

Date: (Second Reading 02-05-08)
December 4, 2007

To: Honorable Chairman Bruno A. Barreiro and
Members, Board of County Commissioners

Agenda Item No. 7(F)

From: George M. Burgess
County Manager



Ordinance 08-18

Subject: Ordinance Amending Chapter 30, Article II, Section 30-447 of The Miami-Dade
County Code, Pertaining to Fines Imposed for Misuse of Specially Marked Parking
Spaces and to Process for Distributing Fines to Participating Cities

RECOMMENDATION

It is recommended that the Miami-Dade Board of County Commissioners (Board) approve the attached ordinance amending various provisions of Chapter 30, Article II, Section 30-447, pertaining to Fines Imposed for Misuse of Specially Marked Parking Spaces and to Process for Distributing Fines to Participating Cities. The proposed changes will facilitate the administration of the program and streamline the application process for municipalities to receive reimbursements of fines collected for the misuse of accessible ("handicapped") parking spaces. These dollars are then used to fund programs for persons with disabilities.

SCOPE

This ordinance has county-wide impact.

BACKGROUND

The current code related to parking spaces for disabled persons was adopted by the Board in June 1987, establishing a Penalty for the misuse of specially marked parking spaces -- spaces created for use by persons with disabilities. It also created a program whereby fines collected for violation of the ordinance could be reimbursed to the municipalities who issued the citations. Funds are to be used for programs and services for persons with disabilities. It has become apparent, however, that the process for reimbursement is deterring most municipalities from participating.

Under the current procedure, municipalities are required to complete complex, lengthy applications which are reviewed by the Office of ADA Coordination for reimbursement eligibility. Although over 30 municipalities pay into the fund and are eligible for reimbursement, only the same six or seven consistently apply annually. Additionally, only the handful of communities that apply for reimbursement have this added incentive to vigorously enforce the handicapped parking laws, freeing up parking spaces for persons entitled to utilize them. The end result is that persons with disabilities are being negatively impacted by the current requirements of the program.

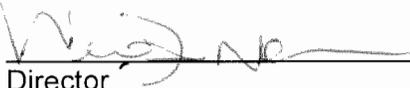
The proposed amendment modifies the application process to only require a sworn affidavit from the municipality's chief administrative official assuring funds are being used to benefit persons with disabilities in accordance with the law. This simplified reimbursement process should encourage increased enforcement of the ordinance, increasing the funds available for the establishment of programs for persons with disabilities.

Fiscal Impact

This ordinance amending various provisions of Chapter 30, Article II, and Section 30-447 of the Code of Miami-Dade County relating to fines imposed for misuse of specially marked parking spaces to participating Cities will not have a fiscal impact on Miami-Dade County. This ordinance is expected to streamline the municipal fines disbursement process. The savings in time and money created by the streamlining of the process will be reallocated to other services provided by the department and will not save/reduce the overall cost of the department.

Monitor

The monitor for this ordinance is Heidi Johnson-Wright, Director, Office of ADA Coordination.



Director
General Services Administration



MEMORANDUM
(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: February 5, 2008

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

SUBJECT: Agenda Item No. 7(F)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(F)
02-05-08

ORDINANCE NO. **08-18**

ORDINANCE RELATING TO FINES IMPOSED FOR MISUSE OF SPECIALLY MARKED PARKING SPACES; AMENDING SECTION 30-447 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA RELATING TO PROCESS FOR DISTRIBUTING FINES TO PARTICIPATING CITIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 30-447 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 30-447. Penalty for misuse of specially marked parking spaces.

It is unlawful for any person to stop, stand, or park a vehicle within any parking space designated with an above-grade sign bearing the international symbol of accessibility or the caption "PARKING BY DISABLED PERMIT ONLY," or with both such symbol and caption, unless such vehicle displays a parking permit issued pursuant to Section 316.1958, Florida Statutes, or Section 320.0848, Florida Statutes, and such vehicle is transporting a person eligible for the parking permit. However, any person who is chauffeuring a person eligible for a disabled parking permit shall be allowed, without need for an identification parking permit, momentary parking in any such parking space for the purpose of loading or unloading a disabled person. No penalty shall be imposed upon the driver for such momentary parking. Whenever a law enforcement officer or a parking enforcement specialist finds a vehicle in violation of this section, that officer shall:

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.

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- (1) Have the vehicle in violation removed to any lawful parking space or facility or require the operator or other person in charge of the vehicle immediately to remove the unauthorized vehicle from the parking space. Whenever any vehicle is removed by a law enforcement officer, parking enforcement specialist, or agency to a storage lot, garage, or other safe parking space, the cost of such removal and parking shall be a lien against the vehicle.
- (2) Charge the motor vehicle owner in violation with a noncriminal traffic infraction.
 - (a) Whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found to be parked in a properly designated handicapped parking space in violation of this section, it shall be prima facie evidence that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division of Motor Vehicles.
 - (b) Violators of this article shall be punished by a mandatory fine of one hundred fifty dollars (\$150.00). A motor vehicle owner who is guilty of repeat violations of this article may be punished by a fine not to exceed two hundred fifty dollars (\$250.00).
 - (c) All fines collected in excess of twenty-five dollars (\$25.00) for each violation shall be deposited in a separate account to be used in the following manner:
 - (i) One-third to be used to defray expenses for the administration of this article.
 - (ii) Two-thirds to be used to provide funds to improve accessibility and equal opportunity to qualified physically disabled persons and to provide funds to conduct public awareness programs concerning physically disabled persons.

The two-thirds shall be distributed in the following manner:

Thirty (30) percent to be retained by the County for county-wide purposes in accordance with state law, and seventy (70) percent to be allocated to the governmental entity having jurisdiction over the violation.

- (iii) To be eligible to receive funds each participating city would be required to submit ~~[[a program plan]]~~ >>an affidavit sworn by the chief administrative official<< which would assure that these funds would be used in accordance with state law. ~~[[Criteria to be used as basis for the review of the program plans shall be adopted by resolution.]]~~ Monies not distributed to a city because of the failure of such city to submit ~~[[or comply with a program plan]]~~ >>an affidavit<< shall be placed in a fund for disbursement to other cities which ~~[[are in compliance with such plans]]~~ >>have submitted affidavits<< in proportion to the percentage of citations issued by the complying city.

Section 2. >>All fines collected in excess of twenty-five dollars (\$25.00) for each violation of Ordinance 30-292 (1) (a) 12 shall be eligible for inclusion in the fund described in Ordinance 30-447 (2) (c).<<

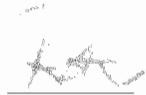
Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

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: **February 7, 2008**

Approved by County Attorney as
to form and legal sufficiency:



WXC

Prepared by:

William X. Candela