Memorandum

MIAMI-DADE COUNTY

(Second Reading 4-6-10)

Date: January 21, 2010

Agenda Item No. 7(C)

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

From: George M. Burgess
County Manager

Subject: Ordinance relating to Miami-Dade County's Airport System; amending Sections 25-10 and 25-15(c) of the Code of Miami-Dade County to provide clarifications thereto; amending Section 25-2.20 to formalize the issuance of Safety Violation Notices by the Aviation Department; amending Section 25-2-26 to provide for enforcement of the provisions of Chapter 25 of the Code as civil offenses under Chapter 8CC; amending Chapter 8CC-10 to add provisions of Chapter 25 thereto to be enforced as civil offenses

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Recommendation

It is recommended that the Board adopt the attached ordinance relating to the Aviation Department Rules and Regulations. The ordinance adds the provisions of Chapter 25 to Chapter 8CC of the Code of Miami-Dade County so that violations of Chapter 25 can be enforced through Chapter 8CC's civil monetary enforcement procedure.

Scope

This item affects all Districts of the County inasmuch as the County's Airport System is a regional asset.

Fiscal Impact/Funding Source

Enforcement of Chapter 25 violations through the existing Chapter 8CC procedure will involve relatively few expenses, inasmuch as existing personnel of the Aviation Department and the staff responsible for Chapter 8CC will be used for the enforcement activities. Any expenses that the Miami-Dade Aviation Department (MDAD) might incur are available in the Aviation Department budget. These expenses may well be offset by the Aviation Department's recovery of civil monetary payments received from violators under the Chapter 8CC procedures.

Track Record/Monitor

All Aviation department employees so designated by the Aviation Director shall be responsible for enforcement of the provisions of Chapter 25 of the Code.

Background

Chapter 25 consists of the "Aviation Department Rules and Regulations." Under Section 25-1.7, violations of Chapter 25 are enforceable through a criminal proceeding, involving a fine not exceeding $500 or imprisonment in the Miami-Dade County jail for a period not exceeding 60 days, or both such fine and imprisonment.

Chapter 8CC has been available to County Departments for more than twenty years. It provides that a violation of any County ordinance that is specifically listed in Chapter 8CC shall constitute a civil offense. If an ordinance is included in Chapter 8CC, the County has the choice of enforcing the ordinance under the original criminal enforcement mechanism provided for the ordinance or else through the civil offense procedure of Chapter 8CC that results in charging a violator with a monetary fine. Up to this time, the Aviation Department (MDAD) has not added violations of Chapter 25 to Chapter 8CC, with the exception of one sub-section of Chapter 25 involving improper run-ups of aircraft engines.

Chapter 8CC violations are enforced by "Code Inspectors" who are appointed by the County Manager and who have the power to issue "Civil Violation Notices" (CVNs) to violators of County Code provisions listed in Chapter 8CC. A violator receiving a CVN is required to pay the indicated fine, or else can ask for a hearing before a Hearing Officer. Code Inspectors are appointed by the County Manager, but for airport activities, the attached Ordinance provides that the Aviation Director will designate Aviation Department employees as Code Inspectors.

MDAD has an on-going proactive program of overseeing activities on the ramp areas of the Airside Operating Area (AOA). The AOA is a critically important area to MDAD because of the relatively high incidence of violations of Chapter 25 on the AOA, mostly regarding motor vehicles that are driven in the immediate vicinity of aircraft, whether the aircraft are moving or are parked. In its effort to assure compliance with Chapter 25 by motor vehicle operators, MDAD has developed an informal "Safety Violation Notice" (SVN) procedure, largely enforced through employees of the Aviation Department's "Airside Operating Division" (AOD). The violations of Chapter 25 that MDAD most frequently encounters are violations by employees of airlines and other airport users who improperly drive motor vehicles on the ramp areas. Typical motor vehicles found on the ramp areas include aircraft fuel trucks, food catering trucks, bag trucks, baggage tugs, baggage belt loaders and aircraft paymovers and various other aircraft ground service equipment. Violations involving drivers of these trucks or vehicles can lead to expensive accidents between the motor vehicles and aircraft, and can lead to serious disruptions in efficient and safe movement of aircraft if motor vehicles improperly interfere with aircraft movements.

