

Memorandum



Date: June 3, 2010

Agenda Item No. 7(G)

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

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "G. Burgess", written over the printed name of the County Manager.

Subject: Proposed Zoning Ordinance amending Sections 33-64 through 33-65, 33-69 through 33-71, deleting Section 33-72, amending Section 33-77 and deleting Section 33-81 of the Code to modify the zoning regulations pertaining to awnings, canopies and tents.

This item was amended and forwarded to the BCC with a favorable recommendation at the BPSC meeting of May 11, 2010. The amendments were as follows:

Sections 33-71(e) [Section 5] and 33-77(a) [Section 7] were amended to remove the requirement that the canopy be "temporary."

Recommendation

It is recommended that the Board of County Commissioners adopt the attached ordinance amending Sections 33-64 through 33-65, 33-69 through 33-71, deleting Section 33-72, and deleting Section 33-81 of the Code in order to modify the zoning regulations pertaining to awnings, canopies and tents. The proposed regulations will allow temporary canopies to encroach into the required rear and side yards in residential zoning districts, subject to certain conditions. The ordinance also amends Section 33-77 to modify similar requirements for canopies in business and industrial districts.

Scope

The proposed ordinance applies to the unincorporated areas of Miami-Dade County.

Fiscal Impact/Funding Source

The proposed ordinance creates no fiscal impact on Miami-Dade County.

Track Record/Monitor

The Department of Planning and Zoning will administer the implementation of this ordinance.

Background

The proposed revision is in response to citizen requests for canopies in residential districts to provide shade and shelter from inclement weather. The proposed revision is also part of a series of Code updates being prepared by the Department of Planning and Zoning staff aimed at modernizing and simplifying the Code. Although patios are permitted to extend into the rear and side yard setbacks, Section 33-71 of the Zoning Code requires canopies to meet the

setbacks applicable to the structure. The regulation is also incongruous with the provisions for canopy carports which, according to Section 33-50, are permitted to encroach up to five feet from the front and rear property lines and two feet from the side property line.

The proposed revision will allow a canopy, comprised of cloth or canvas, to encroach into the rear and side setbacks provided it is not located closer than 10 feet to the rear property line and five feet to the interior side property line. In addition, canopies which are attached to a permanent structure may not project more than 15 feet from the structure and freestanding canopies may not exceed 12 feet by 24 feet in size. On a side street, temporary canopies will be required to meet the principal building setback. Permanent canopies comprised of solid materials such as wood and aluminum will also be required to meet the setbacks for the principal structure.

To provide consistency with the regulations for canopy carports, provisions for freestanding canopies were added. However, since there are distinct differences in placement, fabrication material and size, unique regulations and definitions were provided for each type of installation. In addition, the definition for 'detached canopy' was changed to 'canopy carport' to distinguish from freestanding canopies and provide consistency with Section 33-75 of the Code.

Other revisions related to modernization and simplification include:

- 1) Reference to screening of canopies with solid roofs was removed. Since permanent canopies are required to meet the principal building setbacks, enclosure will be consistent with principal building provisions.
- 2) The definition for canopy shutters was removed since it could not be distinguished from the definition for awnings. The corresponding canopy shutter regulations were also removed. Since the definitions were identical, these installations will fall under the regulations for awnings.
- 3) Reference to signs on awnings, canopies and umbrellas was removed. Section 33-94(c) of the Sign Code outlines regulations for such signs.
- 4) Since the permitted fabrication material varies among zoning districts and installation types, reference to fabrication material was removed from the definitions and, where necessary, added to the corresponding regulations.
- 5) Awnings were added to the list of installations requiring a permit to provide consistency with Section 33-8.1 which requires a Zoning Improvement Permit for 'canopy carports, canopy and other fabric covered framework installed on residential properties'.
- 6) Umbrellas in business and industrial districts were grouped with canopies since the only distinction is related to the shape of the installation.



Alex Muñoz,
Assistant County Manager



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. 7(G)

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 (G)
6-3-10

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING REGULATION OF AWNINGS, CANOPIES AND TENTS; AMENDING SECTIONS 33-64 - 33-65, 33-69 - 33-71, AND 33-77 AND DELETING SECTIONS 33-72 AND 33-81 OF THE CODE OF MIAMI-DADE COUNTY (CODE); 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 33-64 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

ARTICLE V. AWNINGS, CANOPIES AND TENTS

Sec. 33-64. Definitions.

