

MEMORANDUM

Agenda Item No. 7(C)

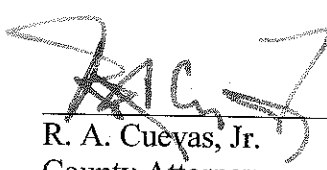
TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: (Second Reading 9-17-13)
July 16, 2013

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

SUBJECT: Ordinance amending Sections
8A-281, 8A-284-286, 11A-2,
33-1, 33-217 and 33-247 of the
Code, substituting the term
"intellectual disability" for the
terms "mental retardation" and
"retardation", and substituting
the term "persons with
intellectual disabilities" for the
term "the mentally retarded"
Ordinance No. 13-83

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman, and Co-Sponsors Vice Chair Lynda Bell, Commissioner Esteban L. Bovo, Jr., Commissioner Jose "Pepe" Diaz, Commissioner Audrey M. Edmonson and Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney


RAC/smm

Memorandum

MIAMI-DADE
COUNTY

Date: September 17, 2013

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

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance Amending Sections 8A-281, 8A-284-286, 11A-2, 33-1, 33-217 and 33-247 of the Code, Substituting the Term "Intellectual Disability" for the Terms "Mental Retardation" and "Retardation", and Substituting the Term "Persons with Intellectual Disabilities" for the Term "The Mentally Retarded"

The proposed ordinance amends Sections 8A-281, 8A-284-286, 11A-2, 33-1, 33-217 and 33-247 of the Code, substitutes the term "intellectual disability" for the terms "mental retardation" and "retardation" and substituting the term "persons with intellectual disabilities" for the term "the mentally retarded". Implementation of this ordinance will not have a fiscal impact to the County.



Russell Benford
Deputy Mayor

Fis8113



MEMORANDUM
(Revised)

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

DATE: September 17, 2013

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

SUBJECT: Agenda Item No. 7(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
- 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(C)
9-17-13

ORDINANCE NO. 13-83

ORDINANCE AMENDING SECTIONS 8A-281, 8A-284-286, 11A-2, 33-1, 33-217 AND 33-247 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, SUBSTITUTING THE TERM "INTELLECTUAL DISABILITY" FOR THE TERMS "MENTAL RETARDATION" AND "RETARDATION", AND SUBSTITUTING THE TERM "PERSONS WITH INTELLECTUAL DISABILITIES" FOR THE TERM "THE MENTALLY RETARDED"; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, the phrases "mentally retarded", "mental retardation" and "retardation" are outdated and are often perceived as derogatory and offensive terms; and

WHEREAS, the continued use of such terms in government and common speech negatively affects the residents of Miami-Dade County; and

WHEREAS, the terms "intellectual disability" and "persons with intellectual disabilities" are more appropriate, and foster sensitivity and understanding for all residents of Miami-Dade County; and

WHEREAS, persons with intellectual disabilities are important and productive members of our society,

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

Section 1. Section 8A-281 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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.

Sec. 8A-281. For whom investigation is required.

All operators and personnel of child care facilities and day care homes, as defined in Section 402.302(4) and (5), Florida Statutes, respectively; and facilities for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<<, specifically day facilities for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<< as defined in Section 393.063(4), Florida Statutes; developmental training facilities for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<< as defined in Section 393.063(7), Florida Statutes; foster care facilities for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<< as defined in Section 393.063(12), Florida Statutes; group home facilities for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<< as defined in Section 393.063(13), Florida Statutes; intermediate care facilities for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<<, as defined in Section 393.063(15), Florida Statutes; major State ~~[[retardation]]~~ >>intellectual disability<< facilities, as defined in Section 393.063(16), Florida Statutes; and residential habilitation centers for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<< as defined in Section 393.063(22), Florida Statutes shall apply to the Miami-Dade Police Department for a criminal background investigation within thirty (30) days from the enactment of Ordinance No. 85-1 or five (5) days from employment at the facility, whichever is later.

Section 2. Section 8A-284 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8A-284. Records to be kept by facilities.