MDAD's issuance of SVNs to the employees advises the employee of the nature of the violation, but doesn't subject the violator to any particular criminal or monetary penalty; the most that can happen is notification to the violators under the SVN that if they violate Chapter 25 more than a certain number of times in a year, their identification badges can be removed, thereby leaving them without the ability to perform their job for their employer..

MDAD has determined that a more effective way to enforce Chapter 25—whether for infractions of motor vehicle regulations or other provisions of Chapter 25—would be through the civil monetary penalty under the auspices of existing Chapter 8CC procedures. A CVN could be issued to a violator, requiring the violator to pay the indicated monetary penalty. For most employees of airlines and other airport users, a monetary penalty is a very effective way to correct improper behavior. This concept applies to violators of motor vehicle regulations, as well as to violators of any other provision of Chapter 25. The use of a civil monetary penalty is used successfully at other airports, particularly at Ft. Lauderdale/Hollywood International Airport. It is anticipated that Code Inspectors at the airports under Chapter 8CC will mostly be the same AOD employees currently issuing SVNs.

Coordination between MDAD and staff members responsible for enforcing Chapter 8CC will be required. MDAD will participate in the training process for existing or new Hearing Officers as well as Code Inspectors, to familiarize them with the working operation of the airports and the nature and seriousness of Chapter 25 violations. If a violator asks for a hearing before a Hearing Officer, the

hearing will be held in the facilities currently used for Chapter 8CC violations, with MDAD bearing an appropriate portion of the costs associated with such use.

By adding the provisions of Chapter 25 to the Chapter 8CC civil penalty enforcement procedures, MDAD is confident that it will increase compliance with Chapter 25 at all County airports through the civil penalty enforcement procedure. Accordingly, enactment of the attached ordinance is recommended.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: April 6, 2010

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

SUBJECT: Agenda Item No. 7(C)

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(C)
4-6-10

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY'S AIRPORT SYSTEM; AMENDING SECTION 25-10 OF THE CODE OF MIAMI-DADE COUNTY TO ADD AN IDENTIFYING SUBJECT MATTER TITLE THERETO; CLARIFYING SECTION 25-2.15(c) TO ALLOW CERTAIN CONDUCT RELATING TO WEAPONS ON THE AIRPORT IF OTHERWISE PERMITTED BY LAW; ADDING SECTION 25-2.20(i) TO AUTHORIZE CODE INSPECTORS AT THE AVIATION DEPARTMENT TO ISSUE SAFETY VIOLATION NOTICES AND SUSPEND A VIOLATOR'S AIRPORT IDENTIFICATION BADGES UNDER STATED CONDITIONS, AND TO PROVIDE FOR REVIEW OF ANY SUCH ACTION BY THE AVIATION DIRECTOR OR DESIGNEE; AMENDING SECTION 25-2.26 TO PROVIDE FOR ENFORCEMENT OF THE PROVISIONS OF CHAPTER 25 OF THE CODE AS CIVIL VIOLATIONS UNDER CHAPTER 8CC IN ADDITION TO BUT NOT IN LIEU OF ENFORCEMENT THEREOF AS PRESENTLY PROVIDED UNDER CHAPTER 25; 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 25-10.1 of the Code of Miami-Dade County, Florida, is hereby amended by placing the following introductory provision prior to Section 25-10.1 to identify the subject matter of Section 25-10: [1]

>>**Sec. 25-10.** **Aircraft and Aircraft Operations.**<<

[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.

Section 2. Section 25-2.15(c) of the Code of Miami-Dade County, Florida, is hereby amended as follows:

(c) No person shall furnish, give, sell, or trade any weapon or simulated weapon on the Airport unless authorized under appropriate lease with or permit issued by the County >>or as authorized by law<<.

