

MEMORANDUM

Agenda Item No. 7(D)

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

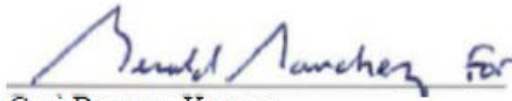
DATE: (Second Reading 6-2-21)
April 20, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to animals;
amending section 5-2 of the
Code; providing for the recovery
of certain costs when the County
seizes or otherwise obtains
control of an animal in
connection with a person's
violation of section 5-4 of the
Code; providing enforcement
remedies; making technical and
clarifying changes

Ordinance No. 21-45

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsors Commissioner Kionne L. McGhee and Commissioner Raquel A. Regalado.


Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: June 2, 2021

To: Honorable Chairman Jose "Pepe" Diaz
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 Animals; Amending Section 5-2 of the Code

This ordinance will have a positive fiscal impact to the County. However, given the case-by-case nature of these violations, it is difficult to determine an amount at this time as the costs associated with each violation will differ depending on the care required for the animal and ultimately the individual's ability to pay.

A handwritten signature in blue ink that reads "Morris Copeland".

Morris Copeland
Chief Operations Officer

FIS03021 210837

Memorandum



Date: June 2, 2021

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

From: Daniella Levine Cava
Mayor 

Subject: Social Equity Statement for Ordinance Amending Section 5-2 of the Code of Miami-Dade, File #210837

The proposed ordinance amending Section 5-2 of the Code of Miami-Dade County provides for recovery of certain costs when the County seizes or otherwise obtains custody of an animal in connection with a person's violation of Section 5-4 of the Code.

The proposed ordinance will benefit the community by financially supporting ongoing animal welfare efforts in cases involving victims of animal cruelty, which may be closely linked to child neglect, elder abuse, and domestic violence. Additionally, the ordinance aligns with the County's No-Kill mission by supporting the extended care that abused and neglected animals may require.



Morris Copeland
Chief Community Services Officer



MEMORANDUM

(Revised)

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

DATE: June 2, 2021

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)
6-2-21

ORDINANCE NO. 21-45

ORDINANCE RELATING TO ANIMALS; AMENDING SECTION 5-2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR THE RECOVERY OF CERTAIN COSTS WHEN THE COUNTY SEIZES OR OTHERWISE OBTAINS CONTROL OF AN ANIMAL IN CONNECTION WITH A PERSON'S VIOLATION OF SECTION 5-4 OF THE CODE; PROVIDING ENFORCEMENT REMEDIES; MAKING TECHNICAL AND CLARIFYING CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board is committed to the protection and care of animals, which are a vulnerable population and often must rely on the compassion of people for survival; and

WHEREAS, this Board has adopted numerous ordinances, codified in chapter 5 of the Code of Miami-Dade County (the "Code"), to advance animal welfare; and

WHEREAS, section 5-4 prohibits animal cruelty, identifies actions and inactions that are deemed to constitute animal cruelty, and authorizes the County to take enforcement actions against those who have committed acts of animal cruelty; and

WHEREAS, section 5-2 authorizes the County's Animal Services Department to enforce chapter 5 through various means, including the issuance of administrative civil penalties under chapter 8CC of the Code and the filing of lawsuits to seek judicially imposed civil penalties, injunctions, equitable relief, and other judicial remedies; and

WHEREAS, section 5-2(g) further subjects named violators to liability for the County's damages and costs in undertaking enforcement actions; and

WHEREAS, in protecting animal welfare, the County often must use legal means to seize or otherwise obtain legal custody of animals that have been subjected to cruelty; and

WHEREAS, once the County obtains custody or control of cruelly treated animals, the County must care for them; and

WHEREAS, in addition to basic food and shelter, cruelly treated animals often need veterinary care, including medications, testing, emergency surgeries, sterilizations, and other rehabilitative care; and

WHEREAS, although the County and others who provide support to the County in these proceedings, including private veterinarians and animal rescue organizations, often bear the costs of providing the necessary care, those costs are more properly borne by the persons responsible for the acts of animal cruelty; and

WHEREAS, section 828.073, Florida Statutes, which authorizes the County to file a court petition to seek legal custody of animals found in distress, provides a mechanism for the County to obtain costs of caring for the animals that the County has incurred up until the time the court issues a final order; and

