

MEMORANDUM

PRSC

Agenda Item No. 1(G)1

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: September 10, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to boats and waterways in the incorporated and unincorporated areas; amending article III of chapter 7 of the Code; renaming the Dade County Vessel Mooring Code; adopting regulations pertaining to vessels and floating structures; clarifying applicability; providing definitions; revising declaration of legislative intent; restricting the overnight anchoring or mooring of vessels and floating structures under certain circumstances; prohibiting the roping or cordoning off of areas in the vicinity of vessels and floating structures under certain circumstances; providing exemptions; revising provisions relating to enforcement; revising the process for taking action to remedy violations relating to vessels and floating structures declared to be public nuisances; providing for enforcement by civil penalty; amending section 8CC-10; updating schedule of civil penalties to conform to amendments; making technical changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kevin Marino Cabrera and Co-Sponsor Senator René García.


Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001

Memorandum



Date: September 10, 2024

To: Honorable Chairman Oliver G. Gilbert III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Regulations Pertaining to Vessels and Floating Structures

Amending of the ordinance will not have a fiscal impact on Miami-Dade County when conducting routine patrol functions. However, if special enforcement initiatives are requested or required, each special operation (2 officers, 6 hours OT each) would cost approximately \$1,201.77. If the operations are requested/required continuously (3 operations per week), the cost increases to an estimated \$3,605 each week, or a total of \$187,476 annually.

A handwritten signature in blue ink, appearing to be "James Reyes".

James Reyes
Chief of Public Safety

Memorandum



Date: September 10, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Danielle Levine Cava
Mayor

A handwritten signature in blue ink that reads "Danielle Levine Cava".

Subject: Social Equity Statement for Ordinance Related to Boats and Waterways in the Incorporated and Unincorporated Areas; Amending Article III of Chapter 7 of the Code; Adopting Regulations Pertaining to Vessels and Floating Structures

The proposed Ordinance seeks to amend the Dade County Vessel Mooring Code that regulates the mooring of vessels on Biscayne Bay (the Bay), the Miami River, and their tributaries. Specifically, the proposed Ordinance seeks to enact and enforce regulations related to the unsafe practice of overnight anchoring and mooring of vessels and floating structures in locations other than marinas, mooring fields, and docks. This unsafe practice may impede other boaters' use and enjoyment of the Bay, create navigational hazards, and impose other environmental impacts. The proposed Ordinance also seeks to regulate the roping and cordoning off of areas in the vicinity of vessels and floating structures that may also impede other boaters' use and enjoyment of the Bay and create navigational hazards.

Miami-Dade County (County) has seen a recent increase in resident and visitor boating activities in County waters. Specifically, there has been a rise in commercial boating operations on County waters, including the rental of vessels, the chartering of boats, and the sale of alcohol, food, and other merchandise from vessels and floating structures. While such boating activities enhance the cultural life and economy of the County, such activities must be conducted in a manner that ensures public safety and protects the environment.

The proposed Ordinance creates a social benefit for boaters by creating a safer environment by regulating unsafe mooring and anchoring practices on County waterways. There is also a social benefit for the environment because these safer practices decrease the likelihood that parts of vessels or floating structures will become dislodged creating a hazard on the waters and polluting the waters. Moreover, excessive mooring and anchoring by recreational boaters may disturb wildlife in the area. The prohibition will help deter illegal commercial activities that create community disturbances and environmental impacts from unlicensed businesses mooring for long stretches. The proposed Ordinance may create a social burden for commercial boaters whose business may be impacted by the restrictions related to overnight anchoring and mooring.

A handwritten signature in blue ink, appearing to be "James Reyes".

