

MEMORANDUM

Agenda Item No. 7(D)

TO:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	DATE:	(Second Reading: 2-1-22) November 2, 2021
FROM:	Geri Bonzon-Keenan County Attorney	SUBJECT:	Ordinance relating to animals; deleting section 5-16 of the Code; repealing regulations relating to peafowl

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


Geri Bonzon-Keenan
County Attorney

GBK/jp

Memorandum



Date: February 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Fiscal Impact Statement for Ordinance Repealing Regulations Relating to Peafowl – File No. 212531

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, appearing to read "Morris Copeland".


Morris Copeland
Chief Community Services Officer

Memorandum



Date: February 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Repealing Regulations Relating to Peafowl –
File No. 212531

The proposed ordinance repeals Section 5-2 of the Code of Miami-Dade County relating to peafowl by striking the section below. This ordinance is anticipated to provide a social benefit because it will give property owners the discretion to manage peafowl which sometimes cause property damage in the same way other nuisance animals are managed.

The ordinance states that “take” is a term of art defined by the FWC as “taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater fish, or their nests or eggs by any means whether or not such actions result in obtaining possession of such wildlife or freshwater fish or their nests or eggs”. Many cities in Miami-Dade have established bird sanctuaries which prohibit the hunting of birds. There could be a social impact from potential abuses of peafowl in attempts to remove them from a property.



Morris Copeland
Chief Community Services Officer



MEMORANDUM (Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: February 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(D)

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(D)
2-1-22

ORDINANCE NO. _____

ORDINANCE RELATING TO ANIMALS; DELETING
SECTION 5-16 OF THE CODE OF MIAMI-DADE COUNTY,
FLORIDA; REPEALING REGULATIONS RELATING TO
PEAFOWL; PROVIDING SEVERABILITY, INCLUSION IN
THE CODE, AND AN EFFECTIVE DATE

WHEREAS, peafowl, more commonly known as peacocks or peahens, are a non-native, invasive species that has inhabited the streets and natural areas of Miami-Dade County for years, and their population only continues to grow; and

WHEREAS, peafowl are a nuisance to residents and businesses in Miami-Dade County, destroying landscaping, damaging property, and emitting loud noises, all of which negatively impact the quality of life and economy of the County; and

WHEREAS, regulations promulgated by the Florida Fish and Wildlife Conservation Commission (“FWC”) codified at rule 68A-9.010, Florida Administrative Code, allow property owners to “take” peafowl and other nuisance wildlife on their property under certain circumstances; and

WHEREAS, “take” is a term of art defined by the FWC as “taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater fish, or their nests or eggs by any means whether or not such actions result in obtaining possession of such wildlife or freshwater fish or their nests or eggs”; and

WHEREAS, despite this allowance under state law, section 5-16 of the Code of Miami-Dade County, Florida, originally adopted in September 2001 in Ordinance No. 01-132, makes it unlawful for any person to take any peafowl, except when (i) done on property zoned for agricultural use and used for a bona fide agricultural purpose or (ii) a property owner removes peafowl from his or her own property in a manner that does not physically injure the peafowl; and

WHEREAS, even when a property owner removes peafowl from his or her property in a manner that does not physically injure the peafowl, FWC regulations do not allow the property owner to release the peafowl back into the wild because peafowl are non-native, and therefore the property owner's only choices under the FWC regulations are to euthanize the peafowl or relocate it to a place of captivity; and

WHEREAS, in July 2016, this Board adopted Resolution No. R-671-16, directing the County Mayor to investigate potential receiving facilities for the relocation of nuisance peafowl removed by the Animal Services Department at the request of property owners; and

WHEREAS, after thorough investigation, the County was unable to identify any receiving facilities that would accept peafowl; and

WHEREAS, section 5-16 of the Code limits the options that property owners would otherwise have under FWC regulations to deal with peafowl, leaving residents and business owners severely restrained from combatting a detrimental nuisance; and

WHEREAS, despite its good intentions, section 5-16 of the Code has not allowed County communities to live in harmony with peafowl; and

WHEREAS, because peafowl are an invasive, non-native species that poses a serious nuisance to the County, this Board finds it proper to repeal section 5-16 so that private property owners can make their own decisions about how to best deal with peafowl on their property,

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

Section 1. The foregoing recitals are approved and incorporated herein.

Section 2. Section 5-16 of the Code of Miami-Dade County, Florida, is hereby repealed in its entirety as follows:¹

~~[[Sec. 5-16. Taking of peafowl prohibited.~~

- ~~(a) It shall be unlawful for any person to take any peafowl.~~
- ~~(b) As used in this section, "take" means taking, attempting to take, hunting, molesting, capturing, or killing any peafowl, their nests or eggs, by any means, whether or not such actions result in obtaining possession of peafowl or their nests or eggs.~~
- ~~(c) Exceptions.~~
 - ~~(1) The prohibitions of this section shall not apply on property zoned for agricultural use and used for a bona fide agricultural purpose.~~
 - ~~(2) Nothing in this section shall prevent a property owner from removing peafowl from his or her own property in a manner that does not physically injure the peafowl.]]~~

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.

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 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:

Approved by County Attorney as
to form and legal sufficiency:

GKS for GBK
CJW

Prepared by:

Christopher J. Wahl

Prime Sponsor: Commissioner Raquel A. Regalado