



MEMORANDUM

Agenda Item No. 7(C)

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

DATE:

(Second Reading 7-3-12)
May 1, 2012

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

SUBJECT: Ordinance amending Article III
relating to public accommodations;
establishing definitions and procedures
for refueling assistance for persons with
disabilities; amending Sec. 8CC-10 of
the Code

Ordinance No. 12-48

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan and Co-Sponsors Commissioner Lynda Bell, Commissioner Esteban L. Bovo, Jr., Commissioner Jose "Pepe" Diaz, Vice Chairwoman Audrey M. Edmonson and Commissioner Sally A. Heyman

A handwritten signature in black ink, appearing to read "RAC" followed by a stylized flourish.

R. A. Cuevas, Jr.
County Attorney

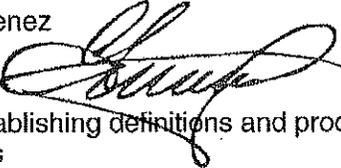
RAC/jls

Memorandum



Date: July 3, 2012

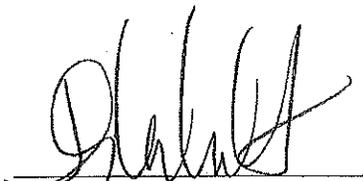
To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance establishing definitions and procedures for refueling assistance for persons with disabilities

The proposed ordinance amends Section 11A-19 of the Code including requirements to gas station retailers as it pertains to assistance to persons with disabilities for refueling services during the hours the gas station retailer is open for business. As part of this ordinance, within ninety (90) days of enactment, all gas station retailers will be required to prominently display a sign, decal or sticker, no smaller than fifteen (15) square inches, on the front of all gasoline pumps clearly stating information regarding refueling assistance. The Department of Regulatory and Economic Resources will incur a one-time cost of \$5,000 to notify all registered gas station retailers of these new requirements.

The Office of Human Rights and Fair Employment Practices will be responsible for responding to any complaints against a gas station retailer. However, at this time, it is difficult to assess any additional cost associated with the reviewing and investigation of any complaint that may be received.



Jack Osterholt
Deputy Mayor

Fis6712



MEMORANDUM

(Revised)

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

DATE: July 3, 2012

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

SUBJECT: Agenda Item No. 7(C)

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(C)
7-3-12

ORDINANCE NO. 12-48

ORDINANCE AMENDING ARTICLE III RELATING TO PUBLIC ACCOMMODATIONS; ESTABLISHING DEFINITIONS AND PROCEDURES FOR REFUELING ASSISTANCE FOR PERSONS WITH DISABILITIES; AMENDING SECTION 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING FOR PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Title III of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12181 *et seq.*, requires gas stations, including those offering self-service, to provide equal access for their customers with disabilities; and

WHEREAS, for self-service gas stations, the ADA requires the station to provide refueling assistance upon the request of a person with a disability if there is more than one attendant on duty at the station, to advise customers with disabilities that they can obtain this refueling assistance by honking or otherwise signaling the attendant and that such refueling assistance is provided without any charge beyond the self-service price; and

WHEREAS, Section 526.141, Florida Statutes, mandates every full-service gas station offering self-service at a lesser cost to require an attendant employed by the station to dispense gasoline from the self-service portion of the station to any motor vehicle properly displaying a parking permit or license plate issued to a person with disabilities and to prominently display a decal on all self service pumps indicating this requirement and applicable penalties for violating this requirement; and

WHEREAS, the Miami-Dade County Board of County Commissioners (“Board”) has become aware that persons with disabilities are still finding it difficult to obtain the gas refueling assistance they need; and

WHEREAS, the Board finds persons with disabilities must be provided with equal access in refueling their vehicles and further finds that imposing local regulations on gas stations retailers is the best means of ensuring this equal access; and

WHEREAS, Chapter 125, Florida Statutes authorizes the Board to provide for the citizens of Miami-Dade County, standards which insure their health, safety and welfare; and

WHEREAS, the Board in the exercise of its police power for the public safety, health and general welfare, enacted Ordinance 97-1, as codified in Chapter 11A of the Code of Miami-Dade County, to eliminate and prevent discrimination in employment, family leave, public accommodations, credit and financing practices, and housing accommodations because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status or sexual orientation; and

WHEREAS, the Board in the exercise of its police powers finds that the public health, safety and welfare of the residents of Miami-Dade County will best be served by amending Chapter 11A of the Code of Miami-Dade County to provide for the regulation of gas station retailers to ensure that persons with disabilities are provided equal access in refueling their vehicles,

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

Section 1. Section 11A-19 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

Sec. 11A-19. Unlawful public accommodations practices.

