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

MEMORANDUM

Amended
Agenda Item No. 7(A)

(Second Reading 6-7-16)

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

DATE: April 19, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to Miami-Dade Parks, Recreation and Open Spaces Department's rules and regulations; amending Chapter 26, Article I of the Code; banning polystyrene in Parks in certain circumstances and making technical amendments

Ordinance No. 16-58

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

Abigail Price-Williams
County Attorney

APW/smm

Memorandum

MIAMI-DADE COUNTY

Date: June 7, 2016

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

From: Carlos A. Gimenez
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Miami-Dade Parks, Recreation and Open Spaces Department's Rules and Regulations

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The proposed ordinance amends Chapter 26, Article I of the Code of Miami-Dade County, amending Miami-Dade Parks, Recreation and Open Spaces Department's (MDPROS) rules and regulations banning polystyrene in certain circumstances in parks, parkways, recreational areas, marinas and other areas operated and maintained by MDPROS.

This ordinance has provision for a fine not to exceed $100.00 for the first violation and $200.00 for each succeeding violation; however enforcement will be deferred until June 2017 in order to educate the public. MDPROS' park staff will assist in the Department's public information campaign. The implementation of this ordinance will have no fiscal impact to Miami-Dade County

Michael Spring
Senior Advisor to the Mayor

Fis05316 160840

Memorandum

MIAMI-DADE COUNTY

Date: June 7, 2016

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

From: Carlos A. Gimenez
Mayor

Subject: Social Equity Statement – Ordinance Amending Chapter 26, Article I of the County Code Regarding a Ban on Use of Polystyrene in Parks in Certain Circumstances

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The proposed ordinance amends Chapter 26, Article I of the Code of Miami-Dade County, amending Parks, Recreation and Open Spaces Department's (PROS) rules and regulations banning polystyrene (Styrofoam) in certain circumstances in parks, parkways, recreational areas, marinas and other areas operated and maintained by PROS.

This ordinance regarding polystyrene could benefit PROS and the public in that polystyrene may break into small pieces that make it difficult for park staff and equipment to remove, which can also negatively affect wildlife and create an unsightly nuisance that may negatively impact Miami-Dade County's tourism-dependent economy.

In 2010, this Board adopted Ordinance No. 10-52, which increases the maximum fines and imprisonment associated with violations of the rule set forth in Chapter 26 of the Code to $500.00 and 60 days in County jail. If adopted, this ordinance will add the use of polystyrene products as a violation of Ordinance No. 10-52. This ordinance defers enforcement until June 2017 in order to educate the public about the ban on polystyrene and to limit the fines to $100.00 for first-time violators and $200.00 for each subsequent violation. The educational campaign will be essential to help mitigate the potentially negative economic effect on low-income residents who violate the ordinance.

Michael Spring, Senior Advisor
Office of the Mayor

MEMORANDUM

(Revised)

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

DATE: June 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Amended 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**

_____ **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
Veto _____
Override _____

Amended
Agenda Item No. 7(A)
6-7-16

ORDINANCE NO. 16-58

ORDINANCE RELATING TO MIAMI-DADE PARKS, RECREATION AND OPEN SPACES DEPARTMENT'S RULES AND REGULATIONS; AMENDING CHAPTER 26, ARTICLE I OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; BANNING POLYSTYRENE IN PARKS IN CERTAIN CIRCUMSTANCES AND MAKING TECHNICAL AMENDMENTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, polystyrene is a petroleum-based plastic, most commonly known under the name of "Styrofoam," which is actually the proprietary trade name of a polystyrene foam product; and

WHEREAS, the Environmental Protection Agency ("EPA") named polystyrene as the fifth largest creator of hazardous waste; and

WHEREAS, the biggest environmental health concern associated with polystyrene is the danger associated with Styrene, the basic ingredient in polystyrene, which has classified as a possible human carcinogen by the EPA and the International Agency for Research on Cancer; and

WHEREAS, indeed, the acute health effects of exposure to styrene include irritation of the skin, eyes, and upper respiratory tract, and gastrointestinal effects; and

WHEREAS, as polystyrene is light and has good insulation properties, it is used in all types of products, including those to keep food and beverages hold or cold and to protect items during shipping; and

WHEREAS, polystyrene products are a principle component of urban litter and marine debris; and

WHEREAS, indeed, polystyrene is notorious for breaking up into pieces that clog stormwater pipes and can impact wildlife, and is an unsightly nuisance negatively impacting our tourism-dependent economy; and

