MEMORANDUM

Agenda Item No. 7(G)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 15, 2011

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

SUBJECT: Ordinance pertaining to Zoning; amending Sec. 33-1 and creating Sec. 33-14.1 of the Code; authorizing mobile sales and mobile food services operations; requiring County Mayor or designee to report on implementation of this ordinance within one year of effective date

This item was amended from the original version as stated on the County Mayor's memorandum.

The accompanying ordinance was prepared by the Sustainability, Planning & Economic Enhancement Department and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: November 15, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Proposed Zoning Ordinance Providing for Mobile Sales and Mobile Food Service Operations

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The ordinance was amended at the October 26, 2011 Infrastructure and Land Use Committee to add language to the last sentence of subsection 1(a) General Requirements to provide that mobile operations are also permissible in residential zoning districts on properties having a current certificate of use and occupancy as a museum.

This substitute differs from the original in that it: amends the number of days traveling mobile operations may operate from a given site from two days per week to six days per month; allows for up to five traveling mobile operations on a given site in lieu of three; allows traveling mobile operations to be located on required parking spaces; requires the property owner to submit a Certificate of Use (CU) application that includes a site plan indicating where stationary mobile operations will be located; requires property owners to obtain or amend a CU to allow for traveling mobile operations; removes AU from the list of zoning districts where mobile operations are permitted (fruit and vegetable stands will continue to be permitted under the AU standards); adds residentially-zoned properties with a current CU for a hospital or school to the list of zoning districts where mobile operations are permitted; and clarifies that County parks are exempt for the provisions of the ordinance.

Recommendation
It is recommended that the Board of County Commissioners adopt the attached ordinance providing for mobile sales and mobile food service operations on private property.

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 Permitting, Environment and Regulatory Affairs will administer the implementation of this ordinance.

Background
More and more, sales and services are going mobile to meet the demands of an increasingly time-constrained society. This trend is reflected in the number of mobile operations such as flower stands and food trucks springing up around the nation. Many of these mobile operations portray unique designs and cater to pedestrians; thus, contributing to the vitality of publicly-accessible spaces.

In the current business climate, many start-up businesses cannot afford the high overhead associated

with a brick-and-mortar establishment. Mobile operations can provide an opportunity for these businesses to establish a foothold in the market and potentially evolve into an established facility.

The proposed ordinance will allow for mobile operations on private, improved property zoned commercial, industrial, urban center districts, and GU (where trended for industrial or commercial use). The proposed ordinance will also provide a process by which a mobile operation may obtain a Certificate of Use as well as regulatory criteria for the operation of these operations. The proposed ordinance includes a sunset clause whereby it shall stand repealed eighteen (18) month after its effective date. Within one (1) year of the effective date of the proposed ordinance, the County Mayor shall prepare a report for the Board of County Commissioners on the implementation of this ordinance.

Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: November 15, 2011

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)
11-15-11

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-1 AND CREATING SECTION 33-14.1 OF THE CODE OF MIAMI-DADE COUNTY; AUTHORIZING MOBILE SALES AND MOBILE FOOD SERVICE OPERATIONS; REQUIRING COUNTY MAYOR OR DESIGNEE TO REPORT ON IMPLEMENTATION OF THIS ORDINANCE WITHIN ONE YEAR OF EFFECTIVE DATE; PROVIDING SUNSET CLAUSE; 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 33-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-1. Definitions.

* * *

(70.2) Mobile Food Service Operation – The preparation/cooking, serving and/or sale of food conducted from a portable stand, vehicle or trailer. Each such stand, vehicle or trailer shall be considered a mobile food service operation. >>Mobile food service operations must be licensed by the State of Florida.<<[2]

[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.

[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.

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(70.3) Mobile Sales Operations - [[~~The provision of services or sales~~]] >>Sales of products, limited to flowers, plants and produce,<< that are conducted from a portable stand, vehicle or trailer. Each such portable stand, vehicle or trailer shall be considered a mobile sales operation.

(70.4) Mobile Operations – as referred in this chapter shall mean mobile food service >>operations<< and mobile sales operations.

* * *

Section 2. Section 33-14.1 of the Code of Miami-Dade County, Florida, is hereby created as follows:

Sec. 33-14.1. Mobile sales and mobile food service operations.

