MEMORANDUM

Agenda Item No. 6(B)

TO:	Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners	**DATE:**	May 11, 2004
FROM:	Robert A. Ginsburg County Attorney	**SUBJECT:**	Ordinance pertaining to minimum maintenance standards for property in the unincorporated areas of Miami-Dade County

The accompanying ordinance was prepared and placed on the agenda at the request of Senator Javier D. Souto and Commissioner Dennis C. Moss.

Robert A. Ginsburg
County Attorney

RAG/bw

MEMORANDUM

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

DATE: May 11, 2004

FROM: George M. Burgess
County Manager

SUBJECT: Ordinance pertaining to minimum maintenance standards for property in the unincorporated areas of Miami-Dade County

The proposed ordinance pertaining to minimum maintenance standards for property in the unincorporated areas of the County will have no fiscal impact on Miami-Dade County.

MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

DATE: May 11, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(B)

Please note any items checked.

_____ **"4-Day Rule" ("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**

_____ **Bid waiver requiring County Manager's written recommendation**

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

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(B)
5-11-04

ORDINANCE NO. _____

ORDINANCE PERTAINING TO MINIMUM MAINTENANCE STANDARDS FOR PROPERTY IN THE UNINCORPORATED AREAS OF MIAMI-DADE COUNTY; MODIFYING CHAPTER 19 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA (THE "CODE"); AMENDING SECTIONS 19-3, 19-8, 19-12, 19-13, 19-15.3, 19-15.5, 19-15.12 OF THE CODE; PROVIDING AUTHORITY FOR ENFORCEMENT BY CIVIL PENALTY; 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. Sec. 19-3 of the Code of Miami-Dade County, Florida, is hereby amended as follows: [1]

Sec. 19-3. Definitions.

(A) *Abandoned property.* This term shall relate to articles of personalty, including without limitation: motor vehicles; trailers; boats or other vessels; refrigerators, washing and drying machines, or other machinery; and plumbing fixtures. The following criteria shall be considered in determining whether property has been abandoned, but no single criterion shall be conclusive:

* * * *

(5) [[~~The length of time the personalty has remained in its present location.~~]]>>Evidence that the article has not moved from its present location and position and no repair activity has taken place over a 72-hour period, including evidence that one or more tires have been raised from the ground on jacks, blocks, lifts, or other structures.<<

[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.

Abandoned property shall also be deemed "junk" within the meaning of this chapter.

>>(AA) *Advertising device.* A machine or other device used to attract public attention to a product or business.<<

* * * *

(J) *Junk.* Trash or abandoned property.

(1) Junk shall include, without limitation: old and dilapidated motor vehicles, trailers, boats or other vessels and parts thereof, household appliances, scrap, building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, mattresses, beds, bedding, or any other kind of waste material.

(2) Personalty in >>a structure enclosed by four walls and a roof, such as<< a garage >>or utility shed<< [[~~or a carport~~]] shall not be construed as junk.

* * * *

>>(KK) *Open-Air Storage.* Placement of an article in an area other than in a structure enclosed by four walls and a roof, such as a garage or utility shed, that conceals it from public view shall be deemed to be open-air storage. Placement of an article under a carport or front porch that is not so enclosed shall be considered open-air storage.<<

Section 2. Sec. 19-8 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 19-8. Storing junk or trash; depositing junk; characteristics of junk property; application to all zoning districts; prohibition of junk yards in residential districts; prohibition on expansion of existing junkyards in non-residential districts.

(A) Notwithstanding the maintenance schedules in this chapter, it shall be unlawful to deposit, store, or maintain, or to permit to be deposited, stored, or maintained, junk >>as defined in Sec. 19.3(J) of this Code,<< in or on any lot, parcel or tract of land or body of water in any zoning district, except within a legally established junkyard. The

deposit of junk in a location authorized for waste collection is exempted from this section, provided the junk is not or does not become a nuisance, and provided the junk is collected by Miami-Dade County or a County-authorized commercial waste collector.

* * * *

(C) Junk property which would be visible, at ground level, from a street or other public or private property but for the concealment of such junk property behind a wall, fence, hedge or other plant material or by the use of >>a vehicle cover,<< plastics, fabrics or other materials to form a tent, curtain partition or similar makeshift structure or device, shall be subject to this section.

Section 3. Sec. 19-11 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 19-11. Construction materials on premises before permit issued; removal of materials.

Construction materials and equipment shall not be deposited on any lot in any zoning district prior to the obtaining of a building permit. Surplus materials and construction equipment shall be removed from the premises before occupancy of the completed structure is approved and shall be removed even if the job is abandoned >>or the permit lapses<<.

Section 4. Sec. 19-12 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 19-12. Abandoned property on public property.

(A) Whenever the enforcement officer ascertains that abandoned property is present on public property, the officer shall place a notice upon the abandoned property in substantially the following form:

NOTICE TO THE OWNER OR THE AUTHORIZED AGENT OF THE OWNER OF THE ATTACHED PROPERTY

This property (setting forth brief description) is

unlawfully upon public property known as (setting forth brief description of location) and shall be removed within [[~~ten (10)~~]] >>five (5)<< days from the date of this notice; otherwise a civil violation shall be issued and it shall be presumed to be abandoned property and shall be removed and destroyed by order of Miami-Dade County at owner's expense. You may within [[~~ten (10)~~]] >>five (5)<< days from the date of this notice, request an opportunity to show cause for your failure to remove this property by writing to the Team Metro Director, 111 N.W. First Street, Miami, Florida 33128.