WHEREAS, numerous cities across the United States, including several within Miami-Dade County, have banned polystyrenes in parks and on beaches or their use altogether, including Miami Beach, FL, Key Biscayne, FL, Bal Harbour, FL, Bay Harbor Islands, FL, North Bay Village, FL, Surfside, FL, New York City, NY, Albany County, NY, Portland, OR, San Francisco, CA, Los Angeles County, CA, Malibu, CA, Oakland, CA, San Jose, CA, Seattle, WA, Amherst, MA, Minneapolis, MN, and Washington, D.C.; and

WHEREAS, it is in the best interest of Miami-Dade County and its residents to protect its parks and beaches and to ban polystyrene products in County-owned, operated or managed parks, natural areas and beaches; and

WHEREAS, in 2010, this Board adopted Ordinance No. 10-52 which increased the maximum fines and imprisonment associated with violations of the Park rule set forth in Chapter 26 of the County Code to $500.00 and 60 days in the County jail; and

WHEREAS, however, as to violations of the polystyrene ban, this Board desires to defer enforcement until July of 2017 in order to educate the public about the ban and to limit the fines to $50.00,

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

Section 1. Chapter 26, Article I of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

ARTICLE I. – IN GENERAL.

Sec. 26-1. – Rules and regulations adopted.

[[~~Any person violating any of the rules and regulations provided in this section shall be punished by:~~

~~(1) A fine not to exceed five hundred dollars ($500.00);~~

~~(2) Imprisonment in the county jail for a period not to exceed sixty (60) days;~~

~~(3) Both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;~~

~~(4) Fines in accordance with Chapter 8CC of the Code of Miami-Dade County; or~~

~~(5) Completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.~~]]

Rule 1. Definitions When used herein the following definitions shall apply:

(a) The terms "Parks," "Parkways," "Recreational Areas," "Marinas" and other "Areas Operated and Maintained by the Miami-Dade County >>Parks,<< [[~~Park and~~]] Recreation >>and Open Spaces<< Department" are defined to mean parks, wayside parks, >>greenways, bikeways, trails,<< parkways, playground, recreation fields, museums, auditoriums, ranges and buildings, natural areas,

[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.

forests or preserves, lakes, streams, canals, lagoons, waterways, water areas and beaches therein and all public service facilities conducted on grounds, buildings, and structures in Miami-Dade County that are under the control of or assigned for upkeep, maintenance or operation by the Miami-Dade County >>Parks,<< [[~~Park and~~]] Recreation >>and Open Spaces<< Department, and all beaches and ocean areas available to the public in the unincorporated area of the County.

(b) The term "Park Property" when used hereinafter is defined to cover all areas, buildings, locations, and facilities described in the foregoing paragraph.

(c) The terms "Park Department," "the Department" when used hereinafter are defined as "The Miami-Dade County >>Parks,<< [[~~Park and~~]] Recreation >>and Open Spaces<< Department" and the term "Department Director" refers to the Director of said Department.

(d) The term "Department Employee" refers to individuals employed by the >>Parks,<< [[~~Park and~~]] Recreation >>and Open Spaces<< Department with responsibilities for the safe management, security, operation or maintenance of park facilities.

(e) In construing the provisions hereof and each and every word, phase or part thereof where the context will permit, the definitions provided in Sections 1.01 Florida Statues shall apply.

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[[~~ENFORCEMENT AND OBEDIENCE TO RULES~~]]

Rule 36. [[~~*Authority of Miami-Dade Police Department official and Park Department officials*~~]] >>*Prohibition regarding sale or use of Polystyrene food-service articles in Parks and Park Property*

(a) Definitions. For purposes of this Rule 36, the following definitions shall apply:

(1) *Parks Contractor* means a contractor, vendor, lessee, licensee, programming partner, or permittee

of the County that uses, works on, provides services at, or undertakes construction of Park Property; a special events permittee for an event in a Park; or an operator or manager of Park Property or a facility within a Park.

(2) *Polystyrene* means thermoplastic petrochemical material utilizing a styrene monomer, including but not limited to polystyrene foam or expanded polystyrene, processed by any number of techniques, including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, or extrusion-blow molding (extruded foam polystyrene), and clear or solid polystyrene (oriented polystyrene).

(3) *Polystyrene article* means plates, bowls, cups, utensils, cutlery, tableware, containers, lids, trays, coolers, ice chests, bags, boxes, wrappings, bottles, and all similar articles that consist of polystyrene.

(b) Beginning on July 1, 2017, no person shall carry any Polystyrene article onto any Park Property.

(c) Parks Contractors shall not sell, use, provide food in, or offer the use of Polystyrene articles on Park Property and in all facilities located within Parks. A violation of this rule shall be deemed a default under the terms of the applicable contract between the County and the Parks Contractor. This rule shall not apply to Polystyrene articles that are used for prepackaged food that have been filled and sealed prior to receipt by the Parks Contractor.

