

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: March 5, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to development of County facilities in incorporated areas; amending chapter 33A of the Code; providing legislative findings, purpose, and definitions; providing minimum standards requiring municipalities to prioritize review of developments operated by or on behalf of Miami-Dade County or on County-owned land and to provide for appeals to Board under certain circumstances; providing for County jurisdiction in the event of noncompliance; making technical changes

Ordinance No. 24-19

This item was amended at the February 12, 2024 Chairman's Policy Council & Intergovernmental Affairs Committee meeting to clarify in subsection 33A-7(A) that, for County-owned workforce housing developments, the minimum standards in this ordinance are in addition to the minimum standards provided in section 33-193.7; and amend paragraph 33A-7(A)(1) to increase the time for a municipality to conduct a completeness review from 7 days to 15 days.

Rule 5.06(i) of the Board's Rules of Procedure provides that where double underlining and double strike-through would not clearly show the differences between an original item and a committee amendment, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences is provided in lieu of double underlining and double strike-through for this item.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator René García.



Geri Bonzon-Keenan
County Attorney

GBK/jp

MDC001

Memorandum



Date: March 5, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink, reading "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Municipalities Prioritize Review of Developments in County

The implementation of this Ordinance will not have a fiscal impact to the County.

A handwritten signature in blue ink, reading "Jimmy Morales".


Jimmy Morales
Chief Operations Officer

Memorandum



Date: March 5, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to the Expeditious Municipal Review of County Facilities

The proposed ordinance amends Section 33A of the Code of Miami-Dade County (Code) to require municipal boards and permitting staff to expeditiously review County facility applications. A County facility is defined as a governmental facility, as defined in Section 33-303, or other development or facility, that is operated by or on behalf of Miami-Dade County or built or operated on County-owned land.

This Code amendment requires that County facility applications located in municipalities are reviewed within seven days and a decision rendered within 90 days. If County facility applications are not reviewed in a timely fashion or denied by a municipality, the application may be appealed to the Board of County Commissioners. Mailed notice of the intent to appeal must be sent to the municipality to allow for a 30-day cure period. Establishing review deadlines and an appeal process for County facilities may reduce construction timeframes and provide more certainty for financing these projects.

A blue ink signature of Jimmy Morales, consisting of a stylized 'J' followed by a series of loops and a horizontal stroke.

Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: March 5, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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(A)
3-5-24

ORDINANCE NO. 24-19

ORDINANCE RELATING TO DEVELOPMENT OF COUNTY FACILITIES IN INCORPORATED AREAS; AMENDING CHAPTER 33A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING LEGISLATIVE FINDINGS, PURPOSE, AND DEFINITIONS; PROVIDING MINIMUM STANDARDS REQUIRING MUNICIPALITIES TO PRIORITIZE REVIEW OF DEVELOPMENTS OPERATED BY OR ON BEHALF OF MIAMI-DADE COUNTY OR ON COUNTY-OWNED LAND AND TO PROVIDE FOR APPEALS TO BOARD OF COUNTY COMMISSIONERS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR COUNTY JURISDICTION IN THE EVENT OF NONCOMPLIANCE; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County has invested significant public money and resources in developing projects to address the County’s many needs, and some of those projects are located within municipal boundaries and are subject to municipal regulatory jurisdiction; and

WHEREAS, examples of such facilities include the County’s Mental Health Facility, generally located in the City of Miami at 2200 NW 7th Avenue, which, pursuant to Resolution No. R-637-08, the County has leased from the State of Florida Trustees for the Internal Improvement Trust Fund, and the Lightspeed Facility, generally located in the City of Sweetwater at 11500 NW 25 Street, which is intended to house the Office of Emergency Management and other mission critical departments; and

WHEREAS, the County wishes to ensure that publicly financed or operated developments receive expeditious hearings from applicable municipal boards and expeditious permitting reviews from municipal permitting departments and that, if a municipality denies such an application for a County facility, the municipal decision can be appealed to the Board of County Commissioners; and

WHEREAS, on November 6, 1956, the people of Florida amended the Florida Constitution by adopting Article VIII, Section 11 of the Florida Constitution of 1885, preserved in Article VIII, Section 6 of the Florida Constitution of 1968 (“Home Rule Amendment”), which authorized the people of Miami-Dade County to adopt a home rule charter; and

WHEREAS, the Home Rule Amendment provides that, upon the adoption of the Home Rule Charter, this Board would have “full power and authority . . . to pass ordinances relating to the affairs, property and government of Dade County and provide suitable penalties for the violation thereof; . . . and do everything necessary to carry on a central metropolitan government in Dade County” and to “provide a method by which any and all of the functions or powers of any municipal corporation or other governmental unit in Dade County may be transferred to the Board...”; and

