

MEMORANDUM

Agenda Item No. 7(D)

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

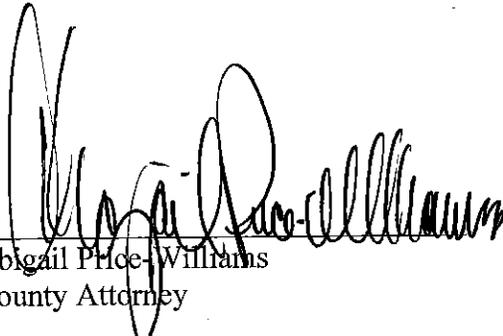
DATE: (Second Reading 2-2-16)
November 3, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance related to enforcement of civil penalties for certain misdemeanor violations and the Miami-Dade County Diversion Program; amending sections 8CC-3, 8CC-5.1, 8CC-10 and 8CC-11 of the Code; expanding the definition of Code Inspector to include agents and employees of universities, Florida College System institutions and district school boards; enumerating certain individual offenses eligible for the diversion program and associated fines; authorizing agents and employees of universities, Florida College System institutions and district school boards to enforce provisions of Chapter 8CC

Ordinance No. 16-16

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsor Commissioner Daniella Levine Cava.


Abigail Price-Williams
County Attorney

APW/lmp

Memorandum



Date: February 2, 2016

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name of the Mayor.

Subject: Ordinance Relating to Enforcement and the Miami-Dade County Diversion Program

The proposed Ordinance relating to enforcement of civil penalties for certain misdemeanor violations and Miami-Dade County Diversion Program amends sections 8CC-3, 8CC5.1, 8CC-10 and 8CC-11 of the Code of Miami-Dade County, expanding the definition of Code Inspector to include agents and employees of universities, Florida College System institutions and district school boards. The ordinance authorizes agents and employees of universities, Florida College System institutions and district school boards to enforce provisions of Chapter 8CC.

Implementation of this ordinance will not have a fiscal impact to the County.

A handwritten signature in black ink, appearing to read "Russell Benford", written over a horizontal line.

Russell Benford
Deputy Mayor

Fis1516

Memorandum



DATE: February 2, 2016

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

FROM: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is written in a cursive style with a large, sweeping flourish at the end.

SUBJECT: Social Equity Statement – Amendment to Sections 8CC-3, 8CC-10 and 8CC-11 of the County Code for Enforcement of Civil Penalties for Certain Misdemeanor Violations and the Miami-Dade County Diversion Program

The proposed ordinance amends Sections 8CC-3, 8CC-5.1, 8CC-10 and 8CC-11 of the Code of Miami-Dade County to expand the definition of code inspector to include agents and employees of universities, Florida college system institutions, and district school boards.

This amendment to the Ordinance expands the benefits of this program to a larger population of individuals in Miami-Dade County who may be eligible to participate in this initiative. Previous amendments defined municipalities, restricting participation of eligible individuals.

A handwritten signature in black ink, appearing to read "Russell Benford". The signature is written in a cursive style with a large, sweeping flourish at the end.

Russell Benford
Deputy Mayor

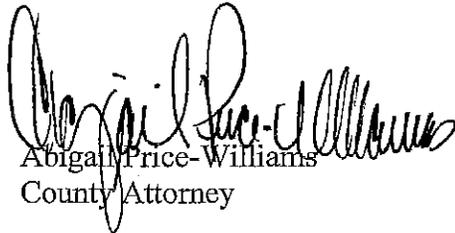


MEMORANDUM

(Revised)

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

DATE: February 2, 2016

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: 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
- Statement of social equity 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

Agenda Item No. 7(D)