(d) Any contract between the County and a Parks Contractor entered into prior to June 1, 2016 shall not be subject to the requirements of this Rule 36, unless the Parks Contractor voluntarily agrees thereto, except that renewals or extensions of any such contract which are to be exercised by the County, or jointly by the County and the Parks Contractor, shall only be renewed or extended if the Parks Contractor agrees in writing to comply with the provisions of this Rule 36 during any renewal or extension term.

(e) Violators of Rule 36(b) shall pay a fine not to exceed fifty dollars ($50.00). Parents or guardians will be held strictly accountable for the actions of minors in regards to the prohibitions in this Rule.

Sec. 26-2. - Enforcement and Obedience to Rules; Effect of other ordinances; cumulative.<<

(a) It shall be the duty and responsibility of the Miami-Dade Police Department to enforce all State laws, County ordinances, and in conjunction with Department employees, enforce all regulations and rules as well as all provisions of permits issued by the >>Parks,<< [[~~Park and~~]] Recreation >>and Open Spaces<< Department within the following areas of the County:

(1) All parks and other areas maintained and operated by the Miami-Dade County >>Parks,<< [[~~Park and~~]] Recreation >>and Open Spaces<< Department;

(2) All beaches and ocean areas east of the State designated erosion control line and made available to the public in the unincorporated area of the County and in municipalities.

[[~~Sec. 26-2. - Effect of other ordinances; cumulative; definitions.~~]]

>> (b)<< Other ordinances not in conflict with the [[~~police~~]] regulations, rules and permits adopted pursuant to Section 26-1 hereof shall be enforced in all properties under the management and control of the >>Parks,<< [[~~Park and~~]] Recreation >>and Open Spaces<< Department, and violators shall be punished in accordance with the particular ordinance violated.

>> (c)<< This chapter and the police regulations, rules and permits adopted pursuant to Section 26-1 hereof shall be taken to be cumulative and shall not be construed to amend or repeal any other valid County ordinance or penalty.

[[~~In construing the foregoing provisions and each and every word, phrase, or part thereof, where the context will permit the definitions provided in Section 1.01 Florida Statutes shall apply.~~]]

Sec. 26-3. – Application to Rickenbacker Causeway and Venetian Causeway.

The provisions of this chapter, save and except Rules 3.(a) and (b), 16.(a), 22.(a) and (b), 11.(a), and 7.(c) as stated in Section 26-1 hereof, shall be applicable to and enforced by the [[~~Metro-~~]] >>Miami-<<Dade Police Department in, about and on Rickenbacker Causeway and Venetian Causeway and all improvements, recreation areas and public property thereof.

Sec. 26-4. – Penalty.

>>Except as specifically set forth anywhere else in Sections 26-1 through 26-3 of the Code of Miami-Dade County ("Code") to the contrary, any<< [[~~Any~~]] person [[~~convicted of a violation of~~]] >>violating<< any of the provisions of [[~~the Police Regulation, Rules and Permits adopted pursuant to Section 26-1, with the exception of Section 26-1, Rules 27(a) and 8(b),~~]] >>Sections 26-1 and 26-3 of the Code<< shall be punished by >>: (a)<< a fine not to exceed [[~~one~~]] >>five<< hundred dollars [[~~($100.00)~~]] >>($500.00); (b)<< [[~~or~~]] by imprisonment in the County jail for a period not to exceed [[~~thirty (30)~~]] >>sixty (60)<< days >>; (c) both<< [[~~or~~]] such find and imprisonment >>in the discretion of the court having jurisdiction over the cause; (d) fines in accordance with Chapter 8CC of the Code of Miami-Dade County; or (e) completion of the Miami-Dade County Diversion Program, pursuant to Miami-Dade County Implementing Order 2-12, as it may be amended from time to time.<< [[~~Violation of Section 26-1, Rules 27(a) and 8(b) shall be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment in the County jail for a period not to exceed thirty (30) days or both such fine and imprisonment. Any person who violates Section 26-1, Rule 8(b) by writing, painting or drawing any inscription, figure or mark of any type on park property shall be punished in the manner set forth in Section 21-30.01(3) of this Code.~~]]

* * *

Section 2. 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 3. 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 4. 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: June 7, 2016

Approved by County Attorney as
to form and legal sufficiency: GBK for MAG for

Prepared by:

Monica Rizo Perez

Prime Sponsor: Commissioner Daniella Levine Cava
Co-Sponsors: Commissioner Sally A. Heyman
Commissioner Barbara J. Jordan