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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Jean Monestime and Members, Board of County Commissioners

DATE: May 5, 2015

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Ordinance relating to zoning; amending Sections 33-238 and 33-259 of the Code; providing for agricultural uses within electrical utility easements, public properties and rights-of-way in BU (Business Use) and IU (Industrial Use) zoning districts subject to conditions

Ordinance No. 15-26

This item was amended at the 4-14-15 Unincorporated Municipal Service Area Committee to provide for the consent of utility easement holders, in addition to property owners, when considering new agricultural uses in subsections 1.4; 1.4(f); 89.1; and 89.1(f). The amendment also removes the term "shall" and replaces it with the word "may" with regard to the provision of bicycle path easements. The amendment also adds "railroads" in subsection 1.4 and removes the deletion of "railroads" in subsection 89.1 to clarify that the only rights-of-way that may be used for agricultural uses are railroad rights-of-way.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz and Co-Sponsor Commissioner Daniella Levine Cava.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

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Memorandum

MIAMI-DADE COUNTY

Date: May 5, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Relating to Zoning and Providing for Agricultural Uses

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The proposed ordinance amends sections 33-238 and 33-259 of the code pertaining to zoning, authorizing for agricultural uses within electrical utility easements, public properties and rights-of-way in BU (Business Use) and IU (Industrial Use) districts subject to specified conditions. Implementation of this ordinance will not have a fiscal impact on the county.

Jack Osterholt
Deputy Mayor

fis04815

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: May 5, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)
5-5-15

ORDINANCE NO. 15-26

ORDINANCE RELATING TO ZONING; AMENDING SECTIONS 33-238 AND 33-259 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR AGRICULTURAL USES WITHIN ELECTRICAL UTILITY EASEMENTS, PUBLIC PROPERTIES AND RIGHTS-OF-WAY IN BU (BUSINESS USE) AND IU (INDUSTRIAL USE) ZONING DISTRICTS SUBJECT TO CONDITIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-238 of the Code of Miami-Dade County, Florida, is hereby amended as follows:[1]

Sec. 33-238. Uses permitted.

No land, body of water or structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any BU-1 District, which is designed, arranged or intended to be used or occupied for any purpose, except for one (1) or more of the following uses:

(1) Residential uses may be permitted as a combination of permitted business uses and residential uses housed in the same building; the floor area of the residential use shall not exceed fifty (50) percent of the floor area of the building.
(1.1) Workforce housing units in compliance with the provisions of this section and Article XIIA of this code.
(1.2) Allied health care clinical colleges/universities.
(1.3) Adult day care center.

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

>>(1.4) Agricultural uses are authorized in electrical utility easements, public properties, and<< >>railroad<<[2] >>rights-of-way, with the consent of the property owner<< >>and utility easement holder (when applicable)<< >>, subject to the following conditions:

(a) No on-site retail sales shall be permitted;

(b) The use shall be conducted on sites with a minimum of one (1) acre;

(c) Permitted agricultural uses shall include horticulture, floriculture, viticulture, forestry and apiculture;

(d) No permanent structures shall be permitted;

(e) Where parking is provided on-site, the parking spaces shall be provided on an unimproved surface;

(f) If a nursery is located in an easement or right-of-way identified in the Metropolitan Planning Organization's Bicycle Facilities Plan or in the County's Park and Open Space Master Plan as part of the County's bicycle network or as a greenway/trail, a bicycle and pedestrian easement<< [[~~shall~~]] >>may<< >>be provided subject to the property owner's<< >>and utility easement holder's (when applicable)<< >>approval;

(g) A Certificate of Use shall be obtained, and shall be renewed annually subject to the conditions contained in this subsection; and

(h) The use shall not be located closer than 25' to the boundary of a residentially-zoned property or a property designated on the Land Use Plan (LUP) map for residential use.<<

* * *

Section 2. Section 33-259 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 33-259. Uses permitted.

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[2] Committee amendments are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

No land, body of water or structure shall be used or permitted to be used and no structure shall be erected, constructed, moved or reconstructed, structurally altered, or maintained, which is designed, arranged or intended to be used or occupied for any purpose, unless otherwise provided herein, in IU-1 District, excepting for one (1) or more of the following:

* * *

(89) Welding supplies.

(89.1) [[~~Plant nurseries~~]] >>Agricultural uses<< are authorized in >>electrical<< utility easements>>, public properties<< and >>railroad<< rights-of-way, with the consent of the property owner >>and utility easement holder (when applicable)<<, subject to the following conditions:

(a) [[~~The nursery use shall be conducted by a not-for-profit corporation and shall be incidental to an on-site educational program that provides career training or medical or educational therapy programs.~~

~~(b)~~]] No on-site >>retail<< sales shall be permitted;

[[~~(c)~~]]>>(b)<<The use shall be conducted on sites with a minimum of one (1) acre net lot area;

>>(c) Permitted agricultural uses shall include horticulture, floriculture, viticulture, forestry and apiculture;

(d) No permanent structures shall be permitted;

(e) Where parking is provided on-site, the parking spaces shall be provided on an unimproved surface;

(f) If the nursery is located in an easement or right-of-way identified in the Metropolitan Planning Organization's Bicycle Facilities Plan or in the County's Park and Open Space Master Plan as part of the County's bicycle network or as a greenway/trail, a bicycle and pedestrian easement<< [[~~shall~~]] >>may<< >>be provided subject to the property owner's<< >>and utility easement holder's (when applicable)<< >>approval;<<

[[~~(d)~~]]>>(g)<< A Certificate of Use shall be obtained, and shall be renewed annually subject to the conditions contained in this subsection; and

[[~~(e)~~]]>>(h)<< [[~~The use shall not be permitted on property abutting residentially zoned properties or properties designated on the Land Use Plan (LUP) map for residential use.~~]] >>The use shall not be located closer than 25' to the boundary of a residentially-zoned property or a property designated on the Land Use Plan (LUP) map for residential use.<<

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of this Board of County Commissioners, and is hereby ordained that the provisions of this ordinance shall become and made part of the Code of Miami-Dade County, Florida. The section of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article" or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: May 5, 2015

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

Lauren E. Morse

Prime Sponsor: Commissioner Jose "Pepe" Diaz
Co-Sponsor: Commissioner Daniella Levine Cava