It shall be an unlawful practice for any person to engage in any of the following acts because of the race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status or sexual orientation of any individual or of any person associated with that individual:

* * *

>>(5) To fail or refuse to prominently display a sign, decal or sticker, as described above; or

(6) To fail to ensure the telephone number indicated on the sign, decal or sticker is operational and answered by an employee of the gas station retailer during hours the gas station retailer is open for business to the public; or

(7) To fail to provide refueling assistance to any motor vehicle properly displaying an exemption parking permit as provided in Sections 316.1958 or 320.0848, Florida Statutes, as may be amended, or a license plate issued pursuant to Sections 320.084, 320.0842, 320.0843 or 320.0845, Florida Statutes, as may be amended, when the person to whom such permit has been issued is the operator of the vehicle and such service is requested during the hours the gas station retailer is open to the public unless there is only one attendant on duty at the time of the request; or

(8) Failure of a Respondent alleged to have violated this Section 11A-19(5), (6) or (7), and who fails to abide by any provision of a Conciliation Agreement entered into by such Respondent. If Respondent fails to abide by more than one provision of a Conciliation Agreement, each such failure shall be a separate violation of this Section.<<

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.

Section 2. Section 11A-20 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 11A-20. Places of public accommodation.

Places of public accommodations shall mean any establishment, service, place or building which offers, sells or otherwise makes available to the public any good service, facility, privilege or advantage. Each of the following establishments which services the public is a place of public accommodation within the meaning of this article:

* * *

>>(n) Gas station retailers. For purposes of this article, "gas station retailer" shall mean any full service gasoline station; or any self-service gasoline station that has two or more attendants on duty at any given time during the hours the station is open for business to the public.

(o) A gasoline station. For purposes of this article, "gas station" shall mean that portion of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed, approved dispensing equipment into fuel tanks of motor vehicles by any person.<<

Section 3. Article III of the Code of Miami-Dade County, Florida is hereby created to read as follows:

>>Sec. 11A-20.1. Accessibility Requirements.

(1) Within ninety (90) days of enactment of this Ordinance, all gas station retailers shall be required to prominently display a sign, decal or sticker, no smaller than fifteen (15) square inches, on the front of all gasoline pumps clearly stating the telephone number for that gas station retailer, the international symbol of accessibility (ISA), and wording such as "Call for Assistance" or "Assistance Available upon Request," in substantially the form pictured below. The sign, decal or sticker must also be on a blue background. The telephone number indicated on the sign decal or sticker shall be operational and answered directly by an

employee of the gas station retailer is open for business to the public.



(2) The gas station retailer shall require an attendant to provide refueling assistance to any motor vehicle properly displaying an exemption parking permit as provided in Sections 316.1958 or 320.0848, Florida Statutes, as may be amended, or a license plate issued pursuant to Sections 320.084, 320.0842, 320.0843, or 320.0845, Florida Statutes, as may be amended, when the person to whom such permit has been issued is the operator of the vehicle and such service is requested during the hours the gas station retailer is open for business to the public.

(3) However, should such assistance be requested during times when a second attendant is not present at a self-service gasoline station, the gas station retailer is not required to provide the requested assistance. In such case, if a remote or electronic means of communication with the requester exists, the one attendant on duty shall inform the person that he or she is unable to provide such assistance as a result of having only one attendant on duty.

Sec. 11A-20.2. Penalties

Section 11A-19 (5)-(8) shall be enforceable in accordance with the provisions of Chapter 8CC of this code. Violations of Section 11A-19 (5)-(8) shall also be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the county court. Pursuant to Section 11A-23 and as described more fully therein, within fifteen (15) days after receipt of the Director's finding related to probable cause in the case of the respondent or no probable cause in the case of the complainant either party may submit a written request for a hearing to contest the Director's findings. Upon a determination by the Director pursuant to Section 11A-23 or the Commission pursuant to Section 11A-5 of the Code that any respondent has committed an unlawful act or engages in a continuing violation of

Section 11A-19 (5)-(8), and said respondent refuses to comply with or obey the final order of the Commission or Director, the Commission or the Director on behalf of the County or the complainant may petition the court of competent jurisdiction for enforcement of the final order.<<

Section 4. 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>
>> <u>11A-19</u>	<u>Failure to comply with Chapter 11A, Article III, Section 11A-19 (5)-(8) of the Code of Miami-Dade County</u>	<u>\$500.00<<</u>
*	*	*

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 the enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: July 3, 2012

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Shanika A. Graves

Prime Sponsor:

Commissioner Barbara J. Jordan

Co-Sponsors:

Commissioner Lynda Bell

Commissioner Esteban L. Bovo, Jr.

Commissioner Jose "Pepe" Diaz

Vice Chairwoman Audrey M. Edmonson

Commissioner Sally A. Heyman