MEMORANDUM

Agenda Item No. 7(K)

TO:	Honorable Chairman Jean Monestime and Members, Board of County Commissioners	**DATE:**	May 5, 2015
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Ordinance related to boating safety; creating Article XIX, Section 21-287 of Chapter 21 of the Code to provide for definitions and restrictions relating to the operation of water vessels on Miami-Dade County waterways; amending chapter 8CC of the Code relating to Miami-Dade County Diversion Program and penalties

This item was amended from the original version as stated in the County Mayor's memorandum.

The accompanying ordinance was prepared by Miami-Dade Police Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

DATE: May 5, 2015

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

FROM: Carlos A. Gimenez
Mayor

SUBJECT: Ordinance Establishing Rafting Restrictions For Water Vessels Operating on any waters lying within the boundaries of Miami-Dade County

---

During the April 15, 2015 Metropolitan Services Committee, the proposed ordinance was forwarded to the Board with a favorable recommendation with committee amendments to modify Section (1)(d)(2) to read: *"Repeat offenders may be imprisoned in the County jail for a period not to exceed 30 days."*

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached Ordinance creating rafting restrictions for water vessels operating on any waters lying within the boundaries of Miami-Dade County. Rafting is a common social practice where boats tie up to other boats.

Scope

This new ordinance establishing rafting restrictions applies to all water vessels operating on any waters lying within the boundaries of Miami-Dade County, except the Florida Intracoastal Waterway, the regulation of which is prohibited by Florida Statutes chapter 327.

Fiscal Impact/Funding Source

There is no fiscal impact to Miami-Dade County. Enforcement of this ordinance will become part of routine law enforcement on any waters lying within the boundaries of Miami-Dade County by law enforcement agencies including the Miami-Dade Police Department (MDPD) and municipal police departments. Revenues may be collected from proposed violations and fines. However, as a new ordinance, data is not available to provide a base line on the potential number of violations.

Track Record/Monitor

Major Thomas P. Hanlon of the Special Patrol Bureau, MDPD, will track and monitor the ordinance.

Background

In this marine-oriented community bordering Biscayne Bay and the Atlantic Ocean boating safety is a serious issue. In 2013, Miami-Dade County had 61,537 registered water vessels, the largest number of registered water vessels in any county in Florida. In addition to registered water vessels, there are many transient water vessels operated by tourists that travel through Miami-Dade County waterways. Locally, there are approximately 235 permitted marine facilities. In FY 2014, from the six (6) Miami-Dade County marinas, 112,861 vessel launches were reported including weekdays, weekends and holidays. This vessel launch number does not account for launches from numerous private vessel launch sites. At any given time, there are thousands of water vessels on Miami-Dade County waterways.

On August 27, 2014, the Boating Under the Influence (BUI) Law Enforcement Task Force was convened to raise awareness about water safety and the dangers of mixing boating and alcohol. From October 2013 through September 2014, there have been 16 deaths on our local waterways. The Florida Fish and Wildlife Conservation Commission documented eight (8) boating accident fatalities and MDPD documented an additional eight (8) fatalities. In many of these tragic maritime accidents, first responders were unable to reach the victims and render aid due to rafting, which sometimes involves up to dozens of boats tied together.

This new ordinance establishes rafting restrictions specifying that no more than five (5) vessels may raft or attach to one another by means of a line or any other means. These groups of rafted, tied, or attached vessels must maintain one 100 feet of separation from other rafted water vessels. The standard proposed for Miami-Dade County is modeled after the Biscayne National Park policies, which were developed by the U.S. Attorney's Office for the Southern District of Florida. The penalty section provides enforcement flexibility, including arrest, orcivil citation. Implementing Order 2-12 will separately be amended to include this ordinance in the Miami-Dade Diversion Program.

The intent of this ordinance is to improve safety on our local waterways. MDPD developed this ordinance in coordination with Biscayne National Park, U.S. Coast Guard, Florida Fish and Wildlife Conservation Commission, and the Miami-Dade Chiefs of Police Association. In addition, the MDPD has coordinated with County departments including Parks Recreation and Open Spaces and Regulatory and Economic Resources. Florida Statutes chapter 327 prohibits local regulations of vessels on the Florida Intracoastal Waterway, and therefore this ordinance shall not apply to such vessels.