- (a) *Awning.* A ~~[[temporary, movable,]]~~ detachable ~~[[canvas or other cloth]]~~ >>covering, intended to provide<< protection against sun or weather, supported by a ~~[[metal]]~~ >>rigid<< frame~~[[, or wood, metal or other rigid material used similarly as protection against sun or weather]]~~. Awnings may be ~~[[so]]~~ installed so as to remain in a fixed position or be installed in a manner permitting raising and lowering or shifting to function as a shutter to close entirely the protected opening. An awning must be supported entirely from the walls of the building to which >>it is<< attached >>or cantilevered<<.
- (b) *Canopy.* A ~~[[temporary detachable canvas or other cloth]]~~ >>covering, intended to provide<< protection against the sun or weather >>, which is mounted<< on a rigid metal frame, ~~[[which may be of metal or other rigid material used similarly as protection against the sun or weather which]]~~ >>and<< is supported >>in full or<< in part by ~~[[metal or wood]]~~ posts

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.

attached to the ground>>, a<< ~~[[or to]]~~ deck or >>a concrete slab.<< ~~[[floor of a building]]~~ >>Attached canopies shall be supported<< ~~[[and]]~~, in part, ~~[[on]]~~>>by<< the wall of >>a permanent structure. Freestanding shall refer to canopies supported entirely by posts.<<~~[[the building. A canopy shutter is a canopy installed, over an opening (door or window) in a manner permitting raising and lowering to close entirely the protected opening.]]~~

- (c) *Tent.* A >>portable shelter comprised of<< canvas or other cloth ~~[[shelter from sun or weather]]~~ supported by >> a rigid<< ~~[[wooden or metal]]~~ frame or by poles, stakes and ropes, or both, and not attached to any building.
- (d) *Cabanas (Canvas).* A tent used on the beach, as accessory to hotel, motel or hotel-apartment use.
- (e) ~~[[Detached canopy]]~~>>Canopy Carport<<. A ~~[[temporary detachable canvas or other cloth]]~~ >>vehicle<< shelter >>which is mounted on a rigid frame<< ~~[[which may be of metal or other rigid material detached from any building,]]~~ >>and<< supported by ~~[[metal]]~~ posts attached to the ground. ~~[[Such canopy may be used as shelter for an automobile (carport) and, shelter for sand boxes, swimming pools, and other similar recreational facilities as may be approved by the Director.~~
- ~~(f) *Roller curtain.* A roller curtain is a temporary, movable, detachable canvas or other cloth protection against sun or weather having a wooden or metal roller attached to its lower edge which is supported entirely by the canvas and is raised and lowered by ropes and pulley or other mechanical device.~~
- ~~(g) *Umbrella.* A canvas or other cloth covering used as a protection against sun or weather, which may be of metal or other rigid material supported by a single metal or wood pole.]]~~

Section 2. Section 33-65 of the Code of Miami-Dade County, Florida is hereby amended

as follows:

Sec. 33-65. Permit required.

A permit must be obtained from the Department for all >>awnings,<< canopies and >>canopy<< carports to be installed in residential, business and industrial districts ~~[[and for all awnings projecting toward the street or highway in business and industrial districts, and for umbrellas and eanopies installed in business or industrial districts]]~~. Other installations covered by this article, though not requiring permits, shall comply with this article and all other applicable

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rules, regulations and codes. Such plans and drawings as may be deemed necessary to fully advise and acquaint the issuing Department with the location, construction and material of the installation, must accompany the application for permit.

Section 3. Section 33-69 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-69. Awnings in residential districts, maximum projection.

In all residential districts, >>awnings comprised of<< wood, metal>>, << ~~[[or]]~~ canvas >>or other similar cloth material<< ~~[[awnings]]~~ shall be permitted for the purpose of providing protection from the elements for doors, windows or other openings. Such awnings shall not project more than five (5) feet six (6) inches from the building wall nor extend closer than one (1) foot to any interior side property line.

Section 4. Section 33-70 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-70. Awnings in business and industrial districts; maximum projection.

In all business and industrial districts, (including those districts requiring masonry construction), >>awnings comprised of wood, metal,<< canvas >>(or other similar cloth material)<< ~~[[or metal awnings]]~~ shall be permitted for the purpose of providing protection from the elements of doors, windows and other openings. Such awning shall not extend more than nine (9) feet from the building wall nor extend closer than two and one-half (2 1/2) feet to the interior side property lines when projected from side walls, or closer than two and one-half (2 1/2) feet to the rear property line, nor closer than seven (7) feet to any official right-of-way line. In no event shall such awning be used to shelter any merchandise, equipment, display or to be used for any commercial, industrial or storage purpose.

Section 5. Section 33-71 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-71. Use of ~~[[canopy as roof over patios]]~~ >>cloth, canvas canopies in residential districts, excepting canopy carports<<~~[[; screening or plasties]]~~.

