

MEMORANDUM

Agenda Item No. 4(c)

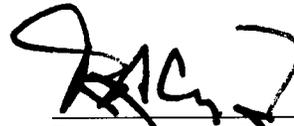
TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: June 3, 2010

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

SUBJECT: Ordinance amending Sections
of the Code to include additional
penalties and creating Section
8CC-5.1

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



R. A. Cuevas, Jr.
County Attorney

RAC/up



MEMORANDUM

(Revised)

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

DATE: June 3, 2010

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

SUBJECT: Agenda Item No. 4(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. 4 (C)
6-3-10

ORDINANCE NO. _____

ORDINANCE AMENDING SECTIONS 7-3, 8A-172, 8A-276(B), 8CC(10), 21-28, 21-31.2(B)(1) AND (2), 21-31.4(B), 26-1, 30-468, 30-469 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; INCLUDING ADDITIONAL PENALTIES; CREATING SECTION 8CC-5.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; 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. Chapter 7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 7-3. Swimming or fishing from road bridges.

* * *

(e) Violations of this section may be punished by ~~[[a fine not to exceed two hundred dollars (\$200.00) or imprisonment not to exceed thirty (30) days in the County Jail, or by both such fine and imprisonment, in the discretion of the court of appropriate jurisdiction.]]~~

>>(1) a fine not to exceed two hundred dollars (\$200.00);

(2) imprisonment in the county jail for a period not to exceed thirty (30) days;

(3) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;

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.

- (4) finances in accordance with Chapter 8CC of the Code of Miami-Dade County; or
- (5) completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

Section 2. Chapter 8A of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8A-172. Doing business without local business tax receipt.

>>It shall be unlawful and a violation of this section for<<[[A]]>>a<<ny person [[who shall]] >>to<< carry on or conduct any business or profession for which a receipt is required without first obtaining such receipt >>. Any person convicted of a violation of this section shall be punished by (i) a fine not to exceed double the amount required for such receipt; (ii) imprisonment in the county jail for a period not to exceed sixty (60) days; (iii) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause; (iv) fines in accordance with Chapter 8CC of the Code of Miami-Dade County; or (v) completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.<<[[shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than double the amount required for such receipt or imprisonment not exceeding six (6) months.]]

Section 3. Chapter 8A of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8A-276. Requirements.

* * *

(c) *Violations.* Any person convicted of

>>(1) A<<[[a]] violation of this section shall be punished by

>>a.<<not more than thirty (30) days imprisonment>>;<<[[, or by]]

>>b.<<a fine >>of <<not more than two hundred fifty dollars (\$250.00)>>;<< [[~~or~~]]

>>c. both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;<<[[~~both~~]]

>>d. finest in accordance with Chapter 8CC of the Code of Miami-Dade County; or

e. completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

(2)<< [[~~Any person convicted of a~~]]>>A<< second violation of this section shall be punished by

>>a.<<not more than thirty (30) days imprisonment>>;<<[[~~or by~~]]

>>b.<<a fine not more than five hundred dollars (\$500.00)>>;

c. both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;

d. finest in accordance with Chapter 8CC of the Code of Miami-Dade County; or

e. completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

(3)<< [[~~or both~~]]Any subsequent violations of this section shall be punished by

>>a.<<not more than thirty (30) days imprisonment>>;<<[[~~;~~]]

- >>b.<<[[~~or by~~]]a fine not more than one thousand dollars (\$1,000.00)>>;
- c. both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;
- d. finest in accordance with Chapter 8CC of the Code of Miami-Dade County; or
- e. completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.<<[[~~or both~~]]

* * *

Section 4. Chapter 8CC 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.

* * *

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
*	*	*
2-8.1	Disclosing false information	\$ 500.00
*	*	*
>>7-3<<	>>Swimming or fishing from prohibited road bridges<<	>>\$100.00<<
*	*	*
>>8A-172<<	>>Doing business without local business tax receipt<<	>>\$100.00<<
*	*	*
>>8A-276(b)<<	>>Failure to display commercial vehicle markings<<	>>\$200.00<<
*	*	*

>>21.31.2(b)(1) & (2)<<	>>Alcohol possession or consumption near a store<<	>>\$100.00<<
* * *		
>>21.31.4(B)<<	>>Obstructing traffic or aggressively begging<<	>>\$100.00<<

Section 5. Chapter 21 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 21-28. Noises; unnecessary and excessive prohibited.

It shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.>> Any person violating any of the provisions of this section shall be punished by (i) a fine not to exceed five hundred dollars (\$500.00); (ii) imprisonment in the county jail for a period not to exceed sixty (60) days; (iii) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause; (iv) fines in accordance with Chapter 8CC of the Code of Miami-Dade County; or (v) completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.<< The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

* * *

Section 6. Chapter 21 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 21-31.2. Consumption or possession of alcohol in open containers near store selling alcoholic beverages, religious property, and other locations. Signs required in such stores.

* * *

- (b) *Public nuisance; unlawful acts.*
 - (1) It is a public nuisance and shall be unlawful and in violation of this section for any person to consume any alcoholic beverage while within one hundred (100) feet of any

package store or food store selling alcoholic beverages, property regularly used for religious purposes, community center, senior citizens' center, day care center, funeral home, or school.

