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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(A)
(Second Reading 4-2-13)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 5, 2013

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

SUBJECT: Ordinance amending section 24-5 of the Code providing a definition for agricultural fallowing period; amending Section 24-48(1) of the Code
Ordinance No. 13-27

The accompanying ordinance was placed on the agenda at the request of Prime Sponsor Vice Chair Lynda Bell.

R. A. Cuevas, Jr.
County Attorney

RAC/lmp

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Memorandum

MIAMI-DADE COUNTY

Date: April 2, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Amending Section 24-5 for the Code Providing a Definition for Agricultural Fallowing Period; Amending Section 24-48(1) of the Code

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The proposed ordinance provides a definition for agricultural fallowing period, creates an exception from wetlands permit requirements for work in wetlands during an agricultural fallowing period, and extends the time for completion of work for Class IV permits. Implementation of the ordinance will not have a fiscal impact to the County.

Jack Osterholt
Deputy Mayor

Fls4113

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: April 2, 2013

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

SUBJECT: Agenda Item No. 7(A)

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 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(A)
4-2-13

ORDINANCE NO. 13-27

ORDINANCE AMENDING SECTION 24-5 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING A DEFINITION FOR AGRICULTURAL FALLOWING PERIOD; AMENDING SECTION 24-48(1) OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CREATING EXCEPTION FROM WETLANDS PERMIT REQUIREMENTS FOR WORK IN WETLANDS DURING AN AGRICULTURAL FALLOWING PERIOD; AMENDING SECTION 24-48.9 OF THE CODE OF MIAMI-DADE COUNTY; EXTENDING THE TIME FOR COMPLETION OF WORK FOR CLASS IV PERMITS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

WHEREAS, the County has recognized the practice of agricultural fallowing and has taken it into consideration when evaluating agricultural properties containing wetlands; and

WHEREAS, this ordinance would codify how agricultural fallowing should be considered for the purposes of wetlands permitting, thus giving more certainty and clarity to both the agricultural community and the County,

Section 1. Section 24-5 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 24-5. Definitions.

* * *

[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.

Affected tree shall mean any tree which shall be, or already has been, removed, relocated, or effectively destroyed, thereby requiring a permit pursuant to Ordinance Number 89-8.

>>*Agricultural fallowing period* shall mean a period of inactivity, not to exceed five years, of a previously established, lawfully permitted agricultural operation prior to the resumption of an agricultural operation.<<

Agricultural operation shall mean the growing of crops, the raising of fowl, animals or bees, as a gainful occupation, but shall not include such activities engaged in as a hobby or truck farming in residential areas.

* * *

Section 2. Section 24-48(1) of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 24-48. Permit required; expedited administrative authorizations; exceptions; work standards; compliance with work standards, suspension of permit.

(1) It shall be unlawful for any person to perform work or authorize, allow, suffer or permit work to be performed in County canal rights-of-way, reservations or easements anywhere in Miami-Dade County, or to trim, cut or alter a mangrove tree anywhere in Miami-Dade County, or to authorize, allow, suffer or permit the trimming, cutting or alteration of a mangrove tree anywhere in Miami-Dade County, or to fill, dredge or authorize, allow, suffer or permit filling or dredging or perform or authorize, allow, suffer or permit any type of work in, on, over, or upon tidal waters, submerged bay bottom lands, or wetlands anywhere in Miami-Dade County, or to perform or authorize, allow, suffer or permit any work which results in harmful obstruction or alteration of the natural flow of surface waters or substantial reduction in recharge of water to the Biscayne Aquifer, or authorize cause, permit, allow, let or suffer the dewatering of groundwater into any groundwater, surface water or drainage structure anywhere in Miami-Dade County, or the construction of a drainage system for any project anywhere in Miami-Dade County, without first having obtained a permit or approval from the Department. All said work shall conform to minimum standards set forth in the Code of Miami-Dade County, Florida, and the "Permit Information Manual

IV" of the South Florida Water Management District, dated September 11, 2008, as same may be amended from time to time. This section shall not apply to work in treatment facilities or their ancillary facilities such as, but not limited to, cooling canals or polishing ponds or to the following projects:

(a) Repair and/or replacement of the decking or handrails, on an existing dock or pier, limited to their original dimensions.

* * *

>>(t) Work in wetlands associated with the resumption of a lawfully permitted agricultural operation, during an agricultural fallowing period as defined in Section 24-5, as the site generally existed immediately prior to the agricultural fallowing period.<<

* * *

Section 3. Section 24-48.9 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 24-48.9. Time of completion of work; extension of completion time and new permits for incomplete work.

(1) All work authorized by a permit issued pursuant to this article shall be completed within the time periods set forth in the permit in accordance with the following schedule, unless another period of time is permitted as set forth in the resolution granting approval of the permit by the Board of County Commissioners:

Class I [[~~and Class IV~~]]short form permits.....2 years

Class I [[~~and Class IV~~]] short form permits for which a public hearing has been requested pursuant to Section 24-48.2(I)(B)(1).....2 years

Class I [[~~and Class IV~~]] standard form permits.....3 years

>>Class IV short form and standard form permits, including permits for which a public hearing has been requested pursuant to Section 24-48.2(I)(B)(1).....5 years<<

Class I short form permits for trimming, cutting or any alteration of mangrove tree(s).....3 years

Class I short form permits for trimming, cutting or any other alteration of mangrove tree(s), for which a public hearing has been requested pursuant to Section 24-48.2(I)(B)(1)	3 years
Class I standard form permits for trimming, cutting or any other alteration of mangrove tree(s)	3 years
Class IV short form permits for rockmining	10 years
Class IV short form permits for rockmining for which a public hearing has been requested pursuant to Section 24-48.2(I)(B)(1)	10 years
Class IV standard form permits for rockmining	10 years
Class II permits	2 years
Class II permits for which a public hearing has been requested pursuant to Section 24-48.2(I)(B)(1)	3 years
Class III permits	2 years
Class III permits for which a public hearing has been requested pursuant to Section 24-48.2(I)(B)(1)	3 years
Class V permits	120 days
Class VI permits	2 years

* * *

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: April 2, 2013

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Abbie Schwaderer-Raurell

Prime Sponsor: Vice Chair Lynda Bell