

MEMORANDUM

Agenda Item No. 7(A)

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

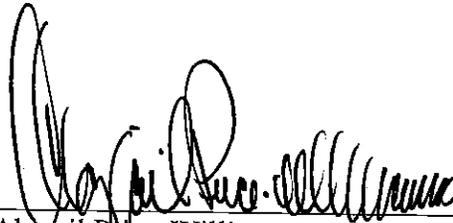
DATE: (Second Reading 2-17-16)
December 1, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance creating amnesty
period; creating a limited
exception from civil penalties
and liens for code violations
relating to auto repair shop
businesses upon an owner's
compliance with the Code

Ordinance No. 16-24

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



Abigail Price-Williams
County Attorney

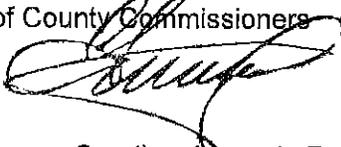
APW/smm

Memorandum

MIAMI-DADE
COUNTY

Date: February 17, 2016

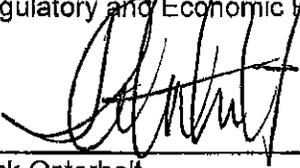
To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Fiscal Impact for Ordinance Creating Amnesty Period and Limited Exception from Civil Penalties and Liens for Code Violations Related to Auto Repair Shop Businesses

The proposed ordinance creates a limited exception from civil penalties and liens for code violations relating to auto repair shop businesses upon compliance with the Code of Miami-Dade County. Specifically, it establishes an amnesty period of 18 months from the effective date of this ordinance for auto repair businesses conducting operations out doors in the front of the property, in violation of the Code. Exemption from penalties is contingent on the property owner correcting all Zoning and Building Code violations and paying all enforcement costs during the 18 month amnesty period.

Currently, the Neighborhood Enforcement Unit (Unit) maintains 56 active enforcement cases for auto repairs being conducted outside enclosed buildings. This is a very small percentage of the Unit's overall enforcement activities. Furthermore, since the exemption from civil penalties is conditional to correction of the violation within the amnesty period and the County is allowed to recuperate direct enforcement costs, adoption of the proposed ordinance should not have a fiscal impact on the Department of Regulatory and Economic Resources.



Jack Osterholt
Deputy Mayor

Fis01916 152654

Memorandum



Date: February 17, 2016

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

From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Statement for Ordinance Creating Amnesty Period and Limited Exception from Civil Penalties and Lies for Code Violations Related to Auto Repair Shop Businesses

The proposed ordinance creates a limited exception from civil penalties and liens for code violations relating to auto repair shop businesses upon compliance with the Code of Miami-Dade County.

The current Code requires certain businesses, such as auto repair shops, to be in enclosed buildings to minimize potential compatibility issues; however, many auto repair shops perform work outside to move vehicles and to ensure for proper ventilation. The proposed ordinance establishes an amnesty period of 18 months from the effective date of this ordinance for auto repair businesses conducting operations out doors in the front of the property, in violation of the Code. Exemption from penalties is contingent on the property owner correcting all Zoning and Building Code violations and paying all enforcement costs during the 18-month amnesty period.

This proposed ordinance will specifically benefit auto repair shop businesses that are currently not in compliance with the Code; however, any violation of the Building or Zoning Code must be addressed within the 18-month amnesty period. Any auto repair shop business that does not seek to remedy a Building or Zoning Code violation during the amnesty period will not be eligible for an exception of civil penalties and liens for such code violations.



Jack Osterholt
Deputy Mayor

152654



MEMORANDUM

(Revised)

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

DATE: February 17, 2016

FROM: Abigail Price-Williams
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 ____, 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)
2-17-16

ORDINANCE NO. 16-24

ORDINANCE CREATING AMNESTY PERIOD; CREATING A LIMITED EXCEPTION FROM CIVIL PENALTIES AND LIENS FOR CODE VIOLATIONS RELATING TO AUTO REPAIR SHOP BUSINESSES UPON AN OWNER'S COMPLIANCE WITH THE CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, auto repair businesses are unique in that the nature of the work performed requires access to open air for proper ventilation and the frequent movement of cars in and out of doors; and

WHEREAS, accordingly, some auto repair businesses are conducting operations out of doors in the front of the property, in violation of the County Code, while other such businesses are properly following the requirements of the Code; and

WHEREAS, this Board recognizes that many auto repair shops are small businesses and that strict application of the County's system of fines and penalties relating to Code violations may work a hardship upon them; and

WHEREAS, this Board wishes to encourage compliance with the County Code while being mindful of the potential hardship on small business owners; and

WHEREAS, to accomplish these purposes, this Board wishes to create a limited exception from civil penalties and liens resulting from Code violations for auto repair businesses that are conducting operations out of doors in the front of the property, in the manner more particularly set forth below,

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

Section 1. Upon application of an owner of property on which an auto repair business is operated, the County shall waive any and all civil penalties related to the enforcement of the Building Code and Zoning Code in connection with operations that are being conducted out of doors in the front of the property, and all liens related to such civil penalties, provided the owner satisfies each of the following conditions:

- (a) Where there is a structure in violation of the Building Code, a permit must be applied for and issued to bring the structure into compliance with the Building Code within the Amnesty Period as defined in this ordinance; and
- (b) Where a structure is in violation of the Building Code, the structure is brought into compliance with the Building Code within the period provided in the Code for completion of the work under the permit obtained within the Amnesty Period; and
- (c) Where there is a use in violation of the Zoning Code, the use must be brought into compliance with the Zoning Code within the Amnesty Period as defined in this ordinance; and
- (d) All direct costs incurred by the County in connection with prior enforcement of the non-compliant structure or use, as documented by the relevant department, shall be satisfied in full.

For purposes of this ordinance, an owner shall be understood as the person with direct and beneficial ownership of the affected property, but shall not include a financial institution which has acquired it through foreclosure.

Section 2. The Amnesty Period shall commence on the effective date of this ordinance and end 18 months thereafter. This ordinance shall not apply in the event that the County has commenced a civil action to collect on the civil penalties or to foreclose a lien. This ordinance shall not serve as a defense against any such action or against any enforcement action brought by the County.

Section 3. The Mayor or designee is hereby directed to implement the necessary procedures and to develop the necessary documents to give effect to the intent of this ordinance.

Section 4. 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 5. It is the intention of this Board, and it is hereby ordained that the provisions of this ordinance, shall be excluded from the Code of Miami-Dade County.

Section 6. This ordinance shall become effective 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 17, 2016

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:

James Eddie Kirtley

Prime Sponsor: Commissioner Rebeca Sosa