

MEMORANDUM

Agenda Item No. 4(C)

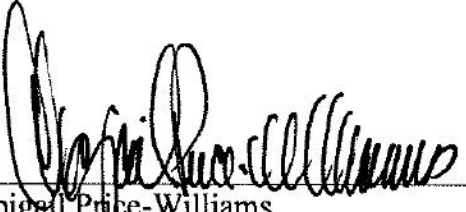
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: August 31, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to
environmental protection;
creating section 24-41.17
of the Code; amending section
8CC-10; requiring sampling
related to air pollution under
certain circumstances at certain
automotive events; requiring
reports and corrective action
under certain circumstances;
providing for enforcement
by civil penalties

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



Abigail Price-Williams
County Attorney

APW/smm

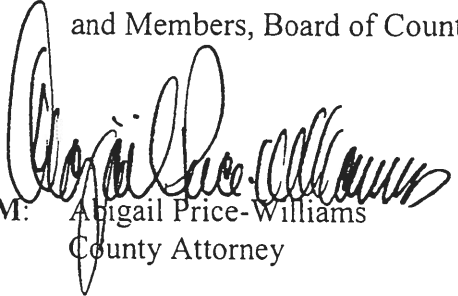


MEMORANDUM

(Revised)

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

DATE: August 31, 2020

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County Attorney

SUBJECT: Agenda Item No. 4(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. 4(C)
8-31-20

ORDINANCE NO. _____

ORDINANCE RELATING TO ENVIRONMENTAL PROTECTION; CREATING SECTION 24-41.17 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AMENDING SECTION 8CC-10; REQUIRING SAMPLING RELATED TO AIR POLLUTION UNDER CERTAIN CIRCUMSTANCES AT CERTAIN AUTOMOTIVE EVENTS; REQUIRING REPORTS AND CORRECTIVE ACTION UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR ENFORCEMENT BY CIVIL PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, air quality is important to the quality of life for residents and visitors in Miami-Dade County, and it is well-established that air pollution can have long-lasting health effects on individuals; and

WHEREAS, air pollution may be of particular concern now because of the coronavirus disease 2019 (COVID-19), because air pollution may aggravate some individuals' respiratory problems; and

WHEREAS, according to the World Health Organization (the "WHO"), ambient air pollution in both cities and rural areas was estimated to have caused 4.2 million premature deaths worldwide in 2016; and

WHEREAS, according to the WHO, particulate matter affects more people than any other pollutant and is mainly comprised of sulfate, nitrates, ammonia, sodium chloride, black carbon, mineral dust, and water; and

WHEREAS, according to the National Institute of Health, exposure to particulate matter less than 10 micrometers in diameter can cause irregular heartbeats, nonfatal heart attacks, aggravated asthma, decreased lung function, and premature death in people with heart or lung disease; and

WHEREAS, the WHO reports that other significant sources of air pollution are nitrogen dioxide and sulfur dioxide; and

WHEREAS, the WHO reports that health effects are now known to be associated with much lower levels of sulfur dioxide than previously believed, and studies indicate that some people with asthma experience changes in pulmonary function and respiratory symptoms after being exposed to sulfur dioxide for as little as 10 minutes; and

WHEREAS, the WHO has certain recommendations for acceptable quantities of sulfur dioxide, nitrogen dioxide, fine particulate matter (PM 2.5) and coarse particulate matter (PM 10), which are currently available at [https://www.who.int/news-room/fact-sheets/detail/ambient-\(outdoor\)-air-quality-and-health](https://www.who.int/news-room/fact-sheets/detail/ambient-(outdoor)-air-quality-and-health); and

WHEREAS, according to the U.S. Environmental Protection Agency, sulfur dioxide, nitrogen dioxide, PM 2.5, and PM 10 are air pollutants associated with the operation of automobiles; and

WHEREAS, certain automotive events may take place in the presence of thousands of spectators or in close proximity to residential neighborhoods, and such automotive events could potentially expose such individuals to air pollution over an extended period of time; and

WHEREAS, sampling for particulate matter, nitrogen dioxide, and sulfur dioxide during such events is needed to understand the potential risks that these events may pose to nearby spectators and residents; and

WHEREAS, to better protect the public, this Board wishes to require (1) certain air pollution sampling for certain automotive events and (2) a report with the results of the required sampling; and

WHEREAS, if such testing reveals air pollution levels above thresholds recommended by the WHO for sulfur dioxide, nitrogen dioxide, PM 2.5, or PM 10, then this Board wishes to authorize the Miami-Dade County Division of Environmental Resources Management to require appropriate corrective measures; and

WHEREAS, this Board also finds that civil penalties may be an appropriate means to enforce the requirements of this ordinance,

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

Section 1. The above recitals are incorporated into this ordinance and are approved.

Section 2. Section 24-41.17 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

>>Sec. 24-41.17. - Requirements related to certain events; air quality sampling for particulate matter, nitrogen dioxide, and sulfur dioxide; corrective action.

