

MEMORANDUM

Amended
Agenda Item No. 7(B)

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

DATE: January 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to signs in
the public right-of-way in the
incorporated and unincorporated
areas; amending article XIV of
chapter 2 of the Code; permitting
digital signs on newsracks to the
extent permitted by state law
subject to certain conditions;
making technical changes

Ordinance No. 22-5

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



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: January 19, 2022

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

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink, reading "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Permitting Digital Signs on News Racks
in the Public Right-of-Way in the Incorporated and Unincorporated Areas

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County as the proposed changes will not require additional staffing resources nor generate any significant revenue for the Department of Transportation and Public Works.

A handwritten signature in blue ink, reading "Jimmy Morales".

Jimmy Morales
Chief Operations Officer

Date: January 19, 2022

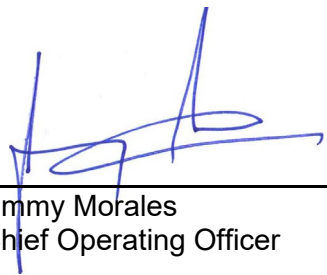
To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance relating to Permitting Digital Signs on
Newsracks in the Public Right-of-Way in the Incorporated and Unincorporated
areas

This Ordinance allows for Permitting of Digital Signs on newsracks in the Public Right-of-Way in both incorporated and unincorporated areas, and further allows municipalities to authorize such installations where the municipalities exercise jurisdiction.

The objective is an effort to promote public health, safety, and welfare by providing information and/or advertising while ensuring the regulation of placement, type, appearance, servicing, and ensuring that newsracks in the public right-of-way comply with a set criterion for safety, convenience, and aesthetics.



Jimmy Morales
Chief Operating Officer



MEMORANDUM (Revised)

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

DATE: January 19, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Amended
Agenda Item No. 7(B)

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 _____	Amended Agenda Item No. 7(B)
Veto _____		1-19-22
Override _____		

ORDINANCE NO. O-22-5

ORDINANCE RELATING TO SIGNS IN THE PUBLIC RIGHT-OF-WAY IN THE INCORPORATED AND UNINCORPORATED AREAS; AMENDING ARTICLE XIV OF CHAPTER 2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PERMITTING DIGITAL SIGNS ON NEWSRACKS TO THE EXTENT PERMITTED BY STATE LAW SUBJECT TO CERTAIN CONDITIONS; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, among the articles, and signage thereon, authorized for installation within public road rights-of-way are modular news racks; and

WHEREAS, section 2-103.17 of the Code of Miami-Dade County regulates the placement of news racks in public road rights-of-way, subject to review by the Department of Transportation and Public Works; and

WHEREAS, in Ordinance No. 18-103, this Board authorized the installation of digital kiosk signs on private property and at bus shelters and bus passenger benches, subject to certain conditions set forth in section 33-107 of the County Code; and

WHEREAS, the County’s kiosk regulations apply to the incorporated and unincorporated areas; and

WHEREAS, this Board wishes to allow digital kiosks to be installed with newsracks, provided that any such installation is permitted by both State and Federal law, and to further allow municipalities to authorize such installations where the municipalities exercise jurisdiction,

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

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

Section 2. Article XIV of Chapter 2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

ARTICLE XIV. - PUBLIC WORKS DEPARTMENT

* * *

Sec. 2-103.14. - Definition of sign appertaining to Section 2-103.15.

"Signs" means any combination of structure and message in the form of an outdoor sign, display device, figure, painting, drawing, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol, or other form, whether placed individually or on a V-type, back-to-back, side-to-side, stacked, or doubled-faced display, designed, intended, or used to advertise or inform. The term does not include an official traffic control sign, official marker, entrance feature or specific information panel erected, caused to be erected, or approved by the Director of the Public Works Department. The term does not include signs approved by Miami-Dade County prior to >>September 11, 1987<< ~~[[the effective date of this Ordinance Number 87-56]]~~.

Sec. 2-103.15. - Signs in public right-of-way; prohibition.

- (a) >>Permit required<< No person shall erect any sign~~[[, as described above [Section 2-103.14],]]~~ within the right-of-way limits of any >>County-owned right-of-way, except as provided in this code<< ~~[[County-maintained road within the unincorporated areas of Miami Dade County or any County maintained road within the municipal limits of any municipality in Miami Dade County]]~~.

* * *

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.