James Reyes
Chief of Public Safety




MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: November 7, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 4(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
- ☐ 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. 4(C)
11-7-23

ORDINANCE NO. _____

ORDINANCE RELATING TO BOATS AND WATERWAYS IN THE INCORPORATED AND UNINCORPORATED AREAS; AMENDING ARTICLE III OF CHAPTER 7 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; RENAMING THE DADE COUNTY VESSEL MOORING CODE; ADOPTING REGULATIONS PERTAINING TO VESSELS AND FLOATING STRUCTURES; CLARIFYING APPLICABILITY; PROVIDING DEFINITIONS; REVISING DECLARATION OF LEGISLATIVE INTENT; RESTRICTING THE OVERNIGHT ANCHORING OR MOORING OF VESSELS AND FLOATING STRUCTURES UNDER CERTAIN CIRCUMSTANCES; PROHIBITING THE ROPING OR CORDONING OFF OF AREAS IN THE VICINITY OF VESSELS AND FLOATING STRUCTURES UNDER CERTAIN CIRCUMSTANCES; PROVIDING EXEMPTIONS; REVISING PROVISIONS RELATING TO ENFORCEMENT; REVISING THE PROCESS FOR TAKING ACTION TO REMEDY VIOLATIONS RELATING TO VESSELS AND FLOATING STRUCTURES DECLARED TO BE PUBLIC NUISANCES; PROVIDING FOR ENFORCEMENT BY CIVIL PENALTY; AMENDING SECTION 8CC-10; UPDATING SCHEDULE OF CIVIL PENALTIES TO CONFORM TO AMENDMENTS; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, although for many years residents and visitors have enjoyed boating activities in the waters of Miami-Dade County, in recent years such activities have increased substantially; and

WHEREAS, there has been a particular increase in commercial operations on the water, including the rental of vessels, the chartering of boats, and the sale of alcohol, food, and other merchandise from vessels and floating structures; and

WHEREAS, while boating activities enhance the cultural life and economy of Miami-Dade County, such activities must be conducted in a manner that protects public safety and the environment; and

WHEREAS, chapter 327 of the Florida Statutes includes regulations designed to promote vessel safety on waters of the State of Florida; and

WHEREAS, section 327.60 expressly authorizes local governments to enact or enforce regulations that prohibit or restrict within their respective jurisdictions the mooring or anchoring of floating structures, live-aboard vessels, or commercial vessels, excluding commercial fishing vessels; and

WHEREAS, chapter 7 of the Code of Miami-Dade County, Florida (the “County Code”), has various regulations pertaining to boats, docks, and waterways; and

WHEREAS, the Dade County Vessel Mooring Code, codified as article III of chapter 7 (the “Mooring Code”), regulates the mooring of vessels on Biscayne Bay (the “Bay”), the Miami River, and their tributaries in Miami-Dade County, in both the incorporated and unincorporated areas of the County; and

WHEREAS, the overnight anchoring and mooring of commercial vessels and floating structures in locations other than marinas, mooring fields, and docks may impede other boaters’ use and enjoyment of the Bay, create navigational hazards, and impose environmental impacts; and

WHEREAS, the roping and cordoning off of areas in the vicinity of vessels and floating structures may likewise impede other boaters’ use and enjoyment of the Bay and create navigational hazards; and

WHEREAS, this Board wishes to amend the Mooring Code to address these issues; and

WHEREAS, this Board also wishes to provide for more robust enforcement of the Mooring Code, including enforcement by civil penalties under chapter 8CC of the County Code; and

WHEREAS, this Board finds it appropriate to rename the “Dade County Vessel Mooring Code” as the “Miami-Dade County Mooring and Anchoring Code” and to make certain technical changes; and

WHEREAS, the County’s Comprehensive Development Master Plan (“CDMP”) has various policies relating to coastal management and recreation; and

WHEREAS, one of the purposes of this ordinance is to implement the following CDMP policies:

- Objective CM-1, to “[p]rotect, conserve and enhance coastal wetlands and living marine resources in Miami-Dade County”;
- Objective CM-4, which requires the County to “continue to work in cooperation with other appropriate agencies to increase the acreage, restoration and enhancement of publically owned benthic, coastal wetland and coastal hammock habitat”;
- Policy CM-6D, providing that “[n]o . . . placement of structures in or over coastal or estuarine waters shall be permitted to diminish water surface areas that have been traditionally and intensively used by the general public for activities such as fishing, swimming, and boating”;
- Policy CM-6E, providing that “[o]nly those floating or fixed structures which are water dependent and are allowable under all State and local laws shall be permitted in, on, over or upon coastal or estuarine waters”; and

