

MEMORANDUM

Amended
Agenda Item No. 7(D)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

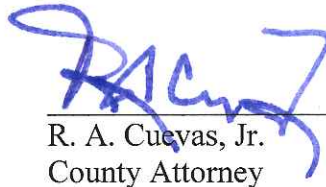
DATE: December 6, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance creating Section
32-101; granting discretion to
the Director of the Miami-Dade
Water & Sewer Department to
issue a one-time lifetime billing
adjustment to customers where
there are extreme
circumstances that merit an
adjustment

Ordinance No. 11-98

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Jose "Pepe" Diaz and Commissioner Lynda Bell.



R. A. Cuevas, Jr.
County Attorney


RAC/jls

Memorandum



Date: December 6, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance creating Section 32-101 granting the Water and Sewer Department discretion to issue a one-time lifetime billing adjustment to customers

The proposed ordinance creating Section 32-101 will grant discretion to the Director of the Water and Sewer Department to issue a one-time lifetime billing adjustment to customers where there are extreme circumstances that merit an adjustment. Currently, based on existing rules and regulations, the department is able to grant one-time lifetime billing adjustments to quarterly customers billed for extreme circumstances such as concealed leaks behind walls and hidden underground leaks, provided the customer has proof of necessary repairs. This ordinance will provide a one-time lifetime adjustment to monthly or quarterly customers which cannot provide explanations for the high bill. Based on historical information, the implementation of this ordinance along with our current rate structure and rates the County will have a negative fiscal impact of approximately \$2 million per year. The \$2 million per year is comprised of a loss of water and sewer revenues of \$1.8 million based on possible credits of amounts owed to both retail and commercial accounts; water utility tax loss of approximately \$60,000 to UMMA, and a utility service fee loss of approximately \$135,000 to be shared by Public Works and Waste Management Department and the Permitting, Environment and Regulatory Affairs Department.



Office of the Mayor

Fis6211



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: December 6, 2011

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Amended
Agenda Item No. 7(D)

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
- ☐ Ordinance creating a new board requires detailed County Manager'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 _____

Amended
Agenda Item No. 7(D)
12-6-2011

ORDINANCE NO. 11-98

ORDINANCE CREATING SECTION 32-101; GRANTING DISCRETION TO THE DIRECTOR OF THE MIAMI-DADE WATER AND SEWER DEPARTMENT TO ISSUE A ONE-TIME LIFETIME BILLING ADJUSTMENT TO CUSTOMERS WHERE THERE ARE EXTREME CIRCUMSTANCES THAT MERIT AN ADJUSTMENT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Resolution No. R-1164-04 provides a one-time lifetime adjustment for a Miami-Dade Water and Sewer Department quarterly single-family residential customer who receives a bill that exceeds six (6) times the past year's average quarterly consumption due to a concealed leak; and

WHEREAS, Resolution No. 1164-04 has resulted in credits to customers that met the criterion in the amount \$7,381,645.68 since its inception; and

WHEREAS, an adjustment to the bill for 50% of the excess water and 100% of the excess sewer charges above the average consumption is given if the quarterly single-family residential customer makes the necessary repairs to its plumbing and provides the information required by the Department's Rules and Regulations; and

WHEREAS, on several occasions customers have received unusually high bills and neither the Miami-Dade Water and Sewer Department nor the customers have been able to explain the reason for such high bills; and

WHEREAS, this Board seeks to assist customers that receive a bill that exceeds six (6) times the past year's average respective monthly or quarterly consumption and neither the

Miami-Dade Water and Sewer Department nor the customers can explain the reason for the high bill; and

WHEREAS, in 2008, the Miami-Dade Water and Sewer Department received 11,087 high bill complaints and issued approximately 8,316 credits; and

WHEREAS, in 2009, the Miami-Dade Water and Sewer Department received 17,666 high bill complaints and issued approximately 12,965 credits; and

