MEMORANDUM

Agenda Item No. 7(H)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: September 1, 2009

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

SUBJECT: Ordinance amending Section 33-19 of the Code to provide for permanent donation collection bins on improved property owned by a charity and providing for buffering, set backs and permit requirements

This Substitute No. 2 differs from the original substitute in that it revises the cover memorandum to read as follows:

It differs from the original item in that it improves the organization of the provisions; clarifies that the proceeds from the donation collection bins must be used in accordance with the not-for-profit's charitable purpose to benefit persons in Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters and must be operated by the not-for-profit organization, not by a licensee, subcontractor or agent of said not-for-profit; provides that the not-for-profit organization may contract with a licensed common carrier to transport donated goods to a disaster site for distribution of same to victims of the disaster; requires that the donation collection bins be shown on site plans, whenever a site plan is legally required; and requires a declaration of use in a form meeting with the approval of the Director of Zoning in connection with the issuance of an annually renewable certificate of use and occupancy.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: September 1, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance amending Section 33-19 of the Code to provide for permanent donation collection bins on improved property owned by a charity and providing for buffering, set backs and permit requirements

---

The ordinance providing for permanent donation collection bins will not have a fiscal impact on Miami-Dade County.

Alex Munoz
Assistant County Manager

fis03309

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: September 1, 2009

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

SUBJECT: Agenda Item No. 7(H)

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 Mayor'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. 7(H)
7-21-09

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 33-19 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE FOR PERMANENT DONATION COLLECTION BINS ON IMPROVED PROPERTY OWNED BY A CHARITY AND PROVIDING FOR BUFFERING, SET BACKS AND PERMIT REQUIREMENTS; 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 33-19 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-19. Donation collection bins prohibited; exceptions.

(a) *Donation collection bins prohibited*[[~~; exceptions~~]]. It shall be unlawful to deposit, store, keep or maintain or to permit to be deposited, stored, kept or maintained a donation collection bin in or on any lot, parcel or tract of land or body of water in any zoning district. A donation collection bin is hereby defined as a receptacle designed with a door, slot or other opening and which is intended to accept and store donated items[[~~; provided, however, the definition of donation collection bins shall not include non-motorized vehicles which comply with the following criteria:~~]]>>.<<

>>(b) Exceptions. The following shall be exempted from the provision of section (a) above:

(1) Non-motorized vehicles which comply with the following criteria:<<

[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.

(i) The non-motorized vehicles must be operated by an organization which has been incorporated as a not-for-profit organization under the laws of the State of Florida for a charitable purpose and which has been declared exempt from the payment of federal income taxes by the United States Internal Revenue Service;

(ii) Personnel directly employed by or volunteers for the not-for-profit organization must be present at the non-motorized vehicles at least five days a week (except holidays) to accept donations;

(iii) The monetary proceeds resulting from the sale of donations collected at a non-motorized vehicle must be used in accordance with the organization's charitable purpose pursuant to Section 33-19(a)(i) to benefit persons within the boundaries of Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters;

(iv) The operation of the non-motorized vehicles, the collection and distribution of donations and proceeds thereof must be conducted by said not-for-profit organization and not by a licensee, subcontractor or agent of the not-for-profit organization; and

(v) The non-motorized vehicles shall be located on sites in accordance with the requirements of Section 33-238(5); provided further that said non-motorized vehicles shall operate in a safe manner, be neat in appearance, well maintained, free of graffiti, fully painted and shall be buffered from adjacent properties by on-site landscaping, walls or similar screening; and

(vi) For each non-motorized vehicle said not-for-profit organization shall submit a declaration

of use in a form meeting with the approval of the Director in connection with the issuance of an annually renewable certificate of use and occupancy. Said declaration of use shall specify compliance with the foregoing conditions.

Non-motorized vehicles which comply with the foregoing criteria are not required to be shown on site plans which are required by the Code to be submitted for approval at public hearing or by administrative site plan review.

