



MEMORANDUM

Agenda Item No. 7(L)

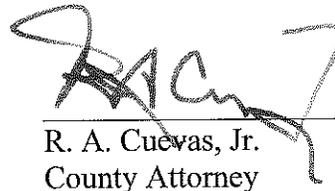
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: (Second Reading 7-3-12)
April 3, 2012

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

SUBJECT: Ordinance amending Chapter 8
Article III of the Code adopting
a local administrative amendment
pertaining to the design and
construction of buildings and
structures in flood hazard areas
of incorporated and unincorporated
Miami-Dade County

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum



Date: July 3, 2012

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

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance Creating a Local Administrative Amendment to Allow Delegation of Floodplain Regulation to Appropriate Municipal and County Agencies

Recommendation

The proposed ordinance is intended to establish a local administrative amendment specifically designed to complement existing Municipal and County regulations, delegate regulation to appropriate agencies to satisfy the National Flood Insurance Program (NFIP), to coordinate enforcement of flood provisions contained in the Florida Building Code, and to meet the requirements of section 553.73(5), F.S.

It is recommended that the Miami-Dade County Board of County Commissioners adopt the proposed ordinance.

Scope

The proposed ordinance has county-wide impact.

Fiscal Impact/Funding Source

There is no fiscal impact to Miami-Dade County or the municipalities.

Track Record/Monitor

Not applicable.

Background

Every year flooding causes hundreds of millions of dollars' worth of damage to homes and businesses around the country. Standard homeowners and commercial property policies do not cover flood losses. To meet the need for this vital coverage, the Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program (NFIP).

The 2007 Florida Building Code (FBC 2007) – effective statewide through March 14, 2012 - did not include flood resistant design and construction provisions. In order to participate and satisfy the requirements of the National Flood Insurance Program (NFIP) (44 CFR part 59-60) each local jurisdiction was required to enact legislation for the regulation of flood resistant development and construction. All jurisdictions in Miami-Dade County have enacted local flood hazard legislation which allows participation in the NFIP.

At the request of the Florida Division of Emergency Management (DEM), the Florida Building Commission convened a Flood Resistant Standards Workgroup charged with developing recommendations for integrating the International Code Series flood damage-resistant provisions for buildings and structures in the Florida Building Code. As a result, during the code development process for the 2010 edition of the FBC (FBS 2010), the Florida Building Commission determined it is appropriate that the building code address all

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hazards that may affect Florida's communities so that all environmental conditions and loads are accounted for when buildings or structures are planned, designed, constructed, and inspected. Additionally, the Florida Building Commission adopted ASCE 24 Flood Resistant Design and Construction Standards by reference into the FBC 2010.

The Florida Building Commission established March 15, 2012 as the state wide adoption date of the FBC 2010 and presented the final code version for the first time at the end of November 2011, as an online document for viewing only. Review and discussion of the new code provisions and the referenced standard by local municipal building officials, local floodplain administrators and local environmental resource officials followed thereafter. In Miami-Dade County, 34 local jurisdictions enforce the flood resistance requirements through adopted ordinances. These ordinances are enforced by a variety of entities. In some cases, the Building Official is the floodplain administrator, in other cases flood requirement enforcement is delegated to other regulatory agencies or a combination of agencies. Inconsistencies and possible conflicts will occur if local floodplain management regulations cannot be delegated to appropriate agencies.

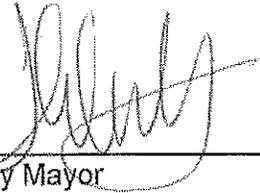
The State legislature understood that by placing flood requirements in the building code many local jurisdictions could be adversely affected by assigning the building official as the exclusive enforcing authority. In recognition of this fact, a statutory change enacted in 2010 explicitly allows for adoption of administrative amendments that "may assign the duty to enforce all or portions of flood-related code provisions to the appropriate agencies of the local government". As the law indicates a local administrative amendment must be adopted by the local administrative body.

