

MEMORANDUM

Agenda Item No. 7(B)

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

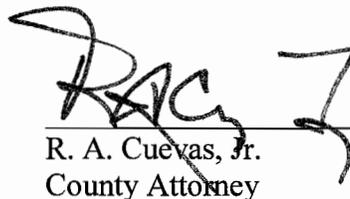
DATE: November 17, 2009

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

SUBJECT: Ordinance relating to zoning
and motor vehicle repair;
amending Section 33-247 of the
Code of Miami-Dade County

This Ordinance was amended at the October 27, 2009 Budget, Planning and Sustainability Committee to clarify that certain repairs (“tire repair, tire installation, tire rotation, or any other repair that falls within the scope of the repair certification categories set forth in Sections 8A-161.25(2)(a)-(e) & (g) of this Code”) are neither exempt from the Motor Vehicle Repair Ordinance nor allowed under zoning district BU-1A’s “Automobile new parts and equipment, sales only” use.

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



R. A. Cuevas, Jr.
County Attorney

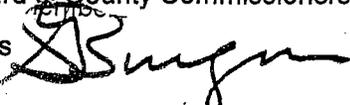
RAC/jls

Memorandum



Date: November 17, 2009

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

From: George M. Burgess 
County Manager

Subject: Amendment to Section 8A-161.3 of the Code; Exempt certain providers of minimal motor vehicle maintenance repairs from obtaining a motor vehicle repair registration

The proposed amendment exempts persons engaged in the sale of automobile new parts and equipment that perform minimal automobile repairs from obtaining a motor vehicle repair registration from the Consumer Services Department.

There are presently 90 business locations registered as motor vehicle repair facilities with the Consumer Services Department (CSD) that will fall under the exclusion. The anticipated annual revenue loss is estimated at \$26,000. Although these businesses will no longer be required to register, occasional inspections may be required to ensure compliance with the conditions set forth under the proposed amendment. Any costs relating to the activity will be incorporated into existing operations of the CSD.

A handwritten signature in black ink, appearing to be "Aly", written over a horizontal line.

Assistant County Manager

fis05409



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss **DATE:** November 17, 2009
and Members, Board of County Commissioners

FROM: R. A. Cuevas, Jr. **SUBJECT:** Agenda Item No. 7 (B)
County Attorney 

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 Manager'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(B)
11-17-09

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING AND MOTOR VEHICLE REPAIRS; AMENDING SECTION 33-247 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE") TO PROVIDE FOR CERTAIN ANCILLARY SERVICES FOR AUTOMOBILE NEW PARTS AND EQUIPMENT SALES FACILITIES; AMENDING SECTION 8A-161.3 OF THE CODE TO EXEMPT CERTAIN PROVIDERS OF MINIMAL AUTOMOBILE MAINTENANCE REPAIRS FROM THE APPLICATION OF THE MOTOR VEHICLE REPAIR ORDINANCE; 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 33-247 of the Code of Miami-Dade County is hereby amended as follows:¹

Sec. 33-247. Uses permitted.

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

* * *

(3) Automobile new parts and equipment, sales only.>>
Notwithstanding the provisions of Section 33-251.2 to the contrary, as an ancillary service, a facility selling new automobile parts and equipment may perform minimal automobile maintenance repairs in that facility's on-site designated parking area, provided that all of the following conditions are satisfied:

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.

- (a) such repairs are performed at no charge, solely as a courtesy for which no payment is charged or received;
- (b) the sum of the repairs performed on an individual vehicle shall take no more than a total of twenty (20) minutes to perform;
- (c) such repairs shall not include oil changes, oil filter changes, transmission fluid changes, transmission fluid filter changes, engine coolant or engine anti-freeze changes, brake fluid changes, ~~[[~~or~~]]² power steering fluid changes>>, tire repair, tire installation, tire rotation, or any other repair that falls within the scope of the repair certification categories set forth in Sections 8A-161.25(2)(a)-(e) & (g) of this Code<<;~~
- (d) the price(s) charged by the facility for automobile parts or equipment is not increased because of the performance of such repairs;
- (e) the repairs are performed by an employee of the facility; and
- (f) all residual, discarded, or waste products, parts, equipment, packaging, fluids, and other materials left over from such repairs are stored or disposed of by the facility immediately after the completion of the repairs, in compliance with all applicable laws, ordinances, and regulations governing the storage, handling, and disposal of such items.<<

* * *

Section 2. Section 8A-161.3 of the Code of Miami-Dade County is hereby

amended as follows:

Sec. 8A-161.3. Exemptions; conflict.

² Committee amendments 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.