- Policy ROS-3D, which provides that, “[t]hrough its park and recreation programs and all other available means, Miami-Dade County shall preserve and protect beaches and shores, water views and maximize public ownership of these coastal resources”; and

WHEREAS, the Board therefore enacts this ordinance to implement part II of chapter 163 of the Florida Statutes, which requires local governments to adopt regulations to implement their comprehensive plans,

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. Article III of Chapter 7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

ARTICLE III. – ~~[[DADE]]~~>>MIAMI-DADE<< COUNTY ~~[[VESSEL]]~~ MOORING >>AND ANCHORING<< CODE

DIVISION 1. - IN GENERAL

Sec. 7-31. - Short title; >>applicability<< definitions~~[[; scope]]~~.

>>(a) Title.<< This article shall be known as the "~~[[Dade]]~~>>Miami-Dade<< County ~~[[Vessel]]~~ Mooring >>and Anchoring<< Code>>.<<" ~~[[and]]~~

>>(b) Applicability.

(1) This article<< shall apply to the entire Biscayne Bay, Miami River>>.<< and their tributaries in ~~[[Dade]]~~>>Miami-Dade<< County, Florida, whether within or without the limits of municipalities.

~~[[The word "vessels" as used herein includes all~~

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.

~~craft, boats, ships, barges, and floating structures.]]~~

>>(2) This section shall apply to both the incorporated and unincorporated areas and shall be subject to enforcement by the County pursuant to section 1-5, chapter 8CC, and other applicable law.

(i) It is provided, however, that municipal law enforcement officers may enforce the provisions of this article within the boundaries of the applicable municipality.

(ii) It is further provided that this article shall not be construed to limit municipalities from adopting and enforcing stricter standards.

(3)<< The standards for the mooring of vessels provided herein shall not ~~[[pertain to emergencies, or]]~~ >>be enforced<< during periods of hurricane watch and hurricane warning as designated by the >>National Weather Service or its successor<< ~~[[United States Weather Bureau and a three-day period after the said hurricane watch or warning]]~~.

>>(4) This article creates definitions, regulations, and restrictions related to the mooring and anchoring of vessels and floating structures, consistent with and pursuant to certain definitions and allowances in the Florida Statutes.

(i) The definitions, regulations, and restrictions in this article apply to this article only and shall not be deemed to apply to or affect other provisions of this code or other County regulations, unless otherwise expressly specified therein.

(ii) The regulations and restrictions in this article are expressly intended to be supplemental to any other regulations and restrictions that may be contained in other provisions of this code or other County regulations, including but not limited to, chapters 21, 24, 26, and 33 of this code and the County's Manatee Protection Plan.

(iii) Compliance with the provisions of this article shall not be interpreted or otherwise construed to deem any use or action to be lawfully permitted pursuant to any other

applicable regulations.

(c) Definitions. For purposes of this article only, the following definitions shall apply:

(1) Anchoring or to anchor means the act of temporarily securing a vessel or floating structure in the water by means of an anchor or similar device and associated tackle that is carried on the vessel or floating structure and cast or dropped overboard.

(2) Commercial vessel means a vessel used as a place of business or a professional or other commercial enterprise.

(3) Floating structure means, for purposes of this article, a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property.

(i) The term includes, but is not limited to, an entity used as: a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or similar facility or entity represented as such.

(ii) Floating structures are hereby expressly excluded from the definition of the term “vessel” as defined in this article.

(iii) Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a floating structure.

(iv) Registration of the entity as a vessel in accordance with chapter 328, Florida Statutes, shall not preclude an entity from classification as a floating structure pursuant to this chapter or any other applicable rule or regulation.

(4) Mooring or to moor means the act of securing a vessel or floating structure in the water by means other than anchoring, and includes but is not limited to tying a vessel or floating structure to a permanent

or semi-permanent mooring system affixed to the bottom of the water body, to a wharf or dock, or to a bank, bulkhead, seawall, tree, piling, cleat, bollard, building, rock, or other structure on the bank.

