

MEMORANDUM

Agenda Item No. 7(B)


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

(Second Reading 6-4-13)
DATE: March 5, 2013

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

SUBJECT: Ordinance pertaining to animals;
creating regulations for guard
dogs; creating Section 5-13.1 and
amending Section 8CC-10 of the
Code

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan, and Co-Sponsors Commissioner Jose "Pepe" Diaz and Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/lmp

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Memorandum



Date: June 4, 2013

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

Subject: Ordinance Pertaining to Animals; Creating Regulations for Guard Dogs; Creating Section 5-13.1 and Amending Section 8CC-10 of the Code

The proposed ordinance creates regulations for guard dogs, creates Section 5-13.1 and amends Section 8CC of the Code. Enforcement of the regulations will be absorbed with existing staff within the Animal Services Department. Implementation of this ordinance may result in additional revenues to the County from licensing fees and civil penalties however, the amount is difficult to determine at this time.

A handwritten signature in black ink, appearing to read "Alina T. Hudak", written over a horizontal line.

Alina T. Hudak
Deputy Mayor

Fis5613



MEMORANDUM

(Revised)

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

DATE: June 4, 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)
6-4-13

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ANIMALS; CREATING REGULATIONS FOR GUARD DOGS; CREATING SECTION 5-13.1 AND AMENDING SECTION 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING AUTHORITY FOR ENFORCEMENT BY CIVIL PENALTY; 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 5-13.1 of the Code of Miami-Dade County is hereby created:

Sec. 5-13.1. Guard dogs.

- (a) *Definitions.* For purposes of this section, the following terms shall have the meanings provided herein.
- (1) *Guard dog* shall mean any type of dog used for the purpose of defending, patrolling, or protecting property or life at any nonresidential establishment or which resides on the nonresidential property. The term "guard dog" shall exclude any stock dogs used primarily for handling and controlling livestock or farm animals.
- (2) *Guard dog service* shall mean any person, business, or corporation that trains, sells, rents, or leases guard dogs for the purpose of defending, patrolling, or protecting property or life at any nonresidential establishment in Miami-Dade County.
- (b) *Guard dog license.*
- (1) Any person seeking to operate a guard dog service or who owns a guard dog shall obtain a guard dog license.

- (2) Each guard dog license shall be renewed annually. All licenses shall expire on September 30 of each year. Each licensee shall be responsible for renewing the license on or before October first of each year as long as the guard dog or guard dog service operates in Miami-Dade County.
- (3) A guard dog license shall not be transferable, assignable, or refundable.
- (4) The license fee shall be established by implementing order approved by the Board of the County Commissioners.

(c) *Obtaining a guard dog license.*

- (1) Application for a license shall be on a form prescribed by the Director.
- (2) The license application shall include but is not limited to the following information:
 - a. The name, address and telephone number of the applicant and a description of the location(s) at which guard dogs will be maintained;
 - b. A statement as to whether the applicant or any officer or employee of the guard dog service has ever been convicted of an offense involving cruelty to animals or has had a final judgment entered against that person under Florida Statutes § 828.073 or any other statute prohibiting animal neglect or mistreatment;
 - c. The breed, sex, age, color(s), guard dog license tag number, and electronic animal identification device (EAID) number of each dog that will be used as a guard dog;
 - d. If applicable, a complete list containing the name, address, and telephone number of every customer procuring the use of a guard dog and the physical location of every guard

dog (identified by license tag number), if different than the customer's address;

- e. The name, address and telephone number of the applicant's veterinarian(s);
 - f. The name, address and telephone number(s) of the person(s) responsible for training and/or providing food, water, exercise and care to each guard dog; and
 - g. If applicable, proof of business tax receipt from the Miami-Dade County tax collector.
- (3) The applicant shall complete an application, supply all information requested by the Department, and pay the applicable license fee. No application shall be deemed complete and reviewable until the license fee is paid.
- (4) License applications shall be valid for thirty (30) days in order for applicants to make corrections to meet minimum compliance specifications.

