

# MEMORANDUM

Agenda Item No. 7(E)

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| <b>TO:</b>   | Honorable Chairwoman Rebeca Sosa<br>and Members, Board of County Commissioners | <b>DATE:</b>    | (Second Reading 5-6-14)<br>March 4, 2014  |
| <b>FROM:</b> | R. A. Cuevas, Jr.<br>County Attorney   | <b>SUBJECT:</b> | Ordinance amending Section 24-43.1 of the Code relating to liquid waste disposal and potable water supply systems to provide for food preparation facilities on agricultural properties |

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The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz and Co-Sponsor Vice Chair Lynda Bell.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/cp

**Date:** May 6, 2014

**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 the printed name of the Mayor.

**Subject:** Ordinance Amending Section 24-43.1 of the Code of Miami-Dade County Relating to Liquid Waste Disposal and Potable Water Supply Systems to Provide for Food Preparation Facilities on Agricultural Properties

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### **Recommendation**

It is recommended that the Board approve the attached ordinance amending Section 24-43.1 of the Code of Miami-Dade County relating to liquid waste disposal and potable water supply systems. This ordinance will maintain important public health and safety oversight for use of onsite groundwater wells for commercial production of food and beverages on agricultural properties while reducing the time and cost associated with obtaining regulatory approval.

### **Scope**

The proposed ordinance involves environmental regulation countywide.

### **Fiscal Impact/Funding Source**

This ordinance will not require additional funding and will be revenue neutral to Miami-Dade County.

### **Track Record/Monitor**

The Chief of Pollution Regulation, Rashid Istambouli, P.E., in the Department of Regulatory and Economic Resources, Division of Environmental Resources Management (DERM), will be responsible for implementing this ordinance.

### **Background**

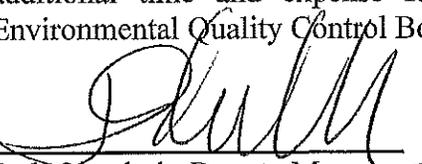
County zoning regulations allow fruit stands to serve food products prepared onsite by the fruit stand operator. In addition, farm-related wineries, breweries and distilleries are allowed within areas zoned for agricultural use and are allowed to serve food as an accessory to the sale of wine, beer, and distilled spirits. The majority of land designated for agricultural use in Miami-Dade County is located outside of the Urban Development Boundary and usually has no access to the public drinking water supply system. Without access to the public water supply distribution system, these properties are usually served by onsite domestic potable water wells.

Chapter 24 of the Code currently prohibits nonresidential land uses that are primarily engaged in the preparation of food and drink from being conducted on land served by onsite domestic potable water wells. For that reason, businesses such as fruit stands, wineries, ecotourism destinations and others proposing to use onsite domestic potable water wells in order to prepare and sell food or drink cannot be approved unless they first obtain a variance from the Environmental Quality Control Board. In reviewing these cases, DERM technical staff evaluates site conditions and water quality data to verify that the onsite potable well meets acceptable water quality standards, and subsequently prepares a recommendation for consideration by the Environmental Quality Control Board. With

Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners  
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proper review, permitting and monitoring of onsite domestic potable water wells, the use of these wells for food and drink preparation poses little detriment to the public welfare or safety. Upon receiving a favorable review and recommendation from DERM, these variance requests are typically granted by the Environmental Quality Control Board.

The proposed ordinance will allow commercial food preparation on nonresidential properties associated with bona fide agricultural uses that are served by onsite water wells and comply with relevant environmental standards in the Code to be approved administratively following DERM review. This change will streamline the development review and approval process by eliminating the additional time and expense for business owners to seek and obtain a variance from the Environmental Quality Control Board in these cases.

  
\_\_\_\_\_  
Jack Osterholt, Deputy Mayor



**MEMORANDUM**  
(Revised)

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

**DATE:** May 6, 2014

**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

Agenda Item No. 7(E)

Veto \_\_\_\_\_

5-6-14

Override \_\_\_\_\_

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

ORDINANCE AMENDING SECTION 24-43.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO LIQUID WASTE DISPOSAL AND POTABLE WATER SUPPLY SYSTEMS TO PROVIDE FOR FOOD PREPARATION FACILITIES ON AGRICULTURAL PROPERTIES; 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 24-43.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 24-43.1. Liquid waste disposal and potable water supply systems.**

- (1) The intent and purpose of this section is to safeguard the public health, safety, and welfare by regulating liquid waste storage, disposal and treatment methods other than sanitary sewers and any source of potable water supply.

