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

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: March 6, 2012

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

SUBJECT: Ordinance pertaining to Zoning regulations of signs; amending Sec. 33-82 of the Code; expanding the area defined as the City of Miami Urban Core where mural signs may be permitted

Ordinance No. 12-09

This item was amended at the 2-15-12 Infrastructure and Land Use Committee by an expansion of the northern part of the mural boundary.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: March 6, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance pertaining to Zoning Regulation of Signs

The proposed ordinance expands the City of Miami Urban Core where mural signs are permitted. The implementation of this ordinance will not have a fiscal impact to the County.

Office of the Mayor

Fis3412

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: March 6, 2012

FROM: R. A. Cuevas, Jr.
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**

_____ **Ordinance creating a new board requires detailed County Manager'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. 7(A)
3-6-12

ORDINANCE NO. 12-09

ORDINANCE PERTAINING TO ZONING REGULATION OF SIGNS; AMENDING SECTION 33-82 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA (CODE); EXPANDING THE AREA DEFINED AS THE CITY OF MIAMI URBAN CORE WHERE MURAL SIGNS MAY BE PERMITTED; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, Chapter 33 of the Code of Miami-Dade County regulates the placement and size of Class C signs within the incorporated and unincorporated areas of Miami-Dade County; and

WHEREAS, the Board of County Commissioners (Board) adopted Ordinance No. 07-61, as modified by Ordinance No. 07-91, authorizing the display of mural signs within City of Miami Urban Core; and

WHEREAS, the Board subsequently adopted Ordinance No. 10-71 expanding the boundaries of the City of Miami Core and increased the number of mural signs; and

WHEREAS, the Board finds that the area proposed for expansion to the City of Miami Urban Core is aesthetically similar to the current boundaries of the City of Miami Urban Core as defined in the Code of Miami-Dade County; and

WHEREAS, the City of Miami would be aesthetically enhanced by the addition of mural sign locations within the City of Miami Urban Core as defined in the Code of Miami-Dade County,

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

Section 1. Section 33-84 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows: [1]

Sec. 33-84. Definitions.

For the purposes of this article the following words and phrases are hereby defined as provided in this section, unless the context clearly indicates otherwise. Where there is a question as to the correct classification or definition of a sign, the Director shall place said sign in the strictest category and/or classification

* * *

(y) *City of Miami Urban Core* shall mean the geographic area commencing at Biscayne Bay and the North side of NE 18th Street; thence West along the North side of NE 18th Street to the East side of NE 2nd Avenue; thence North along the East side of NE 2nd Avenue to the South side of NE 36th Street; thence East along the South side of NE 36 Street to the West side of Biscayne Boulevard; thence North along the west side of Biscayne Boulevard to the North side of I-195; thence West along the North side of I-195 to the East side of N. Federal Highway; thence North along the East side of N. Federal Highway to the North side of NE 39th Street; thence West along the North side of NE 39th Street to East side of NE 2nd Avenue; thence North along the East side of NE 2nd Avenue to North side of NE 40th Street; thence West along the North side of NE 40th Street to West side of N. Miami Avenue; >>to its intersection with the South limited access right-of-way line of the I-195 Eastbound exit ramp; thence West along said South limited access right-of-way line to its intersection with the South side of NW 37th Street; thence West along the South side of NW 37th Street to the East side of NW