Dated this: (setting forth the date of posting of notice) Signed: (setting forth name, title, address and telephone number of enforcement officer)

Such notice shall be not less than eight (8) inches by ten (10) inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition, at the time of posting, the enforcement officer shall make a reasonable effort to ascertain the name and address of the last owner of said personalty. If the name and address is obtained by the officer, he shall mail, via certified mail, a copy of such notice to the last owner.

(B) If, at the end of [[~~ten (10)~~]] >>five (5)<< days after posting such notice, or, in the case where notice is mailed, [[~~ten (10)~~]] >>five (5)<< days after mailing, the owner or the authorized agent of the owner of the abandoned article or articles described in such notice has not removed the article or articles from public property or requested an opportunity to show reasonable cause for failure to do so, the enforcement officer shall issue a civil citation and may cause the article or articles of abandoned property to be removed and destroyed, and the salvage value, if any, of such articles or articles may be retained by the county to be applied against the cost of removal and destruction thereof.

(C) Reasonable cause under this subsection shall be determined by the Director at a hearing on the matter if requested in writing by the owner within [[~~ten (10)~~]] >>five (5)<< days after notice has been posted on the article or mailed to the last owner, whichever is later. The request shall make reference to the number on the notice which was posted on the personalty. The hearing shall be conducted pursuant to

the procedures set forth in Chapter 8CC of the Code of Miami-Dade County, except that written request for the hearing shall be made within the time herein set forth.

* * * *

Section 5. Sec. 19-13 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 19-13. Maintenance of Lots in Residential-Zoned Districts.

* * * *

>>(D) Open-air storage in residential-zoned districts is subject to the following provisions:

(1) Open-air storage of the following materials is prohibited:

(a) Junk, as defined in this Chapter.

(b) Merchandise or manufacturing materials. Evidence of one or more of the following shall create a rebuttable presumption that merchandise or manufacturing materials are being stored on the premises:

(i) Multiple boxes of uniform appearance bearing shipping labels;

(ii) Multiple articles of similar type in unused condition, including without limitation raw materials for manufacturing furniture and computer components;

(iii) Pallets containing multiple boxes;

(iv) The residential address is being used as a business address or business delivery address.

(c) Commercial equipment, including without limitation vending machines.

(d) Motor vehicle parts, including without limitation automobile engines and transmissions.

(e) Household furniture, including without limitation sofas and recliners.

(f) Construction materials, including without limitation lumber and cement blocks.

(g) Construction and demolition equipment, including without limitation cement mixers,

jack hammers, and roof tar pots, provided, however, that light-use equipment customarily used for do-it-yourself home repair, including without limitation hand tools, power tools, and table saws, shall not be prohibited.

(2) Properties with bona fide agricultural uses shall be exempt from this subsection.<<

Section 6. Sec. 19-15.3 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 19-15.3. Parking and paved areas.

Parking and paved areas shall be maintained free of deterioration. Deterioration shall be defined as visible holes exceeding a depth of two inches and more than 5 square inches in area, damaged parking stops or missing striping or lot markings, including striping of parking spaces, required striping and pavement markings for disabled parking spaces, as well as access ramps and access paths for wheelchair traffic, as required under Article II, Section 30-442 of the Code of Miami-Dade County and Section 553.5041(6) of the Florida Statutes >>, and required striping and pavement markings for parking spaces for persons transporting young children and strollers, as required by Section 33-122.2 of this Code<<. Parking areas and paved areas shall be maintained in accordance with the approved site plan and public works, building or zoning permits.

* * * *

Section 7. Sec. 19-15.5 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 19-15.5. Bicycle Racks and Litter [[~~Bins~~]] >>Containers<<; Anti-littering Signage>>;<< [[~~and~~]] Right-of-way and Overall Cleanliness of premises >>; Compliance with Site Plan Requirements<<.

* * * *

(C) All shopping centers, strip malls, grocery stores, restaurants or commercial establishments that sell takeout beverages or food shall provide a litter container near every entrance and at every 100 feet along any established pedestrian walkway within the footprint of such property [[~~as required by Sec. 33-122.4 of the Code of Miami-Dade County~~]]. Litter containers shall be well designed and secured in a manner that will cause them to remain stationary where placed. They shall be maintained free of graffiti and overflow trash. Placement of the containers shall not interfere with access to the facilities by pedestrians or by individuals with disabilities, as required by the Americans with Disabilities Act Accessibility Guidelines in the Code of Federal Regulation, Title 36, Pt. 1191, App. A. The civil penalty for a violation of this section is $100.

* * * *

>>(F) All establishments shall provide screening for service areas, including waste disposal areas, if required by Chapter 33 of this Code, and shall otherwise comply with the site plan approved pursuant to Sec. 33-245.2 of this Code.<<

Section 8. Sec. 19-15.12 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 19-15.12. Prohibited Display of Vehicles for Sale or as Advertising Devices.

* * * *

(B) No vehicle >>, trailer, or other mobile article<< shall be allowed to be used solely as [[~~a commercial advertising sign~~]] >>an advertising device<< in a parking lot >>or nearby right-of-way<<. Any vehicle, trailer or other mobile article that remains in the same parked location for more than 72 hours and that contains commercial advertising or that meets the junk criteria in this Chapter shall be a prima facie violation of this subsection.

* * * *

Section 9. Section 8CC-10 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this Chapter 8CC, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

Code Section	*Description of Violation*	*Civil Penalty*
>>19-13(D)	Open-air storage of prohibited items	$100.00<<
>>19-15.5(F)	Failure to comply with site plan	$500.00<<

Section 10. Each section subsection, sentence, clause and phrase of this Ordinance is declared to be independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of the Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 11. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections 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 12. 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:

Approved by County Attorney as
to form and legal sufficiency: RAG

Prepared by:

Dennis A. Kerbel

Sponsored by Senator Javier D. Souto
and Commissioner Dennis C. Moss