

## MEMORANDUM

Agenda Item No. 7(J)

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

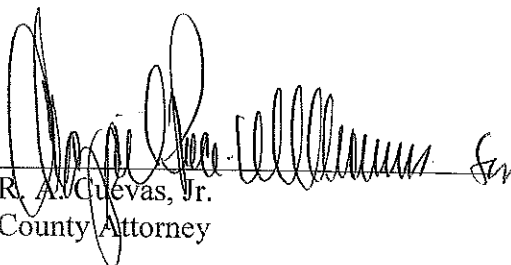
**DATE:** February 5, 2013

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

**SUBJECT:** Ordinance relating to zoning;  
modifying restrictions relating  
to donation collection bins;  
amending Section 33-19 of the  
Code

A substitute was presented and forwarded to the BCC with a favorable recommendation at the 11-7-12 Infrastructure and Land Use Committee. The substitute differs from the original version in that it requires the collection bins to be placed only on property owned by the tax-exempt non-profit responsible for the bin, permits 2 bins to be located on a site, eliminates the requirement that the bins be buffered from view, eliminates the requirement that bins be shown on site plans, requires a permit to be obtained prior to placement on the site, and specifies that the bins located inside buildings are not subject to the regulations.

The accompanying ordinance was placed on the agenda at the request of Prime Sponsor Vice Chair Lynda Bell.

  
R. A. Cuevas, Jr.  
County Attorney

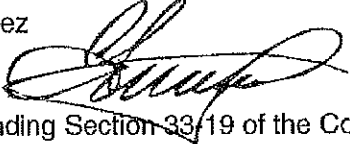
RAC/cp

# Memorandum



**Date:** February 5, 2013

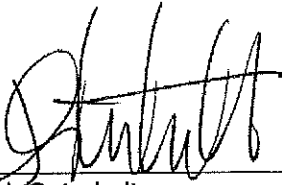
**To:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Ordinance Amending Section 33-19 of the Code Related to Donation Collection Bins

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The proposed ordinance amends Section 33-19 of the Code, codifying the criteria for usage of temporarily placed donation collection bins. The implementation of this ordinance will not have a fiscal impact to the County.



Jack Osterholt  
Deputy Mayor

Fis0613



**MEMORANDUM**  
(Revised)

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

**DATE:** February 5, 2013

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

**SUBJECT:** Agenda Item No. 7(J)

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(J)  
2-5-13

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO ZONING; MODIFYING RESTRICTIONS RELATING TO DONATION COLLECTION BINS; AMENDING SECTION 33-19 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 33-19 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 33-19. – Donation collection bins prohibited; exceptions.**

(a) *Donation collection bins prohibited.* It shall be unlawful to deposit, store, keep or maintain or to permit to be deposited, stored, kept or maintained a donation collection bin in or on any lot, parcel or tract of land or body of water in any zoning district >>unless it is enclosed within a building, or except as provided in this section<<<sup>2</sup>. A donation collection bin is hereby defined as a receptacle designed with a door, slot or other opening and which is intended to accept and store donated items.

(b) *Exceptions.* The following shall be exempted from the provision of subsection (a) above:

(1) Nonmotorized vehicles which comply with the following criteria:

(i) The nonmotorized vehicles must be operated by an organization which has been incorporated as a not-for-

<sup>1</sup> 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.

<sup>2</sup> The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

profit organization under the laws of the State of Florida for a charitable purpose and which has been declared exempt from the payment of federal income taxes by the United States Internal Revenue Service;

(ii) Personnel directly employed by or volunteers for the not-for-profit organization must be present at the non-motorized vehicles at least five days a week (except holidays) to accept donations;

(iii) The monetary proceeds resulting from the sale of donations collected at a nonmotorized vehicle must be used in accordance with the organization's charitable purpose pursuant to Section 33-19(a)(i) to benefit persons within the boundaries of Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters;

(iv) The operation of the nonmotorized vehicles, the collection and distribution of donations and proceeds thereof must be conducted by said not-for-profit organization and not by a licensee, subcontractor or agent of the not-for-profit organization; and

(v) The nonmotorized vehicles shall be located on sites in accordance with the requirements of Section 33-238(5); provided further that said nonmotorized vehicles shall operate in a safe manner, be neat in appearance, well maintained, free of graffiti, fully painted and shall be buffered from adjacent properties by on-site landscaping, walls or similar screening; and

(vi) For each nonmotorized vehicle said not-for-profit organization shall submit a declaration of use in a form meeting with the approval of the Director in connection with the issuance of an annually renewable certificate of use and occupancy. Said declaration of use shall specify compliance with the foregoing conditions.

Nonmotorized vehicles which comply with the foregoing criteria are not required to be shown on-site plans which are required by the Code to be submitted for approval at public hearing or by administrative site plan review.

(2) Permanently placed donation collection bins which comply with the following criteria:

(i) The donation collection bins are contained wholly upon improved property owned and operated by an organization which has been incorporated as a not-for-profit organization under the laws of the State of Florida for a charitable purpose and which has been declared exempt from the payment of federal income taxes by the United States Internal Revenue Service.

