

MEMORANDUM

Agenda Item No. 7(B)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: (Second Reading 1-23-13)
October 2, 2012

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

SUBJECT: Ordinance relating to
Planning and Zoning;
requiring the Board to
retain jurisdiction to modify
or delete covenants or
declarations of restrictions
accepted in connection with
CDMP amendment
applications or zoning
applications

The accompanying ordinance was placed on the agenda at the request of Prime Sponsor
Commissioner Jose "Pepe" Diaz.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum



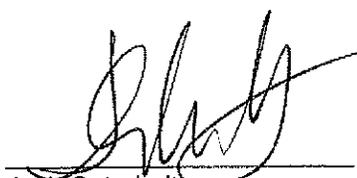
Date: January 23, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance Relating to Planning and Zoning

The proposed ordinance requires that the Board of County Commissioners retains jurisdiction over the modification or deletion of declarations of restrictive covenants in connection with a Comprehensive Development Master Plan application or zoning application. If this ordinance is approved, it is recommended that these conditions will be inserted as part of the interlocal agreement between the County and the existing/new municipality. The implementation of this ordinance will not have a fiscal impact to the County.

A handwritten signature in black ink, appearing to read "Jack Osterholt". The signature is written in a cursive style and is positioned above a horizontal line.

Jack Osterholt
Deputy Mayor

Fis0113



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: January 23, 2013

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

SUBJECT: Agenda Item No. 7(B)

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 Mayor'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(B)
1-23-13

ORDINANCE NO. _____

ORDINANCE RELATING TO PLANNING AND ZONING;
REQUIRING THE BOARD OF COUNTY COMMISSIONERS
TO RETAIN JURISDICTION TO MODIFY OR DELETE
COVENANTS OR DECLARATIONS OF RESTRICTIONS
ACCEPTED IN CONNECTION WITH COMPREHENSIVE
DEVELOPMENT MASTER PLAN AMENDMENT
APPLICATIONS OR ZONING APPLICATIONS, WHEN THE
AREA THAT IS THE SUBJECT OF THE COVENANT OR
DECLARATION OF RESTRICTION HAS BEEN ANNEXED
OR INCORPORATED; AMENDING SECTION 20-26 AND
CREATING SECTION 20-8.8 OF THE CODE OF MIAMI-
DADE COUNTY, FLORIDA ("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 20-8.8 of the Code of Miami-Dade County, Florida, is hereby
created to read as follows:

**Sec. 20-8.8. – Retention of Modification or Deletion of
Covenants or Declaration of Restrictions.**

The Board of County Commissioners shall require, as a condition
of municipal boundary change, that the Board retain jurisdiction
over the modification or deletion of declarations of restrictive
covenants accepted by either the Board or a Community Zoning
Appeals Board in connection with a Comprehensive Development
Master Plan application or zoning application, regardless of
whether such declaration provides for modification or deletion by a
successor governmental body.

Section 2. Section 20-26 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 20-26. - Future Municipalities' Obligations to the County.

(a) As a condition of incorporation approved pursuant to Article V>>I<< of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree to remain a part of the Miami-Dade County Fire-Rescue District and the Miami-Dade County Library System in perpetuity.

(b) As a condition of incorporation approved pursuant to Article V>>I<< of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree in perpetuity to contract with the Miami-Dade County Police Department ("MDPD") and pay for specialized police services from its municipal millage or other municipal funds. For purposes of this subsection, specialized police services include, but are not limited to, narcotics, criminal intelligence, economic crimes, homicide, robbery, sexual crimes, environmental crimes, domestic crimes, and crime scene investigations; property and evidence efforts; tactical operations activities; and aviation patrol.

(c) As a condition of incorporation approved pursuant to Article V>>I<< of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree to contract with the Miami Dade County Police Department ("MDPD") and pay for local patrol police services for three years or such longer period of time as may be requested by the municipality.

(d) The fiscal impact of an incorporation on the remainder of the unincorporated area shall be revenue neutral; provided, however, any municipality which does not meet the foregoing requirement, as a condition of incorporation pursuant to Article V>>I<< of the Miami-Dade County Home Rule Charter, shall agree to make an annual mitigation payment to the County's Municipal Services Trust Fund in the Unincorporated Municipal Service Area Budget, the amount of which shall be determined by the Board of County Commissioners, in the event of a negative fiscal impact of the municipality's incorporation on the unincorporated area. For

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.

purposes of this subsection, "a revenue neutral municipality" is defined as an area that previously, as part of the unincorporated municipal service area, generated revenues equal to or less than the cost of services provided to the area by the County. Any annual mitigation amount determined by the Board of County Commissioners pursuant to the provisions of this paragraph shall be established so as not to trigger "most-favored-nation-status" clauses which are contained in any municipal charter.

(e) As a condition of incorporation approved pursuant to Article V>>I<< of the Miami-Dade County Home Rule Charter, each new municipality shall include in its charter that such municipality shall be responsible for (i) its pro-rata share of any County debt outstanding at the time the municipality incorporates and with respect to the Stormwater Utility, outstanding at the time the municipality elects to be separate from the Stormwater Utility through an interlocal agreement or by exemption and (ii) its prorata share of any refunding of such debt. The municipality's annual pro-rata share of debt service shall be determined by multiplying the total debt service in each Fiscal Year by the municipality's percentage share of pledged revenues (revenues pledged by the County to the repayment of the debt). The municipality's percentage share shall be determined by dividing the pledged revenues collected within the municipality during the County's Fiscal Year in which municipality incorporates, and with respect to the Stormwater Utility in the Fiscal Year in which the municipality elects to separate from the Stormwater Utility district; by the total pledged revenues collected in that same Fiscal Year. It is further provided that the municipality's charter shall authorize the County to continue to collect and distribute the pledged revenues in a manner that is consistent with the requirements of the debt and shall recognize the municipality's obligations pursuant to this subsection.

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(g) As a condition of incorporation approved pursuant to Article V>>I<< of the Miami-Dade County Home Rule Charter, each new municipality, as a part of its charter, shall provide for adoption of Miami-Dade County's workforce housing development program established at Chapter 33, Article XHIA of the Code of Miami-Dade County, as amended, provided, however, that any municipality may establish and enforce more stringent regulations as necessary to ensure provision of workforce housing units within its jurisdiction.

>>(h) As a condition of incorporation approved pursuant to Article VI of the Miami-Dade County Home Rule Charter, each new municipality shall provide, as a part of the charter, that the Board of County Commissioners retains jurisdiction over the modification or deletion of declarations of restrictive covenants accepted by either the Board of County Commissioners or a Community Zoning Appeals Board in connection with a Comprehensive Development Master Plan application or zoning application, regardless of whether such declaration provides for modification or deletion by a successor governmental body.<<

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 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 5. 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:

Craig H. Coller / Dennis A. Kerbel

Prime Sponsor: Commissioner Jose "Pepe" Diaz