- >>(a) Canopies comprised of a covering made of cloth, canvas, or other similar material shall be permitted within the side and rear yards in all residential districts subject to the regulations of this section. Canopies shall have a maximum height of ten feet as measured from grade to the lowest horizontal element of the frame structure with the total height of the structure not exceeding 15 feet. Canopies may encroach into the rear and side setback but shall not be located closer than ten feet to the rear property line and five feet to the interior side property line. On a side street, the canopy shall meet the principal building setback. In no event shall the area protected by the canopy be enclosed or screened in any manner. See section 33-75 for regulations related to canopy carports.
- (b) In addition to the requirements of section 33-71(a), an attached canopy comprised of cloth, canvas or other similar material shall project a maximum of 15 feet from the primary structure.
- (c) In addition to the requirements of Section 33-71(a), freestanding canopies comprised of cloth, canvas or other similar material shall not exceed 12 feet by 24 feet in size. Freestanding canopies exceeding the maximum size requirement may be permitted for authorized special events but shall not remain on the site for a period exceeding 30 days.
- (d) If the canopy has aluminum, shingle, or other solid roof, it shall be considered to be part of the principal structure and subject to all setbacks and height restrictions for principal structures.<< [[In all residential districts, where properly fastened to the building, wood, metal or canvas canopies shall be permitted with proper supports, as a roof over open slabs and patios but only where such installations shall comply with all setbacks applicable to the structure concerned, or as may be modified by this article. Only wood and metal canopies may be enclosed with screening, or approved soft pliable plastic material, provided that the supporting structure and approved plastic enclosure material is designed to meet and comply with the windload and structural requirements of Chapter 44 of the South Florida Building Code as it applies to screen enclosures and similar structures.]]
- >>(e) The canopy shall be erected in such manner that it shall << ~~[[be temporary and]]~~ >>be removed during hurricanes.<<²

² Committee amendments are indicated as follows: words double stricken and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

Section 6. Section 33-72 of the Code of Miami-Dade County, Florida is hereby deleted:

~~[[Sec. 33-72. Canopy shutter.~~

~~A canopy shutter may be installed over a first floor opening of the principal building if such building conforms to minimum required setbacks and may extend a maximum of seven (7) feet into the front and rear setback areas of such principal building, measured to the pilasters, with one (1) foot overhang permitted, measured from the base of the pilaster to the drip line. The upright supports of such canopy shall be easily removable. Such canopy shutters must be for the purpose of covering a patio, and must also cover an opening, and shall be no more than six (6) feet wider than the opening it is covering. Such canopy shutter shall not be screened or enclosed in any manner. In a closed position, such canopy shutter shall be flat against the building and secured thereto. All other canopies and canopy shutters shall observe setbacks established in this article.]]~~

Section 7. Section 33-77 of the Code of Miami-Dade County, Florida is hereby amended

as follows:

Sec. 33-77. ~~[[Canvas umbrellas or]]~~ >>Use of<< canopies ~~[[on open lots; permanent metal canopy]]~~ >>in business and industrial districts<<.

- (a) In business and industrial districts where sales from open lots are specifically permitted by applicable regulations, and the use does not require the erection of any building, ~~[[one (1) canvas umbrella not to exceed twenty one (21) feet in diameter or]]~~ one (1) canvas or metal canopy not to exceed ~~[[twelve (12) feet by twenty four (24) feet]]~~ >>288 square feet<< may be erected for each fifty (50) feet of lot frontage (on one (1) street only). In no event shall the area protected by the ~~[[umbrella or]]~~ canopy be enclosed or screened in any manner. The ~~[[umbrella or]]~~ canopy shall be erected in such manner that it shall ~~[[be temporary and]]~~ be removed during hurricanes. The standard setbacks for structures in the particular districts concerned shall apply.
- (b) In business and industrial districts the erection of an approved permanent metal canopy shall be permitted not to exceed thirty (30) feet in depth and the length equivalent to the width of the lot, subject to all >>principal building<< setbacks being complied with.

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Section 8. Section 33-81 of the Code of Miami-Dade County, Florida is hereby deleted:

~~[[Sec. 33-81. Signs on; identification of erector.~~

~~Awning, canopy, roller curtain, or umbrella sign or signs shall be limited to eight inch letters in height, and shall not exceed a total coverage of twenty four (24) square feet. Any such sign shall be limited to the identification of the occupant and/or use of the property. No permits will be required for the awning, canopy, roller curtain, or umbrella sign, but the same shall comply strictly with the foregoing requirements.~~

~~All awnings, canopies, roller curtains, and umbrellas shall be permanently labelled by the erector with their name on the under or inner side.]]~~

Section 9. 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 10. It is the intention of this Board of County Commissioners, and is hereby ordained that the provisions of this ordinance shall become and made part of the Code of Miami-Dade County, Florida. The section 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.

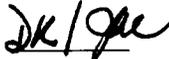
Section 11. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency:



Prepared by:



Dennis A. Kerbel