(5) Sunrise shall mean the sunrise time per the National Weather Service or its successor.

(6) Sunset shall mean the sunset time per the National Weather Service or its successor.

(7) Vessel shall be synonymous with “boat” as referenced in section 1(b), article VII of the Florida Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.<<

Sec. 7-32. – Declaration of legislative intent.

>>(a)<< The Board finds and determines that the insecure and improper mooring >>and anchoring<< of vessels >>and floating structures<< in Biscayne Bay, the Miami River>>.<< and their tributaries increases the danger of grounding and breaking loose of the said vessels >>and floating structures<< and thereby endangers navigation, life and property; that insecurely and improperly moored >>or anchored<< vessels >>and floating structures<< have broken loose in the past and damaged bridges, structures, and other valuable property; that scrap and derelict vessels occupy areas which could be developed as berths for economically active and attractive vessels; that scrap and derelict vessels moored or sunk in the Biscayne Bay, Miami River>>.<< and their tributaries are unsightly, a danger to navigation, and a detriment to tourism and to property values; that the infestation of rats and the breeding of mosquitoes on derelict vessels moored upon Biscayne Bay, the Miami River>>.<< and their tributaries constitute dangers to public health[~~[-and]]~~>>.<< that derelict or sunken vessels often constitute attractive nuisances that endanger the lives and safety of children>>.<< that the overnight anchoring or mooring of commercial vessels and floating structures in locations other than marinas, mooring fields, and docks may impede other boaters’ use and enjoyment of County waters, create navigational hazards,

and impose environmental impacts; and that the roping or cordoning off of areas in the vicinity of vessels and floating structures may likewise impede other boaters' use and enjoyment of County waters and create navigational hazards<<.

>>(b)<< The Board hereby declares its intention that the provisions of this article are not intended and should not be construed as in any way superseding or attempting to conflict with applicable statutes, ordinances, rules>>.<< or regulations of the federal government or of the State of Florida but are intended to supplement any such enactments or provisions. ~~[[However, this Code shall serve as a minimum standard for all municipalities within Dade County regarding the subject matter herein.]]~~

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Sec. 7-40. - Penalties for violation of article provisions.

>>(a) Responsible party shall mean, for purposes of this article, any<< ~~[[Any]]~~ person >>or legal entity: who owns, has a legal, beneficial, or equitable interest in, or has<< ~~[[having]]~~ control of a vessel >>or floating structure that is<< in violation of the terms of this article, or ~~[[owning or controlling]]~~ the land to which such a vessel >>or floating structure<< is moored >>or anchored, or both:<<[[;]] or who causes or permits such a vessel >>or floating structure<< to violate any provision of this article>>.<< or who permits a vessel >>or floating structure<< offending against the terms of this article to be moored >>or anchored<< to his land[[;]]>>.

(b) Whenever a violation of this article occurs or exists, each responsible party shall be jointly and severally liable for said violation regardless of fault and regardless of knowledge of the violation.

(1) This provision shall be construed to impose joint and several liability, regardless of fault and regardless of knowledge of the violation, upon all persons, individually or otherwise, who, although said persons may no longer have any such legal, beneficial, or equitable interest in said vessel or floating structure or land, did have such an interest at any time during which such violation existed or

occurred or continued to exist or to occur.

- (2) This provision shall be liberally construed to protect the public health, safety, and welfare and to accomplish the purposes of this article.

- (c) Each violation of these provisions constitutes a separate offense, as does each day during any portion of which a violation occurs.

- (d) A responsible party<< shall be >>subject to the remedies and penalties provided in section 1-5 and chapter 8CC of this code.<< [[guilty of a violation of this article and upon conviction therefor shall be punished by a fine not to exceed two hundred fifty dollars (\$250.00) or imprisonment in the County Jail not to exceed thirty (30) days or by both such fine and imprisonment, in the discretion of the court of appropriate jurisdiction. Prosecutions for the violation of this article shall only be in the court of appropriate jurisdiction. It shall, however, be the duty of all municipal police officers within the boundaries of Dade County as well as the duty of the police officers of Dade County to enforce the penal provisions of this article.]]