Upon receipt of the notice of applications from the Miami-Dade Police Department, the operators of child care facilities or facilities for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<< shall maintain the receipts of application for all personnel of such facilities in a file located at the

premises of the facility. Upon receipt of the criminal investigation report from the Miami-Dade Police Department, operators of child care facilities, day care homes or facilities for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<<, shall maintain the investigation reports on file for all personnel. It shall be unlawful for any operator to operate a child care facility or facility for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<<, unless the receipts of application and investigation reports are maintained in accordance with the provisions of this section.

Section 3. Section 8A-285 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8A-285. Reports available for inspection—Notice posted in facility.

The operator of a child care facility, day care home or facility for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<< shall post a notice that receipts of application and background investigation reports, when available, are open for public inspection. Such notice must be posted in a conspicuous place at the premises of the facility. It shall be unlawful for any operator to operate a child care facility, day care home or facility for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<<, unless such notice is posted in accordance with the provisions of this section.

Section 4. Section 8A-286 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8A-286. Same—Notice on application for admission.

The operator of a child care facility, day care home or facility for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<< shall provide notice on the application for admission to such facility that receipts of applications and criminal investigation reports, when available, are open for public inspection. It shall be unlawful for any operator to

operate a child care facility, day care home or facility for ~~[[the mentally retarded]]~~ >>persons with intellectual disabilities<<, unless such notice is provided in accordance with the provisions of this section.

Section 5. Section 11A-2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 11A-2. Definitions.

The definitions set out herein shall apply to articles II, III, IV and V:

* * *

(15) *Person with a disability*

(a) "Person with a disability" shall mean:

(i) An individual with a physical or mental impairment which substantially limits one (1) or more of that individual's major life activities;

(ii) An individual who has a record of such impairment; or

(iii) An individual who is perceived or regarded as having such an impairment.

(b) "Physical or mental impairment" shall include:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one (1) or more of the following body systems: neurological, musculo-skeletal, special sense organs, cardiovascular, reproductive, digestive, genitourinary, hemic or lymphatic, skin, and endocrine;

(ii) Any mental or psychological disorder, such as ~~[[mental retardation]]~~ >>intellectual disability<<, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or

(iii) Any degree of paralysis, epilepsy, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, muteness, speech impediment or persons who rely upon a seeing eye dog, wheelchair or other remedial method, appliance or device.

(c) "Major life activities" shall include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, learning and working.

(d) A "record of such impairment" shall include having a history of, or having been misclassified as having a history of, physical or mental impairment which substantially limits one (1) or more major life activities.

(e) "Individual who is perceived as or regarded as having a disability" shall mean any individual who:

(i) Has a physical or mental impairment that does not substantially limit one (1) or more major life activities but such impairment is treated by others as constituting such a limitation;

(ii) Has a physical or mental disability that substantially limits one (1) or more major life activities only as a result of the attitude of others toward such impairment; or

(iii) Has no impairment defined in this subsection but is treated by another as having such an impairment.

(f) "Disability" does not include current, illegal use of or addiction to a controlled substance as defined in Chapter 893, Florida Statutes, as amended.

* * *

Section 6. Section 33-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-1. Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

* * *

(38.1) *Development disability* means a disorder or syndrome which is attributable to ~~[[retardation]]~~ >>intellectual disability<<, cerebral palsy, autism, epilepsy, or spina bifida and which constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

* * *

(69.1) *Mentally ill* means an impairment of the emotional processes, of the ability to exercise conscious control of one's actions, or of the ability to perceive reality or to understand, which impairment substantially interferes with a person's ability to meet the ordinary demands of living, regardless of etiology; except that, for the purposes of this definition, the term does not include ~~[[retardation]]~~ >>intellectual disability<< or developmental disability, simple intoxication, or conditions manifested only by antisocial behavior or drug addiction.

* * *

Section 7. Section 33-217 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-217. Uses permitted.

