

MEMORANDUM

Agenda Item No. 7(E)
(Second Reading 6-4-13)
April 2, 2013

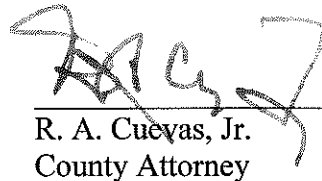
TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE:

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

SUBJECT: Ordinance pertaining to
animals; amending definition
of acts deemed cruelty to
animals; increasing penalties
for cruelty to horses; amending
Sections 5-4 and 8CC-10 of the
Code

The accompanying ordinance was placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss, and Co-Sponsors Commissioner Esteban L. Bovo, Jr., Commissioner Audrey M. Edmonson, Commissioner Sally A. Heyman, and Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum



Date: June 4, 2013

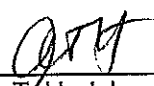
To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Ordinance Pertaining to Animals; Amending Definition of Acts Deemed Cruelty to Animals; Increasing Penalties for Cruelty to Horses; Amending Sections 5-4 and 8CC-10 of the Code

The proposed ordinance amends Sections 5-4 and 8CC-10 of the Code and amends the definition of acts deemed cruelty to animals as well as increasing penalties for cruelty to horses. It is not expected that implementation of this ordinance will have a negative fiscal impact.



Alina T. Hudak
Deputy Mayor

Fis4913



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(E)

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(E)
6-4-13

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ANIMALS; AMENDING DEFINITION OF ACTS DEEMED CRUELTY TO ANIMALS; INCREASING PENALTIES FOR CRUELTY TO HORSES; AMENDING SECTIONS 5-4 AND 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

WHEREAS, encouraging the humane treatment of animals is important to the public health, safety, and welfare of Miami-Dade County residents; and

WHEREAS, the cruel treatment and illegal slaughter of horses has become a unique problem affecting Miami-Dade County's agricultural community; and

WHEREAS, this Board considers the mistreatment of horses to be especially heinous and intolerable and therefore desires to increase the penalty for this act of cruelty,

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

Section 1. Section 5-4 of the Code of Miami-Dade County is hereby amended to read as follows:¹

Sec. 5-4. - Cruelty to animals.

* * * *

(b) *Acts deemed cruelty to animals.* It shall be unlawful to commit any act that constitutes cruelty to animals. The following acts shall be deemed cruelty to animals (see Sections 828.12, 828.13 and 828.16, Florida Statutes):

(1) To torture, torment, mutilate, kill, or unnecessarily overdrive any animal or to cause the same to be done.

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.

(1.1) To engage in animal fighting, including, without limitation, dog fighting or cock fighting. For purposes of this section, to be engaged in animal fighting means to instigate, promote, assist, hold, manage, stage, conduct, be employed in connection with, be present for the preparation of, provide an animal for, allow one's own real or personal property to be used for, gamble on, be a spectator at, or profit from an exhibition, contest, or event featuring the fighting of an animal with another animal during which an animal may be injured, maimed, or killed.

>>(1.2) To willfully and unlawfully, by any means whatsoever, kill, maim, mutilate, or cause great bodily harm or permanent breeding disability to any animal of the genus *Equus* (horse). A violation of this sub-section presents a serious threat to the public health, safety, and welfare. The Board of County Commissioners has determined that a violation of this sub-section causes irreparable or irreversible harm, and as such, a violation of this sub-section shall be prosecuted to the fullest extent and in accordance with the highest civil penalties and maximum sentence afforded by law.<<

(2) To intentionally commit an act to any animal which results in the cruel death of the animal, or the excessive or repeated infliction of unnecessary pain or suffering to the animal, or to cause the same to be done.

(3) To deprive an animal of necessary sustenance, whether by neglect or refusal. For purposes of this section, "necessary sustenance" means: food and water that is of sufficient quantity and nutritive value to meet the minimal daily requirements for the condition and size of the animal as set forth by the commercial food industry or by a licensed veterinarian; food and water that is free of contaminants and vermin and insect infestation; and proper medical attention for any illness, injury, infection, skin disorder, and internal parasite. Feeding a cow on feed that produces impure or unwholesome milk shall be deemed to be a violation of this section.

(4) To deprive an animal of shelter.

(5) To impound or confine an animal in any place and during such confinement: to fail to supply the animal with a sufficient quantity of good and wholesome food and water; to fail to provide the animal with wholesome exercise and change of air; to keep the animal in an enclosure that does not permit the animal to make normal postural movements; to keep the animal in an enclosure that contains excess excreta. Enclosing an animal in a vehicle without adequate ventilation shall be deemed to be a violation of this provision.

(6) For a responsible party to abandon an animal in a street or other public place, or to abandon an animal if it is maimed, infirm, or diseased. For purposes of this section, "abandon" means to forsake an animal for which one is responsible without providing for its care, necessary sustenance, protection, and shelter.

(7) If an animal is known to have or to have been exposed to a contagious or infectious disease: to transfer possession of such animal without first disclosing the condition of the animal to the person to whom the animal is transferred; to knowingly permit such animal to run at large; or to knowingly permit such animal to come into contact with any animal of another person without the other person's knowledge or permission.

(8) To transfer or offer to transfer ownership of any live animal as a prize in any game, drawing, sweepstakes or other promotion.

(9) To intentionally trip, fell, rope, or lasso the legs of a horse by any means for the purpose of entertainment or sport. As used in this subsection, "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and "horse" means any animal of any registered breed of the genus Equus, or any recognized hybrid thereof. The provisions of this subsection shall not apply when tripping is used:

(i) To control a horse that is posing an immediate threat to other livestock or human beings;

(ii) For the purpose of identifying ownership of the horse when its ownership is unknown; or

(iii) For the purpose of administering veterinary care to the horse.

* * * *

(c) Enforcement.

* * * *

(3) Notwithstanding the provisions of Section 8CC-4 governing the penalties for repeat or continuing violations, for enforcement by civil penalty in accordance with Chapter 8CC of this code, a second violation of this section shall carry a civil penalty of 2.5 times the penalty listed in Section 8CC-10, a third violation shall carry a civil penalty of 3 times the listed penalty, and each subsequent violation shall carry a civil penalty of 3.5 times the listed penalty.

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.

* * * *

<u>Code Section</u>	<u>Description of Violation</u>	<u>Civil Penalty</u>
	* * * *	
5-4	Cruelty to animals	500.00
	Animal fighting or baiting	1,000.00
	>>Abuse of equine	<u>5,000.00</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 Dennis C. Moss
Co-Sponsors: Commissioner Esteban L. Bovo, Jr.
Commissioner Audrey M. Edmonson
Commissioner Sally A. Heyman
Chairwoman Rebeca Sosa