(d) *License denial, revocation, and suspension.*

- (1) The Director may deny, suspend, or revoke a license or renewal where:
 - a. There has been a material misstatement or misrepresentation in the license application or in any information or documents required to be maintained or provided to the Department;
 - b. The applicant/licensee has refused to allow the Department to inspect the premises on which animals are kept, the location where services are provided to animals, or the records required to be maintained by this chapter or by state law, provided that the first such refusal shall result in suspension of the license until inspection is allowed;

- c. The applicant/licensee has outstanding unpaid fines for violations of this chapter;
- d. The applicant/licensee has been found guilty of repeat violations of this chapter;
- e. The applicant/licensee or an employee has been found guilty of animal cruelty or neglect under this chapter, Chapter 828, Florida Statutes, or the laws of any other state;
- f. The applicant/licensee has been an officer, principal, director, partner, division, shareholder owning or controlling ten (10) percent or more of the stock, or other organizational element of a business organization recognized by the State of Florida that meets any of the criteria specified in subsections (a) through (e) above; or
- g. The applicant/licensee is a business organization recognized by the State of Florida, and any of its officers, principals, directors, partners, divisions, shareholders owning or controlling ten percent or more of the stock, or other organizational elements meet any of the criteria specified in subsections (a) through (f) above.

(2) *Appeal process.* The applicant/licensee shall receive written notice of the Director's determination to deny, suspend, or revoke a license or renewal. The Director's determination may be appealed by providing, within seven (7) calendar days of receipt of the written notice, a written request for an administrative hearing; the request shall be delivered to the address provided on the written notice. If a request for a hearing is received more than seven (7) calendar days from the date of the written notice, the hearing officer shall be precluded from exercising jurisdiction, and the appeal shall be dismissed as untimely. An administrative hearing shall be conducted in

accordance with the provisions set forth in Chapter 8CC of this code. No person aggrieved by a determination of the Director may apply to the Court for relief unless they have first exhausted the remedies provided for herein and taken all available steps provided in this section. While an appeal is pending, the Director's determination shall be stayed.

- (3) No license fee shall be refunded for a license that is revoked or suspended. For a license that is denied after review and inspection, the license fee shall be refunded as provided by implementing order approved by the Board of the County Commissioners.

(e) *Requirements following notice of adverse action and/or appeal.*

- (1) If the notice of denial, revocation or suspension of a guard dog license is not timely appealed, the applicant or license holder shall immediately cease and desist operation of a guard dog service or use of a guard dog.
- (2) Any person whose license has been revoked may not reapply for a period of one (1) year.
- (3) Each reapplication for a license shall be accompanied by a fee established by implementing order approved by the Board of the County Commissioners.
- (4) A person who has been found guilty of animal cruelty or neglect under this chapter, Chapter 828, Florida Statutes, or the laws of any other state within the past five (5) years may not hold a license to operate a guard dog service in the county.
- (5) Owning a guard dog or operating a guard dog service after suspension, revocation, or denial of a license or renewal is a violation of this section.

(f) *Registration of guard dogs.*

- (1) Guard dog services and guard dog owners shall annually register each guard dog owned or used in Miami-Dade County with the Department. The registration shall include the following information for each dog:
 - a. Name, address and telephone number of the owner and/or manager;
 - b. The breed, sex, weight, age, and color(s) of the guard dog;
 - c. A color photograph of the guard dog;
 - d. Other distinguishing physical features of the guard dog;
 - e. Certification of rabies vaccination;
 - f. The guard dog license number;
 - g. The guard dog's electronic animal identification device number (EAID);
 - h. Proof of ownership (i.e., bill of sale, receipt or notarized affidavit), including the name and address of the person from whom the dog was obtained;
 - i. A notarized affidavit signed by the previous owner acknowledging that the dog will be used as a guard dog. This requirement may be waived if the dog has been previously registered to the guard dog owner for more than one (1) year in the county.
 - j. A current certification from a veterinarian who is licensed in Florida stating that the guard dog has been examined and is healthy and physically fit to perform service as a guard dog. The owner shall obtain the certification form from the Department and

shall provide it to the examining veterinarian for completion.