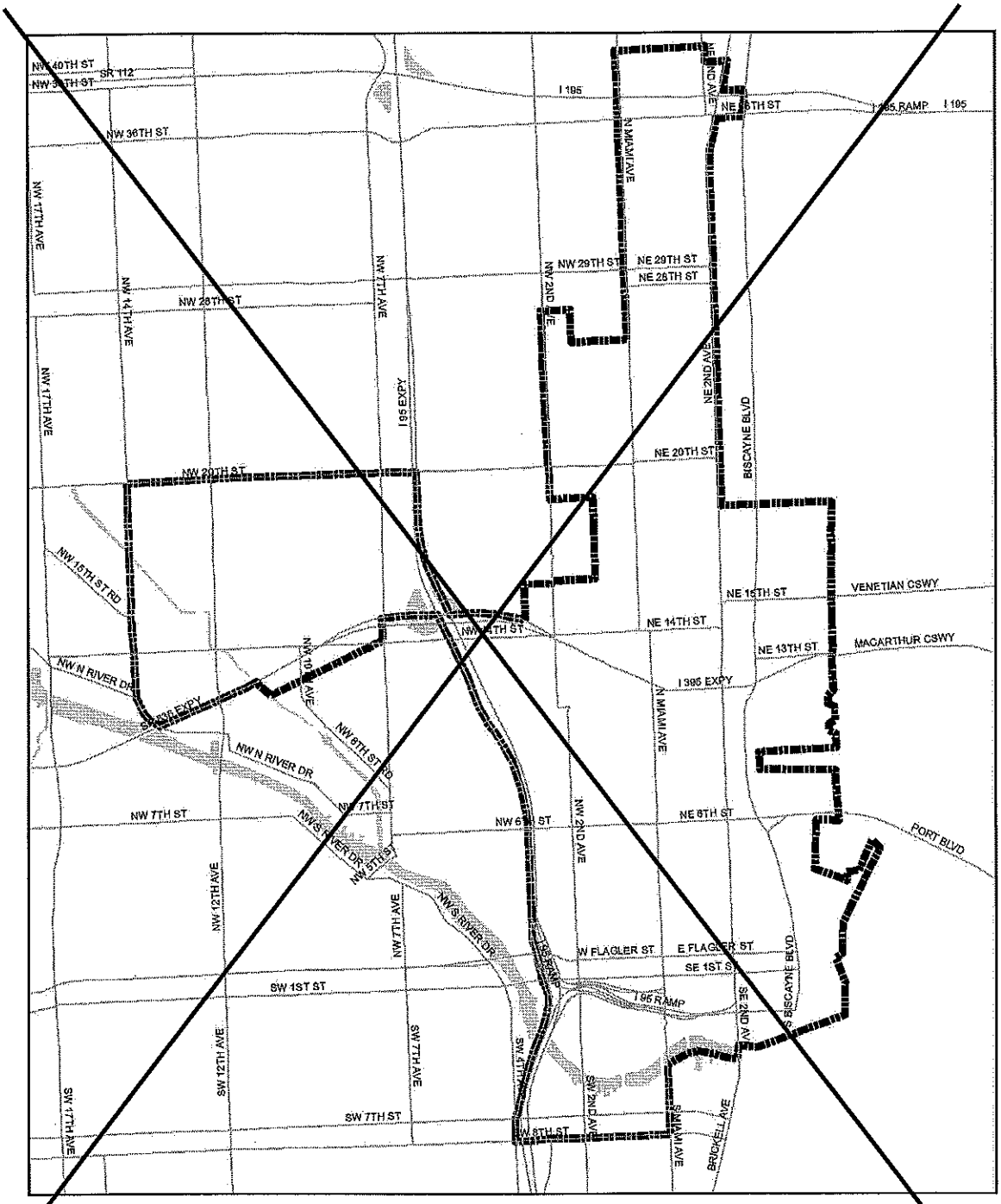
[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

1st Avenue; thence South along the East side of NW 1st Avenue to the North side of NW 36th Street; thence East along the North side of NW 36th Street to the West side of N. Miami Avenue; thence South along the West side of N. Miami Avenue<<[2] to the North side of NW 25th Street; thence West along the North side of NW 25th Street to the East side of the theoretical extension thereto of NW 1st Court; thence North along the East side of the theoretical extension of NW 1st Court to the North side of NW 27th Street; thence West along the North side of NW 27th Street to the West side of NW 2nd Avenue; thence South along the West side of NW 2nd Avenue to the South side of NW 19th Street; thence East along the South side of NW 19th Street to the West side of NW 1st Avenue; thence South along the West side of NW 1st Avenue to the North side of NW 16th Street; thence West along the North side of NW 16th Street to the West side of NW 3rd Avenue; thence South along the West side of NW 3rd Avenue to the North Side of the Dolphin Expressway; thence West along the North side of the Dolphin Expressway to the East side of I-95; thence North along the East side of I-95 to North side of NW 20th Street; thence West along the North side of NW 20th Street to the West side of NW 14th Avenue; thence South along the West side of NW 14th Avenue to the South side of the Dolphin Expressway; thence East along the South side of the Dolphin Expressway to the East bank of the Wagner Creek Canal; thence South 300 feet along the East bank of the Wagner Creek Canal; thence East running parallel 300 feet to the South of the Dolphin Expressway to the West side of NW 7th Avenue; thence North along the West side of NW 7th Avenue to the South side of the Dolphin Expressway; thence East along the South side of the Dolphin Expressway to the West side of I-95; >>thence South along the West side of I-95 to the North side of NW 5th Street ; thence West along the North side of NW 5th Street to the West side of NW 6th Avenue; thence South on the West side of NW 6th Avenue to the West side of NW North River Drive; thence South along