WHEREAS, the County does not utilize the statutory court process in every enforcement action involving animal cruelty, such as where the animal is voluntarily surrendered to the County during the enforcement process and thus judicial intervention pursuant to the statute is not necessary or appropriate; and

WHEREAS, in cases where the animal is voluntarily surrendered to the County during the enforcement process, the abused animals still require care and medical attention, leaving the County and its partners without remedy to recoup those expenses; and

WHEREAS, similarly, in cases where the County utilizes the statutory court process to obtain custody of an animal and recover costs incurred in caring for the animal, the County may continue to incur expenses to rehabilitate the animal after the court enters a final order, leaving the County and its partners without remedy to recoup those expenses; and

WHEREAS, to promote animal welfare, protect the County budget, and hold animal abusers financially responsible for the consequences of their misdeeds, this Board wishes to make named violators responsible for the County's costs in providing veterinary and rehabilitative care when, in enforcing section 5-4, whether in court or an administrative proceeding under chapter 8CC, the County receives custody or control of an animal that has been subjected to animal cruelty; and

WHEREAS, the purpose of this ordinance is to allow the County to recover costs that the County has not recovered under section 828.073; and

WHEREAS, overpopulation of domestic animals that lack homes is a problem in Miami-Dade County, and it is therefore a responsible pet ownership practice to sterilize pets; and

WHEREAS, to help reduce overpopulation of animals in Miami-Dade County, this Board also wishes to include, among the costs recoverable under this ordinance, the costs of sterilizing a cruelly treated animal, if the animal was found intact,

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 5-2 of the Code of Miami-Dade County, Florida, is hereby amended

to read as follows:¹

Sec. 5-2. – Enforcement.

* * *

- (g) Any person who violates a provision of this chapter or any lawful rule, regulation, or written order promulgated under this chapter is subject to >>the following:
- (1) Such person is subject to<< injunction or other equitable relief to enforce compliance with or prohibit the violation of this chapter.
- >>(2) Such<< ~~[[Further, such]]~~ person is liable for any damage to Miami-Dade County caused by such violation, and for the reasonable costs and expenses incurred by Miami-Dade County in enforcing the provisions of this chapter, including but not limited to the costs of enforcement inspections, preparation of enforcement reports, attorney's fees, photographs, title searches, postage, and other demonstrable administrative costs for enforcement and collection.
- >>(3) If Miami-Dade County seizes or otherwise obtains control of an animal in connection with a person's violation of section 5-4, such person shall also be liable for:
- (A) any costs, including emergency surgeries and other veterinary or rehabilitative care, incurred in rehabilitating the animal from the action or inaction that violated section 5-4, which costs the County has not recovered against such person in a proceeding under section 828.073, Florida Statutes; and
- (B) the costs of sterilizing the animal, if the animal was found intact.
- (4)<< All such sums >>incurred as damages or costs pursuant to this subsection (g)<< shall become immediately due and payable upon expenditure by the County and shall become delinquent if not paid within >>30<< ~~[[thirty (30)]]~~ days after >>the named

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.

violator's<< receipt ~~[[by the violator]]~~ of the Department's bill itemizing the >>damages and other<< ~~[[enforcement]]~~ costs incurred in enforcing the provisions of this chapter (the "due date").

>>(A)<< All such delinquent sums shall bear interest at the rate of >>12<< ~~[[twelve (12)]]~~ percent per annum.

>>(B) Notwithstanding any other provision to the contrary, all such sums may be included among the costs and expenses incurred as a result of investigation, enforcement, testing, or monitoring that the County may impose pursuant to chapter 8CC.

(C) The Department is authorized to enforce the payment of all such sums in a proceeding under chapter 8CC or by instituting an action in a court of competent jurisdiction.<<

*

*

*

>>(n) Nothing in this section shall be construed to limit or require any other remedies authorized by section 1-5 or chapter 8CC to enforce the provisions of this code. It is further provided that all remedies set forth in this code and in this section are independent and cumulative.<<

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.

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:

June 2, 2021

Approved by County Attorney as
to form and legal sufficiency:

GKS for GBK

Prepared by:

CJW

Christopher J. Wahl
Sabrina Levin

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsors: Commissioner Kionne L. McGhee
Commissioner Raquel A. Regalado