(A) Notwithstanding any provisions of this Chapter to the contrary, mobile sales operations, as defined in Section 33-1(70.3), and mobile food service operations, as defined in Section 33-1(70.2) of this Code (collectively defined as mobile operations under Section 33-1(70.4)) are permissible on private property subject to the following conditions:

(1) General requirements:

[[~~(a) Alcoholic beverage sales are prohibited.~~

~~(b) Fruit and vegetable stands in the AU District shall comply with the requirements of Section 33-279 (6.1) of this Code, and the provisions of Section 33-279 (6.1) shall prevail over this Section in the event of any conflict.~~

~~(c) Electric service connection to an on-site approved outlet is permitted provided that no wiring or cables are run beyond the vending area or pose any danger to the patrons. For purposes of this requirement, the vending area includes the space taken up by: a portable stand, vehicle, or trailer; signs; equipment; products; and any tents, tarpaulins, canopies, or awnings.~~

~~(d) Use of sound amplification devices is prohibited.~~]]

[[~~(2) Location, number, and size:~~]]

(a) Mobile operations are permissible only in the following zoning districts: [[~~AU,~~]] BU, IU, urban center, urban area, and GU (where trended for [[~~agricultural,~~]] industrial, or business use). >>Mobile operations are also permissible in residential zoning districts on properties having a current certificate of use and occupancy as a<< >>museum,<<[3]>> hospital or school.<<

[[~~(b) Mobile operations shall not be located in parking spaces, unless the number of parking spaces exceeds the minimum amount required for the other uses on the property.~~]]

>>(b) Mobile operations may only be conducted from 7 a.m. to 10 p.m. on weekdays and from 7 a.m. to 11 p.m. on weekends.<<

(c) Mobile operations shall not be located in any driveway aisles, no parking zones, loading areas, or parking lanes, nor may mobile operations impede the on-site circulation of motor vehicles.

(d) Mobile operations shall not be located on the public right-of-way.

(e) Mobile operations are permissible on vacant>>, unimproved<< property only when approved as a special event pursuant to Section 33-13(h) of this Code.

(f) Mobile operations shall be located a minimum of 20 feet from the property line of an existing residential use, except that mobile operations may be located at a minimum of 10 feet from the property line if the residential use is separated by a six (6) foot high masonry wall. [[~~These setback provisions shall not apply to fruit and vegetable stands in the AU District, which shall comply with Section 33-279(6.1) of this Code.~~]]

[3] 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.

>>(g) Alcoholic beverage sales are prohibited.<<

>>(h) Electric service connection to an on-site approved outlet is permitted provided that no wiring or cables are run beyond the vending area or pose any danger to the patrons. For purposes of this requirement, the vending area includes the space taken up by: a portable stand, vehicle, or trailer; signs; equipment; products; and any tents, tarpaulins, canopies, or awnings.<<

>>(i) Use of sound amplification devices is prohibited.<<

>>(j) Each operator of a mobile operation shall obtain a Certificate of Use (CU), renewable on an annual basis. The application package shall include at a minimum the following information:

(1) Narrative from the applicant describing the operation and its hours of operations.

(2) For mobile food service operators, a copy of the required State license for food service establishments.<<

[[~~(f) The number of mobile operations permissible on a site at any one time shall be limited as follows:~~

~~(1) One (1) mobile operation may be permitted on each site which contains a minimum of 10,000 square feet of net lot area.~~

~~(2) An additional mobile operation may be permitted for each additional 50,000 square feet of net lot area, up to a maximum of three (3) mobile operations per site.~~

~~(3) More than three (3) mobile operations per site is prohibited unless permitted as a special event pursuant to Section 33-14.1(e) of this Code.~~]]

[[~~(3) Hours of Operations and Certificate of Use:~~

~~(a) Each mobile operation shall obtain a Certificate of Use (CU) on an annual basis. The CU application package for mobile operations shall be obtained from and submitted to the Department of Planning and Zoning.~~]]

>>(2)<<[[~~(b)~~]] Stationary mobile operations. These are mobile operations that >>operate from<< [[~~are located on~~]] the same site for [[~~more than two consecutive days.~~]]>>more than six days within a thirty-day time period. The property owner is responsible for ensuring that all mobile operations operating on the site have obtained a Certificate of Use.<<

[[~~(1) Stationary mobile operations may only be conducted from 7 a.m. to 10 p.m. on weekdays and from 7 a.m. to 11 p.m. on weekends.~~]]

>>(a) The number of stationary mobile operations permissible on a site at any one time shall be limited as follows:

(1) One (1) mobile operation may be permitted on each site which contains a minimum of 10,000 square feet of net lot area.