5

* * *

(b) Unless the act or practice of repairing, servicing or reconditioning of a motor vehicle or engaging in the activity of a master or specialty mechanic or a paint/body technician is adopted for the purposes of evading or avoiding the provisions of this article, this article shall not apply to a person who:

* * *

>> (8) When engaged in the business of selling automobile new parts and equipment, performs minimal automobile maintenance repairs, provided that all of the following conditions are satisfied:

- (a) such repairs are performed at no charge, solely as a courtesy for which no payment is charged or received;
- (b) the sum of the repairs performed on an individual vehicle shall take no more than a total of twenty (20) minutes to perform;
- (c) such repairs shall not include oil changes, oil filter changes, transmission fluid changes, transmission fluid filter changes, engine coolant or engine anti-freeze changes, brake fluid changes, ~~[[or]]~~ power steering fluid changes>>, tire repair, tire installation, tire rotation, or any other repair that falls within the scope of the repair certification categories set forth in Sections 8A-161.25(2)(a)-(e) & (g) of this Code<<;
- (d) the price(s) charged by the person for automobile parts or equipment is not increased because of the performance of such repairs;
- (e) the repairs are performed by an employee of the person;
- (f) all residual, discarded, or waste products, parts, equipment, packaging, fluids, and other materials left over from such repairs are stored or disposed

6

of by the person immediately after the completion of the repairs, in compliance with all applicable laws, ordinances, and regulations governing the storage, handling, and disposal of such items; and

- (g) a sign measuring not less than two (2) feet in width and three (3) feet in length is posted in a conspicuous place inside each of the person's business premise locations, announcing, in legible written form, the following:

“This facility is not a motor vehicle repair shop and is only authorized to perform minimal automobile maintenance repairs taking no more than 20 minutes to complete. This facility and its employees are not permitted to charge anyone for performing automobile repairs.”

“Esta facilidad no es un taller de reparaciones de vehículos de motor y solamente está autorizada a realizar reparaciones mínimas de mantenimiento de automóviles que tomen no más de 20 minutos para terminar. Esta facilidad y sus empleados no están permitidos cobrar por reparaciones de automóvil.”

“Plas sa a se pa yon garaj e li sèlman otorize pou'l fè ti sèvis reparasyon ak antretyen oto ki pa pran plis pase 20 minit. Plas sa-a ak amplwaye'l yo pa otorize pou kolekte lajan nan men pèson pou ranje mashin.”<<

*

*

*

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 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 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 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:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Eduardo I. Sánchez

Prime Sponsor: Commissioner Sally A. Heyman

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 7(B)
File Number: 093020
Committee(s) of Reference: Board of County Commissioners
Date of Analysis: November 4, 2009
Type of Item: Zoning Code Amendment
Prime Sponsor: Commissioner Sally A. Heyman

Summary

This ordinance amends §33-247, Uses Permitted BU-1A District, and §8A-161.1, Motor Vehicle Repair Ordinance, of the Code of Miami-Dade County (Code), allowing automobile new parts and equipment sales facilities to provide certain ancillary services and exempting certain providers of minimal automobile maintenance repairs from the application of the Motor Vehicle Repair Ordinance.

At the October 27, 2009, Budget, Planning and Sustainability (BPS) Committee meeting, this item was amended to clarify that the proposed ordinance will not include repairs that fall within the scope of the repair certification categories set forth in the Motor Vehicle Repair Ordinance.

Background and Relevant Legislation

Section 33-247 of the Code regulates the uses in the BU-1A (General Business District), including but not limited to businesses that sell automobile new parts and equipment. Currently, these businesses are not permitted to conduct repair work of any type on the premises unless approved after a public hearing.

In addition, the Motor Vehicle Repair Ordinance, §8A-161 of the Code, regulates motor vehicle repair shops and repair work and presently requires that all persons operating a motor vehicle repair shop or performing repair work register with Miami-Dade County.

Other Florida Jurisdictions

A cursory review of the Zoning Code for Broward, Palm Beach, and Orange County found that although all three counties address retail sales, they do not address incidental services at automobile new parts and equipment sale facilities.

For example, in Orange County, the focus is on the principal use of the land which in this case would be an Auto Parts retail store. If the facility is located in C-1 and the ancillary services become the dominant use on the site then code enforcement will cite the facility and the property will need a more intense commercial district zoning designation (like C-2 or C-3). It comes down to the zoning manager's determination as to the principle use of the site. For example, Pep Boys is required to be in a C-2 or C-3 because they perform heavy auto repair services (bays, lifts, brakes, alternators, etc.) Whereas, checking batteries and changing wipers is considered a courtesy for customers but if major repairs occur in the parking lot, then the facility is contacted and advised that they are not permitted to perform major services in a parking lot.

Policy Change and Implication

This ordinance amends the Code to allow a facility that sells new automobile parts and equipment to perform minimal automobile maintenance repairs in that facility's on-site designated parking area, providing that the following provisions and conditions are satisfied:

- The provisions of §33-251.2, Enclosed Uses, that all uses will be conducted within completely enclosed buildings and all materials and products will be stored within the building or within an area completely enclosed;
- Repairs are performed free of charge;
- Repairs take no more than a total of twenty (20) minutes to perform;
- Repairs do not include changing of mechanical fluids and/or their filters;
- The repairs are performed by an employee of the facility; and
- All residual, discarded, or waste products are disposed of or stored by the facility immediately after the completion of the repairs.

Prepared by: Elizabeth N. Owens