

MEMORANDUM

Agenda Item No. 7(D)


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

DATE: (Second Reading 5-1-12)
February 21, 2012

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

SUBJECT: Ordinance pertaining to animals; repealing regulations pertaining to pit bull dogs; deleting Sections 5-17 through 5-17.7 and amending Section 8CC-10 of the Code; an effective date subject to referendum, and a sunset date subject to defeat of referendum

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

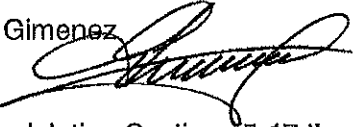
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Memorandum



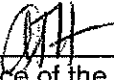
Date: May 1, 2012

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

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance deleting Sections 5-17 through 5-17.7 and amending Section 8CC-10 of
the Code pertaining to animals

The implementation of this ordinance will result in the loss of pit-bull related violation revenues. However, it is expected that most of these revenue losses will be offset by new licensing revenue proceeds. It is expected that the net fiscal impact to the County would be minimal.



Office of the Mayor

Fis4612



MEMORANDUM

(Revised)

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

DATE: May 1, 2012

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

SUBJECT: Agenda Item No. 7(D)

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

Agenda Item No. 7(D)
5-1-12

Veto _____

Override _____

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ANIMALS; REPEALING REGULATIONS PERTAINING TO PIT BULL DOGS; DELETING SECTIONS 5-17 THROUGH 5-17.7 AND AMENDING SECTION 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AN EFFECTIVE DATE SUBJECT TO REFERENDUM, AND A SUNSET DATE SUBJECT TO DEFEAT OF REFERENDUM

WHEREAS, this Board wishes to repeal the County's regulations pertaining to pit bull dogs if such repeal is approved by the voters by referendum at a special election called in conjunction with the August 14, 2012 primary election,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Sections 5-17 through 5-17.7 of the Code of Miami-Dade County are hereby deleted in their entirety as follows:¹

[[Sec. 5-17. -- Legislative intent.

~~This article is intended to utilize the authority and powers of Miami-Dade County in order to secure for the citizens of this County the protection of their health, safety and welfare. It is intended to be applicable to dogs which are commonly referred to as "pit bulls" and which are defined herein. This article is designed to regulate these pit bull dogs and to ensure responsible handling by their owners through confinement, registration, and liability insurance. The unique history, nature and characteristics of pit bull dogs have been determined to require the special regulations and provisions contained within this article which the County Commission hereby finds reasonable and necessary.~~

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.

Sec. 5-17.1. — Definition and identification of a pit bull dog.

(a) — The term "pit bull dog" as used within this article shall refer to any dog which exhibits those distinguishing characteristics which:

(1) — Substantially conform to the standards established by the American Kennel Club for American Staffordshire Terriers or Staffordshire Bull Terriers; or

(2) — Substantially conform to the standards established by the United Kennel Club for American Pit Bull Terriers.

(b) — The Standards of the American Kennel Club and the United Kennel Club referred to in subsection (a) above, are attached hereto and incorporated herein by reference as "Exhibit A" and shall remain on file with the Animal Services Division of the Public Works Department of Miami-Dade County.

(c) — Technical deficiencies in the dogs' conformance to the standards described in subsection (b) shall not be construed to indicate that the subject dog is not a "pit bull dog" under this article.

(d) — Testimony by a veterinarian, zoologist, animal behaviorist, or animal control officer that a particular dog exhibits distinguishing physical characteristics of a pit bull shall establish a rebuttable presumption that the dog is a pit bull.

Sec. 5-17.2. — Confinement of pit bull dogs.

(a) — Because of the pit bull dog's inbred propensity to attack other animals, and because of the danger posed to humans and animals alike by a pit bull dog when running loose or while running together in a pack, pit bull dogs must at all times be securely confined indoors, or confined in a securely and totally enclosed and locked pen, with either a top or with all four (4) sides at least six (6) feet high, and with a conspicuous sign displaying the words "Dangerous Dog."

(b) — At any time that a pit bull dog is not confined as required in subsection (a) above, the dog shall be muzzled in such a manner as to prevent it from biting or injuring any person or animal, and kept on a leash with the owner or custodian in attendance. Provided, however, that no pit bull dog may be walked within fifty (50) feet of any public school ground nor enter onto such school ground.

(c) — An exception to these confinement requirements is hereby provided for any pit bull dog in attendance at, and participating in, any lawful dog show, contest or exhibition sponsored by a dog club, association, society or similar organization.

(d) — An exception to these confinement requirements is hereby provided for any pit bull dog when the dog is actually engaged in the sport of hunting in an authorized area and supervised by a competent person.