WHEREAS, on May 21, 1957 the electors of Miami-Dade County adopted a home rule charter (the “Home Rule Charter”); and

WHEREAS, section 1.01(A) of the Home Rule Charter grants this Board “the power to carry on a central metropolitan government,” including, among other things, to “[p]repare and enforce comprehensive plans for the development of the county,” “[e]stablish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public,” “[s]et reasonable minimum standards for all governmental units in the county for the performance

of any service or function” and, “[i]f a governmental unit fails to comply with such standards, and does not correct such failure after reasonable notice by the Board . . . [to] take over and perform . . . any such service”; and

WHEREAS, although section 6.02 of the Home Rule Charter provides each municipality with “the authority to exercise all powers relating to its local affairs” and to “provide for higher standards of zoning, service, and regulation . . . in order that its individual character and standards may be preserved for its citizens,” the Charter also expressly requires all exercise of municipal authority to be “not inconsistent with this Charter”; and

WHEREAS, section 9.04 of the Home Rule Charter contains a supremacy clause providing that “[t]his Charter and the ordinances adopted hereunder shall in cases of conflict supersede all municipal charters and ordinances, except as herein provided,”

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

Section 1. This Board ratifies and adopts the foregoing recitals as if fully set forth herein.

Section 2. Chapter 33A of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Chapter 33A DEVELOPMENTS IN INCORPORATED AREAS ~~[[CREATING COUNTY IMPACT]]~~

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.

>>Article I. – Developments in Incorporated Areas Creating County Impact<<

Sec. 33A-1. – Incorporation of findings and purpose by reference.

The matters set forth above [see editor's note for this chapter] are hereby incorporated by reference and are made a part of this chapter.

* * *

>>Article II. – Developments of County Facilities in Incorporated Areas

Sec. 33A-6. – Findings, purpose, and definitions.

- (A) Section 1.01(A) of the Miami-Dade County Home Rule Charter grants this Board “the power to carry on a central metropolitan government,” including, among other things, to “[p]rovide for and operate air, water, rail, and bus terminals, port facilities, and public transportation systems,” to “[p]repare and enforce comprehensive plans for the development of the county,” “[e]stablish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public,” “[s]et reasonable minimum standards for all governmental units in the county for the performance of any service or function” and, “[i]f a governmental unit fails to comply with such standards, and does not correct such failure after reasonable notice by the Board . . . [to] take over and perform . . . any such service.”
- (B) The Board of County Commissioners (“Board”) has exercised its Home Rule powers to plan for numerous facilities, which are to be operated by or on behalf of Miami-Dade County or are intended to make appropriate use of land owned or leased by Miami-Dade County, for the benefit of the County’s residents and visitors. Such County facilities are located throughout the County, in both incorporated and unincorporated areas. The Board has adopted various processes in this code to review and approve such facilities in the areas where the County exercises regulatory jurisdiction, including but not limited to the review of governmental facilities set forth in section 33-303 and the standards and procedures for the Government Center Subzone of the Rapid Transit Zone set forth in section 33C-11.
- (C) Section 6.02 of the Home Rule Charter authorizes municipalities to “provide for higher standards of zoning, service, and regulation . . . in order that its individual character and standards may be preserved for its citizens.” The Board wishes to ensure that, in the exercise of that authority, municipalities provide and enforce processes for the

expeditious review of County facilities when those facilities are located in incorporated areas, so that unnecessary delays in public hearing or permitting processes do not unreasonably delay the development of necessary projects for which the Board has expended significant public funds and other resources pursuant to its authority to carry on a central metropolitan government.

(D) In addition, because these projects are of such significance to the County as a whole, and to its residents and visitors, this Board finds that, where an application for regulatory approval relating to any such project is denied, it is in the public interest and in furtherance of the County's obligation to carry on a central metropolitan government that any such municipal denial be appealable to the Board for a final decision as to whether the application should be granted in accordance with the provisions of the applicable municipal code.

(E) Definitions. Terms used throughout this article shall take their commonly accepted meaning unless otherwise defined in chapter 28 or 33. Terms requiring interpretation specific to this article are as follows:

(1) County facility means a governmental facility as defined in section 33-303, or other development or facility, that is (i) operated by or on behalf of Miami-Dade County or (ii) built or operated on County-owned land.

(2) County-owned means (i) property in which the County has a property interest, such as fee simple ownership, a leasehold interest, or an easement and (ii) property that the County operates or maintains regardless of ownership.

Sec. 33A-7. – Minimum standards for review of County facilities in incorporated areas.

