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

MEMORANDUM

Agenda Item No. 8(I)(5)

TO:	Honorable Chairman Jean Monestime and Members, Board of County Commissioners	**DATE:**	May 5, 2015
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution amending Implementing Order 2-12 related to Miami-Dade County Diversion Program to expand eligibility to include violations of Section 21-287 of the Code of Miami-Dade County, Florida regarding rafting; and authorizing County Mayor or County Mayor's designee to exercise any and all rights contained therein Resolution No. R-402-15

The accompanying resolution was prepared by Miami-Dade Police Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

DATE: May 5, 2015

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

FROM: Carlos A. Gimenez
Mayor

SUBJECT: Resolution Amending Implementing Order 2-12 Relating to the Miami-Dade County's Diversion Program

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Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached resolution authorizing amendments to Implementing Order 2-12, relating to Miami-Dade County Diversion Program which is administered by the Miami-Dade Police Department (MDPD). The proposed amendments establish the addition of rafting restrictions under Article XIX, Section 21-287 of Chapter 21 of the Code of Miami-Dade County to Miami-Dade County's Code Chapter 8CC violations.

Scope

The scope of the Miami-Dade County Diversion Program is countywide.

Fiscal Impact/Funding Source

There is no fiscal impact to the County.

Track Record/Monitor

The Miami-Dade County Diversion Program is administered by Janet Lewis, Senior Bureau Commander, Police Legal Bureau, MDPD.

Delegation of Authority

There are no additional delegated authorities beyond those outlined in this Implementing Order.

Background

The proposed amendment establishes the addition of Miami-Dade County's Code Chapter 8CC violations to include rafting restrictions under Article XIX, Section 21-287 of the Code of Miami-Dade County. As a result, it is proposed to amend Implementing Order 2-12 of Chapter 21 of the Code of Miami-Dade County to include the proposed violation. By including rafting restrictions as part of the Miami-Dade County Diversion Program, violators will be given the option to resolve their ordinance violation by either paying a fine or through the completion of community service hours, or a combination of both.

Russell Benford
Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: May 5, 2015

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

SUBJECT: Agenda Item No. 8(I)(5)

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(I)(5)
5-5-15

RESOLUTION NO. R-402-15

RESOLUTION AMENDING IMPLEMENTING ORDER 2-12 RELATED TO MIAMI-DADE COUNTY DIVERSION PROGRAM TO EXPAND ELIGIBILITY TO INCLUDE VIOLATIONS OF SECTION 21-287 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA REGARDING RAFTING; AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL RIGHTS CONTAINED THEREIN

WHEREAS, the 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 approves the amendments to Implementing Order 2-12 related to the Miami-Dade County Diversion Program in substantially the form attached hereto and authorizes the County Mayor or County Mayor's designee to exercise any and all rights contained therein.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.**, 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:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of May, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.

Suzanne Villano-Charif

I.O. No.: 2-12
Ordered:
Effective:

MIAMI-DADE COUNTY
IMPLEMENTING ORDER

MIAMI-DADE COUNTY DIVERSION PROGRAM

AUTHORITY:
Section 1.01, 2.02 and 5.03(D) of the Miami-Dade County Home Rule Amendment and Charter.

POLICY:
On June 20, 2009, the Board of County Commissioners (Board) passed Resolution R-868-09 directing the Mayor or designee to study whether cost savings can be achieved through de-criminalizing select Miami-Dade County ordinance violations. The resulting Diversion Program is based on findings included in the report requested by the Board.

PURPOSE:
To seek compliance with Miami-Dade County Code violations, improve the quality of life in Miami-Dade County through community service hours, reduce the demands on the criminal justice and civil administrative hearing systems, and give violators penalty options to resolve their ordinance violations.

SCOPE:
The Miami-Dade County Police Department (MDPD) will implement and administer the Miami-Dade County Diversion Program (Diversion Program) as outlined in this Implementing Order (IO). The Diversion Program was established by County Ordinance.

ELIGIBILITY:
When a violator is arrested or given a Civil Violation Notice (8-CC) for one of the Miami-Dade County Code violations listed below, he/she is eligible and may elect to voluntarily participate in the Diversion Program:

7-3	Swimming or fishing from prohibited roads or bridges
8A-172	Conducting business without a local business tax receipt
8A-276(b)	Failure to display commercial vehicle markings
21-28.1	Producing loud or excessive noise
21.31.2(b)(1)	Consumption of alcohol in open containers near store
21.31.2(b)(2)	Possession of alcohol in open containers near store
21.31.4(B)	Obstructing traffic or aggressively begging
>>21.287	Rafting<<
26-1	Park violations

This list of violations may be amended as appropriate to include additional Miami-Dade County Code violations eligible for the Diversion Program.