No land, body of water or structure shall be used, or permitted to be used and no structure shall be hereafter erected, constructed, moved or reconstructed, structurally altered or maintained for any purpose in an RU-4A District which is designed, arranged, or intended to be used or occupied for any purpose, except for one (1) of the following uses:

* * *

(5.1) Medical observation dormitory as defined in Section 33-1(69.05) subject to the following conditions:

(a) That such uses on sites of ten (10) net acres or more shall be approved only after public hearing;

(b) That such uses shall be located on sites having frontage on a major access road, including major roadways (three (3) or more lanes) and frontage roadways serving limited access highways and expressways;

(c) That a minimum five (5) foot high masonry wall be provided along all perimeter property lines abutting residentially zoned property penetrated only at points approved by the Directors of the Planning and Zoning Department and the Public Works Department for ingress and egress;

(d) That the facility is located on a site consisting of at least three (3) or more net acres, that research conducted at the property shall be limited to testing of normal volunteers and of clinically stable representatives of diseased states for which the medications being tested are ultimately intended;

(e) That protocols that require treating of mentally ill subjects, including persons with any mental or psychological disorder, such as ~~[[mental retardation]]~~ >>intellectual disability<<, organic brain syndrome, emotional or mental illness, and specific learning disabilities, shall not be performed at the research facility;

(f) That such use shall be located no less than twenty-five hundred (2,500) feet from any other such establishments. For the purposes of this subsection, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest property line of the existing place of business. For the purpose of establishing the distance between such

establishments, the operator shall furnish a certified sketch of survey from a registered engineer or surveyor. Such sketch shall indicate the distance between the proposed place of business and any existing establishment within 2,500 feet. Each sketch shall indicate all such distances and routes. In case of dispute, the measurement scaled by the director shall govern;

(g) That the operator obtains an annually renewable certificate of use and occupancy for such use on the property.

* * *

Section 8. Section 33-247 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-247. Uses permitted.

No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, maintained or occupied for any purpose in any BU-1A District, except for one (1) or more of the following uses:

* * *

(26.1) Medical observation dormitory as defined in Section 33-1(69.05) subject to the following conditions:

(a) That such uses on sites of ten (10) net acres or more shall be approved only after public hearing;

(b) That such uses shall be located on sites having frontage on a major access road, including major roadways (three (3) or more lanes) and frontage roadways serving limited access highways and expressways;

(c) Minimum five (5) foot high masonry wall be provided along all perimeter property lines abutting residentially zoned property, penetrated only at points approved by the Directors of the

Planning and Zoning Department and the Public Works Department for ingress and egress;

(d) That the facility is located on a site consisting of at least three (3) or more net acres;

(e) That research conducted at the property shall be limited to testing of normal healthy volunteers and of clinically stable representatives of the diseased states for which medications being tested are ultimately intended;

(f) That protocols that require treating of mentally ill subjects, including persons with any mental or psychological disorder, such as ~~[[mental retardation]]~~ >>intellectual disability<<, organic brain syndrome, emotional or mental illness, and specific learning disabilities, shall not be performed at the research facility;

(g) That such use shall be located no less than twenty-five hundred (2,500) feet from any other such establishments. For the purposes of this subsection, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest property line of the existing place of business. For the purpose of establishing the distance between such establishments, the operator shall furnish a certified sketch of survey from a registered engineer or surveyor. Such sketch shall indicate the distance between the proposed place of business and any existing establishment within 2,500 feet. Each sketch shall indicate all such distances and routes. In case of dispute, the measurement scaled by the director shall govern;

(h) That the operator obtains an annually renewable certificate of use and occupancy for such use on the property.

* * *

Section 9. It is the intent of the Board of County Commissioners that the meaning of the terms "intellectual disability" or "persons with intellectual disabilities" shall be the same as

the meaning of the terms "mental retardation", "retardation" and "the mentally retarded". It is further the intent of the Board of County Commissioners that this ordinance not expand or contract the scope or application of any provision of the Miami-Dade County Code of Ordinances. This ordinance may not be construed to change the application of any provision of the Miami-Dade County Code of Ordinances to any person.

Section 10. 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 11. 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 12: 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: September 17, 2013

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Christopher C. Kokoruda

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsors: Vice Chair Lynda Bell
Commissioner Esteban L. Bovo, Jr.
Commissioner Jose "Pepe" Diaz
Commissioner Audrey M. Edmonson
Chairwoman Rebeca Sosa