>>Sec. 7-41. – Additional restrictions on vessels and floating structures.

- (a) Overnight anchoring or mooring.

- (1) From the period of sunset until sunrise, all commercial vessels and floating structures shall be anchored or moored:
- (i) at a permitted, authorized, or otherwise lawful public or private marina; or
 - (ii) within a permitted, authorized, or otherwise lawful mooring field in accordance with applicable law; or
 - (iii) at a permitted, authorized, or otherwise lawful public or private dock with permission of the property owner and which dock is associated with upland property zoned to allow commercial activity and not zoned residential, as determined by the director as defined in section 33-1 or the municipal equivalent.

(2) Exemptions. The following shall be exempt from this subsection:

- (i) A vessel or floating structure owned or operated by a federal, state, county, or municipal agency engaged in a governmental function.
- (ii) Dredges, draglines, or similar instruments for the duration of a permitted or authorized construction project, including when in actual transit or mobilization between permitted or authorized construction projects.
 - a. Notwithstanding the foregoing exemption, such instruments shall be presumed to be in violation of this subsection if the operator of such instrument has been provided written notice of the violation and has failed to provide to the enforcing entity, within two business days of such notice, a copy of the applicable permits or authorizations.
 - b. The responsible party may thereafter rebut the presumption of violation with proof establishing that the instrument qualifies for this exemption.
 - c. The foregoing provisions shall not be construed to require that written notice or an opportunity to cure be provided prior to enforcement action being taken.
- (iii) Commercial fishing vessels.
- (iv) A barge in compliance with article IV of this chapter.
- (v) Vessels and floating structures berthed at the Dante B. Fascell Port of Miami-Dade, also known as PortMiami, in accordance with all applicable laws.

(b) Roping or cordoning off prohibited.

(1) Vessels and floating structures shall be prohibited from roping or cordoning off any area surrounding, or otherwise in the vicinity of, a vessel or floating structure, or otherwise limiting the area that the public may freely access. This prohibition shall not include the area immediately underneath the vessel or floating structure itself.

(2) Exemptions. The following shall be exempt from this subsection:

(i) A vessel or floating structure owned or operated by a federal, state, county, or municipal agency engaged in a governmental function.

(ii) A construction or dredging vessel on an active job site for the duration of a permitted or authorized construction project.

a. Notwithstanding the foregoing exemption, such vessels shall be presumed to be in violation of this subsection if the operator of such vessel has been provided written notice of the violation and has failed to provide to the enforcing entity, within two business days of such notice, a copy of the applicable permits or authorizations.

b. The responsible party may thereafter rebut the presumption of violation with proof establishing that the vessel qualifies for this exemption.

c. The foregoing provisions shall not be construed to require that written notice or an opportunity to cure be provided prior to enforcement action being taken.

(iii) A barge in compliance with article IV of this chapter.

(iv) Vessels and floating structures berthed at the

Dante B. Fascell Port of Miami-Dade, also known as PortMiami, in accordance with all applicable laws.<<

Secs. ~~[[7-41]]>>7-42<<—7-44. - Reserved.~~

DIVISION 2. – VESSELS >>AND FLOATING STRUCTURES<< CONSTITUTING NUISANCES

Sec. 7-45. - Offending vessels >>and floating structures<< declared nuisances.

Vessels >>and floating structures<< in violation of Sections 7-33 through 7-37 >>or section 7-41<< of this article are hereby declared to endanger public health, safety>>>><< and welfare and to be public nuisances.

Sec. 7-46. - Notice.