~~Sec. 5-17.3. -- Evidence of financial responsibility required to be maintained by owners of pit bull dogs.~~

~~In order to protect the public and to afford relief from the severe harm and injury which is likely to result from a pit bull dog attack, every owner of a pit bull dog shall maintain and be able to provide evidence of the owner's financial ability to respond in damages up to and including the amount of fifty thousand dollars (\$50,000.00) for bodily injury to or death of any person or damage to property which may result from the ownership, keeping or maintenance of such dog. Proof of ability to respond in damages shall be given by filing with the Animal Control Office a certificate of insurance from an insurance company authorized to do business in the State, stating that the owner is and will be insured against liability for such damages; or by posting with the Animal Control Office a surety bond conditioned upon the payment of such damages during the period of such registration; or by posting a personal bond secured by a mortgage in real property or security interest in personal property; or a sworn statement of the owner of his/her financial ability to respond in damages up to and including the amount of fifty thousand dollars (\$50,000.00).~~

~~Sec. 5-17.4. -- Registration of pit bull dogs.~~

~~Every owner of a pit bull dog in Miami Dade County shall register the dog with the Animal Services Division of the Public Works Department of the County. The registration shall include the following: Name, address and telephone number of the dog's owner; the address where the dog is harbored, if different from the owner's address; a complete identification of the dog including the dog's sex, color and any other distinguishing physical characteristics; a color photograph of the dog; a description of the method of compliance with the confinement requirements; proof of the liability insurance or other evidence of financial responsibility required pursuant to this article; and a registration fee.~~

~~Sec. 5-17.5. -- Enforcement.~~

~~It shall be the duty and responsibility of all Miami Dade County Animal Control Officers to enforce the provisions of this article.~~

~~Sec. 5-17.6. -- Time for compliance.~~

~~(a) -- All persons subject to this article shall have ninety (90) days from the effective date of this section [April 14, 1989] to comply with all confinement and registration and requirements. The provisions of Section 5-17.3, entitled "Liability Insurance or Other Evidence of Financial Responsibility Required to be Maintained by Owner of Pit Bull Dogs," shall be effective on January, 1, 1990.~~

~~(b) — No pit bull dogs may be sold, purchased, obtained, brought into Miami-Dade County, or otherwise acquired by residents of Miami-Dade County anytime after the passage of ninety (90) days after the effective date of Ordinance Number 89-22. No such newly-acquired pit bull dogs may be kept, maintained, or otherwise harbored within Miami-Dade County, and each day any such newly-acquired pit bull is so kept, maintained, or harbored shall constitute a separate violation of this section.~~

~~(1) — Violation of subsection (b) may result in the issuance of a civil violation notice, and~~

~~(2) — Humane destruction of the pit bull dog by order of a court of competent jurisdiction. The County Manager or his designee may apply to the court for such order pursuant to this paragraph.~~

~~(c) — Failure to register a pit bull dog as required by this article within the ninety day grace period shall be prima facie evidence that the pit bull dog is a newly-acquired pit bull dog.~~

~~**Sec. 5-17.7. — Pit bull signs in veterinary offices, kennels, commercial breeders, commercial animal establishments, pet shops, and dog grooming businesses.**~~

~~(1) — *Signs Required.* Every veterinary office, kennel, commercial breeder, commercial animal establishment, pet shop, and dog grooming business must post a sign stating in English, Spanish and Creole the following:~~

~~BOTH PURE AND MIXED BREED PIT BULL DOGS ARE CLASSIFIED AS DANGEROUS. IT HAS BEEN ILLEGAL TO ACQUIRE A NEW PIT BULL DOG SINCE JANUARY 1, 1990. FAILURE TO REGISTER, MUZZLE, CONFINE, AND INSURE A PIT BULL IS A VIOLATION OF THE LAW SUBJECT TO SEVERE PENALTY. Section 5-17.1, Miami-Dade Code.~~

~~IF YOU OR YOUR FAMILY IS AT RISK BECAUSE SOMEONE LIVING NEAR YOU ILLEGALLY KEEPS A PIT BULL, CONTACT THE MIAMI-DADE COUNTY DANGEROUS DOG INVESTIGATOR AT [HERE INSERT CURRENT PHONE NUMBER PROVIDED BY MIAMI-DADE COUNTY].~~

~~The sign must be prominently displayed to the public and clearly legible.~~

~~(2) — *Penalties.* Failure to post a sign as required by this section shall be a civil violation subject to a \$500.00 civil penalty. Every day a sign is not posted shall be a separate violation.]]~~

Section 2. Section 8CC-10 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>
	* * * *	
[[5-17.2	Failure to confine pit bull dog	500.00
5-17.3	Failure of the owner of pit bull dog to maintain insurance or other evidence of financial responsibility	500.00
5-17.4	Failure to register pit bull dog	500.00
5-17.6	Acquisition or keeping of pit bull dogs	500.00
5-17.7	Failure to post pit bull sign	500.00]]
	* * * *	

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. The provisions of this ordinance shall become effective upon both: (1) the passage of ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, upon an override by this Board; and (2) the passage of a referendum authorizing this ordinance to take effect held in conjunction with the primary election currently scheduled for August 14, 2012.

Section 6. This ordinance shall sunset upon the defeat of a referendum authorizing this ordinance to take effect held in conjunction with the primary election currently scheduled for August 14, 2012.

PASSED AND ADOPTED:

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

Prepared by: OR

Oren Rosenthal

Prime Sponsor: Commissioner Sally A. Heyman