- (c) >>Director's authority to require removal.<< The Director of the Public Works Department has the authority to direct removal of any sign in violation of paragraph (a) as provided herein:

(1) If a sign is located on or within ~~[[the]]~~ >>a County-owned<< right-of-way ~~[[of a County maintained road]]~~ in violation of paragraph (a) the Director shall have the authority to remove and dispose of the sign.

* * *

- (f) >>Signs on bus benches and transit shelters. Notwithstanding any provisions of this article to the contrary, signs may be installed at or on<< ~~[[The provisions of paragraph (a) above do not apply to]]~~ bus benches or >>bus or<< transit shelters~~[[, or advertising on bus benches and transit shelters,]]~~ on >>County-owned rights-of-way in accordance with article XII of chapter 21<< ~~[[the right-of-way of any County road, which bus benches or transit shelters have been erected for the comfort or convenience of the general public, provided written authorization has been secured from Miami-Dade County pursuant to Chapter 21, Article XII (Public and Bus Passenger Benches and Shelters)]]~~ ~~[[Code of Miami-Dade County, Florida]]~~.

- (g) >>Signs on waste receptacles. Notwithstanding any provisions of this article to the contrary, signs may be permitted<< ~~[[The provisions of paragraph (a) above do not apply to advertising placed]]~~ upon waste disposal receptacles of less than >>110<< ~~[[one hundred ten (110)]]~~ gallons in capacity erected or placed on >>County-owned rights-of-way<< ~~[[the right-of-way of any County road]]~~, provided written authorization has been secured from the Director ~~[[of the Public Works Department]]~~ >>and provided that any digital illumination complies with the regulations set forth in sections 33-96 and 33-107 applicable to kiosk signs<<.

- (h) >>Homeless Trust donation meters. Notwithstanding any provisions of this article to the contrary,<< ~~[[The provisions of paragraph (a) above do not apply to]]~~ the Miami-Dade County program that solicits and collects donations for the County's homeless programs >>may install<< ~~[[by and through]]~~ County owned and operated Homeless Trust donation meters; provided, however, written authorization for the number, location and placement of the Homeless Trust donation meters has first been secured from the Director ~~[[of the Public Works Department]]~~.

* * *

>>(j) Newsracks in the incorporated and unincorporated areas. Notwithstanding any provisions of this article to the contrary, kiosk signs may be permitted on newsracks in accordance with the following:

(1) Digital illumination, orientation, and maximum height of sign structure shall comply with the regulations set forth in sections 33-96 and with the following:

(i) Each kiosk shall be oriented to serve pedestrians and not be oriented to serve vehicles.

(ii) Kiosks shall not interfere with pedestrian or vehicular visibility or traffic flow.

(iii) The kiosk structure may contain wi-fi or other equipment that is housed above or below the sign face in a compartment that screens the equipment from view, provided that the entire kiosk structure does not exceed 11 feet in height.

(2) No more than one kiosk sign containing digital illumination in the right-of-way shall be permitted on each block.

(3) Newsracks within unincorporated areas shall comply with section 2-103.17.

(4) Newsracks within incorporated areas may be permitted by the applicable municipality on County-owned and municipal rights of way where authorized by the applicable municipality.

(i) It is provided, however, that for County-owned rights of way, a newsrack may not be installed or maintained unless it is approved by the Department for compliance with paragraphs (1) and (2) above, subject to the provisions of this paragraph (4), paragraphs (1), (2), (3), (7), and (9) of subsection 2-103.17(b), and paragraph (6) of subsection 2-103.17(e) below, as well as the Florida Green Book and other applicable regulations.

(ii) It is further provided that, notwithstanding any other provision to the contrary, the applicable municipality may approve less strict standards than those provided in section 33-96(c)(6)(ii) for interactive kiosk sign faces along public roads with a speed limit

that does not exceed 40 miles per hour,
provided that the kiosk sign otherwise
complies with all other provisions of section
33-96.<<

* * *

Sec. 2-103.17. - Newsracks in the public right of way.