>>(a)<< If the County ~~[[Manager]]~~ >>Mayor or County Mayor's designee<< finds and determines that a vessel >>or floating structure constitutes<< ~~[[constituting]]~~ a public nuisance >>and<< is moored to>>, anchored adjacent to,<< or located upon land abutting Biscayne Bay, the Miami River>>,<< or their tributaries >>or over submerged lands located within said waters<<, ~~[[he]]~~ >>the County Mayor or County Mayor's designee<< shall so notify >>the following persons or entities in writing, with a demand that such condition be remedied within five days of service, or such other time that the Mayor or Mayor's designee deems appropriate to address the violation (hereinafter, the "remedial period"):<< the record owner of the offending vessel >>or floating structure<< or >>such owner's<< ~~[[his]]~~ lawful agent>>;<< and the record owner of the said abutting land, >>if applicable;<< or only the latter if the record owner of the offending vessel >>or floating structure<< or his lawful agent cannot be ascertained~~[[, in writing and demand that such owners cause the condition to be remedied]]~~.

>>(b) Failure to provide a notice required under this section shall not affect the validity of any other enforcement action authorized under this code.

(c) A notice required by this section<< [[The notices]] shall be [[given]] >>served as follows:<<

>>(i) By<< ~~[[by]]~~ registered mail, addressed to the owner or owners of the property described, as their names and addresses are known to the ~~[[Manager]]~~>>Mayor or Mayor's designee<< or are shown upon the records of the County Property Appraiser or the public records of ~~[[Dade]]~~>>Miami-Dade<< County, Florida, and >>which<< shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid~~[[.]]~~>>; or<<

>>(ii)<< ~~[[In the event that such notices are returned by postal authorities the Manager shall cause a copy of the notices to be served]]~~>>By personal service<< by a law enforcement officer >>or code inspector; or<< ~~[[upon the owner of the offending vessel or his lawful agent and upon the occupant of the land, the owner, or upon any agent of the owner thereof.]]~~

>>(iii)<< In the event that personal service ~~[[upon the owner of the offending vessel or his lawful agent or upon the occupant of the land, the owner, or upon any agent of the owner thereof]]~~ cannot be performed after reasonable search by a law enforcement officer>> or code inspector,<< ~~[[the notices shall be accomplished]]~~ by physical posting on the ~~[[said]]~~ >>applicable<< property.

>>(d)<< The notices shall be in substantially the following form:

NOTICE OF PUBLIC NUISANCE
(VESSEL>>/FLOATING STRUCTURE<< _____)

Name of Owner of Vessel>>/Floating Structure<< or his Lawful Agent

Address of Owner of Vessel>>/Floating Structure<< or his Lawful Agent

Our records indicate that you are the owner(s) or lawful agent of the owner of the following vessel>>/floating structure<< in ~~[[Dade]]~~ >>Miami-Dade<< County, Florida:

(describe vessel>>/floating structure<<)

An inspection of this vessel>>/floating structure<< and its surrounds discloses, and I have found and determined, that a public nuisance exists thereon so as to constitute a violation of the [[Dade]] >>Miami-Dade<< County [[Vessel]] Mooring >>and Anchoring<< Code in that:

(describe here the condition >>or conditions<< which place[[s]] the vessel >>or floating structure<< in violation)

You are hereby notified that unless the condition above described is remedied so as to make it nonviolative of the [[Dade]] >>Miami-Dade<< County [[Vessel]] Mooring >>and Anchoring<< Code [[within twenty (20) days from the date hereof]] >>by (insert here the last day of the remedial period)<<, [[Dade]] >>Miami-Dade<< County will proceed to remedy this condition and the cost of the work, including advertising costs and other expenses, will be imposed as a lien on the vessel>>/floating structure<< if not otherwise paid within >>30<< [[thirty (30)]] days after receipt of billing.