(ii) The monetary proceeds resulting from the donations collected at said donation collection bins must be used in accordance with the organization's charitable purpose to benefit persons within the boundaries of Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters. The collection and distribution of donations and proceeds thereof must be conducted by the not-for-profit organization owning and operating the donation collection bins and not by a licensee, subcontractor or agent of said not-for-profit organization; provided, however, that this subsection shall not prevent the not-for-profit organization from contracting with a licensed common carrier to transport donated goods to a disaster site for distribution of same to victims of the disaster;

(iii) The donation collection bins shall be permanently affixed to the property and shall have been approved by ~~[[the Director of the Building Department]]~~ >>the Building Official<< as meeting the requirements for wind resistance established ~~[[for Miami-Dade County]]~~ >>by the Florida Building Code<<;

(iv) The donation collection bins shall be buffered from view from any location off of the property of said charity and shall not be closer than 75 feet from any property line. Each donation collection bin shall require a permit from the Department prior to placement on the property. No donation collection bin shall have a floor area in excess of 20 square feet and shall not exceed a height of 6 feet. Donation collection bins must be shown on site plans which are required by the Code to be submitted for approval at public hearing or by administrative site plan review. Said bins shall not be required to comply with the windborne debris impact standards of the Florida Building Code. Electrical connections to the bins shall be prohibited; and

(v) For each donation collection bin said not-for-profit organization shall submit a declaration of use in a form meeting with the approval of the Director in connection with the issuance of an annually renewable certificate of use and occupancy. Said declaration of use shall specific compliance with the foregoing conditions.

>>(3) Temporarily placed donation collection bins, which comply with the following criteria:

(i)<< >>The donation collection bins are contained wholly upon improved property owned and operated by an organization which has been incorporated as a not-for-profit organization under the laws of the State of Florida for a charitable purpose and which has been declared exempt from the payment of federal income taxes by the United States Internal Revenue Service;

(ii)<< >>No more than<< >>two (2)<< ~~[[one (1)]]>>such donation collection bin<< >>may be located on such site;<<~~

>>(iii)<< ~~[[~~(ii)~~]]>>Such donation collection bin must have wheels affixed to the bottom of the bin and be readily transportable;<<~~

>>(iv)<< ~~[[~~(iii)~~]]>>Such collection bin shall display prominently the name of and contact information for the not-for-profit organization responsible for the bin;<<~~

>>(v)<< ~~[[~~(iv)~~]]>>The monetary proceeds resulting from the donations collected at said donation collection bin must be used in accordance with the organization's charitable purpose to benefit persons within the boundaries of Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made, or economic disasters. The collection and distribution of donations and proceeds thereof must be conducted by the not-for-profit organization owning and operating the donation collection bins and not by a licensee, subcontractor, or agent of said not-for-profit organization; provided, however, that this subsection shall not prevent the not-for-profit organization from contracting with a licensed common carrier to transport donated goods to a disaster site for distribution of same to victims of the disaster;<<~~

>>(vi) Each donation collection bin shall require a permit from the Department prior to placement on the property.<< ~~[[~~(v)~~—The donation collection bin shall be buffered from view from any location off of the property of said charity and shall not be closer than 75 feet from any property line ]]~~ >>No donation collection bin

shall have a floor area in excess of 20 square feet and shall not exceed a height of 7 feet. Donation collection bins<< >>that comply with the criteria set forth in this subsection (3) are not required to<< [[must]]>>be shown on site plans which are required by the Code to be submitted for approval at public hearing or by administrative site plan review.<< >>Electrical connections to the bins shall be prohibited<<;

>>(vii)<< [[(vi)]]>>Such collection bin shall be maintained in a safe, clean, neat, and presentable manner, free of graffiti, and shall be in a usable condition at all times;<<

>>(viii)<< [[(vii)]]>> No major repairs or overhaul work on such collection bin shall be made or performed on the site, (or any other work performed thereon which would constitute a nuisance under existing ordinances);<<

>>(ix)<< [[(viii)]]>>Such collection bin shall not be used for living or sleeping quarters<<[[;]]>>or for housekeeping or storage purposes and shall not have attached thereto any service connection lines<< [[, except as may periodically be required to maintain the equipment and appliances]];

>>(x)<< [[(ix)]]>>When located outdoors, such collection bin shall be tied down to the land upon which it is located;<<

>>(xi)<< [[(x)]]>>Such collection bin shall be secured indoors for the duration of the following National Weather Service Advisories, Watches, and Warnings for Miami-Dade County: Wind Advisory; Severe Thunderstorm Watch; High Wind Watch; Tornado Watch; High Wind Warning; Severe Thunderstorm Warning; Tornado Warning; Tropical Storm Warning; Hurricane Watch; and Hurricane Warning;<<>>and<<

>>(xii)<< [[(xi)]]>>For each such bin, said not-for-profit organization shall submit a declaration of use in a form meeting with the approval of the Director in connection with the issuance of<< [[an annually renewable certificate of use]] >>the temporary permit.<< >>Said declaration of use shall specify compliance with the foregoing conditions.<< >>The temporary permit shall specify the duration of the use.<< >>Notwithstanding any ordinance, resolution, or administrative order to the contrary, no fee shall be charged for the issuance of a certificate of use for a temporarily placed collection donation bin.<< [[; and

(xii) If such bin is located on property not owned or controlled by the not-for-profit organization responsible for the bin, the not-for-



~~profit organization shall submit proof that the property owner consents, and the property owner and the not for profit organization shall be jointly and severally responsible for ensuring that the bin complies with the requirements of this subsection]]~~

**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:

Dennis A. Kerbel

Prime Sponsor: Vice Chair Lynda Bell