Section 3. Section 25-2.20 of the Code of Miami-Dade County, Florida, is hereby amended by adding the following thereto as Section 25-2.20(i):

25-2.20 *Identification badges.*

* * *

>>(i) In addition to a Code Inspector's right to issue civil violation notices (CVNs) under Chapter 8CC of the Code, any Code Inspector of the Department designated by the Director under Section 25-2.26(a) shall have the power to issue Departmental Safety Violation Notices (SVNs) to persons violating Chapter 25. SVNs shall be on forms established by the Department. Any person to whom an approved identification badge has been issued by the Department who on four occasions within a twelve month period is (a) issued an SVN for a violation of Chapter 25, or (b) issued a CVN and either pays the CVN, fails to appeal the CVN or is found guilty of the violation by a hearing officer, or (c) determined by a Code Inspector to have violated Section 25-9.3, 25-9.4, or Section 25-9.10(a) shall be required to surrender his or her badge for a period of time as may be determined by the Director by written policy. A person whose badge has been surrendered for any of the foregoing reasons shall have the right to appeal the decision to the Aviation Director or designee, in accordance with procedures established by the Aviation Department for appeals of decisions requiring the surrender of a badge.<<

Section 4. Section 25-2.26 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 25-2.26. ***Enforcement.***

(a) All Department employees so designated by the Director shall be responsible for enforcement of [[~~this Section 25-2~~]] >>all provisions of Chapter 25 of the Code<< and shall be deemed Code Inspectors under chapter 8CC of this Code.

(b) In addition to >>and not in lieu of<<the penalties provided by [[~~Section 25-1.17,~~]]>>Section 25-1.7,<< any person who [[~~knowingly~~]] violates [[~~this Section 25-2~~]] >>any provision of Chapter 25<<shall be subject to >>the civil penalties provided by Chapter 8CC<< [[a civil penalty of two hundred fifty dollars ($250.00) for a first violation and a penalty of five hundred dollars ($500.00) for any subsequent violations]]. In addition to the provisions of chapter 8CC of this Code regarding enforcement of civil [[~~fines~~]]>>penalties<<, failure of any violator to make timely payment of [[~~a fine~~]] >>the civil penalty<< under [[~~this section~~]] >>Chapter 8CC<<, or make a timely appeal thereof, may, if the violator is authorized to enter SIDA areas of the Airports, result in the revocation of the violator's SIDA access >>or driving<< privileges. >>A person whose SIDA access privileges have been revoked shall have the right to appeal the revocation decision to the Aviation Director or designee, in accordance with procedures established by the Aviation Department for appeals of revocation decisions.<<

Section 5. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended by adding the following sections of Chapter 25 thereto to be enforced as civil violations pursuant to Chapter 8CC:

Code Section	***Description of Violation***	***Civil Penalty***
>>25-2-1.5	Trespassing	$250.00
25-2.1	Handbills	$150.00
25-2.3	Preservation of Property	$250.00
25-2.4	Entry to the AOA, SIDA, or restricted areas	$250.00
25-2.5	Driving on AOA	$250.00

Code Section	***Description of Violation***	***Civil Penalty***
25-2.7	Use and enjoyment of Airport premises	$150.00
25-2.8	Picketing	$150.00
25-2.9	Prohibited conduct	$150.00
25-2.10	Sanitation	$150.00
25-2.11	Intoxication	$150.00
25-2.13	Model aircraft	$250.00
25-2.14	Animals	$250.00
25-2.15	Weapons	$250.00
25-2.16	Lost articles	$150.00
25-2.17	Endangering aircraft or vehicle operations.	$250.00
25-2.17.1	Foreign objects on AOA	$150.00
25-2.20	Identification badges	$150.00
25-2.21	Security devices and directives	$250.00
25-2.22	Elevators, moving stairways and moving walkways	$150.00
25-2.23	Consent to inspection	$150.00
25-2.24	Inspections	$150.00
25-3.1	Solicitation or carrying on business	$150.00
25-3.2	Commercial photography, film and recordings	$150.00
25-3.3	Building construction and improvements	$150.00
25-3.4	Advertising	$150.00
25-3.5	Storage of property	$150.00
25-3.6	Signs	$150.00
25-3.7	Protection of property	$150.00
25-3.8	Tipping	$150.00
25-5.3	Control of aircraft drinking water	$150.00
25-5.4	Handling and disposal of sanitary waste from aircraft	$150.00
25-5.5	Handling of aircraft and Airport refuse	$150.00