[[DADE]] >>MIAMI-DADE<< COUNTY, FLORIDA
By: _____
County [[Manager]]>>Mayor or County Mayor's designee<<

NOTICE OF PUBLIC NUISANCE
(VESSEL>>/FLOATING STRUCTURE<< _____)

Name of Owner of Land or his Lawful Agent

Address of Owner of Land or his Lawful Agent

Our records indicate that you are the owner(s) or lawful agent of the owner of the following land in [[Dade]] >>Miami-Dade<< County, Florida:

(describe property)

An inspection of this land discloses, and I have found and determined, that a public nuisance exists thereon so as to constitute a violation of the ~~[[Dade]]~~ >>Miami-Dade<< County ~~[[Vessel]]~~ Mooring >>and Anchoring<< Code in that:

(describe here the condition which places the property in violation)

You are hereby notified that unless the condition above described is remedied so as to make it nonviolative of the ~~[[Dade]]~~ >>Miami-Dade<< County ~~[[Vessel]]~~ Mooring >>and Anchoring<< Code ~~[[within twenty (20) days from the date hereof]]~~ >>by (insert here the last day of the remedial period)<<, ~~[[Dade]]~~ >>Miami-Dade<< County will proceed to remedy this condition and the cost of the work, including advertising costs and other expenses, will be imposed as a lien on the land if not otherwise paid within thirty (30) days after receipt of billing.

[[DADE]] >>MIAMI-DADE<< COUNTY, FLORIDA
By: _____
County [[Manager]] >>Mayor or County Mayor's designee<<

Sec. 7-47. - Hearing.

~~[[Within twenty (20) days after the mailing of notice to him, the owner of the vessel may make written request to the Board of County Commissioners for a hearing before that body to show that the condition alleged in the notice does not exist or that such condition does not constitute a public nuisance. At the hearing the County and the vessel owner may introduce such evidence as is deemed necessary.]]~~

>>(a)<< Within >>20<< ~~[[twenty (20)]]~~ days after ~~[[the mailing of notice to him]]~~ >>service of the notice required by section 7-46<<, the ~~[[owner of the land]]~~ >>person or entity who was served the notice<< may make written request to the Board of County Commissioners for a hearing before that body to show:

- (1) That the condition alleged in the notice does not exist,
- (2) That such condition does not constitute a public nuisance, or
- (3) ~~[[That]]~~ >> In the case of a land owner, that << the vessel >> or floating structure << moored >> or anchored << beside or tangential to the owner's land was >> located << ~~[[moored or positioned]]~~ there without the said land owner's consent, and that the said land owner receives no rental or other similar benefit from the owner of the vessel >> or floating structure << or his agent.

>>(b)<< At >>a<< ~~[[the]]~~ hearing >> pursuant to this section, << the County and the >> appellant << ~~[[land owner]]~~ may introduce such evidence as ~~[[is deemed]]~~ >> the Board of County Commissioners deems << necessary.

Sec. 7-48. - Condition may be remedied by County.

>>(a)<< If ~~[[within twenty (20) days after the mailing or posting of the notices]]~~ >> by the last day of the remedial period <<, no hearing has been requested and the condition described in the notice has not been remedied, the County ~~[[Manager shall]]~~ >> Mayor or County Mayor's designee may << cause the condition to be remedied by ~~[[Dade]]~~ >> Miami-Dade << County at the expense of either >> the owner of the << vessel >> or floating structure << ~~[[owner]]~~ or the land owner or both of these property owners, jointly or severally.

>>(b)<< If a hearing >> pursuant to section 7-47 << has been held and has been concluded adversely to either or both of these property owners, the County ~~[[Manager]]~~ >> Mayor or County Mayor's designee << may cause the condition to be remedied by ~~[[Dade]]~~ >> Miami-Dade << County at the expense of either or both of these property owners unless the Commission directs otherwise.

>>(c)<< Actions taken by the County ~~[[Manager]]~~ >> Mayor or County Mayor's designee << to remedy the said condition may include but are not limited to pumping out vessels >> or floating structures <<, providing lines for vessels >> or floating structures <<, installing cleats, bitts, bollards >>, << or pilings adequate to keep vessels >> or floating structures << securely moored, and removing and destroying

vessels >>or floating structures<< abandoned or left in a derelict condition and having only nominal or junk value. Persons designated by the ~~[[Manager]]~~ >>Mayor or Mayor's designee<< to remedy the said conditions are hereby expressly authorized to enter upon the said property described in the notices set out in Section 7-46 above.