Russell Benford
Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: May 5, 2015

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

SUBJECT: Agenda Item No. 7(K)

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(K)
5-5-15

ORDINANCE NO. _____

ORDINANCE RELATED TO BOATING SAFETY; CREATING ARTICLE XIX, SECTION 21-287 OF CHAPTER 21 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE FOR DEFINITIONS AND RESTRICTIONS RELATING TO THE OPERATION OF WATER VESSELS ON MIAMI-DADE COUNTY WATERWAYS; AMENDING CHAPTER 8CC OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA RELATING TO MIAMI-DADE COUNTY DIVERSION PROGRAM AND PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County has over 61,537 registered water vessels, the largest number in any Florida County; and

WHEREAS, in addition to registered water vessels, there are many transient water vessels operated by tourists who travel through Miami-Dade County waters; and

WHEREAS, Miami-Dade County has approximately 235 permitted marine facilities and six Miami-Dade County marinas; and

WHEREAS, between October 2013 and September 2014, there have been 16 deaths on our local waterways; and

WHEREAS, between October 2013 and September 2014, the Florida Fish and Wildlife Conservation Commission documented eight fatalities, the Miami-Dade Police Department documented an additional eight fatalities, and in many of these tragic maritime accidents, first responders were unable to reach the victims due to vessels being tied together; and

WHEREAS, on August 27, 2014, Miami-Dade County Mayor Carlos A. Gimenez convened a Boating Under the Influence (BUI) Law Enforcement Task Force in efforts to raise

awareness to the general public about water safety and the dangers of mixing boating and alcohol; and

WHEREAS, the Miami-Dade County Association of Chiefs of Police recognizes and supports the efforts of agencies working together in a cooperative effort to enhance public safety in Miami-Dade County; and

WHEREAS, the Miami-Dade County Association of Chiefs of Police endorses law enforcement initiatives which will improve boating safety on Miami-Dade County waterways; and

WHEREAS, on January 7, 2015, the Miami-Dade County Association of Chiefs of Police unanimously passed and adopted a Resolution supporting the efforts of Miami-Dade County and the Miami-Dade Police Department to enact a County ordinance restricting the number of vessels that are tied or otherwise attached to each other and their proximity to each other and other groups of attached vessels on Miami-Dade County local waterways,

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

Section 1. Article XIX, Section 21-287 of Chapter 21 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:[1]

ARTICLE XIX BOATING SAFETY

Sec. 21-287 Rafting.

(a) The intent and purpose of this section is to establish rafting restrictions on any waters lying within the boundaries of Miami-Dade County to improve public safety. This section shall not

[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.

apply to vessels on the Florida Intracoastal Waterway.

(b) *Definitions.*

(1) *Florida Intracoastal Waterway* shall have the meaning ascribed to it in section 327.02, Florida Statutes.

(2) *Rafting* shall mean vessels that are tied together or otherwise attached to other vessels when the proximity between each tied or otherwise attached vessel is five feet or less.

(3) *Vessel* shall have the meaning ascribed to it in section 327.02, Florida Statutes.

(c) *Prohibited.* It is unlawful for the operator of any vessel to participate in the rafting of vessels on any waters lying within the boundaries of Miami-Dade County, other than the Florida Intracoastal Waterway, as restricted in this section.

(d) No more than five vessels may engage in rafting with each other. Such groups of rafting vessels must maintain separation of no less than one hundred feet from other groups of rafting vessels.

Violations of this section may be punished by:

(1) A fine not to exceed $250.00;

(2) >>Repeat offenders may be imprisoned<<[2] [[~~Imprisonment~~]] in the County jail for a period not to exceed 30 days;

(3) Both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;

(4) Fines in accordance with Chapter 8CC of the Code of Miami-Dade County; or

(5) Completion of the Miami-Dade County Diversion Program, pursuant to the County's Implementing Order No. 2-12.

[2] Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

Section 2. Section 8CC-5.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-5.1. Miami-Dade County Diversion Program

Notwithstanding the provisions of 8CC-5, a violator who has been served with a civil violation notice may enter the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners, provided the civil violation notice is issued for the violation of an ordinance listed in the table below, which may be amended from time to time.

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. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

Code Section	Description of Violation
7-3	Swimming or fishing from prohibited road bridges
8A-172	Conducting business without a local business tax receipt
8A-276(b)	Failure to display commercial vehicle markings
21-28	Producing loud or excessive noise
21-31.2(b)(1), (2)	Alcohol possession or consumption near a store
21-31.4(B)	Obstructing traffic or aggressively begging
>>21-287	Rafting<<

Section 3. 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.

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.

Code Section	**Description of Violation**	**Civil Penalty**
*	*	*
21-283(b)	Failure to confirm that a prospective renter, lessee or adult resident is not a sexual offender or predator prior to renting or leasing property for use as a residence when said residence is located within 2,500 feet of a school	500.00
>>21-287	Rafting	250.00<<
24-15	Failure to have plans approved	200.00
*	*	*

Section 4. 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 5. 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 6. 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:

Suzanne Villano-Charif