

MEMORANDUM

Agenda Item No. 7(H)


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


DATE: (Second Reading 5-17-16)
February 2, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance pertaining to zoning;
amending section 33-19.1 of
the Code pertaining to display
of vehicles and boats for sale
on residential property;
amending chapter 8CC-10 of
the Code pertaining to penalties;
providing for enforcement by
civil penalty

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.




Abigail Price-Williams
County Attorney 

APW/lmp

Memorandum

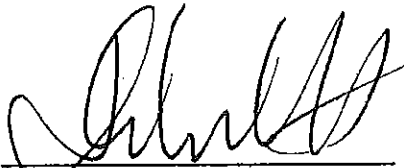


Date: May 17, 2016
To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners
From: Carlos A. Gimenez
Mayor 
Subject: Fiscal Impact for Ordinance Pertaining to Zoning and Amending Code Related to
Display of Vehicles and Boats for Sale on Residential Property and Penalties

The proposed ordinance amends the County Code of Ordinances (Code) to require that effective August 8, 2016 any persons displaying a vehicle or boat for sale on a property, currently authorized under the Section 33-19.1 of the Code, can only do so with the proper display of a certificate of use issued by the County. The proposed ordinance also sets requirements for the issuance of the certificate of use and also revises the schedule of civil penalties accordingly.

There is an administrative cost associated with the issuance of certificates of use in the Department of Regulatory and Economic Department. These costs, in addition to expenses associated with the implementation of an online registration for the issuance of the certificates of use prior to the required date of August 8, 2016, can be covered by a per issuance fee of \$36.70. Authorization to issue a certificate of use issuance fee would require an amendment to the Implementing Order No. 4-111 through separate Board action.

No additional code enforcement staff will be required as notices of violation will be issued through the normal course of neighborhood compliance activities.

A handwritten signature in black ink, appearing to read "Jack Osterholt". The signature is written in a cursive style and is positioned above a horizontal line.

Jack Osterholt
Deputy Mayor


Fis03216 160091

Memorandum



Date: May 17, 2016

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

From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Statement for Ordinance Pertaining to Zoning and Amending Code
Related to Display of Vehicles and Boats for Sale on Residential Property and
Penalties

The proposed ordinance amends existing Section 33-19.1 of the Code, which already limits the display for sale to no more than one (1) vehicle at a time or two (2) vehicles for any one calendar year on a property in a residential area and that the display for sale occur at the property of the registered owner. More specifically, the amendment will now require that effective August 8, 2016 individuals wishing to display a vehicle or boat for sale must also properly display a certificate of use issued by the County. Additionally, the schedule of civil penalties is amended to account for the violation of not seeking or properly displaying a certificate of use.

A specific social equity benefit or burden cannot be determined at this time. Owners wishing to display their vehicles and boats for sale will be required to seek a certificate of use, which will be set at \$36.70 through separate Board action. The vehicle or boat must have a current registration decal affixed and be owned by the person residing in or on the residential property. The cost of failing to seek or properly display a certificate of use will be borne by the property owner where the vehicle or boat is located. Additionally, the cost of failing to properly display a current registration decal will be borne by the owner of the vehicle or boat.

By requiring a certificate of use, the number of vehicles and boats on display for sale should adhere to the amounts prescribed per property owner in the existing Code requirements. This may in return benefit the aesthetics of neighborhoods as well as the immediate neighbors of properties that are currently not in compliance with Code.



Jack Osterholt
Deputy Mayor

160091



MEMORANDUM

(Revised)

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

DATE: May 17, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(H)

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. 7(H)
5-17-16

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-19.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PERTAINING TO DISPLAY OF VEHICLES AND BOATS FOR SALE ON RESIDENTIAL PROPERTY; AMENDING CHAPTER 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PERTAINING TO PENALTIES; PROVIDING FOR ENFORCEMENT BY CIVIL PENALTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board is committed to ensuring the health, safety and welfare, as well as enhancing the quality of life of Miami-Dade County's residents; and

WHEREAS, in furtherance of these goals, this Board is committed to maintaining and enhancing the aesthetics and beauty of the residential districts within unincorporated Miami-Dade County; and

WHEREAS, this Board recognizes that the sale of vehicles and boats from properties within residential districts can detract from the beauty and aesthetics of the properties, and oftentimes diminishes the enjoyment of the surrounding properties by their owners and tenants, and likewise can result in diminished resale values of properties in these areas; and

WHEREAS, this Board also recognizes that vehicles and boats displayed for sale may distract drivers within these residential districts, endangering pedestrians, including children; and

WHEREAS, Florida Statute Section 320.27 requires that "motor vehicle dealers" obtain a license to engage in the business of buying, selling or dealing in motor vehicles or offering to display motor vehicles for sale at wholesale or retail, and further provides that any person that buys, sells, deals, or offers or displays for sale three or more motor vehicles in any 12-month period shall be presumed to be engaged in the business as a motor vehicle dealer; and

WHEREAS, Miami-Dade County Ordinance No. 33-19.1 already limits the display for sale to no more than one vehicle at a time on property in a residential district, and no more than two vehicles for display for sale at such property for any one calendar year; and

WHEREAS, Miami-Dade County Ordinance No. 33-19.1 also provides that the display of a vehicle or boat for sale shall only be allowed at the property of the registered owner of the vehicle or boat; and

WHEREAS, this Board recognizes that owners of vehicles and boats need a way to sell their vehicles and boats when they no longer wish to use them; and

WHEREAS, this Board recognizes that a certificate of use requirement to display a vehicle or boat for sale in a residential district will allow the County to enforce the existing requirement that the display of a vehicle or boat for sale shall only be allowed at the property of the registered owner of the vehicle or boat, and will also enhance the County's ability to enforce the existing requirement that there be no more than one vehicle displayed for sale at a time on a residential property, and no more than two vehicles displayed for sale at such property for any one calendar year; and

WHEREAS, since the requirement of a certificate of use can be financially burdensome for persons selling inexpensive vehicles or boats, this Board is committed to an inexpensive certificate of use fee required by this Ordinance,

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

Section 1. Section 33-19.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-19.1. Display of vehicles >>and boats<< for sale >>on residential property<<.