Code Section	***Description of Violation***	***Civil Penalty***
25-5.6	Waste removal services	$150.00
25-5.7	Water pollution	$250.00
25-5.8	Air pollution	$150.00
25-5.9	Sanitary sewage and industrial waste water system pollution	$150.00
25-6.1	Cleaning of equipment	$250.00
25-6.2	Open-flame operations	$250.00
25-6.3	Powder-activated tools	$250.00
25-6.4	Storage of material	$250.00
25-6.5	Storage of hazardous material	$250.00
25-6.6	Lubricating oil	$150.00
25-6.7	Waste	$250.00
25-6.8	Smoking	$250.00
25-6.9	Cleaning fluids	$250.00
25-6.10	Leasehold cleanliness	$150.00
25-6.11	Care of aircraft ramp, apron and parking areas	$250.00
25-6.12	Doping, spray painting and paint striping	$250.00
25-6.13	Fire extinguishers	$250.00
25-6.14	Use of potentially wind-borne materials	$150.00
25-6.15	Operating motor vehicles in hangars	$150.00
25-6.16	Grounding of aircraft in hangars	$250.00
25-6.17	Motorized ground equipment near Aircraft	$250.00
25-6.18	Repairing of aircraft	$150.00
25-6.19	Operating aircraft engines in hangars	$150.00
25-6.20	Heating systems in hangars	$150.00
25-6.21	Electrical equipment and lighting systems	$150.00
25-6.22	Explosives, corrosives, poisons, compressed gases, and radiological materials	$250.00
25-6.23	Fueling and defueling	$250.00

Code Section	***Description of Violation***	***Civil Penalty***
25-7.1	Structural and decorative changes	$150.00
25-7.2	Damages	$150.00
25-7.3	Use of premises	$150.00
25-7.4	Trailers, trucks; restricted use	$150.00
25-7.5	Protection of leased areas	$150.00
25-7.6	Common use areas	$150.00
25-7.7	Public service	$150.00
25-8.2	Traffic-control devices	$150.00
25-8.3	Parking	$150.00
25-8.4	Airport parking facilities	$150.00
25-8.5	Removal of vehicles	$150.00
25-8.6	Abandoned vehicles and equipment removal	$250.00
25-8.7	Certain vehicular traffic prohibited	$150.00
25-8.8	Pedestrians	$150.00
25-9.2	Authority to operate on the air operations area	$250.00
25-9.3	Yielding to aircraft	$250.00
25-9.4	Crossing runways and taxiways	$250.00
25-9.5	Operations near aircraft	$150.00
25-9.6	Two-way radio requirements	$250.00
25-9.7	Motor vehicle identification permits	$250.00
25-9.8	Driver's license	$250.00
25-9.9	Designated vehicular routes	$150.00
25-9.10	Speed limits and traffic control	$250.00
25-9.11	Reckless driving	$250.00
25-9.12	Careless driving	$150.00
25-9.13	Vehicle and equipment condition and safety requirements	$150.00
25-9.14	Emergency vehicles	$150.00

Code Section	***Description of Violation***	***Civil Penalty***
25-9.15	Occupants of motor vehicles	$150.00
25-9.16	Tugs and trailers	$150.00
25-9.17	Traffic control	$150.00
25-9.18	Parking	$150.00
25-9.19	Motor vehicle accidents	$150.00
25-9.20	Service and repair of motor vehicles	$250.00
25-9.21	Tampering with motor vehicles	$250.00
25-9.22	Contractor's access and operations on the air operations area	$250.00
25-10.1	Negligent operations prohibited	$250.00
25-10.2	Compliance with orders	$250.00
25-10.3	Denial of departure	$250.00
25-10.4	Payment of fees	$250.00
25-10.5	Denial of use of Airport	$250.00
25-10.6	Aircraft accidents	$250.00
25-10.7	Removal of disabled aircraft	$250.00
25-10.8	Tampering with aircraft	$250.00
25-10.9	Enplaning and deplaning	$250.00
25-10.10	Cleaning, maintenance and repair of aircraft	$250.00
25-10.11	Radio communications	$250.00
25-10.12	Aircraft equipment	$250.00
25-10.13	Landing and taking-off	$250.00
25-10.14	Taxiing	$250.00
25-10.15	Airport marking and lighting	$250.00
25-10.16	Motorless aircraft	$250.00
25-10.17	Airport operational restrictions	$250.00
25-10.18	Aircraft parking	$250.00
25-10.19	Radio ground control	$250.00
25-10.20	Propeller slipstream and jet blast	$250.00