553.73, Florida Statutes

(5) Notwithstanding subsection (4), counties and municipalities may adopt by ordinance an administrative or technical amendment to the Florida Building Code relating to flood resistance in order to implement the National Flood Insurance Program or incentives. Specifically, an administrative amendment may assign the duty to enforce all or portions of flood-related code provisions to the appropriate agencies of the local government and adopt procedures for variances and exceptions from flood-related code provisions other than provisions for structures seaward of the coastal construction control line consistent with the requirements in 44 C.F.R. s. 60.6. A technical amendment is authorized to the extent it is more stringent than the code. A technical amendment is not subject to the requirements of subsection (4) and may not be rendered void when the code is updated if the amendment is adopted for the purpose of participating in the Community Rating System promulgated pursuant to 42 U.S.C. s. 4022, the amendment had already been adopted by local ordinance prior to July 1, 2010, or the amendment requires a design flood elevation above the base flood elevation. Any amendment adopted pursuant to this subsection shall be transmitted to the commission within 30 days after being adopted.

In January 2012 representative floodplain administrators from local municipalities reached final consensus regarding the language for a local single administrative amendment to the Florida Building Code in order to synchronize flood enforcement in Miami-Dade County. A single ordinance modification has been created which would be applicable for all

jurisdictions in Miami-Dade County. This ordinance is intended to establish a mechanism by which each jurisdiction may delegate the duties of floodplain regulation to the appropriate agencies. In this way, those jurisdictions which elect to maintain the status quo regarding floodplain regulatory duties may have an approved means do so. A companion resolution will be presented to the Board of County Commissioners to delegate floodplain regulation to the appropriate agency for Unincorporated Miami-Dade County.



Deputy Mayor

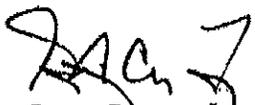


MEMORANDUM

(Revised)

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

DATE: July 3, 2012

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

SUBJECT: Agenda Item No. 7(L)

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(L)
7-3-12

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 8 ARTICLE III OF THE MIAMI-DADE COUNTY CODE ADOPTING A LOCAL ADMINISTRATIVE AMENDMENT PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS OF INCORPORATED AND UNINCORPORATED MIAMI-DADE COUNTY 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. That Chapter 8 of the Code of Miami-Dade County, Florida, is amended as follows:¹

Chapter 8 BUILDING CODE

ARTICLE III. FLORIDA BUILDING CODE

Sec. 8-31. - Local technical amendments to Florida Building Code.

* * *

[[Secs. 8-32—8-39. Reserved.]]

>>Sec. 8-32. Local Administrative Amendments

(A). The County hereby adopts the following Local Administrative Amendment modifying Chapter 1 of the Florida Building Code.

SECTION 103

POWERS AND DUTIES OF THE FLOODPLAIN ADMINISTRATOR

103.1 Scope. In accordance with F.S. sec. 553.73, the Appointing Authority of Miami -Dade County and the Municipalities may delegate the authority to enforce the floodplain provisions of the Florida Building Code to a floodplain administrator, the Building Official, or any other appropriate agency or combination thereof.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. The remaining provisions are now in effect and remain unchanged.

103.2 Intent. A floodplain administrator, the Building Official, or any other appropriate agency or combination thereof, as designated, is authorized and directed to administer and enforce the flood provisions of the Florida Building Code and any adopted flood hazard ordinances. The designated authority shall delegate such duties and assignments as may be deemed necessary to carry out provisions of the Florida Building Code and any adopted flood hazard ordinances, to render interpretations consistent with the intent and purpose of these codes and may establish policies and procedures in order to clarify the application of their provisions.

103.3 General. Where, in any specific case, different sections of the Florida Building Code or adopted flood hazard ordinances specify different materials, methods of construction or other requirements, the most restrictive shall govern.

Secs. 8-33 - 8-39. - Reserved. <<

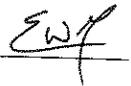
Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. 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 4. 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:

Eduardo W. Gonzalez