- (2) At least every six (6) months, each guard dog shall be examined by a veterinarian who is licensed in Florida to determine whether the dog is healthy and physically fit to perform service as a guard dog. The owner shall obtain the certification form from the Department, shall provide it to the examining veterinarian for completion, and, upon completion, shall provide it to the Department.
- (3) Newly acquired dogs shall be immediately vaccinated against rabies, licensed, and registered with the Department as a guard dog before being used as a guard dog.
- (4) The fee to register a guard dog with the Department shall be established by implementing order approved by the Board of the County Commissioners.
- (5) A guard dog license shall be an annual requirement. The guard dog license is available only through the Department. The fee for a guard dog license shall be established by implementing order approved by the Board of the County Commissioners. The guard dog license shall be worn at all times or shall be fastened to each guard dog's enclosure when the guard dog is inside it.
- (6) No dog shall be used as a guard dog unless and until the dog has been registered with the Department.
- (7) No dog shall be registered or used as a guard dog if a veterinarian deems that the dog is unfit to perform service as a guard dog.
- (8) No dog shall be used as a guard dog while it is pregnant or lactating.
- (9) If any dog is used as a guard dog prior to being registered, a double registration fee shall be imposed to register the guard dog.

- (10) Each guard dog must be implanted with an EAID used and approved by the Department.
- (11) *Maintenance of guard dog registration system; transfer, death, disappearance, and rabies inoculation as affecting registration system.* The Department shall maintain a guard dog registration system which shall contain all data required by the Department. Immediately upon transfer of ownership, death, or disappearance of a guard dog, the guard dog service or guard dog owner shall notify the Department. Upon receipt of the information, the appropriate entry shall be made in the guard dog registration system. If the dog has disappeared, an entry should be made to reflect the location of such disappearance.

(g) *Inspection/records.*

- (1) It shall be a condition of the issuance of any guard dog license and guard dog registration that officers of the Department shall at any reasonable time, unannounced, have the right to enter the premises and inspect:
 - a. All dogs and all premises where such dogs are trained, in use, or kept.
 - b. All records for each guard dog including but not limited to vaccination, veterinary, and medical treatment records.
 - c. All records concerning the training, sale, or use of a guard dog.
- (2) Refusal to allow inspection of a guard dog, premises, or records shall be a violation of this chapter.
- (3) Guard dog services shall require any customer that procures the use of a guard dog to sign an agreement authorizing officers of the Department to perform unannounced inspections of any guard dog and premises where the guard dog is being used as a guard dog.

- (4) Guard dog services shall maintain records identifying the name, address, and telephone number of each customer procuring the use of a guard dog and the physical location of each guard dog (with registration number), if different than the customer's address.
 - (5) On a bi-weekly basis, guard dog services shall provide the Department with complete records identifying the name, address, and telephone number of every customer procuring the use of a guard dog and the physical location of every guard dog (with license number).
 - (6) Guard dog services and guard dog owners shall immediately notify the Department in writing when a guard dog is temporarily or permanently removed from service due to sickness, injury, a medical condition, or death.
 - (7) Guard dog services and guard dog owners shall maintain records of the acquisition, transfer of ownership, death, or disappearance of a guard dog.
 - (8) The records required to be maintained herein shall be maintained for a period of at least two (2) years from the date of creation and shall be provided to the Department upon request unless otherwise provided herein.
- (h) *Transportation of guard dog.*
- (1) Every vehicle transporting a guard dog must be clearly marked, showing that it is transporting a guard dog. A compartment separate from the driver is required and shall be arranged to ensure maximum ventilation for the dog.
 - (2) No guard dog shall be transported in violation of Section 5-15 of this chapter.

(i) *General requirements for guard dogs.*

- (1) Guard dog enclosures shall be a minimum of one hundred (100) square feet if one (1) dog is present and one hundred fifty (150) square feet if two (2) dogs are present. No more than two (2) dogs shall be maintained in an enclosure.
- (2) Only compatible dogs may be kept in the same enclosure.
- (3) Unaltered dogs of the opposite sex shall not be maintained in the same enclosure unless the guard dog service or guard dog owner has an appropriate breeding license issued by the Department.
- (4) The guard dog enclosure shall be made of chain link or similar material with a solid roof over the entire enclosure. The enclosure shall contain a shelter inside the enclosure large enough to allow all dogs present to comfortably stand up, turn around and lie down in the shelter simultaneously. The shelter within the enclosure shall provide protection from the direct rays of the sun and direct effect of the wind and rain, a wind and rain break, and ventilation. The shelter shall be raised off the ground at least six (6) inches, have a solid roof, have flooring made of a nonporous easily cleanable surface, have at least three (3) covered sides and an opening large enough for each guard dog to access the shelter, and have adequate ventilation with windows or openings to allow air to circulate. Enclosures or shelters that are covered on all sides in a manner that prevents ventilation are prohibited.
- (5) The shelter shall have clean, dry bedding or a reasonably soft comfortable surface for each dog to lie down on to prevent a dog from getting calluses or pressure sores.
- (6) Guard dog enclosures and the area immediately surrounding the enclosures shall be cleaned at least once a day to remove any excrement and to sanitize all surfaces coming into contact with a guard dog.

