MEMORANDUM

Agenda Item No. 7(J)

TO:	Honorable Chairman Jean Monestime and Members, Board of County Commissioners	**DATE:**	November 1, 2016
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

This item was amended at the 10-11-16 Metropolitan Services Committee to:

1. **Delete changes to section 21-36.2 of the Code related to roadway solicitation by minors, which would have allowed enforcement pursuant to section 8CC of the Code, and**
2. **Specify that the amount of a fine for violation of Section 21-36.3 of the Code would be $50 for a second offense and $100 for a third offense and subsequent offenses.**

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

APW/lmp

Memorandum

MIAMI-DADE COUNTY

Date: November 1, 2016

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

From: Carlos A. Gimenez
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Solicitation on Roadways

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The proposed ordinance relating to non-criminal penalties for violations of provisions of the 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.

Implementation of this ordinance will not have a fiscal impact to the County as the Miami-Dade Police Department currently enforces this section of Code.

Russell Benford
Deputy Mayor

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Memorandum

MIAMI-DADE COUNTY

Date: November 1, 2016

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

From: Carlos A. Gimenez
Mayor

Subject: Social Equity for Ordinance Related to Non-Criminal Penalties for Solicitations On Certain Roadways

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The proposed ordinance 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 of non-criminal penalties under Chapter 8CC of the Code of Miami-Dade County related to solicitation on certain roadways.

The amendment is intended to deter adults and minors from soliciting on these roadways with the use of written warnings. The proposed ordinance is not anticipated to have a specific social equity benefit or burden as described in Ordinance No.15-83.

Russell Benford
Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: November 1, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(J)

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(J)

11-1-16

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 21-36.2(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.

* * *

[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.

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~~]][2] shall be prosecuted before a court of competent jurisdiction and subject, upon conviction, to the 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.

* * *

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

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) >>for the first offense; a fine of no less than $50.00 for the second offense; a fine of $100.00 for the third offense and each offense thereafter<< [[~~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(c)~~	~~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.<< >>$50.00 for second offense. $100.00 for third

$100.00 for third offense and each offense thereafter.<< [[~~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: for

Bruce Libhaber

Prime Sponsor: Commissioner Juan C. Zapata