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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 8(F)(4)

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

DATE: June 3, 2014

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

SUBJECT: Resolution rescinding Administrative Order 8-6, smoke-free workplace, and approving Implementing Order 8-6, prohibition on smoking and the use of electronic cigarettes and other nicotine dispensing devices in all County enclosed indoor workplaces

Resolution No. R-501-14

The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: June 3, 2014

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

From: Carlos A. Gimenez
Mayor

Subject: Rescinding Administrative Order 8-6 and Approving Implementing Order 8-6 Regarding Prohibition on Smoking and the Use of Electronic Cigarettes and other Nicotine Dispensing Devices in all County Enclosed Indoor Workplaces

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Recommendation

It is recommended that the Board of County Commissioners (Board) rescind Administrative Order 8-6 and approve Implementing Order 8-6 governing the policies concerning prohibition on smoking and the use of electronic cigarettes and other nicotine dispensing devices in all in County-owned and leased facilities, and in County-owned vehicles. The updated policy is being presented for Board approval pursuant to R-145-14, adopted by the Board on February 4, 2014.

Scope

IO 8-6 will have a Countywide impact.

Fiscal Impact

It is difficult to estimate the cost associated with updating all signage posted in vehicles and facilities throughout all County departments. For Internal Services Department managed facilities, the cost of updating the signage will be approximately $3,000, which will be paid from Internal Service Funds.

The costs associated with updating signage in non-Internal Services Department managed facilities, such as the Aviation and Fire Rescue departments, among others, will be borne by each department, as applicable.

Track Record/Monitoring

Supervisors or facility managers receiving a formal or anonymous complaint shall forward it to the violator's respective department. Members of the general public found in violation of this policy will be politely informed by facility staff or enforcing authority and subsequently asked to abstain from smoking.

Background

On June 1, 1992, the Board approved Administrative Order 8-6 setting the policies concerning smoking in County-owned or leased facilities, and County-owned or operated vehicles. This Administrative Order was later updated on April 7, 1994. On February 4, 2014, the Board approved Resolution R-145-14, which extends smoking prohibitions to the use of electronic cigarettes and other nicotine dispensing devices, subject to the exceptions set forth in the Florida Clean Indoor Air Act.

The revision to this policy being presented to the Board for approval at this time incorporates all subsequent State modifications to the Florida Statutes Chapter 386 - Florida Clean Indoor Air Act, and to Florida Administrative Code 64I-4, which governs said Act.

Attachment

Edward Marquez
Deputy Mayor

MEMORANDUM
(Revised)

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

DATE: June 3, 2014

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

SUBJECT: Agenda Item No. 8(F)(4)

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. 8(F)(4)
6-3-14

RESOLUTION NO. R-501-14

RESOLUTION RESCINDING ADMINISTRATIVE ORDER 8-6, SMOKE-FREE WORKPLACE, AND APPROVING IMPLEMENTING ORDER 8-6, PROHIBITION ON SMOKING AND THE USE OF ELECTRONIC CIGARETTES AND OTHER NICOTINE DISPENSING DEVICES IN ALL COUNTY ENCLOSED INDOOR WORKPLACES

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board rescinds Administrative Order 8-6 and approves Implementing Order 8-6, governing the policies concerning prohibition on smoking and the use of electronic cigarettes and other nicotine dispensing devices, in substantially the form attached; and authorizes the County Mayor or County Mayor's designee to exercise any and all rights conferred in the Implementing Order.

The foregoing resolution was offered by Commissioner **Barbara J. Jordan**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman			**aye**
Lynda Bell, Vice Chair			**nay**
Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**nay**	Audrey M. Edmonson	**absent**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**absent**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of June, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. MJM for

Jess M. McCarty

I.O. No.: 8-6
Ordered: June 3, 2014
Effective: June 13, 2014

MIAMI-DADE COUNTY
IMPLEMENTING ORDER

PROHIBITION ON SMOKING AND THE USE OF ELECTRONIC CIGARETTES AND OTHER NICOTINE DISPENSING DEVICES IN ALL COUNTY ENCLOSED INDOOR WORKPLACES

AUTHORITY:
Section 5.02 of the Miami-Dade County Charter; the Florida Clean Indoor Air Act, Part II of Chapter 386, Florida Statutes; Chapter 641-4, Florida Administrative Code; and Resolution No. R-145-14, all as such may be amended from time to time.

