

MEMORANDUM

Agenda Item No. 5(F)

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

DATE: (Public Hearing 10-18-22)
October 6, 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 section 2-103.15 of the Code; authorizing issuance of permits for wrapping, painting, or finishing of traffic control devices and utility appurtenances with art or other noncommercial signage, subject to certain conditions

Ordinance No. 22-136

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime, and Co-Sponsors Commissioner Sally A. Heyman and Senator Javier D. Souto.



Geri Bonzon-Keenan
County Attorney

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MEMORANDUM

(Revised)

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

DATE: October 18, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(F)

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. 5(F)
10-18-22

ORDINANCE NO. 22-136

ORDINANCE RELATING TO SIGNS IN THE PUBLIC RIGHT-OF-WAY IN THE INCORPORATED AND UNINCORPORATED AREAS; AMENDING SECTION 2-103.15 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING ISSUANCE OF PERMITS FOR WRAPPING, PAINTING, OR FINISHING OF TRAFFIC CONTROL DEVICES AND UTILITY APPURTENANCES WITH ART OR OTHER NONCOMMERCIAL SIGNAGE, SUBJECT TO CERTAIN CONDITIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County owns, operates, and maintains public rights-of-way within its jurisdiction as governmental property for the benefit of the public; and

WHEREAS, as part of that authority, and consistent with applicable provisions of the Florida Statutes such as section 337.408, Florida Statutes, the County strictly regulates the articles and signage that are permitted within public rights-of-way; and

WHEREAS, pursuant to section 2-95.1 of the Code of Miami-Dade County, Florida (the “County Code”), the County’s Department of Transportation and Public Works (“DTPW”) is responsible for planning, installing, operating, and maintaining traffic control devices, which may be installed on public rights-of-way; and

WHEREAS, pursuant to section 337.401, Florida Statutes, utility appurtenances and other utility facilities are authorized to be installed in public road rights-of-way; and

WHEREAS, pursuant to section 2-100 of the County Code, the DTPW Director is responsible for promulgating a public works manual, which includes regulations of traffic control devices, utility appurtenances, and other equipment that are authorized to be installed in public road rights-of-way; and

WHEREAS, such equipment in the public rights-of-way can become unsightly and is also frequently the target of graffiti vandalism; and

WHEREAS, the County's public works manual requires utility appurtenances and other equipment to be protected against graffiti vandalism through the use of graffiti-resistant paint or finishes; and

WHEREAS, the County Code and the public works manual restrict the installation of commercial advertising in the public rights-of-way, except where authorized, consistent with state law, on bus benches, transit shelters, waste receptacles, and newsracks; and

WHEREAS, this Board wishes to allow, as a form of government speech subject to DTPW's review and approval, utility appurtenances on County-owned property and traffic control devices, which are under the County's exclusive ownership or jurisdiction, to be beautified and made graffiti resistant through the use of noncommercial, artistic and decorative wraps, paints, or finishes, while maintaining consistency with existing restrictions on commercial signage on public rights-of-way; and

WHEREAS, this Board also wishes to delegate to the DTPW Director the authority to approve such wraps, paints, or finishes on traffic control devices in both the unincorporated and incorporated areas,

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. Section 2-103.15 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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

- (a) *Permit required.* No person shall erect any sign within the right-of-way limits of any County-owned right-of-way, except as provided in this code.

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>>(k) *Decoration of utility appurtenances and traffic control devices.* Notwithstanding any provisions to the contrary, the Director may issue a permit to authorize the painting, wrapping, or finishing (collectively referred to as a “decoration”) of (i) utility appurtenances on County-owned rights of way, or (ii) traffic control devices, which are by definition both owned by the County and under the County’s exclusive jurisdiction pursuant to section 2-95.1, in accordance with the following:

- (1) The decoration shall be for the purpose of beautification, including, without limitation, preventing graffiti vandalism on such structures.
- (2) The decoration may include art but shall contain only noncommercial messages.
- (3) Products and materials applied to traffic control devices shall comply with section 316.0745, Florida Statutes (Uniform Signals and Devices), shall conform to standards and specifications of the Department, and shall be approved by the Florida Department of Transportation (FDOT) in addition to the requirements of this subsection.
- (4) The decoration shall not be installed without the Director’s prior written approval, and any such approval shall retain the County’s authority to control the content of the decoration.
- (5) The permittee shall be responsible for maintaining the decoration free of deterioration and graffiti vandalism and for replacing any decoration that has been damaged or vandalized or has deteriorated.
- (6) The decoration shall comply with all applicable laws, including, but not limited to, state and federal laws.

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.

- (7) The Director may deny or revoke any permit for and require the removal of, or initiate appropriate legal action to prevent or remove, a decoration that violates this section or any condition of such permit. Furthermore, any permit issued pursuant to this section shall require the decoration to be removed upon the request of the Director, at the expense of the permittee.
- (8) Permits shall be subject to payment of a permit review fee established by implementing order approved by the Board of County Commissioners.<<

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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.

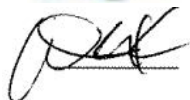
Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered 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:

October 18, 2022

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Annerly Pulgar Alfonso
Dennis A. Kerbel

Prime Sponsor: Commissioner Jean Monestime
Co-Sponsors: Commissioner Sally A. Heyman
Senator Javier D. Souto