[2] Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

the West side of NW North River Drive to the North side of West Flagler Street; thence East along the North side of West Flagler Street to the West side of I-95;<< thence South along the West side I-95 to the South side of SW 8th Street; thence East along the South side of SW 8th Street to the East side of S. Miami Avenue; thence North along the East side of S. Miami Avenue to the South side of the Miami River; thence East along the South side of the Miami River to the East side of Brickell Avenue; thence North along the East side of Brickell Avenue to the North side of the Miami River; thence East along the North side of the Miami River to Biscayne Bay; thence North along the Biscayne Bay shoreline to the point of beginning, as shown on the City of Miami Urban Core map shown below.

[[~~Deleted~~]]



MIAMI-DADE COUNTY

Department of Planning and Zoning

City of Miami Urban Core

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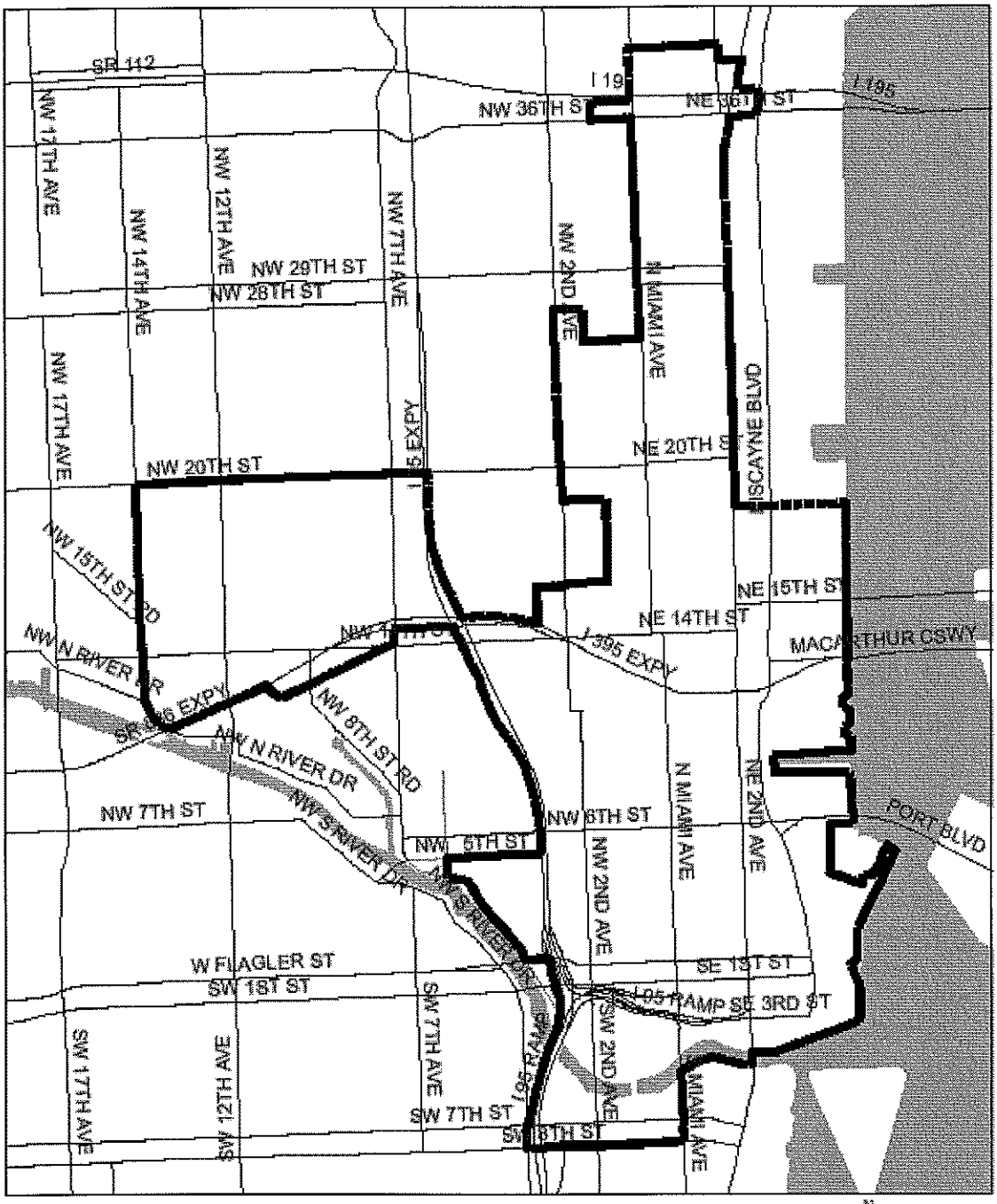
SCALE IN FEET



