

MEMORANDUM

Agenda Item No. 7(F)

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

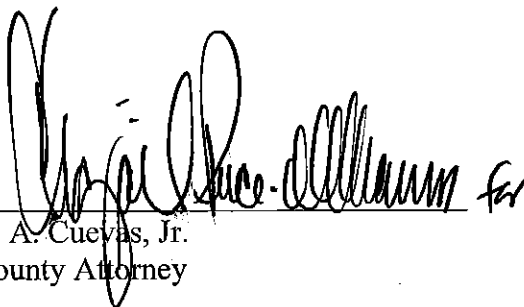
DATE: June 30, 2015

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

SUBJECT: Ordinance relating to solicitation or collection in the public right-of-way; creating section 21-36.3 of the Code, enacting prohibitions on solicitation or collection at designated high traffic or high accident intersections

This item was amended at the 6-10-15 Metropolitan Services Committee to remove one of the previously listed intersections and to change the penalties for violations of this section of the Code. Specifically, a first violation would result in a verbal warning or reprimand as opposed to a thirty-dollar fine and the minimum fine for subsequent violations would be thirty dollars as opposed to fifty dollars.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.



R. A. Cuevas, Jr.
County Attorney

RAC/lmp

Memorandum



Date: June 30, 2015

To: Honorable Chairman Jean Monestirle
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Relating to Solicitation or Collection in the Public Right-Of-Way

The proposed Ordinance relating to solicitation or collection in the public right-of-way creates section 21-36.3 of the Code and enacts prohibitions on solicitation or collection at designated high traffic or high accident intersections. The ordinance states that it shall be the duty of all County officers to enforce the prohibition of soliciting or collecting within any public right-of-way in UMSA and prohibited roadways. Miami-Dade Police Department does not anticipate any additional fiscal or operational impact to enforce this ordinance. Enforcement will be provided by existing patrol officers. Implementation of this ordinance will not have a fiscal impact to the County.



Russell Benford
Deputy Mayor

Fis06415



MEMORANDUM

(Revised)

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

DATE: June 30, 2015

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

SUBJECT: Agenda Item No. 7(F)

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 (F)
6-30-15

ORDINANCE NO. _____

ORDINANCE RELATING TO SOLICITATION OR COLLECTION IN THE PUBLIC RIGHT-OF-WAY; CREATING SECTION 21-36.3 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, ENACTING PROHIBITIONS ON SOLICITATION OR COLLECTION AT DESIGNATED HIGH TRAFFIC OR HIGH ACCIDENT INTERSECTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, solicitors and collectors in the right-of-ways pose a danger to themselves and the public by interfering with the normal operation and safe flow of vehicular traffic on roadways and public right-of-ways; and

WHEREAS, intersections are designed to accommodate traffic, but are not suited to safely accommodate individuals walking on right-of-ways, medians, traffic lanes, and sidewalks who wish to solicit or collect donations, or sell any thing or service to motor vehicle drivers therein; and

WHEREAS, according to the Florida Department of Highway Safety and Motor Vehicles 2011 Florida Traffic Crash Statistics, an average of 72.2 pedestrians were struck and killed annually on Miami-Dade County roadways from 2007 to 2011, including 78 in 2011; and

WHEREAS, according to the Florida Department of Highway Safety and Motor Vehicles 2011 Florida Traffic Crash Statistics, an average of 1,345.8 pedestrians were injured by motor vehicles annually on Miami-Dade County roadways from 2007 to 2011, including 1,229 in 2011; and

WHEREAS, the National Highway Traffic and Safety Administration's 2010 Traffic Safety Facts reported that more pedestrians were fatally struck in Florida than in any other state; and

WHEREAS, this Board seeks to utilize the least restrictive measures to advance the goal of public and vehicular safety, and has determined that the roadways and intersections enumerated in section 21-36.3(c) below present a heightened danger for pedestrians and right-of-way solicitors as well as a great danger to drivers; and

WHEREAS, this Board has determined that other alternative channels of communication exist for individuals seeking to solicit funds, such as the mail, the internet, door-to-door, in other locations, or other non-prohibited intersections; and

WHEREAS, this Board has always supported measures that serve to protect the health, safety, and welfare of pedestrians and drivers in the county; and

WHEREAS, Miami-Dade County has a significant interest in protecting its citizens and ensuring that its streets and sidewalks are safe for everyone,

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

Section 1. Section 21-36.3 of the Code of Miami-Dade County, Florida, is hereby created as follows:

Sec. 21-36.3 Roadway solicitation or collection; applicable area; prohibition at enumerated roadways; penalty for section violation.

- (a) *Solicitor* or *collector* shall mean any person who sells or offers for sale any thing or any service of any kind, or who seeks to solicit or collect any donation of any kind, or who personally hands to or seeks to transmit by hand or receive by hand any thing or service of any kind, whether or not payment in exchange is required or requested, to any person or organization who operates or occupies a motor vehicle of any kind, which vehicle is engaged in travel on or within any portion of any of the streets or roadways in the county, whether or not such vehicle is temporarily stopped in the travel lanes of the road. The term shall not apply to any

person who merely holds or displays a sign lawfully permitted to be displayed by a person, as long as there is no entry by such person or sign into any portion of the roadway or its median. Further, this term shall not apply to official citations or notices provided pursuant to governmental authority.

- (b) *Applicable area.* This section shall be applicable only in the unincorporated areas of Miami-Dade County.
- (c) *Prohibited roadways.* No solicitor or collector may stand or walk within any public right-of-way, including sidewalks, bike paths, and medians within 250 feet of the following intersections for any of the purposes listed in section 21-36.3(a). Two-hundred fifty (250) feet is measured from the lateral curb or boundary line of the below listed intersections:
 - (1) SW 137th Avenue & SW 88th Street
 - (2) SW 127th Avenue & SW 88th Street
 - (3) SW 157th Avenue & SW 88th Street
 - (4) SW 137th Avenue & SW 104th Street
 - [[~~(5)~~ SW 137th Avenue & SW 56th Street]]¹
 - [[~~(6)~~]]>>(5)<< SW 137th Avenue & SW 120th Street
 - [[~~(7)~~]]>>(6)<< SW 137th Avenue & SW 152nd Street
- (d) *Revisions.* The Board of County Commissioners shall have the continuing authority to update, amend, or revise the list of intersections enumerated in subsection (c) by resolution as often as needed, but must update the list every ten (10) years at a minimum from the effective date of this ordinance.
- (e) *Chapter 316, Florida Statutes.* The enforcement of this section shall not, in any way, preclude the enforcement of Fla. Stat. § 316.130(3)-(5), as applicable.
- (f) *Enforcement.* It shall be the duty of all County officers to enforce the provisions of this section. Any person who violates this section shall be prosecuted before a court of competent jurisdiction and subject, upon conviction, to the penalties listed in section 21-36.3(g) and within the discretion of the county judge.
- (g) *Penalties.* Any person convicted of a violation of the provisions of this section may be punished by:

¹Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

- (1) A first violation of this section: ~~[[a fine of not more than thirty dollars (\$30.00)]]~~ >>a verbal warning or reprimand<<
- (2) Subsequent violations of this section: a fine of no less than ~~[[fifty]]~~ >>thirty<< dollars ~~[[(\$50.00)]]~~ >>(\$30.00)<< and no more than five hundred dollars (\$500.00).

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:

Bruce Libhaber

Prime Sponsor: Commissioner Juan C. Zapata

Handwritten signatures: APW and B.L.