

MEMORANDUM

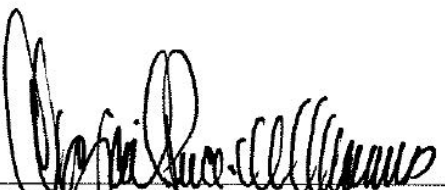
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: Agenda Item No. 5(C)
(Public Hearing 7-8-20)
May 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to the
Building Code; amending
section 8-18 of the Code;
creating disclosure requirement
for residential property in the
unincorporated area; requiring
disclosure relating to illegal
construction and outstanding
code violations for prospective
buyers; providing provision
relating to penalties; directing
the County Mayor to conduct
a public awareness campaign

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez and Co-sponsor Commissioner Barbara J. Jordan.



Abigail Price-Williams
County Attorney

APW/smm

Memorandum



Date: July 8, 2020

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in blue ink, appearing to read "Carlos A. Gimenez". The signature is fluid and cursive, with a prominent flourish at the end.

Subject: Fiscal Impact Statement for Ordinance Relating to the Building Code; Relating to Illegal Construction and Outstanding Code Violations

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County as the proposed changes will not require additional staffing resources nor generate additional operational expenses.


A handwritten signature in blue ink, appearing to read "Jack Osterholt". The signature is fluid and cursive, with a prominent flourish at the end.

Jack Osterholt
Deputy Mayor

FIS04820 200886

Date: July 8, 2020

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

From: Carlos A. Gimenez 
Mayor

Subject: Social Equity Statement for Ordinance Relating to the Building Code – Creating
Disclosure Requirement for Residential Property

The proposed ordinance relating to the Building Code amends Section 8-18 of the Code of Miami-Dade County (Code) creating a disclosure requirement relating to illegal construction and outstanding code violations to be made to prospective buyers before they enter into contracts for the purchase of residential property in the unincorporated area.

Additionally, the proposed ordinance directs the County Mayor to conduct a public awareness campaign to ensure that the public and real estate professionals are made aware of the new disclosure requirement.

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

Jack Osterholt
Deputy Mayor

200886



MEMORANDUM
(Revised)

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

DATE: July 8, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 5(C)

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. 5(C)

7-8-20

ORDINANCE NO. _____

ORDINANCE RELATING TO THE BUILDING CODE; AMENDING SECTION 8-18 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CREATING DISCLOSURE REQUIREMENT FOR RESIDENTIAL PROPERTY IN THE UNINCORPORATED AREA; REQUIRING DISCLOSURE RELATING TO ILLEGAL CONSTRUCTION AND OUTSTANDING CODE VIOLATIONS FOR PROSPECTIVE BUYERS; PROVIDING PROVISION RELATING TO PENALTIES; DIRECTING THE COUNTY MAYOR TO CONDUCT A PUBLIC AWARENESS CAMPAIGN; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Florida Statutes, the Florida Building Code, and the Code of Miami-Dade County require building permits to construct, erect, alter, modify, repair, or demolish any building; and

WHEREAS, construction, alterations, modifications, and repairs performed without permits are illegal and jeopardize the health and safety of occupants, visitors, and neighbors; and

WHEREAS, illegal construction, particularly in the interior of a residence, sometimes goes undetected for lengthy periods of time because of the inherent privacy of one's home; and

WHEREAS, illegal construction continues to be a problem in Miami-Dade County, not only because of the health and safety concerns, but because of the burden it causes subsequent purchasers of property that has illegal construction; and

WHEREAS, when a citation is issued, the homeowner is often surprised to learn of illegal construction or outstanding building or zoning code violations, because the issue dates back many years to a prior owner and occurred without the current homeowner's knowledge or awareness; and

WHEREAS, when purchasing a home, the prospective buyer typically obtains a home inspection prior to closing to determine the home's condition and whether the home has any major defects; and

WHEREAS, items identified in a home inspection report typically become the subject of further negotiation between the prospective buyer and the seller with regard to how such deficiencies will be addressed and remedied, or offset with a discount to the purchase price; and