>>(2) Permanently placed donation collection bins <<[[~~that~~]][2]>>which comply with the following criteria:

(i) The donation collection bins<< >>are contained wholly upon improved property owned<< >>and operated<< >>by an organization which has been incorporated as a not-for-profit organization under the laws of the State of Florida for a charitable purpose and which has been declared exempt from the payment of federal income taxes by the United States Internal Revenue Service<<[[~~provided that the collection bin~~]]>>;<<

>>(ii) The monetary proceeds resulting from the donations collected at said donation collection bins must be used in accordance with the organization's charitable purpose to benefit persons within the boundaries of Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters. The collection and distribution of donations and proceeds thereof must be conducted by the non-for-profit organization owning and operating the donation collection bins and not by a licensee, subcontractor or agent of said not-for-profit organization; provided, however, that this subsection shall not prevent the not-for-profit

[2] The differences between the substitute and the original item are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

organization from contracting with a licensed common carrier to transport donated goods to a disaster site for distribution of same to victims of the disaster;

(iii) The donation collection bins<< >>shall be permanently affixed to the property and shall have been approved by the Director of the Building Department as meeting the requirements for wind resistance established for Miami-Dade County.<<[[~~Said permanent~~]]>>;<<

>>(iv) The donation collection<< >>bins shall be buffered from view from any location off of the property of said charity and shall not be closer than 75 feet from any property line. Each<<[[~~such permanent bin~~]] >>donation collection bin<< >>shall require a permit from the Department prior to placement on the property. No<<[[~~permanently placed~~]] >>donation collection<< >>bin shall have a floor area in excess of 20 square feet and shall not exceed a height of 6 feet.<< >>Donation collection bins must be shown on site plans which are required by the Code to be submitted for approval at public hearing or by administrative site plan review.<< >>Said bins shall not be required to comply with the windborne debris impact standards of the Florida Building Code. Electrical connections to the bins shall be prohibited<<[[;]]>>; and<<

>>(v) For each donation collection bin said not-for-profit organization shall submit a declaration of use in a form meeting with the approval of the Director in connection with the issuance of an annually renewable certificate of use and occupancy. Said declaration of use shall specify compliance with the foregoing conditions.<<

[[~~(b)~~]]>>(c)<< *Designation of enforcement officer.* The Director shall designate an enforcement officer who shall be responsible for the removal of >>illegal<< donation collection boxes.

[[~~(c)~~]]>>(d)<< *Notification.* Whenever the enforcement officer ascertains that a>>n illegal<< donation collection bin is present on any property within unincorporated Miami-Dade County,

the officer shall cause a notice to be placed on such bin in substantially the following form:

NOTICE

This donation collection bin is unlawfully upon property known as (setting forth brief description of location) and must be removed within seventy-two (72) hours from the time of this notice. Failure to remove the bin shall result in the removal and destruction of the bin by order of Miami-Dade County.

Dated this: (setting forth the date, time of posting of the notice)

Signed: (setting forth name, with the address and telephone number of the 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.

[[~~(d)~~]]>>(e)<< *Removal of donation collection bin.* If at the end of seventy-two (72) hours after posting of such notice, the donation collection bin has not been removed from the property, the enforcement officer shall cause the bin to be removed.

[[~~(e)~~]]>>(f)<< *Assistance of Miami-Dade Police Department.* If the enforcement officer is unable to successfully remove a donation collection bin subject to seizure under this section, the enforcement officer or his designated representatives may secure the assistance of the Miami-Dade Police Department to effect the removal of said bin.

[[~~(f)~~]]>>(g)<< *Obstructing an enforcement officer in the performance of duties.* Whoever opposes, obstructs or resists the enforcement officer in the discharge of duties as provided in this section, upon conviction, shall be guilty of a misdemeanor of the second degree and shall be subject to punishment as provided by law.

[[~~(g)~~]]>>(h)<< *Destruction of donation collection bin.* Whenever a donation collection bin remains unclaimed as provided in Subsection (d) above, it shall be destroyed by order of

Miami-Dade County. The contents of the bin may be destroyed or donated to charity.

[[~~(h)~~]]>>(i)< *Recovery of costs.* All costs incurred pursuant to this section shall be paid by the owner of the donation collection bin. The enforcement officer may institute a suit to recover such expenses against the bin owner.

[[~~(i)~~]]>>(j)<< *Responsibility for compliance.* The owner of the donation collection bin and the tenant and/or owner of the property on which the bin is maintained shall be responsible for compliance with this chapter.

Section 2. 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 3. 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 4. 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:

Prepared by:

Thomas H. Robertson

Prime Sponsor: Commissioner Joe A. Martinez