Violators can only participate in the Diversion Program a maximum of three times, regardless of the type of violation. Once the violator is no longer eligible, he/she must proceed with their case in the criminal or civil court systems.

PROCEDURE:

Civil Violations:

Presently, pursuant to Miami-Dade County Code Section 8CC-5, when someone is issued a Civil Violation Notice, he/she must either pay the civil penalty or request an administrative hearing within twenty (20) days from the date of the violation. The Diversion Program gives the violator further alternatives. If a violation is listed in the Eligibility section, the violator may elect to enter the Diversion Program and select from options including paying a fee, completing community service hours, or a combination thereof, instead of requesting an administrative hearing or paying a civil penalty.

Criminal Violations:

Pursuant to the Florida Rules of Criminal Procedure, when someone is arrested for an ordinance violation, he/she is entitled to a first appearance, arraignment and trial. Usually, the violator must wait until his/her case is set for arraignment, which can take from three to five weeks from the date of the arrest. Also, in some instances, the violator may qualify for a private diversion program; however, usually diversion programs are for first time offenders.

Anyone arrested for one of the Miami-Dade County Code violations listed above in the Eligibility section can voluntarily participate in the Miami-Dade County Diversion program, regardless of his/her criminal past.

DIVERSION PROGRAM – VIOLATOR OPTIONS:

When a civil or criminal violator registers for the Diversion Program he/she has the following options, which must be completed within 30 days from the issuance of the violation notice:

For Civil Violations:

OPTION 1 (Processing fee and complete community hours)

1) Pay $50 processing fee; and

2) Complete one day of community service for every $100 of civil fines owed. ($100 fine = 1 day; $200 fine = 2 days; $300 fine = 3 days, etc.)

OPTION 2 (Community service in lieu of any payment)

1) For Civil fines of $100 - complete 2 days of community service;
   For Civil fines of $200 - complete 3 days of community service;
   For Civil fines of $300 - complete 4 days of community service;
   For Civil fines of $400 - complete 5 days of community service;
   For Civil fines of $500 - complete 6 days of community service;

Once all of the above conditions are satisfied, a Certificate of Completion will be sent to the Clerk of the Court (Clerk) advising that the violator has complied and requesting that the civil

case be closed. If the conditions of the Diversion Program are not satisfied by the violator within thirty days of the violation, the Clerk will be notified and asked to proceed with the civil collection process pursuant to Miami-Dade County Code Section 8CC-7, *Recovery of Unpaid Civil Penalties, etc.*

For Criminal Violators – for all violations EXCEPT 8A-276(b), Failure to Display Commercial Vehicle Markings:

OPTION 3 (Processing fee and complete community hours)

1) Pay a $50 processing fee; and

2) Complete one day of community service for first time enrollment in the Diversion Program; two days of community service for the second enrollment; or three days of community service for the third enrollment.

OPTION 4 (Community service in lieu of any payment)

1) Complete two days of community service for first time enrollment in the Diversion Program; three days of community service for the second enrollment; or four days of community service for the third enrollment.

OPTION 5 (No community service hours)

1) Pay a $50 processing fee and a $100 community service fee ($150 total) for the first time enrollment in the Diversion Program; pay a $50 processing fee and a $200 community service fee ($250 total) for the second enrollment; or pay a $50 processing fee and a $300 community service fee ($350 total) for the third enrollment.

Options for violations of 8A-276(b), Failure to Display Commercial Vehicle Markings:

OPTION 6 (Processing fee and complete community hours)

1) Pay a $50 processing fee; and

2) Complete two days of community service for first time enrollment; three days of community service for the second enrollment; or four days of community service for the third enrollment in the Diversion Program; and

3) Unless the vehicle has been sold, or another documented reason is provided, the violator must also ensure that affixed to the vehicle (that was driven at the time of arrest) is signage permanently marked on both sides in letters and numerals not less than three inches in height, with the name, address and telephone number of the owner thereof. Additionally, ensure that the numbers of all occupational and business licenses issued to the owner are similarly displayed. Upon correction of the violation, the vehicle or a photograph thereof shall be brought to the staff at the Diversion Program.