>>City of Miami Urban Core<<

MIAMI-DADE COUNTY
Sustainability, Planning and Economic Enhancement

* * *

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 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: March 6, 2012

Approved by County Attorney as
to form and legal sufficiency:

Prepared by: CHC

Craig H. Coller

Prime Sponsor: Commissioner Bruno A. Barreiro

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item: **7A**

File Number: **120314**

Date of Analysis: **February 12, 2012**

Summary

This ordinance pertaining to Zoning regulations of signs, amends §33-82 of the Code of Miami-Dade County (Code), expanding the area defined as the City of Miami Urban Core where mural signs may be permitted.

This ordinance would add an additional 31 acres to the City of Miami Urban Core and includes property owned my Miami-Dade County, Park Towers Associates (Park Towers), and the City of Miami's Lummus Park.

Currently, the Code allows 45 mural signs within the Miami Urban Core. According to the Department of Sustainability, Planning, and Economic Enhancement (SPEE), there are 37 mural signs[1]. The City of Miami provides the County with a list of mural signs, and provides enforcement of the County Code. The County is dependent on the City to provide the numbers.

According to SPEE, the Park Towers in the proposed expanded area for the City of Miami Urban Core has been rezoned as mixed use by Miami 21, the City of Miami's plan to manage and guide growth within the City.

Background and Relevant Legislation

Sign Code of Miami-Dade County

Chapter 33, Article VI of the Code is known as the Sign Code of Miami-Dade County (Sign Code). The Sign Code defines a sign as any display of characters, letters, logos, illustrations or any ornamentation designed or used as an advertisement, announcement or to indicate direction. Use of merchandise products, vehicles, equipment, inflated balloons, or the like as an attention attractor or advertising devise, with or without a printed or written message or advertisement is also considered a sign.

Signs are further categorized into one of three categories – Class A (temporary signs), Class B (point of sale signs) and Class C (commercial advertising signs). Murals fall under Class C[2] signs, and are defined as any Class C wall sign painted on, or affixed or secured flat to the façade of a building

[1] *The City of Miami provided this information to the County approximately March 2012.*

[2] *Class C signs constitute any sign which is used for any purpose other than that of advertising to the public the legal or exact firm name of business or other activity carried on the premises, or for advertising any service or product or products actually and actively being offered for sale on the premises, or which is designed and displayed solely to offer for sale or rent the premises, or to advertise special events.* ***Class C signs may be in the form of a billboard, bulletin board, mural or poster board, and may be affixed flat or painted on a building.***

The Sign Code is applicable in the unincorporated and incorporated areas of Miami-Dade County, Florida. When applicable to a municipality, the municipality is responsible for enforcement. Pursuant to Ordinance No. 07-84, the current Sign Code only allows municipalities to opt out from one of the Code's divisions, Division 5 (Commercial Signs on Expressway Right-of-Way). Municipalities are not allowed to opt out from the entire Sign Code. Five municipalities - Cutler Bay, Doral, Hialeah, Miami and North Miami - have opted out of Division 5 but the remainder of the County Sign Code still remains in effect as the minimum standard within these municipalities.

