MEMORANDUM

MSC
Agenda Item No. 2E

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

DATE: December 9, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance related to non-criminal penalties for violations of provisions of the Code pertaining to solicitations on certain roadways; amending sections 21-36.2, 21-36.3, 8CC-10, and 8CC-5.1 of the Code to provide for enforcement under Chapter 8CC of the Code; providing severability

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

Abigail Price-Williams
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date:

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Pertaining to Solicitations on Certain Roadways

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The proposed ordinance relating to non-criminal penalties for violations of provisions of the Miami-Dade County Code pertaining to solicitations on certain roadways, amends Sections 21-36.2, 21-36.3, 8CC-10, and 8CC-5.1 of the Code of Miami-Dade County to provide for enforcement under Chapter 8CC of the Code of Miami-Dade County.

In addition to the enforcement provisions, the ordinance also amends the penalties for roadway solicitation. For minors, this ordinance changes the first violation from a verbal to a written warning or reprimand. Further, in addition to the stipulated fines of no more than $30.00 and/or imposition of community service hours or required participation in after-school programs, it adds that completion of the juvenile civil citation program may also be imposed. For adults, this ordinance also changes the first violation from a verbal to a written warning or reprimand. For subsequent violations, in addition to the stipulated fines of no less than $30.00 but no more than $500.00 included in Section 8CC, it adds that completion of Miami-Dade County Diversion Program may also be imposed.

The implementation of this ordinance would not result in additional staffing needs or future operational costs. Activities relating to the enforcement and implementation of this ordinance would be absorbed by the Miami-Dade Police Department and the Juvenile Services Department. Therefore, it is anticipated that the implementation of this ordinance will have no fiscal impact on Miami-Dade County.

Russell Benford
Deputy Mayor

Fis00516

Memorandum

MIAMI-DADE COUNTY

Date:

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

From: Carlos A. Gimenez
Mayor

Subject: Social Equity Statement Pursuant to Ordinance No. 15-83 for Amendment to Section 21-36.2, 21-36.3, 8CC-10 and 8CC-5.1 of the County Code relating to Non-Criminal Penalties Pertaining to Solicitations on Certain Roadways

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The proposed Ordinance amends section 21-36.2, 21-36.3, 8CC-10 and 8CC-5.1 of the Code of Miami-Dade County to impose non-criminal penalties for violations pertaining to solicitations on certain roadways. This Ordinance would impose verbal and written warnings prior to issuing non-criminal monetary penalties.

This amendment may improve the safety of individuals soliciting within busy roadways by deterring such activity and, therefore, prevent individuals from being critically injured by vehicular traffic.

Russell Benford
Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: December 1, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No.

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

✓ Statement of social equity 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. 14(A)(5)
10-6-15

ORDINANCE NO. _____

ORDINANCE RELATED TO NON-CRIMINAL PENALTIES FOR VIOLATIONS OF PROVISIONS OF THE MIAMI-DADE COUNTY CODE PERTAINING TO SOLICITATIONS ON CERTAIN ROADWAYS; AMENDING SECTIONS 21-36.2, 21-36.3, 8CC-10, AND 8CC-5.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE FOR ENFORCEMENT UNDER CHAPTER 8CC OF THE CODE OF MIAMI-DADE COUNTY; 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. Sections 21-36.2(h) and 21-36(i) of the Code of Miami-Dade County, Florida, are hereby amended to read as follows:[1]

Sec. 21-36.2. **Roadway solicitation by minors; applicable area; adult supervision required; permissible hours; prohibition at enumerated roadways; penalty for section violations.**

* * *

Sec. 21-36.2(e). **Prohibited roadways.**

* * *

Sec. 21-36.2(h). **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 subject to the enforcement provisions of Chapter 8CC of the Code of Miami-Dade County, and/or<< shall be prosecuted before a court of competent jurisdiction and subject, upon conviction, to the

[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.

penalties listed in § 21-36.2(i) and within the discretion of the county judge.

Sec. 21-36.2(i). Penalties.

* * *

(1) A first violation of this section: a [[~~verbal~~]] >>written<< warning or reprimand.
(2) Subsequent violations of this section: a fine of not more than thirty dollars ($30.00)>>,<< and/or imposition of community service hours or required participation in after-school programs[[~~.~~]] >>, and/or completion of the juvenile civil citation program established under Florida Statutes, Section 985.12.<<

Section 2. Sections 21-36.3(f) and 21-36(g) of the Code of Miami-Dade County, Florida, are hereby amended to read as follows:

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

* * *

Sec. 21-36.3(c). Prohibited roadways.

* * *

Sec. 21-36.3(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 subject to the enforcement provisions of Chapter 8CC of the Code of Miami-Dade County, and/or<< shall be prosecuted before a court of competent jurisdiction and subject, upon conviction, to the penalties listed in § 21-36.3(g) and within the discretion of the county judge.

Sec. 21-36.3(g). Penalties.

* * *

(1) A first violation of this section: a [[~~verbal~~]] >>written<< warning or reprimand.
(2) Subsequent violations of this section: a fine of no less than thirty dollars ($30.00) and no more than five hundred dollars ($500.00)[[.]] >>, and/or completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order 2-12 of the Board of County Commissioners.<<

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.

* * *

Code Section	*Description of Violation*	*Civil Penalty*
>>21-36.2(e)	Solicitation by minors in public right-of-way at prohibited intersections	$30.00
21-36.3(c)	Solicitation in public right-of-way at prohibited intersections	$30.00 for first offense after warning. Amount of fine, for subsequent offenses may increase to up to $500 depending upon number of offenses and severity of offense<<

Section 4. 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.

* * *

Code Section	*Description of Violation*
>>21-36.3(c)	Solicitation in public right-of-way at prohibited intersections<<

Section 5. 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 6. 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 7. 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: APW

Prepared by: B.L.

Bruce Libhaber

Prime Sponsor: Commissioner Juan C. Zapata