- (a) Definitions. For purposes of this section:
- (1) ~~[[Department shall mean the Department of Public Works.~~
 - (2) ~~Director shall mean the Director or designee of the Department of Public Works.~~
 - (3)]] *Modular newsrack* means a newsrack, as defined herein below, that is designed with multiple separate enclosed compartments and/or to accommodate at any one time the display, sale and distribution of multiple distinct and separate newspapers or other publications and is subject to all of the provisions of this section as a newsrack.
- >>(2)<<[[~~(4)~~]] *Newsrack* shall mean any type of unmanned device for the vending or free distribution of newspapers, news periodicals or advertising publications.
- >>(3)<<[[~~(5)~~]] *Public right-of-way* shall mean >>County-owned<< rights-of-way in the unincorporated area of Miami-Dade County.
- >>(4)<<[[~~(6)~~]] *Publisher* shall mean the person, individual, partnership, corporation, association, firm, company, organization or any other legal entity owning or responsible for placing or maintaining a newsrack in a public right-of-way.
- (b) *Purpose and criteria for the placement of newsracks in the public right-of-way.* The purpose of the following is to promote the public health, safety and welfare through the regulation of placement, type, appearance, servicing, and ensuring that newsracks in the public right-of-way comply with the following criteria:
- (1) Provide for safety and convenience of pedestrians, bicyclists, and drivers.
 - (2) Avoid unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress into or egress from a residence or place of business or from the street to the sidewalk by persons exiting or entering parked or standing vehicles.

- (3) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, and mailboxes and access to locations used for public transportation purposes.
- (4) Provide for consistency with the aesthetics of the surrounding area by: eliminating, relocating, or replacing newsracks which result in a visual blight; avoiding excessive concentration of newsracks on the public rights-of-way; and eliminating newsracks which unreasonably detract from the aesthetics of adjacent store window display, landscaping or other improvements.
- (5) Facilitate the removal of abandoned newsracks.
- (6) Maintain and protect the values of surrounding properties.
- (7) Eliminate and avoid unnecessary injury to persons or property damage.
- (8) Maintain and preserve freedom of the press and treat all newspapers equally regardless of their size, content, circulation, or frequency of publication.
- >>(9) Where the newsrack includes a sign containing digital illumination:
 - (i) the sign shall be installed as close as practicable to the source of electricity to minimize cutting in and other disruptions to the right-of-way;
 - (ii) the owner of the newsrack and, if owned separately, the owner of the sign (collectively for purposes of this paragraph (9), the “owner”) shall indemnify, defend, and save harmless the County from any damage, cost, or expense arising in any manner from its exercise of the privileges granted by the permit required by this section, and shall agree to remove said newsrack and sign forthwith if the permit is revoked or not renewed;
 - (iii) the owner shall carry such insurance and submit evidence of such insurance to the Department as may be required by the Department to insure against injuries caused by electricity used to power the sign or other damage or liability related to the location or operation of the sign;

- (iv) the permit required by this section shall be renewed annually to ensure compliance with the indemnification and insurance requirements of this paragraph (9); and
- (v) the permit required by this section may be revoked by the County at will or the County may elect not to renew said permit, in which event:
 - 1. the owner shall repair and restore the right-of-way to its preexisting condition; and
 - 2. such revocation or non-renewal shall not give rise to any monetary damages or injunctive relief against the County.<<

(c) *Permit required; expiration of existing permits and procedures to preserve locations.*

- (1) Unless otherwise authorized by law, no Publisher shall place, install, or maintain any newsracks in the public right-of-way>>, including any signage thereon,<< without first having obtained a permit from the Department in accordance with the provisions of this section.

* * *

(e) *Newsrack placement: permitted locations and specific prohibitions.*

* * *

>>(6) Newsracks with signs containing digital illumination shall only be installed on paved areas and on right-of-way adjacent to property that meets one of the following:

- (i) the property is both: located along a major roadway, as designated on the Land Use Plan Map of the County's Comprehensive Development Master Plan; and has a zoning district of BU-1A, BU-2, BU-3, IU, or the municipal equivalent, or is zoned or designated as an airport or seaport; or

- (ii) the property is designated MC, MCS, MM, or MCI on the land use regulating plan of an urban center or urban area district, or the municipal equivalent, but is not developed solely with residential uses; or
- (iii) the property is developed as a pedestrian-oriented development, as defined in section 33E-8, that is not in an urban center or urban area district; or
- (iv) the property is in the RTZ District, as defined in section 33C-3.<<

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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:

January 19, 2022

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:

Abbie Schwaderer-Raurell
Dennis A. Kerbel
Annery Pulgar Alfonso

Prime Sponsor: Commissioner Keon Hardemon