- (1) The purpose and intent of this section is to protect spectators and neighboring residents from potential harm from air pollution related to certain automotive events that may generate air pollution for extended periods of time.
 - (a) This section requires air quality sampling for sulfur dioxide, nitrogen dioxide, fine particulate matter, and coarse particulate matter during certain automotive events. If sampling shows exceedances of the thresholds provided in this section, the Department may require corrective action.
 - (b) The obligations herein related to sampling, reporting, and corrective action apply to property owners, event operators, and any person who has a legal, beneficial, or equitable interest in the facility or instrumentality or the real property upon which the event occurs, as otherwise provided in this chapter, including, but not limited to, section 24-31(6).

- (2) This section shall apply to outdoor automotive events.
 - (a) For the purposes of this section, “outdoor automotive event” shall mean an event involving moving automobiles that is held outdoors or in a stadium or other building that is not completely enclosed, and includes, without limitation, automotive races, automotive exhibitions, and automotive shows.
 - (b) It is provided, however, that an event where all automobiles are either stationary or operating at a low rate of speed at all times including, without limitation, a parade, shall not constitute an outdoor automotive event and shall not be subject to this section.

- (3) Air quality sampling shall be conducted during an outdoor automotive event for the following pollutants:
 - (a) Fine particulate matter (PM 2.5), which shall include any particulate matter that is 2.5 microns or less in diameter;
 - (b) Coarse particulate matter (PM 10), which shall include any particulate matter that has a diameter greater than 2.5 microns and equal to or less than 10 microns;
 - (c) Sulfur dioxide; and
 - (d) Nitrogen dioxide.

- (4) Samples taken to comply with this section shall meet all of the following requirements:
 - (a) Samples must be taken at the location of the outdoor automotive event.
 - (b) All analyses and tests shall be conducted in a manner specified by the Department.
 - (c) Sufficient samples must be provided, in a manner approved by the Department, to determine the mean of the pollutants for which sampling is required.

- (5) A report with the results of the required sampling from the outdoor automotive event shall be provided to the Department, in a form approved by the Department, in accordance with the following:
 - (a) The report shall include the reported levels for sulfur dioxide, nitrogen dioxide, PM 2.5, and PM 10.
 - (b) The report shall be provided within 90 days of the outdoor automotive event for which sampling was required.
 - (c) Results of analyses and tests shall be calculated and reported in a manner specified by the Department.

- (6) Notwithstanding anything herein to the contrary, if any of the sampling results required by this section for the outdoor automotive event exceeds the following ambient air quality concentrations, such exceedances shall be reported to the Department within 48 hours, and corrective action shall be taken, to the extent required by the Department, to address said exceedances.
- (a) The applicable ambient air quality concentrations for this section are as follows:
 - (i) For fine particulate matter (PM 2.5): a 24 hour mean of 25 micrograms per cubic meter;
 - (ii) For coarse particulate matter (PM 10): a 24 hour mean of 50 micrograms per cubic meter;
 - (iii) For sulfur dioxide: a 24 hour mean of 20 micrograms per cubic meter, or a three-hour concentration of 250 micrograms per cubic meter, or a 10 minute arithmetic mean of 500 micrograms per cubic meter; and
 - (iv) For nitrogen dioxide: a 1 hour mean of 200 micrograms per cubic meter.
 - (b) Corrective action will be based on the amount of the exceedance, the circumstances of the outdoor automotive event, and the characteristics of the affected area.
 - (c) Corrective action may include, without limitation, requirements for immediate action to remedy the exceedances, and additional restrictions on, or prohibitions of, future outdoor automotive events.
- (7) For venues that host multiple, similar outdoor automotive events, if the air quality sampling conducted in accordance with this section for the first such outdoor automotive event did not exceed any of the ambient air quality concentrations in this section, then the Department may waive the air quality sampling requirements of this section for additional such events, only in accordance with the following:
- (a) The air quality sampling required herein is conducted at least once per calendar year for such outdoor automotive events; and
 - (b) The additional outdoor automotive event for which air quality sampling is waived does not include more automobiles than the outdoor automotive event for which air quality sampling was conducted during that calendar year.

- (8) Any person who violates the provisions of this section shall be subject to civil penalties in accordance with chapter 8CC.<<

Section 3. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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
* * *		
24-41.1	Noncompliance with provisions regulating motor vehicle emissions and emission control devices	50.00
>>24-41.17	<u>Failure to conduct air quality sampling, failure to comply with the requirements for conducting air quality sampling, failure to provide a report, or failure to comply with reporting requirements</u>	<u>500.00<<</u>

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.

24-41.3	Noncompliance with standards regulating sulfur dioxide emission	100.00
*	*	*

Section 4. 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 5. 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 6. 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:

Abbie Schwaderer-Raurell
Christopher J. Wahl
Cristina M. Rabionet

Prime Sponsor: Commissioner Barbara J. Jordan