(a) >>It shall be unlawful for any person to display any vehicle or boat for sale on a residential property without a certificate of use issued by the Department and shall be unlawful for an owner of a residential property to allow any other person not residing on the property to display any vehicle or boat for sale on the property. Notwithstanding any other provision to the contrary, the requirement of this section shall take effect August 8, 2016.

(b) As used in this section, the term "vehicle" shall include an automobile, motorcycle, truck, recreational vehicle, utility trailer, or a trailer for transporting off-highway vehicles or boats.

(c) No certificate of use for sale of a vehicle or boat on a residential property shall be issued unless the applicant provides to the Director the following proof or an attestation under oath establishing, in the Director's discretion, that the vehicle or boat to be displayed for sale is owned by a person residing in or on the residential property. When required by the Director, said proof shall be established by:

(1) A valid registration for the vehicle or boat in the name of the certificate of use applicant, with a registration address matching the property address where the vehicle or boat will be displayed for sale; or

(2) A valid registration for the vehicle or boat in the name of the certificate of use applicant and either a copy of a valid, government-issued identification card or license or a copy of a utility bill showing the applicant's name and the property address where the vehicle will be displayed for sale. Any utility bills provided as proof shall be dated no earlier than four months before the certificate of use application.

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.

(d) Additional conditions of the display for sale:

(1) The certificate of use shall be placed in a conspicuous place in or on the vehicle or boat so as to be easily readable by law enforcement and code enforcement officials.

(2) ~~<<No vehicle [[or boat]] shall be displayed for sale >>on<< [[in]] a residential >>property<< [[district]] unless affixed to the vehicle is a valid state license plate issued for the vehicle, >>with a current vehicle registration decal,<< except that a vehicle affixed with a lost tag may be displayed for a period not to exceed ten (10) days. A vehicle with a lost tag shall have the vehicle registration affixed to the rear window so as to be easily readable by law enforcement and code enforcement officials. [[As used in this section, the term "vehicle" shall include an automobile, motorcycle, truck, or recreational vehicle, a utility trailer, or a trailer for transporting off-highway vehicles or boats.]] >>No boat shall be displayed for sale on a residential property unless a current registration decal is affixed to the boat in the location required by state law.<<~~

~~>>(3) On<< [[(b) In]] residential >>property,<< [[districts]] no more than one (1) vehicle >>or boat<< may be displayed for sale at any one (1) time on any one (1) premise and no more than two (2) vehicles >>or boats<< may be displayed for sale at any one (1) premise for any one (1) calendar year, and the display shall only be permitted at the >>address designated on the certificate of use, which shall be the<< current address of the registered owner of the vehicle >>or boat<< offered for sale on the subject premises.~~

~~[[e) No more than one sign shall be placed on the vehicle offered for sale. Such sign shall not exceed 8 inches by 12 inches.]]~~

~~>>(e)<< [[(d) All-v]] >>V<<iolations of this section shall be punishable by a fine >>enumerated in Section 8CC-10 of this code.<< [[of one hundred dollars (\$100.00) for the first vehicle on a first offense and five hundred dollars (\$500.00) per vehicle for each additional vehicle and any repeat violation of this section.]] >>Each vehicle or boat in violation of this section is a separate offense.<< The County may lien the vehicle >>or boat<< and any real property owned by the violator in Miami-Dade County until all fines, enforcement costs, and administrative costs are paid by the violator. Any vehicle >>or boat<< in violation of this section shall be towed if not removed immediately by the owner. [[e~~

~~Vehicle owners]] >>Violators<<~~ will be responsible for all fines, towing fees, storage fees, and any administrative and enforcement fees that result from the enforcement of this section. [[)]]

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.

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
* * *		
>>33-19.1(a)	<u>Unlawfully displaying a vehicle or boat for sale without a certificate of use</u> <u>First offense</u> <u>Second or More Continuing Violations</u>	<u>250.00</u> <u>500.00</u>
33-19.1(d)(1)	<u>Failure to properly display certificate of use for sale of vehicle or boat</u>	<u>100.00<<</u>
33-19.1[[a]]	Unlawfully displaying a vehicle >>or	

<p>>>(d)(2)<<</p>	<p><u>boat</u><< for sale without a valid state license plate or [[vehicle]] registration >><u>decal</u><< affixed to the vehicle >><u>or boat</u><<.</p> <p>>><u>First offense</u><<</p> <p>>> <u>Second or More Continuing Violations</u></p>	<p>100.00</p> <p><u>500.00</u><<</p>
<p>33-19.1[[b]] >>(d)(3)<<</p>	<p>Displaying for sale in a residential district more vehicles than allowed</p> <p>First offense</p> <p>Second [[Offense]] >><u>or More Continuing Violations</u><<</p>	<p>[[100.00]]</p> <p>>><u>250.00</u><<</p> <p>500.00</p>
<p style="text-align: center;">* * *</p>		

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 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 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:

David Sherman

Prime Sponsor: Senator Javier D. Souto

GBK for