- (2) It is a public nuisance and shall be unlawful and in violation of this section for any person to possess an open container of alcoholic beverages while stopping, standing, or remaining within one hundred (100) feet of any package store or food store selling alcoholic beverages, property regularly used for religious purposes, community center, senior citizens' center, day care center, funeral home, or school.

>>(c) Any person violating any of the provisions of sections 21-31.2(b)(1) or 21-31.2(b)(2) shall be punished by

- (1) a fine not to exceed five hundred dollars (\$500.00);
- (2) imprisonment in the county jail for a period not to exceed sixty (60) days;
- (3) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;
- (4) finest in accordance with Chapter 8CC of the Code of Miami-Dade County; or
- (5) completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.<<

Section 7. Chapter 21 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 21-31.4. Aggressive or obstructive panhandling prohibited.

* * *

(D) *Penalties.* >>Any person convicted of

(1) A violation of this section shall be punished by

- a. not more than thirty (30) days imprisonment;
- b. a fine of not more than one hundred dollars (\$100.00);
- c. both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;.
- d. finest in accordance with Chapter 8CC of the Code of Miami-Dade County; or
- e. completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

(2) A second or subsequent violation of this section shall be punished by

- a. not more than sixty (60) days imprisonment;
- b. a fine not more than two hundred dollars (\$200.00);
- c. both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;
- d. finest in accordance with Chapter 8CC of the Code of Miami-Dade County; or
- e. completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners. <<[[~~The first violation of this provision shall be punishable by not more than a fine of one hundred dollars (\$100.00) and thirty (30) days incarceration; second and subsequent violations shall be punishable by not more than a fine of two~~

~~hundred dollars (\$200.00) and sixty (60) days incarceration.]]~~

* * *

Section 8. Chapter 26 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 26-1. Rules and regulations adopted.

>>Any person violating any of the rules and regulations provided in this section shall be punished by (i) a fine not to exceed five hundred dollars (\$500.00); (ii) imprisonment in the county jail for a period not to exceed sixty (60) days; (iii) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause; (iv) fines in accordance with Chapter 8CC of the Code of Miami-Dade County; or (v) completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.<<

* * *

Section 9. Chapter 30 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 30-468. Manifest or trip records.

* * *

(c) Each licensee shall maintain for no less than three (3) years the original of each manifest or trip record. No person providing the service shall destroy, mutilate, alter or deface any manifest or trip record prior to the expiration of three (3) years without written approval of the CSD. All manifests and trip records shall be available for inspection by personnel authorized by the CSD or any police agency during regular business hours.

>>(d) Any person violating any of provisions of this section shall be punished by (i) a fine not to exceed five hundred dollars (\$500.00); (ii) imprisonment in the county jail for a period not to exceed sixty (60) days; (iii) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause; (iv) fines in accordance with

Chapter 8CC of the Code of Miami-Dade County; or (v) completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.<<

Section 10. Chapter 30 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 30-469. Towing safety standards.

It shall be unlawful for any person to recover, tow or remove a vehicle by use of a towing vehicle, equipment or car carrier in a manner which violates the standards for use of such towing vehicle, equipment or car carrier as set by the manufacturer thereof. It shall be unlawful to tow without the use of safety chains.

It shall be unlawful to operate a tow truck if the vehicle has failed to pass the critical items of any vehicle inspection performed by personnel authorized by the CSD, or if the owner thereof has failed to correct other inspection deficiencies within the time period specified by the CSD, or is operating without the proper insurance coverage. When a vehicle has failed to pass inspection, inspection deficiencies have not been corrected or when the vehicle is operating without the proper insurance coverage, personnel authorized by the CSD may affix to the upper left corner of the vehicle windshield a notice stating the date of the inspection or action and the reasons for the inspection rejection or action. It shall be unlawful for the licensee or any other person other than personnel authorized by the CSD to remove this notice from the windshield of the vehicle.

>>Any person violating any of the provisions of this section shall be punished by (i) a fine not to exceed five hundred dollars (\$500.00); (ii) imprisonment in the county jail for a period not to exceed sixty (60) days; (iii) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause; (iv) fines in accordance with Chapter 8CC of the Code of Miami-Dade County; or (v) completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.<<

Section 11. Section 8CC-5.1 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

Sec. 8CC-5.1. Miami-Dade County Diversion Program.

Notwithstanding the provisions of 8CC-5, a violator who has been served with a civil violation notice may enter the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners, provided the civil violation notice is issued for the violation of an ordinance listed in the table below, which may be amended from time to time.

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. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

<i>Code Section</i>	<i>Description of Violation</i>
7-3	Swimming or fishing from prohibited road bridges
8A-172	Conducting business without a local business tax receipt
8A-276(b)	Failure to display commercial vehicle markings
21-28	Producing loud or excessive noise
21-31.2(b)(1) & (2)	Alcohol possession or consumption near a store
21-31.4(B)	Obstructing traffic or aggressively begging
26-1	Parks violations
30-468	Towing, Manifest / Trip Records violations
30-469	Towing Safety Standards violations

Section 12. 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 13. 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 14. 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:

Two handwritten signatures in black ink. The top signature is more stylized and appears to be 'JAC'. The bottom signature is 'BS'.

Prepared by:

Ben Simon

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsor: Commissioner Barbara J. Jordan