Approval Date and Reso/Ord No.	**Summary of Miami-Dade County Legislation** *The Sign Code and Mural Signs in the City of Miami*
July 18, 1985 ***Ord. 85-59***	This ordinance revised the Sign Code. The primary purpose of this revision was twofold: • First, to reorganize the Sign Code in a format for easier reference and interpretation. Related sections were grouped together and the requirements for the different sign types were placed in a chart format. • Secondly, the Sign Code was modified to improve the standards and efficiency of the code, and minor changes were made for purposed of clarification.
Nov. 12, 1996 ***Ord. 96-163***	This ordinance amended §33-82(b) of the Code, prohibiting certain signage variances without prior consent of the affected municipalities.
Mar. 16, 2004 ***R-370-04***	This resolution directed the County Manager to initiate discussion with the City Managers of the municipalities within Miami-Dade County regarding improved compliance with the Sign Code of Miami-Dade County in unincorporated and incorporated areas of the County and directed the preparation of a report.
Dec. 14, 2004 ***Report*** ***File No. 043439***	Pursuant to Resolution No. 370-04, this report was on municipality compliance with the County Sign Code. • This was a preliminary report and did not include the findings from the survey taken. • The County Manager directed the Planning and Zoning staff and the County Attorney's Office to discuss with the City of Miami the creation of a core downtown zone wherein certain types of large signs and murals would be allowed. Staff was directed to draft modifications to the County Code for the Board of County Commissioners (BCC) to consider.
Oct. 18, 2005 ***Ord. 05-187***	This ordinance amended §33-332 and §33-107 of the Code, exempting from zoning regulations Class C (Outdoor Advertising) Signs at Miami International Airport (Wilcox Field).
April 26, 2007 ***Ord. 07-61***	This ordinance, pertaining to zoning regulation of signs, provided the following: • Limited exemption for certain mural signs within the City of Miami Downtown Core (later known as the City of Miami Urban Core); ○ Allowed 30 mural signs within the City of Miami Urban Core area. • Authorization for signs with noncommercial messages where commercial messages are permitted; • Time limitation to issue sign permits; • An appeals procedures; • Restricted the application for murals under certain circumstances; and • Two (2) year sunset provision. The BCC expressed concern regarding the enforcement of illegal signs. Staff noted that there were 20 murals in violation to the Code, six (6) had been issued citations and eight (8) had been removed.
June 26, 2007 ***Ord. 07-84***	This ordinance amended §33-121.11 of the Code, providing municipalities with an option to opt out of the regulations restricting sign placement in proximity to expressways.
July 10, 2007 ***Ord. 07-91***	This ordinance amended Ordinance No. 07-61, providing the following: • Renamed the City of Miami Downtown Core to the City of Miami Urban Core; • Increased the permitted mural signs in the City of Miami Urban Core from 30 to 45; • Modified mural spacing requirements;

	• Permitted mural signs to cover windows under specified circumstances; and • Amended §33-107 of the Code to modify sign maintenance notice requirements.
July 1, 2008 ***Ord. 08-80***	This ordinance amended §33-107 of the Code, decreasing the number of mural signs allowed in the City of Miami Urban Core to 35. • This ordinance mirrored the City of Miami's ordinance, adopted on April 10, 2008, allowing for 35 mural signs in the Urban Core.
April 7, 2009 ***Ord. 09-24***	This ordinance deleted the sunset provision for the establishment of murals, repealing section 9 of Ordinance No. 07-61. The item was accompanied by a supplemental (Item No. 090883), providing information regarding mural signs in the City of Miami (City) that are in violations and have not been the subject of enforcement by the City.
July 20, 2010 ***R-802-10***	This resolution awarded a Non-Exclusive Concession Agreement to Clear Channel Outdoor, Inc., *d/b/a/*Clear Channel Airports (Clear Channel) for an Advertising Display Program at Miami International Airport (MIA). The RFP for Advertising Display Program was advertised on November 6, 2007, for qualified firms to propose for the opportunity to finance, design, develop, furnish, install manage and operate an advertising display program at MIA for a term of ten (10) years and a Minimum Annual Guarantee (MAG) of $4.5 million dollars.
Oct. 9, 2010 ***Ord. 10-71***	This ordinance amended §33-82 and §33-107, expanding the area defined as the City of Miami Urban Core where mural signs may be permitted and increased the number of mural signs permitted from 35 to no more than 45.
April 4, 2011 *ILUC[3] meeting* ***File No. 110635***	This ordinance pertains to zoning regulations of signs, allowing municipalities to opt out of certain Miami Dade County sign regulations, was tabled at the Infrastructure and Land Use Committee meeting for lack of a second.