SUPERSEDES:
This Implementing Order supersedes previous Administrative Order 8-6, ordered and effective June 1, 1992 and Administrative Order 8-6 ordered and effective April 7, 1994; and all previous policies concerning smoking in County-owned and leased facilities as well as in County-owned vehicles.

POLICY:
It is the policy of Miami-Dade County to comply with the Florida Clean Indoor Air Act, Part II of the Chapter 386, Florida Statutes, related to the regulation of smoking in all enclosed indoor workplaces owned or operated by Miami-Dade County, subject to the exceptions set forth in Florida Clean Indoor Air Act. It is further the policy of Miami-Dade County to prohibit the use of electronic cigarettes and other nicotine dispersing devices in all enclosed indoor workplaces owned or operated by Miami-Dade County, subject to the exceptions set forth in the Florida Clean Indoor Air Act.

"Nicotine dispensing devices" means any product that can be used to deliver nicotine to an individual by inhaling a vapor from the product, whether or not such vapor actually includes nicotine, including, but not limited to, an electronic cigarette, "e-cigarette", electronic cigar, electronic cigarillo, electronic pipe, and/or other similar device or product.

Miami-Dade County employees on duty may not smoke or use electronic cigarettes or other nicotine dispensing devices except in authorized areas, during authorized breaks and lunch periods.

This policy shall be prominently posted in compliance with the Florida Clean Indoor Air Act.

EXCEPTIONS:
The specific exceptions set forth in the Florida Clean Indoor Air Act, Part II of Chapter 386, Florida Statutes, as such may be amended from time to time, shall apply to this policy both as to smoking and the use of electronic cigarettes and other nicotine dispensing devices.

Smoking and the use of electronic cigarettes and other nicotine dispensing devices shall be permitted in places owned or operated by the County that are recognized as exceptions under the Florida Clean Indoor Air Act, as such may be amended from time to time, including, but not limited to, each of the following places:

1. Customs smoking rooms in airport in-transit lounges meeting certain criteria;
2. Private residences not being used commercially to provide child care, adult care or health care;
3. Designated smoking guest rooms at public lodging establishments; and
4. Stand-alone bars devoted predominantly or totally to serving alcohol, and in which the serving of food, if any, is merely incidental to the consumption of alcoholic beverages.

ANONYMOUS COMPLAINT PROCEDURES:

County Facilities: Individuals who are subjected to environmental or second-hand smoke from lighted tobacco or vapor from electronic cigarettes and other nicotine dispensing devices in an enclosed indoor workplace, unless an exception applies, have the right to file an anonymous complaint against the violator with the Building Manager or enforcing authority. If the violator is a member or County staff the complaint will list the name and department if known. The Building Manager will forward the complaint to the appropriate department director or facility custodian for action.

County-owned or Operated Vehicles: Individuals who are subjected to environmental or secondary smoke from lighted tobacco products or vapor from electronic cigarettes and other nicotine dispensing devices in a county-owned or operated vehicle have to the extent prohibited under the Florida Clean Indoor Air Act the right to file an anonymous complaint against the violator with the Internal Services Department (ISD) Fleet Dispatcher. The complaint will list the name and department of the violator, if known. The ISD Fleet Dispatcher will forward the complaint to the appropriate department director for action.

FORMAL COMPLAINT PROCEDURE:

An employee may, if they desire, report violations of this Implementing Order by making a formal complaint to his or her supervisors. Supervisors shall forward all complaints through their department directors to the respective violator's department director.

In the event a member of the general public is found to be in violation of this policy, staff will politely inform the person that Miami-Dade County complies with the Florida Clean Indoor Air Act and that the person may not smoke or use electronic cigarettes and other nicotine dispensing devices in an enclosed indoor workplace, unless an exception applies. Staff will ask the person to promptly extinguish the lighted tobacco product or discontinue use of an electronic cigarette or other nicotine dispensing device prior to using other enforcement measures.

A smoking cessation program will be made available to employees as part of the County's Wellness Program.

ENFORCEMENT:

This Implementing Order shall be enforced pursuant to and consistent with the Florida Clean Indoor Air Act and Resolution No. R-145-14.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.