WHEREAS, unfortunately, many home inspections do not check for illegal construction or code violations, thus depriving prospective buyers of such information prior to closing on a home; and

WHEREAS, even worse, prospective buyers who are not aware of illegal construction or outstanding code violations are often unfairly left to pay substantial amounts of money to remedy such issues after purchasing the home, through no fault of their own; and

WHEREAS, accordingly, the County Code should be amended to require disclosure relating to illegal construction and outstanding code violations to be made to prospective buyers before they enter into contracts for purchase of residential property; and

WHEREAS, in addition, to ensure that the public and real estate professionals are educated about, and made aware of, this new disclosure requirement, the County Mayor should conduct a public awareness campaign,

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

Section 1. Section 8-18 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 8-18. Required ~~[[disclosure]]~~>>disclosures<<.

>>(a) Compliance with Florida Building Code for new construction.<< In any contract for the sale to the original purchaser(s) of any new structure in Miami-Dade County, which structure was erected pursuant to the professional certification of plans and inspections by architects and engineers who have been privately retained by the owner and applicant for permits pursuant to state law as incorporated in Section 2-1265 of the Code of Miami-Dade County, the seller shall include in the contract, or in an Addendum to the contract that has been separately signed and acknowledged by the purchaser at closing, a disclosure in not less than ten-point bold-face type:

THIS STRUCTURE (HAS BEEN OR WILL BE) BUILT IN COMPLIANCE WITH THE FLORIDA BUILDING CODE AS DETERMINED BY STATE LICENSED AND REGISTERED ARCHITECTS AND ENGINEERS PRIVATELY HIRED BY THE OWNER AND APPLICANT FOR PERMITS TO PERFORM CERTIFICATION OF PLANS AND INSPECTIONS AS PROVIDED UNDER THE PROFESSIONAL CERTIFICATION PROGRAM ESTABLISHED UNDER STATE LAW. THE NAME, ADDRESS, TELEPHONE NUMBER, AND STATE LICENSE NUMBER OF EITHER EACH INDIVIDUAL THAT IS WORKING ON HIS/HER OWN AS AN INDEPENDENT ARCHITECT OR ENGINEER OR THE PRINCIPAL OF THE COMPANY THAT IS USED TO EXAMINE PLANS AND INSPECT THIS STRUCTURE; ARE AS FOLLOWS:

* * *

Violations of this ~~[[Section]]~~>>subsection<< shall be subject to the penalties set forth in Section 8-17 above.

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.

>>(b) Inspections for illegal construction and code violations.

- (1) Disclosure. Prior to closing on any contract for sale of residential property in the unincorporated area of the County, the seller shall provide the prospective buyer with a disclosure in not less than ten-point bold-faced type. The disclosure shall be set forth either in the contract for sale and purchase of the residential property or an addendum to such contract, provided that such addendum is executed on the same date as the contract for sale and purchase. In addition, the disclosure shall be signed and dated by the prospective buyer upon receipt. The disclosure shall state as follows:

MANY HOME INSPECTIONS DO NOT CHECK FOR ILLEGAL CONSTRUCTION OR OUTSTANDING BUILDING OR ZONING CODE VIOLATIONS. YOU SHOULD HAVE AN INSPECTION CONDUCTED TO CHECK FOR THESE ISSUES BEFORE ENTERING INTO A CONTRACT TO PURCHASE RESIDENTIAL PROPERTY. IF ILLEGAL CONSTRUCTION OR OUTSTANDING CODE VIOLATIONS ARE IDENTIFIED AFTER YOU PURCHASE THE PROPERTY, YOU MAY BE RESPONSIBLE FOR ADDRESSING SUCH ISSUES AT YOUR OWN EXPENSE.

- (2) Penalties. Notwithstanding any other provision of the Code, violations of this subsection shall not be punishable by a fine or penalty.<<

Section 2. Within 30 days of the effective date of this ordinance, the County Mayor shall conduct a public awareness campaign to educate the public and real estate professionals on the new disclosure requirement.

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:



James Eddie Kirtley

Prime Sponsor: Commissioner Joe A. Martinez
Co-Sponsor: Commissioner Barbara J. Jordan