>>(d)<< Upon ordering a condition to be remedied by the County, the County ~~[[Manager]]~~ >>Mayor or County Mayor's designee<< shall cause to be recorded in the public records a notice of vessel >>or floating structure<< mooring lien pending, which shall include a description of the vessel >>or floating structure<< and land involved and a statement that the mooring of a vessel >>or floating structure<< or its destruction in accordance with this article has been ordered, the cost of which shall under this article constitute a lien. The said notice of vessel >>or floating structure<< mooring lien pending shall, >>12<< ~~[[twelve (12)]]~~ months after the date thereof>>.<< be null and void and constitute no record notice of a pending lien.

>>(e)<< After remedying the nuisance, the County ~~[[Manager]]~~ >>Mayor or County Mayor's designee<< shall certify to the Director of Finance the expenses incurred in effecting the proper vessel >>or floating structure<< mooring or destruction, and shall include a copy of the notice described in the preceding sentence, whereupon such expense shall become payable within >>30<< ~~[[thirty (30)]]~~ days, after which a special assessment lien and charge will be made upon the vessel >>or floating structure<< or land or both, together with costs of recordation of all documents required to be recorded hereby and with interest at the rate of six ~~[[6]]~~ percent per annum from the date of such certification until paid; provided however, that the said lien may be satisfied at any time by the payment of the entire sum due plus accrued interest, recordation costs, and such expenses and penalties as may result from the advertisement and sale of certificates for delinquent liens as hereinafter set out.

>>(f)<< The Director of Finance shall file for record a notice of lien pertaining to such lien in the office of the Clerk of the Circuit Court, and shall keep complete records relating to the amount payable thereon. The amount of liens accruing during any year ending on June first shall be billed and mailed in the fall of the same year to the owners of the vessel

>>or floating structure<<, the land, or both of these properties subject to such liens at the same time as tax statements for ad valorem taxes are mailed, and if the said amount shall not be paid on or before April first of the following year, the lien shall be delinquent, overdue, and in default, and the entire amount of the lien shall be collected in the same manner as delinquent taxes by advertisement and sale of certificates.

>>(g)<< Upon full payments of liens provided hereby or sale certificates resulting therefrom, the Director of Finance >>or his or her successor<< shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the public records.

>>(h)<< The cost of recordation of the notice of vessel >>or floating structure<< mooring lien pending, the notice of lien, and the satisfaction of lien shall be secured by the lien hereby provided.

Sec. 7-49. - Right of action to collect costs.

If the costs of remedying the condition constituting a nuisance>>, including but not limited to costs of removal, towing, and impounding and administrative costs,<< shall not be paid when due and payable, as provided in Section 7-48, the said land owner or owners and also the owner or owners of the offending vessel >>or floating structure<< constituting a nuisance shall be liable to ~~[[Dade]]~~ >>Miami-Dade<< County for the said costs and ~~[[Dade]]~~ >>Miami-Dade<< County shall have a right of civil action against either the said land owners or said vessel >>or floating structure<< owners or against both of them. This remedy shall be cumulative and in addition to other remedies elsewhere provided.

Secs. 7-50—7-54. - Reserved.

Section 3. 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.

The “descriptions of violations” below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed sections of this code, except to the extent that different types of violations of the same section may carry different civil penalties. For each section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this chapter, regardless of whether all activities proscribed or required within that particular section are described in the “Description of Violation” column. To determine the exact nature of any activity proscribed or required by this, the relevant section must be examined.

Code Section	Description of Violation	Civil Penalty
* * *		
7-37	Abandonment of vessel	100.00
>>7-41	<u>Any violation of section 7-41</u>	
	<u>First offense</u>	<u>500.00</u>
	<u>Second offense within five years</u>	<u>1,000.00</u>
	<u>Third or subsequent offense within five years</u>	<u>2,500.00</u> <<
* * *		

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 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 6. 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

Prepared by:

CJW

Christopher J. Wahl

Prime Sponsor: Commissioner Kevin Marino Cabrera
Co-Sponsor: Senator René García