OPTION 7 (Community service in lieu of any payment)

1) Complete three days of community service for the first time enrollment; four days of community service for the second enrollment; or five days of community service for the third enrollment; and

2) Unless the vehicle has been sold, or another documented reason is provided, the violator must also ensure that affixed to the vehicle (that was driven at the time of arrest) is signage permanently marked on both sides in letters and numerals not less than three inches in height, with the name, address and telephone number of the owner thereof. Additionally, ensure that the numbers of all occupational and business licenses issued to the owner are similarly displayed. Upon correction of the violation, the vehicle or a photograph thereof shall be brought to the staff at the Diversion Program.

OPTION 8 (No community service hours)

1) Pay a $50 processing fee and a $200 community service fee ($250 total) for the first time enrollment; pay a $50 processing fee and a $300 community service fee ($350 total) for the second enrollment; or pay a $50 processing fee and a $400 community service fee ($450 total) for the third enrollment; and

2) Unless the vehicle has been sold, or another documented reason is provided, the violator must also ensure that affixed to the vehicle (that was driven at the time of arrest) is signage permanently marked on both sides in letters and numerals not less than three inches in height, with the name, address and telephone number of the owner thereof. Additionally, ensure that the numbers of all occupational and business licenses issued to the owner are similarly displayed. Upon correction of the violation, the vehicle or a photograph thereof shall be brought to the staff at the Diversion Program.

For criminal violations, once all of the above conditions are satisfied, a Certificate of Completion will be sent to the Miami-Dade Office of the State Attorney, County Court Division, for approval. The Certificate and the Arrest Form will then be given to the Clerk who will open and close the case in the Criminal Justice Information System (CIJIS) as a "Nolle Pros – PTD," or use any other entry that the Clerk deems appropriate. If the conditions of the Diversion Program are not satisfied by the violator within thirty days of the violation, the Arrest Form will be forwarded to the Clerk, who will be asked to proceed as quickly as possible with the arrest charges as outlined in the Florida Rules of Criminal Procedure.

ADDITIONAL REQUIREMENTS FOR BOTH 8-CC AND CRIMINAL VIOLATIONS OF 8A-172

Unless the violator provides written documentation to the contrary, if the violator has been charged with violating Section 8A-172, *Conducting Business Without a Local Business Tax receipt,* the violator must also obtain a business license from the Miami-Dade County Local Business Tax Section and present the license or receipt to the staff at the Diversion Program.

REGISTRATION BY MAIL

Criminal violators have the option of performing community service hours or converting their hours into a monetary amount. If the violator chooses to pay a fee in lieu of completing community service hours, the conditions of the Diversion Program can be completed by registering by mail and submitting payment via a money-order payable to the Miami-Dade County Diversion Program. The police case number and the date of arrest should be noted on the money-order. To complete the conditions of the program by mail, the violator shall:

1) Complete and sign the registration form; and

2) Send a money-order for the amount owed:

3) Send the form and money-order with the amount owed to:

Miami-Dade Police Department
Community and Intergovernmental Affairs Bureau
18805 NW 27th Avenue
Miami Gardens, FL 33056

Attn: Miami-Dade County Diversion Program

*If the violator was cited for 8A-276(b), *Failure to display commercial vehicle markings*, please refer to the *Criminal Violation* section listed above for the appropriate amortization amounts. In addition, for 8A-276(b), the violator must also submit a clear photograph, or a copy thereof, illustrating that the vehicle that was cited is presently in code compliance or provide written documentation explaining why the vehicle has not been brought into compliance.

NOTE: If the violator was cited for a violation of 8A-172, *Conducting Business Without a Local Business Tax Receipt*, a copy of the business license or receipt thereof or written documentation explaining why the license has not been obtained must also be mailed together with the registration form and money-order.

Upon review of the submission as required above, the Diversion Program reserves the right to reject incomplete or noncompliant registrations.

HARDSHIPS
Upon written request, a Diversion Program supervisor may waive conditions or grant violators additional time to complete the conditions of the program on an individual basis. A hardship may be granted for several reasons such as, but not limited to, unforeseen emergencies, inclement weather, staffing, etc.

OTHER POLICE AGENCIES
MDPD will be the lead law enforcement agency referring violators to the Diversion Program. However, other police departments may wish to send violators whom they cite or arrest for county ordinance violations to the Diversion Program as well. In that event, the Mayor or Designee is authorized to enter into agreements with other police agencies and/or cities outlining the terms and conditions that must be met for violators referred from their police agency.

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

County ~~Manager~~ >>Mayor<<

Approved by the County Attorney as
to form and legal sufficiency _____