(2) An additional mobile operation may be permitted for each additional 50,000 square feet of net lot area, up to a maximum of three (3) mobile operations per site.<<

>>(b) Stationary mobile operations shall not be located in required parking spaces unless the number of spaces exceeds the minimum amount required for the other uses on the property.<<

>>(c) In addition to the CU obtained by the mobile operation, a CU must also be obtained by the property owner to permit stationary mobile operations on the site. A site plan or survey shall be submitted indicating the following:

(1) Location of the individual mobile operations. Mobile operations shall be located so as to minimize the impacts on adjacent residential uses.

(2) Location of improvements on the site

(3) Location of on-site parking areas.

(4) Rights-of-way, internal circulation and ingress and egress.<<

[[~~(2) The CU application package for a stationary mobile operation shall include all of the following:~~

~~a. Notarized letter from the property owner of record or representative authorizing the mobile operation described in the application package.~~
~~b. Narrative from applicant describing the operation and its hours of operations.~~
~~c. For mobile food service operators, a copy of the required State license for food service establishments.~~
~~d. Site plan or survey indicating the placement of the individual mobile operation on each site.~~]]

>>(3)<<[[~~a.~~]] Traveling mobile operations. These are mobile operations that >> do not operate from the same site for more than six days within a thirty-day time period.<< [[~~are located on the same site for two consecutive days or less.~~]] >>Traveling mobile operations must be removed from the site when not in operation.<<

[[~~(1) Traveling mobile operations may be conducted on a specific site between 7 a.m. and 10 p.m. on weekdays and between 7 a.m. and 11 p.m. on weekends.~~

~~(2) Traveling mobile operations are limited to two consecutive days on the same site during a week.~~]]

>>(a) In addition to the CU obtained by the mobile operation, the property owner must also obtain a CU or amend a current CU to allow for traveling mobile operations. The number of days mobile operations may locate on a given site shall be limited to six days within a thirty-day time period.

(b) The number of traveling mobile operations permissible on a site at any one time shall be limited as follows:

(1) One (1) traveling mobile operation may be permitted on each site which contains a minimum of 10,000 square feet of net lot area.

(2) An additional traveling mobile operation may be permitted for each additional 30,000 square feet of net lot area, up to a maximum of five (5) mobile operations per site.

(3) Mobile operations in excess of these thresholds may only be permitted as a

special event pursuant to Section 33-14.1(e) of this Code.

(4) Sites that have a CU for stationary mobile operations may also contain traveling mobile operations provided that the cumulative total does not exceed the thresholds outlined above. In no event shall the number of stationary mobile operations exceed three.<<

[[~~(3) The CU application package for a traveling mobile operation shall include all of the following:~~

~~a. Narrative from applicant describing the operation and potential locations.~~

~~b. For mobile food service operators, a copy of the required State license for food service establishments.~~]]

>>(c)<<[[~~(1)~~]] The operator of a traveling mobile operation must be able to produce for inspection: a copy of a letter or other written communication from the property owner or representative that authorizes the mobile operation and, for mobile food service operators, a copy of the applicant's required State license for food service establishments.

(B) If it is found that a mobile operation is operating in manner not consistent with the representations made in the application package provided to the Department, the Director shall have the authority to revoke the CU >>of the mobile operation and/or the property owner<< immediately.

(C) Except as otherwise provided in this Code, it is unlawful to conduct mobile operations in any outdoor location without first obtaining a CU in accordance with the provisions of this Section.

(D) Existing mobile operations operating prior to the effective date of this ordinance shall have 180 days from the effective date to obtain a CU and otherwise comply with the terms of this Section.

(E) Mobile operations located at >>County parks,<< sports stadiums or racetracks during events shall be exempt from the requirements of this Section but must otherwise comply with all other applicable requirements in this Code.

Section 3. Within one (1) year of the effective date of this ordinance, the County Mayor or the Mayor's designee shall prepare a report for the Board of County Commissioners on the implementation of this ordinance.

Section 4. 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 5. 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 6. This ordinance shall sunset and stand repealed eighteen (18) month after its effective date.

Section 7. 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:

Abbie S. Raurell