occupant of the premises searched shall deliver thereto a true copy of the report, under oath, of said search.

Section 13. Whoever shall knowingly and wilfully obstruct, resist, or oppose any person named in a search warrant or any person aiding such person, in serving or attempting to serve or execute any search warrant, or shall assault, beat or wound said person or his assistants, knowing him to be so authorized, shall be subject to penalty of a fine not to exceed Five Hundred Dollars (\$500.00) or not to exceed thirty (30) days imprisonment, or both, in the discretion of the City Judge.

Section 14. Any person who maliciously and without probable cause procures a search warrant to be issued and executed shall

be punished by imprisonment not to exceed sixty (60) days and fine not to exceed Five Hundred Dollars (\$500.00), or both, in the discretion of the City Judge.

Section 15. Any person who, in executing a search warrant, wilfully exceeds his authority or exercises it with unnecessary severity shall be punished by imprisonment not to exceed sixty (60) days and fine not to exceed Five Hundred Dollars (\$500.00), or both, in the discretion of the City Judge.

Section 16. This Ordinance is adopted pursuant to the authority contained in Article VIII, Section 2(b), Constitution of Florida, 1968.

Section 17. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 18. Should any section or provision of this Ordinance or any portion thereof, any paragraphs, sentences, words, etc., be declared unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder hereof as a whole or any part hereof, other than the part so declared to be invalid.

Section 19. By reason of the nature of the content of this Ordinance it shall be included in the City Code.

Section 20. This Ordinance shall become effective

PASSED AND ADOPTED, this 19 day of December, 1973.

Attest:

Bona Blum
City Clerk

Martin Zeln
President, City Council

APPROVED:

Edmund Cooper
MAYOR