\* \* \*

- (4) Notwithstanding any provision of this Code, no County or municipal officer, agent, employee or Board shall approve, grant or issue any building permit ~~[[except building permits for repair and maintenance of existing facilities]]~~, certificate of use and occupancy (except for changes in ownership), municipal occupational license (except for changes in ownership), platting action (final plat, waiver of plat or equivalent municipal platting action) or zoning action (district boundary change, unusual use, use variance or equivalent municipal zoning action) for any nonresidential land use served or to be served by any source of potable water supply and a septic tank without obtaining the prior written approval of the Director or the Director's designee.

Furthermore, notwithstanding any provision of this Code, no person shall construct, utilize, operate, occupy, or cause, allow, let, permit or suffer to be constructed, utilized, operated or occupied any nonresidential land use served or to be served by any source of

<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.

[[public]] >>potable<< water [[supply]] and a septic tank without obtaining the prior written approval of the Director or the Director's designee.

The Director or the Director's designee shall issue the Director's or the Director's designee's written approval if the only liquid waste (excluding liquid wastes associated with the processing of agricultural produce in agricultural packing houses and liquid wastes associated with agricultural vehicle or, agricultural equipment maintenance facilities, stormwater and water used within a self-contained water recycling car wash facility, provided said facility does not backwash the recycling filters) which shall be generated, disposed of, discharged, or stored on the property shall be domestic sewage discharged into a septic tank and additionally, that the property is not within a feasible distance for public water mains and public sanitary sewers, and only:

\* \* \*

(c) If the Director or the Director's designee determines that the existing nonresidential land use for the property or the nonresidential land use requested for the property is served or to be served by an on site domestic well system and a septic tank and is not one (1) or more of the following nonresidential land uses:

- (i) Establishments primarily engaged in the handling of food and drink except factory prepackaged products and agricultural crops [[ ; ]] >>and, food preparation facilities on agricultural properties which serve the prepared food and drink on site.<<
- (ii) Educational institutions,
- (iii) Intermediate care facilities,
- (iv) Health care facilities.

Notwithstanding the above, the Director or the Director's designee shall approve the issuance of a building permit for the repair or maintenance of existing facilities.

\* \* \*

(6) Notwithstanding any provision of this Code, no County or municipal officer, agent, employee, or Board shall approve, grant or issue any building permit, certificate of use and occupancy (except for changes in ownership), platting action (final plat, waiver of plat or equivalent municipal platting action) or zoning action (district boundary change, unusual use, use variance or equivalent municipal zoning action) for any nonresidential land use served or to be served by any liquid waste storage, disposal or treatment method other than public sanitary sewers or any source of potable water supply other than a public water main without obtaining the prior written approval of the Director or the Director's designee.

\* \* \*

(b) The Director or the Director's designee determines that the existing nonresidential land use for the property or the nonresidential land use requested for the property

is a nonresidential land use served or to be served by an on site domestic well system and is not an establishment primarily engaged in the handling of food and drink (except factory prepackaged products >>and food preparation facilities on agricultural properties which serve prepared food and drink on site<<), educational institutions, intermediate care facilities and health care facilities and is not one (1) or more of the nonresidential land uses permitted under the following Miami-Dade County zoning classifications:

- (i) BU-1A (excluding those land uses permitted by BU-1 except an establishment primarily engaged in the handling of food and drink (except factory prepackaged products), educational institutions, intermediate care facilities and health care facilities),

\* \* \*

- (viii) Unusual uses (excluding ~~[[fruit and vegetable stands (no food or drinks processing) on a seasonal basis;]]~~ lake excavation; concrete batching plant; concrete block plant; rock crushing and screening plant; filling of rock pits; rock quarries; radio and television towers and transmitting stations; trailers as watchman's quarters), or

\* \* \*

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.

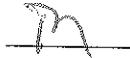
PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



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Prepared by:



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Thomas H. Robertson