(A) Minimum standards; expedited process. Notwithstanding any other provisions of this code or municipal charters, codes, or other regulations to the contrary, and in addition to the minimum standards provided in section 33-193.7 for workforce housing developments, each municipality shall provide an expedited process, in accordance with the following, to decide applications for land use, zoning, subdivision, building permit, and other municipal regulatory approvals necessary for each County facility to operate under the municipality's jurisdiction:

(1) Completeness review. The municipality shall have no more than 15 days from the time of initial submittal within which to determine whether an application is complete. Where an application is determined to be incomplete, the municipality

shall have no more than 15 days after resubmission to confirm that the application has been made complete.

- (2) Public hearing applications. An application that requires a public hearing shall be presented on the agenda of the applicable board within 90 days of being determined to be complete and shall receive a final decision within 60 days of being presented to the applicable board.
- (3) Administrative approvals. An application that may be approved administratively without a public hearing shall receive a final decision within 90 days of being determined to be complete.
- (4) Municipal appeals. Where the applicable municipal code provides that a public hearing or administrative decision is appealable to the governing body or other municipal board before becoming a final decision of the municipality, each such appeal shall be presented to the applicable board within 60 days of the County submitting a notice of appeal.
- (5) Extensions. The County Mayor or County Mayor's designee may agree to an extension of the above deadlines upon a determination that additional time is in the best interest of the County.

(B) Minimum standards; right of appeal to the Board of County Commissioners. Notwithstanding any other provisions of this code or municipal charters, codes, or other regulations to the contrary, each municipality shall provide that:

- (1) If, after the exhaustion of all administrative remedies provided by the municipality and exclusive of any appeals to a court of competent jurisdiction, an application for a County facility has been denied or has been granted subject to a condition unacceptable to the County and an appeal to a County board is not otherwise provided by this code or applicable state law, then each such application may be appealed in accordance with paragraph (C)(2) below to the Board of County Commissioners.
- (2) No decision on such application shall be deemed final until the completion of an appeal to the Board of County Commissioners.
- (3) The decision of the Board of County Commissioners shall be recognized and deemed final as to the application.

(C) Municipalities in noncompliance with minimum standards.

- (1) Noncompliance with expedited process. If a municipality fails to provide a final decision on an application within the above-referenced time frames and does not correct such failure after reasonable notice by the Board of County Commissioners, then the Board may take over the relevant service in accordance with the following:

- (a) For an application that requires a public hearing, the Board shall hold any required public hearing not already held and shall make a final decision on the application pursuant to the applicable municipal standards.
 - (b) For an application that may be approved administratively without a public hearing, the Board may delegate to the relevant County department the authority to decide the application administratively pursuant to the applicable municipal standards.
 - (c) Where the municipality would be required to apply the Florida Building Code or other federal, state, or county regulation, the Board or applicable County department shall apply the relevant federal, state, or county regulation.
 - (d) For purposes of this section, mailed notice to the city mayor or city manager and the clerk of the municipal governing body providing a 30-day period within which to cure the noncompliance shall be deemed to be reasonable notice.
- (2) Failure to provide for appeal to Board of County Commissioners. Notwithstanding any other provisions of this code or municipal charters, codes, or other regulations to the contrary, where a municipality denies an application related to a County facility or grants such application subject to a condition unacceptable to the County, the municipality has not provided for an appeal as required by subsection (B) above, and an appeal to a County board is not otherwise provided by this code or applicable state law, the municipal decision shall nonetheless be deemed automatically appealable to the Board of County Commissioners in accordance with the following:
- (a) The County shall have 30 days from the date of the last available municipal appeal hearing or decision on the application to notify the city mayor or city manager and the clerk of the municipal governing body in writing of its intent to appeal the municipal decision to the Board of County Commissioners. A copy of such notice shall be filed with the Clerk of the Board, but the failure to file such notice shall not affect the ability to proceed with an appeal pursuant to this paragraph (C)(2).
 - (b) A public hearing on the appeal shall be scheduled for an appropriate agenda of the Board of County Commissioners, as determined by the Chairperson in consultation with the County Attorney's Office.

- (c) Notice of the public hearing shall be provided in accordance with the County's requirements for noticing a hearing on the type of application at issue.
- (d) The Board of County Commissioners shall:
 - 1. Conduct a public hearing;
 - 2. Apply the applicable municipal standards to determine whether the application should be granted; and
 - 3. Issue a final decision on the application in accordance therewith.
- (e) No municipal decision shall be deemed final until the completion of such an appeal to the Board of County Commissioners.
- (f) The decision of the Board of County Commissioners shall be deemed final as to the application and shall be recognized as such by the municipality.<<

Section 3. 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 4. 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 5. 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:

March 5, 2024

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Dennis A. Kerbel

Prime Sponsor: Senator René Garcia