

MEMORANDUM

Agenda Item No. 7(B)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

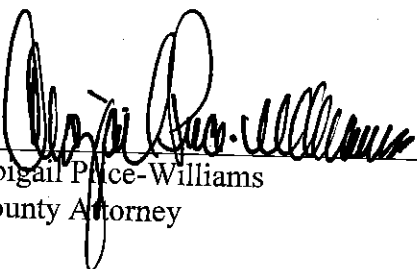
DATE: February 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to private parking facility operators; creating section 21-46 of the Code; prohibiting private parking facility operators from issuing certain instruments that look like a governmental citation, notice of violation or ticket unless clearly identifiable as non-governmental invoices; providing for applicability in the incorporated and unincorporated areas of the County; providing that an invoice in violation of section 21-46 is unenforceable; amending section 8CC; providing civil penalties

This item was amended at the 1-16-20 Health Care and County Operations Committee to provide further clarification that the ordinance does not preempt municipalities from enacting prohibitions related to the issuance of citations, tickets or violations by non-governmental entities in privately operated parking lots.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Esteban L. Bovo, Jr. and Co-Sponsors Commissioner Jose "Pepe" Diaz, Vice Chairwoman Rebeca Sosa and Commissioner Xavier L. Suarez.


Abigail Price-Williams
County Attorney

APW/lmp

Memorandum



Date: February 19, 2020

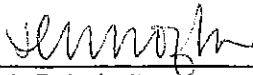
To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in cursive script, appearing to read "Carlos A. Gimenez".

Subject: Fiscal Impact Statement for Ordinance Relating to Private Parking Facility Operators

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County as the proposed changes would not require additional staffing resources and any enforcement of the ordinance would be absorbed as part of ongoing monitoring.

for 

Jack Osterholt
Deputy Mayor

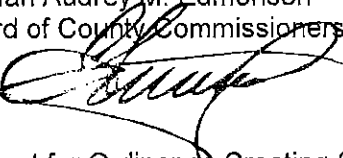
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Memorandum



Date: February 19, 2020

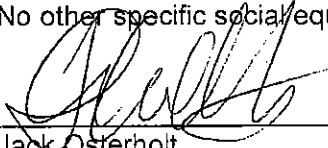
To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Social Equity Statement for Ordinance Creating Section 21-46 Relating to Private
Parking Facility Operators

The proposed ordinance creating Section 21-46 of the Code of Miami-Dade County, prohibits any non-governmental person or entity from issuing forms/documents imposing penalties in a privately operated parking lot or facility that use the words "violation", "citation" or "ticket", but does allow for an invoice or other document to be issued if it includes the following statement in 14 point font: "THIS INVOICE IS PRIVATELY ISSUED, IS NOT ISSUED BY A GOVERNMENTAL AUTHORITY, AND IS NOT SUBJECT TO CIVIL OR CRIMINAL PENTALTIES." Chapter 8CC is also amended to include a \$100.00 penalty for violations.

The proposed ordinance will help prevent motorists from being misled about the origin of any invoice posted on a vehicle resulting from a parking violation in a privately operated lot or facility. No other specific social equity or benefit can be determined at this time.

A handwritten signature in black ink, appearing to read "Jack Osterholt".

Jack Osterholt
Deputy Mayor

192554



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: February 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(B)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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(B)
2-19-20

ORDINANCE NO. _____

ORDINANCE RELATING TO PRIVATE PARKING FACILITY OPERATORS; CREATING SECTION 21-46 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROHIBITING PRIVATE PARKING FACILITY OPERATORS FROM ISSUING CERTAIN INSTRUMENTS THAT LOOK LIKE A GOVERNMENTAL CITATION, NOTICE OF VIOLATION OR TICKET UNLESS CLEARLY IDENTIFIABLE AS NON-GOVERNMENTAL INVOICES; PROVIDING FOR APPLICABILITY IN THE INCORPORATED AND UNINCORPORATED AREAS OF THE COUNTY; PROVIDING THAT AN INVOICE IN VIOLATION OF SECTION 21-46 IS UNENFORCEABLE; AMENDING SECTION 8CC; PROVIDING CIVIL PENALTIES; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, only governmental entities have the legal authority to issue citations, violations, and tickets imposing monetary sanctions to motorists for parking violations, pursuant to state and local legislation that includes due process protections for the owners of such vehicles; and

WHEREAS, private entities do not have legal authority to issue parking citations, notices of violation, or tickets imposing monetary sanctions for parking violations; and

WHEREAS, in certain private parking facilities held open to the public, private operators or non-governmental owners have attempted to induce motorists to pay parking charges or fees by placing misleading invoices on parked vehicles that look like citations, notices of violation, or tickets appearing to come from a local government; and

WHEREAS, such invoices may intentionally bear a resemblance to Miami-Dade County Uniform Parking Citations or other official traffic citation documents, and may have misleading titles, such as "notice of charge for violation," in order to induce motorists to pay the charges or fees imposed; and

WHEREAS, due to the form of the invoice having a similarity to a governmental parking citation, notice of violation, or ticket, such non-governmental measures serve to mislead the motorist under the guise of a governmental action; and

WHEREAS, it is in the best interests of the residents of the County to prohibit the practice of the issuance of private invoices resembling government-issued parking citations, notices of violations, and tickets thereby misleading the public; and

WHEREAS, in the event that private parking facility operators or non-governmental owners wish to issue a parking invoice, such invoice should be clearly identifiable as a non-governmental invoice, that is not subject to governmental civil or criminal penalty,

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

Section 1. Section 21-46 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:¹

>>Sec. 21-46. Issuance of non-governmental parking citations, notices of violations, or tickets

- (a) It is unlawful for any non-governmental person or entity to issue an invoice or other document which seeks to impose a monetary charge for any motor vehicle parked in a privately operated parking lot or facility that includes the word violation, citation, or ticket. Notwithstanding the foregoing, an invoice or other document issued by a non-governmental owner does not violate this section if the form of such document includes a statement in 14 point bold face font, in substantially the following form: "THIS INVOICE IS PRIVATELY ISSUED, IS NOT ISSUED BY A GOVERNMENTAL

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.

AUTHORITY, AND IS NOT SUBJECT TO CIVIL OR CRIMINAL PENALTIES.”

- (b) This section applies countywide in both the incorporated and unincorporated areas of the County, but does not preempt municipalities or any other governmental entities from enacting ordinances, rules or regulations that provide<< >>prohibitions or<<² >>greater protections or penalties.
- (c) Any invoice issued in violation of this section is unenforceable.
- (d) This section shall be subject to the penalties provided by section 8CC-10 of the Code, and each violation shall constitute a separate offense.<<

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.

* * *

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
	* * *	
21-34(a)	Obstructing, damaging, destroying, or interfering with canal, drain, ditch, watercourse, etc.	100.00
>>21.46	<u>Issuance of non-governmental parking citations, notices of violations, or tickets</u>	<u>100.00<<</u>
21-47(3)(a)	Person engaging in high risk sexual activity at bathhouse and health club	100.00

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.

<u>Code Section</u>	<u>Description of Violation</u>	<u>Civil Penalty</u>
	* * *	

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:



Debra Herman

Prime Sponsor: Commissioner Esteban L. Bovo, Jr.

Co-Sponsors: Commissioner Jose "Pepe" Diaz
Vice Chairwoman Rebeca Sosa
Commissioner Xavier L. Suarez