Code Section	***Description of Violation***	***Civil Penalty***
25-10.21	Starting and running aircraft engines	$250.00
25-10.22	Aircraft lights	$250.00
25-10.23	Interference with aircraft operations	$250.00
25-10.24	Non-Operating aircraft	$250.00
25-10.25	Prohibition on removal of liened aircraft	$250.00
	All other violations of Chapter 25	$250.00<<

Section 6. 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 7. 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 8. 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.

Section 9. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED:

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

Prepared by: TPA

Thomas P. Abbott

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

Legislative Notes

Agenda Item:	7(C)
File Number:	100037
Committee(s) of Reference:	Board of County Commissioners
Date of Analysis:	March 8, 2010
Type of Item:	Ordinance Amending Chapter 25 and Chapter 8CC of Miami-Dade County Code

Summary

The proposed ordinance amends Chapter 25- Aviation Department Rules and Regulations and Chapter 8CC- Code Enforcement of Miami-Dade County Code. The amendments are necessary so that violations of Chapter 25 can be enforced through Chapter 8CC's civil monetary enforcement procedure.

Section 25-1.7- Penalties, states that any person in violation of Chapter 25 is subject to punishment by a fine, imprisonment or both. However, if a County ordinance is specifically listed in Chapter 8CC and is violated, then the person is subject to a civil offense.

By including an ordinance in Chapter 8CC, the County can then determine whether to enforce the ordinance under the criminal enforcement mechanism provided or through the civil offense procedure that results in charging the violator with a monetary fine.

Background and Relevant Legislation

Currently, Code Inspectors are able to issue civil violation notices (CVNs) for the violation of any County ordinance listed in Section 8CC-10. Penalties for violations of the ordinances that are enforced by Chapter 8CC are listed in the schedule of civil penalties in Section 8CC-10. A violator receiving a CVN is required to pay the indicated fine or can ask for a hearing before a Hearing Officer.

Code Inspectors are appointed by the County Manager however, the proposed ordinance provides that the Aviation Director will designate Aviation Department employees as Code Inspectors for airport activities.

The Airside Operating Area (AOA) has a very high incidence of Chapter 25 violations, the Miami Dade Aviation Department (MDAD) has developed an informal "Safety Violation Notice" (SVN) procedure

enforced by MDAD employees. The most frequent violations are by employees of airlines and other airport users who improperly drive motor vehicles on the ramp areas. When MDAD issues a SVN, it simply advises the employee of the violation but does not subject the violator to any particular criminal or monetary penalty.

- **From January 1, 2008 to December 31, 2008, a total of 576 SVNs were issued.**
- **From January 1, 2009 to December 31, 2009, a total of 1,547 SVNs were issued.**

MDAD feels that by including the provisions of Chapter 25 in Chapter 8CC, a CVN could be issued to the violator, requiring the violator to pay the indicated monetary penalty.

MDAD will participate in the training process for existing or new Hearing Officers as well as, Code Inspectors, to familiarize them with the working operation of the airports and the nature and seriousness of Chapter 25 violations.

Budgetary Impact

The Code Inspectors will mostly be the same MDAD employees currently issuing the SVNs and the staff currently responsible for enforcing Chapter 8CC. If a violator requests a hearing before a Hearing Officer, the hearing will be held in the facilities currently used for Chapter 8CC violations, with MDAD bearing an appropriate portion of the costs associated with such use.

Any expenses MDAD incurs are available in the Aviation Department budget.

Prepared by: Bia Marsellos