Additional Information

South Florida Equitable Fund v. City of Miami[4,5,6]

In April 2010, South Florida Equitable Fund (SFEF) filed a lawsuit against the City of Miami, challenging the constitutionality of the City's regulation of outdoor advertising signs (billboards) under City Ordinance, specifically §10.4.5, which prohibited all new freestanding outdoor advertising signs, except pursuant to a settlement agreement authorized by City resolution which results in a net reduction of outdoor advertising sings in the City. SFEF essentially argued that the City cannot limit how many billboards it builds[7].

The Court found that the lawsuit lacked subject matter jurisdiction over the dispute because the matter was not only unripe, but moot as well. The Court found the matter unripe because, SFEF never obtained a final decision or a conclusive response of the City Commission on its settlement proposal. According to the City's Legistar, a special meeting was scheduled for April 21, 2011, for the purpose of considering among other matters, a settlement agreement with SFEF; however, the matter remains pending on the City's Legistar. The City's settlement agreement would allow South Florida Equitable to build nine (9) billboards[8] along I-95, and in exchange, the company would have to take down at least two billboards in a neighborhood.

In addition, the Court found the matter moot because the outdoor advertising sign regulations in the Ordinance were superseded by the June 2010 enactment of the amendments to Chapter 62, of the City's Code.

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[3] *Infrastructure and Land Use Committee*

[4] *Case No. 10-21032-CIV-U: South Florida Equitable Fund v. City of Miami, Florida*

[5] *City of Miami File No. 11-00320: Pending Resolution for Settlement Agreement with South Florida Equitable Fund*

[6] *City if Miami Office of the City Attorney Executive Summary, July 1, 2010 – June 30, 2011, pp. 13.*

[7] The Miami Herald, *Billboard Vote Could Mean Millions for Miami,* April 19, 2011

[8] The Miami Herald, *Miami Clears Billboard Hurdle,* May 9, 2011.

Federal Highway Administration Concerns[9,10]

In a June 17, 2011 letter to the State of Florida, regarding certification of the City for local control of wall murals, the Federal Highway Administration (FHA) stated that the City's ordinance standards for the proposed control of outdoor advertising for size, spacing, and lighting of wall murals were not in conformance to the Highway Beautification Act (HBA).

The FHA letter does not mean existing murals will come down soon. But it does appear to mean the City will have to redraft its ordinance to incorporate stricter limits on banner size and placement that could bar at least some existing murals. It would also likely require Miami-Dade County to redo an amendment to its Sign Code that authorized the City's mural district.

American Planning Association (APA)

In a 1997 Policy Guide on Billboard Controls, the APA states that planners have identified sign control as one of the most important yet troublesome problems facing local governments. Federal intervention intended to make highway corridors more beautiful has been manipulated by special interests to make it more difficult for local governments to use their own tools to accomplish the original purpose of the Highway Beautification Act.

Additional Information from the Public Hearing

During February 15, 2012, Infrastructure and Land Use Committee meeting, the former Director of Planning and Zoning for Miami-Dade County stated that he conducted a study to determine if the area could be included in the urban core before the item was placed on the County's agenda. His study, he said, indicated that Lummus Park and the area west of I-95 was part of the urban core, as the cityscape was compatible with that to east and that they are similar in character, architecture and aesthetics.

Prepared by: Elizabeth N. Owens

[9] Miami Herald article, *U.S. officials disallow Miami's Downtown Ad Murals*, June 30, 2011.

[10] *FHA letter regarding Certification of the City of Miami for Local Control of Wall Murals, June 17, 2011.*