WHEREAS, in 2010, the Miami-Dade Water and Sewer Department received 16,364 high bill complaints and issued approximately 13,404 credits,

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

Section 1. Section 32-101 of the Code of Miami-Dade County, Florida, is hereby created to read as follows¹

>>32-101 Section 32-101. One-Time Lifetime Credit for Customers

- (1) The Director of the Miami-Dade Water and Sewer Department is hereby given discretion to provide a one-time lifetime billing adjustment to a customer who disputes a high bill that is not the result of a concealed or visible leak. The Director's discretion to grant such a credit will be based on his assessment that there are extreme circumstances affecting the customer's account that merit a credit. If awarded, similar to the credit provided in the Department's Rules 2.10(1)(e) and 3.10(1)(e), such credit will be a 50% credit to the water portion of the customer's high bill above the customer's last yearly average consumption and a 100% credit to the sewer portion of the customer's high bill above the customer's last yearly average consumption.

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.

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- (a) For purposes of this section, the term “extreme circumstances” is defined as those situations in which a customer receives a bill that exceeds six (6) times the past year’s average, as applicable, monthly or quarterly consumption but is unable to show the Department that the high bill is due to a leak, concealed or visible, and cannot otherwise explain the high water bill.
- (2) In order to be considered for the one-time lifetime billing adjustment that the Director of the Miami-Dade Water and Sewer Department has been given discretion to grant, a customer seeking a one-time lifetime adjustment for extreme circumstances must be in good standing with the Department.
- (a) For purposes of this section, a customer in “good standing” is defined as a customer who has not had the water disconnected for nonpayment or his/her account placed in collection during the previous 12 months.
- (b) In order to request a one-time lifetime billing adjustment, a customer must submit their request on a form proscribed by the Department; and must provide the Department with a notarized affidavit stating that a licensed plumber has checked the residence (inside and out) for leaks (both concealed and visible); that the customer did not leave a hose running inadvertently or otherwise allow water to flow for any period of time; and that there have been no changes in water usage within the household during the billing period (i.e. new landscaping, guests visiting, major household repairs or construction that required increased water usage, problems with one’s pool or sprinkler system, or water theft.) Additionally, the customer’s licensed plumber must also execute the notarized affidavit before the customer submits it to the Department for consideration for a one-time lifetime adjustment.
- (3) The Department shall keep track of adjustments to ensure that a customer receives only one lifetime adjustment based on extreme circumstances.
- (a) For residential customers, only one lifetime adjustment will be available to the property owners based on the name(s) appearing on the deed; thus, if there is more than one property owner reflected on a deed, only one lifetime adjustment will be available to the deedholders collectively.
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(b) In the case of renters, the one-time lifetime adjustment is limited to one per person for their lifetime regardless of where they are residing. Individuals who have received a one-time lifetime adjustment while renting will not be entitled to any further adjustments under this section, even if they subsequently become property owners or relocate to a different rental property.

(c) With regard to commercial entities (corporations, LLCs, partnerships, etc.), each commercial entity and all related parties will be limited to one lifetime adjustment collectively in the commercial context. For purposes of this section, "related parties" shall mean entities, their principals, corporate officers and managers that have a direct or indirect ownership interest in another entity. Notwithstanding the foregoing, no more than one lifetime adjustment may be awarded in connection with a commercial property every five years regardless of what commercial entity occupies the property.

(4) The Department will provide a report to the Board of County Commissioners on a quarterly basis, which sets forth a detailed accounting of the one-time lifetime adjustments under R1164-04 and this section of the Code per year.

(5) Nothing in this section shall affect the Department's Rules and Regulations that address the procedures and credits allowed when a concealed or visible leak has been discovered in connection with a single-family residential customer's account.<<

Section 2. 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 3. 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 4. 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: December 12, 2011

Approved by County Attorney as
to form and legal sufficiency.



Prepared by:



Sarah E. Davis

Co-Prime Sponsors: Commissioner Jose "Pepe" Diaz
Commissioner Lynda Bell