All excrement and waste shall be removed from the property.

- (7) Guard dogs shall have access to clean fresh water at all times. Each guard dog enclosure shall be checked three (3) times a day to ensure that clean fresh water is available.
- (8) Each guard dog shall be examined daily for signs of illness or injury. Any guard dog that is sick, injured, lame, or diseased shall be immediately examined by a licensed veterinarian and removed from use as a guard dog until deemed healthy by the veterinarian. If, during an inspection, the Department determines that a guard dog on commercial premises is sick, injured, lame, or diseased, the dog shall be immediately impounded by the Department and may be redeemed in accordance with section 5-18 of this chapter, unless a petition for custody is filed under Florida Statutes § 828.073.
- (9) Guard dogs maintained in an enclosure shall have at least one-half ($\frac{1}{2}$) hour of exercise within each twelve (12) hours of confinement. Guard dog services and guard dog owners shall maintain a daily record identifying each guard dog by license number and providing the date, time, location, and name of the person who exercised the guard dog.
- (10) Guard dogs must be given a humane existence, and shall at all times be maintained in accordance with § 5-9 of this chapter, unless otherwise specified in this section.
- (11) Any person who uses the service of a guard dog shall be responsible to assure that the guard dog is provided a humane existence in accordance with § 5-9 of this chapter, unless otherwise specified in this section, and shall immediately contact the Department to report any guard dog that is sick, diseased, lame, or injured.
- (12) Any guard dog on commercial premises that is not registered as a guard dog shall be impounded by the

Department and may be redeemed in accordance with Section 5-18 of this chapter.

- (13) Each person or business that rents or uses a guard dog to patrol the premises after that business's operating hours shall provide adequate fencing or some other confining structure to keep the guard dog within the premises.
- (14) Each person or business that rents or uses a guard dog on commercial premises shall at each entry point and at fifty-foot intervals along the property's fence perimeter, post a readily visible sign including the words "Guard Dog."
- (15) Entry points of commercial premises that use a guard dog shall have a sign posted with the telephone number of the guard dog's trainer, handler, and/or owner in case of an emergency.
- (16) Each person or business that rents or uses a guard dog on commercial premises shall at each entry point and on the guard dog enclosure post a readily visible sign that notifies members of the public to report guard dog complaints to the Department. Such signs will be available through the Department for a fee established by implementing order approved by the Board of the County Commissioners.

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

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.

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.

The "descriptions of violations" below are for informational purposes only and are not meant to **limit or define the nature of the violations or the subject matter of the listed Code sections**, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this Chapter 8CC, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

<u>Code Section</u>	<u>Description of Violation</u>	<u>Civil Penalty</u>
	* * *	
>>5-13.1	<u>Failure to obtain, or timely renew, guard dog license</u>	<u>500.00</u>
	<u>Owning guard dog or operating guard dog service after denial or revocation of license</u>	<u>1,000.00</u>
	<u>Failure to timely register guard dog</u>	<u>500.00</u>
	<u>Failure to keep or submit required records</u>	<u>500.00</u>
	<u>Failure to permit inspection of guard dog, premises, or records</u>	<u>500.00</u>
	<u>Violation of guard dog transportation requirements</u>	<u>500.00</u>
	<u>Violation of requirements related to care and confinement of guard dog</u>	<u>1,000.00</u>
	<u>Failure to post required sign</u>	<u>500.00</u>
	<u>All other violations of 5-13.1</u>	<u>500.00<<</u>
	* * *	

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. 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: Commissioner Barbara J. Jordan
Co-Sponsors: Commissioner Jose "Pepe" Diaz
Chairwoman Rebeca Sosa