Veto _____

2-2-16

Override _____

ORDINANCE NO. 16-16

ORDINANCE RELATED TO ENFORCEMENT OF CIVIL PENALTIES FOR CERTAIN MISDEMEANOR VIOLATIONS AND THE MIAMI-DADE COUNTY DIVERSION PROGRAM; AMENDING SECTIONS 8CC-3, 8CC-5.1, 8CC-10 AND 8CC-11 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; EXPANDING THE DEFINITION OF CODE INSPECTOR TO INCLUDE AGENTS AND EMPLOYEES OF UNIVERSITIES, FLORIDA COLLEGE SYSTEM INSTITUTIONS AND DISTRICT SCHOOL BOARDS; ENUMERATING CERTAIN INDIVIDUAL OFFENSES ELIGIBLE FOR THE DIVERSION PROGRAM AND ASSOCIATED FINES; AUTHORIZING AGENTS AND EMPLOYEES OF UNIVERSITIES, FLORIDA COLLEGE SYSTEM INSTITUTIONS AND DISTRICT SCHOOL BOARDS TO ENFORCE PROVISIONS OF CHAPTER 8CC; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Section 21-81 of the Code of Miami-Dade County, Florida (the “Code”), prohibits the commission of all acts defined as misdemeanors under Florida Statutes and declares that commission of such acts are also Code violations; and

WHEREAS, on June 30, 2015, this Board enacted Ordinance No. 15-47, which amended Section 21-81 to provide for monetary civil penalties for violations of certain misdemeanors, such as littering, illegal use of dairy cases, retail theft of shopping carts and possession of 20 grams or less of cannabis, as such civil penalties will act as an additional deterrent to such violations and would provide law enforcement with additional options when encountering a misdemeanant who has committed an enumerated offense; and

WHEREAS, Ordinance No. 15-47 also amended Section 8CC-5.1 of the Code to allow a person who violates such misdemeanors to enter the Miami-Dade County Diversion Program, which allows violators without the economic means to pay the fine to satisfy the penalty by non-monetary means; and

WHEREAS, on September 16, 2015, this Board enacted Resolution No. R-786-15, which approved terms of a standard form interlocal agreement between Miami-Dade County and municipalities to enforce county monetary civil code penalties in lieu of criminal penalties within their respective jurisdictions; and

WHEREAS, section 8CC-11 of the Code expressly authorizes the County to enter into such interlocal agreements with municipalities for code enforcement; and

WHEREAS, the Board now desires to allow universities, colleges and the Miami-Dade County Public Schools and their respective law enforcement agencies to enforce the specific provisions of Section 8CC that pertain to Section 21-81 through the execution of interlocal agreements with the County; and

WHEREAS, in order to enter such interlocal agreements, it is necessary to amend Chapter 8CC to authorize the County to enter such agreements for code enforcement with universities, colleges and the Miami-Dade County Public Schools and their respective law enforcement agencies,

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

Section 1. Section 8CC-3 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 8CC-3. Enforcement procedures.

- (a) For the purposes of this chapter, a "Code Inspector" is defined to be any agent or employee of Miami-Dade County whose duty is to assure the enforcement of and

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.

compliance with the Code of Miami-Dade County. Prior to being provided the authority to initiate enforcement proceedings under this Chapter, a Code Inspector shall be required to successfully complete a criminal background investigation as prescribed by ~~[[administrative order of the County Manager]]~~>>implementing order<<. Subject to the requirements of Section 8CC-11 below, a “Code Inspector” is also defined to be any agent or employee of a municipality>>, university, Florida College System institution, or district school board<< who has been authorized pursuant to that Section to assure code compliance. Municipal>>, university, Florida College System institution, or district school board<< employees shall also be required to successfully complete a criminal background investigation prior to being provided authority to initiate enforcement proceedings under this Chapter.

* * *

Section 2. Section 8CC-5.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-5.1. Miami-Dade County Diversion Program.

Notwithstanding the provisions of 8CC-5, a violator who has been served with a civil violation notice may enter the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners, provided the civil violation notice is issued for the violation of an ordinance listed in the table below, which may be amended from time to time.

The “descriptions of violations” below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

Code Section	Description of Violation
7-3	Swimming or fishing from prohibited road bridges
8A-172	Conducting business without a local business tax receipt
8A-276(b)	Failure to display commercial vehicle markings
21-28	Producing loud or excessive noise
21-31.2(b)(1), (2)	Alcohol possession or consumption near a store
21-31.4(B)	Obstructing traffic or aggressively begging
[[21-81(d)]]	[[Any one of the specific misdemeanors enumerated in section 21-81(d)]]
>>21-81(d)(1)<<	>>Florida litter law<<
>>21-81(d)(2)<<	>>Illegal use of dairy cases, egg baskets, poultry boxes or bakery containers<<
>>21-81(d)(3)<<	>>Trespass on property other than structure or conveyance<<
>>21-81(d)(4)<<	>>Retail theft by removal of shopping cart<<
>>21-81(d)(5)<<	>>Loitering or prowling<<
>>21-81(d)(6)<<	>>Possession of cannabis in an amount of 20 grams or less<<
>>21-81(d)(7)<<	>>Possession of drug paraphernalia<<
26-1	Parks violations

Section 3. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

* * *

<u>Code Section</u>	<u>Description of Violation</u>	<u>Civil Penalty</u>
	* * *	
21-48	Sale and installation of satellite dish antennas to residential customers	500.00
[[21-81(d)]]	[[Any one of the specific misdemeanors enumerated in section 21-81(d)]]	[[\$100.00]]
>>21-81(d)(1)<<	>>Florida litter law<<	>>\$100.00<<
>>21-81(d)(2)<<	>>Illegal use of dairy cases, egg baskets, poultry boxes or bakery containers<<	>>\$100.00<<
>>21-81(d)(3)<<	>>Trespass on property other than structure or conveyance<<	>>\$100.00<<
>>21-81(d)(4)<<	>>Retail theft by removal of shopping cart<<	>>\$100.00<<
>>21-81(d)(5)<<	>>Loitering or prowling<<	>>\$100.00<<
>>21-81(d)(6)<<	>>Possession of cannabis in an amount of 20 grams or less<<	>>\$100.00<<
>>21-81(d)(7)<<	>>Possession of drug paraphernalia<<	>>\$100.00<<
21-112	Failure to properly fill an abandon well	\$100.00

Section 4. Section 8CC-11 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-11. Enforcement procedure for municipalities>>, universities, Florida College System institutions, and district school boards<<.

- (a) Municipalities within Miami-Dade County shall be entitled to enforce the applicable provisions of this chapter within their municipal boundaries subject to compliance with the provisions of this section.
- >>(b) Universities, Florida College System institutions, and district school boards within Miami-Dade County shall be entitled to enforce the applicable provisions of this chapter

within their jurisdictional boundaries as set forth in state law as such may be amended from time to time subject to compliance with the provisions of this section.<<

[[~~(b)~~]]>>(c)<<As a condition to enforcing the applicable provisions of this chapter, a municipality>>, university, Florida College System institution, or district school board<< shall enter into an interlocal agreement with Miami-Dade County. The interlocal agreement shall contain, at a minimum, the following:

- (1) The section or sections of this Code which the municipality>>, university, Florida College System institution, or district school board<< wishes to enforce through this chapter;
- (2) The job title of the agents or employees of the municipality>>, university, Florida College System institution, or district school board<< authorized to perform the enforcement functions and the number of agents or employees so authorized;
- (3) The amount reimbursable to Miami-Dade County for administrative costs relating to the conduct of hearings on appeals from violations issued by the municipality>>, university, Florida College System institution, or district school board<<, including but not limited to attorneys' fees and costs, costs of transcription and clerical costs;
- (4) The amount of revenue reimbursable to the municipality>>, university, Florida College System institution, or district school board<< from any fine collected pursuant to this chapter;
- (5) An agreement to indemnify and save the County harmless from and against any and all liability, actions and causes of action relating to the [[municipality's]] enforcement of the provisions of this chapter >>by the municipality, university, Florida College System institution, or district school board<<; and
- (6) A term not to exceed three (3) years.

~~[(e)]~~>>(d)<<With respect to laws and ordinances of County-wide application, the provisions of this section shall be supplemental to and not in derogation of any authority of Miami-Dade County to enforce the provisions of those laws and ordinances.

~~[(d)]~~>>(e)<<Nothing contained in this section is intended to extend the substantive effect or application of any County law or ordinance to any municipal area>>, or area of a university, Florida College System institution, or district school board<< where such County law or ordinance is not effective or applicable.

~~[(e)]~~>>(f)<< Nothing contained in this section shall prohibit any municipality from enforcing provisions of its municipal code or this Code by any lawful and authorized means. >>Nothing contained in this section shall prohibit any university, Florida College System institution, or district school board from enforcing provisions of its own policies or this Code by any lawful and authorized means.<<

Section 5. 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 6. 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 7. 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: February 2, 2016

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Jess M. McCarty



Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsor: Commissioner Daniella Levine Cava