

MEMORANDUM

Agenda Item No. 7(B)


TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

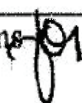
DATE: (Second Reading 8-31-20)
August 31, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to emergency
management; amending section
8B-7 of the Code; requiring the
County Mayor to provide certain
orders to the Board of County
Commissioners prior to their
effective date; making technical
changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez, Co-Sponsors Chairwoman Audrey M. Edmonson and Commissioner Sally A. Heyman.



Abigail Price-Williams
County Attorney 

APW/smm

Memorandum



Date: August 31 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Fiscal Impact Statement for Ordinance Relating to Emergency Management; Amending
Section 8B-7 of the Code of Miami-Dade County

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

A handwritten signature in black ink, appearing to read "Jennifer Moon".

Jennifer Moon
Deputy Mayor


FIS5320 201116

Memorandum



Date: August 31, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Statement for Ordinance Relating to Emergency Management and Notices
to the Board of County Commissioners

This ordinance amends Section 8B-7 of the Miami-Dade County Code to make technical changes updating references to the County Manager to read County Mayor and creates a subsection by which no Emergency Order issued shall be of legal force and effect unless, no less than 24 hours prior to the effective date of the order, the County Mayor provides a copy of such order to the Board of County Commissioners (Board) and also electronically publishes such order.

The authority to issue Emergency Orders is granted to the County Mayor in order to provide timely and appropriate responses to ensure the safety, health and well-being of the residents of Miami-Dade County. While certain situations such as hurricanes provide enough time to prepare and allow the Mayor to provide Emergency Orders with a delay in implementation, other emergencies require an immediate response. Requiring that Emergency Orders be, in essence, delayed by 24 hours would drastically hinder this County's response to emergencies. Emergency Orders allow the County Mayor to, among other things, issue Countywide curfews, close establishments, suspend administrative rules and greatly expand the flexibility of law enforcement and regulatory agencies across the County to enforce any applicable laws or ordinances. While I agree that notifying the Board and the public of issued Emergency Orders as quickly as possible is paramount, including a delay is, by no means, in the best interest of this County and would negatively impact our community. As the municipal government of 43 percent of Miami-Dade County's population, it would be unfortunate if municipalities, not bound by the restrictions of this Ordinance, were to protect their residents in a manner that is more timely and expeditious than that of the County.

Our County will always remain at the ready to respond to situations and events as they may arise, but this Ordinance will severely limit the actions and rules that may be implemented during emergencies.



Jennifer Moon
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: August 31, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: 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
Veto _____
Override _____

Agenda Item No. 7(B)
8-31-20

ORDINANCE NO. _____

ORDINANCE RELATING TO EMERGENCY MANAGEMENT;
AMENDING SECTION 8B-7 OF THE CODE OF MIAMI-DADE
COUNTY, FLORIDA; REQUIRING THE COUNTY MAYOR TO
PROVIDE CERTAIN ORDERS TO THE BOARD OF COUNTY
COMMISSIONERS PRIOR TO THEIR EFFECTIVE DATE;
MAKING TECHNICAL CHANGES; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE, AND AN
EFFECTIVE DATE

WHEREAS, the Board of County Commissioners is the entity which sets policy for Miami-Dade County; and

WHEREAS, recognizing that there is a need in an emergency to speak with one voice and to have a clear chain of command, the Board has delegated to the County Mayor the authority to issue emergency orders which have the force of law once a state of emergency is declared; and

WHEREAS, notwithstanding this delegation, the Board retains legislative authority over emergency matters and may terminate a state of emergency, set policy with respect to an emergency, or negate or modify an emergency order previously issued by the County Mayor; and

WHEREAS, the Board cannot provide timely feedback or oversight of the County Mayor's use of delegated powers if the Board is not timely informed of the issuance of emergency orders; and

WHEREAS, the Board recognizes that the ability to provide feedback or conduct oversight during a hurricane, riot, or other emergency of limited duration may not be feasible,

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

Section 1. Section 8B-7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 8B-7. Duties of the County >>Mayor<< ~~[[Manager]]~~.

The ~~[[Manager]]~~ >>Mayor<< shall be responsible for the overall emergency management function in Miami-Dade County, and keep ~~[[the Mayor and]]~~ the Board advised of any actions.

- (1) The ~~[[Manager]]~~ >>Mayor<< may mobilize any or all functional parts of Miami-Dade County government, take special actions and put in place all appropriate regulations that will protect the lives and property of the citizens of Miami-Dade County.
- (2) Once a Local State of Emergency has been declared, the ~~[[Manager]]~~ >>Mayor<< is authorized by ~~[[the Mayor and]]~~ the Board to order any or all of the following actions:
 - (a) Employee Recall Order: An order recalling Miami-Dade County employees from vacation, canceling days off, and mobilizing all personnel required for disaster response;
 - (b) Authorize the Department of Procurement to suspend normal leasing and bid procedures to procure space, structures or other items under their normal authority for disaster response determined necessary;
 - (c) Authorize procurement of supplies, equipment, and services without formal bidding procedures;

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.

- (d) Evacuation Order: A mandatory order(s) directing the evacuation of appropriate area(s) of Miami-Dade County deemed to be in imminent danger from disaster;
- (e) Curfew: In the period before, or during and immediately after an event, an order imposing a general curfew applicable to Miami-Dade County as a whole, or to geographical area(s) of Miami-Dade County and during hours the >>County Mayor<< [~~Manager~~] deems necessary, and from time to time, to modify the hours the curfew will be in effect and what area(s) it applies to;
- (f) An order requiring any or all commercial establishments located in area(s) of imminent or actual danger to close and remain closed until further order;
- (g) An order requiring the closure of any or all bars, taverns, liquor stores, and other business establishments where alcoholic beverages are predominantly sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sales of alcoholic beverages, and in which such alcoholic beverages may be removed or made secure from seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, at the discretion of the Manager, be allowed to remain open;
- (h) An order requiring the discontinuance of the sale, distribution or giving away of alcoholic beverages in any or all parts of Miami-Dade County;
- (i) An order requiring the closure of any or all establishments where firearms and/or ammunition are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of firearms and/or ammunition, and in which such firearms or ammunition may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than firearms and

ammunition may, at the discretion of the Manager, be allowed to remain open; all local ordinances, administrative regulations and rules in the field of firearms and ammunition, with limited exceptions set forth in § 790.33, as amended.

- (j) An order requiring the discontinuance of the sale, distribution or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly attached to a gas powered vehicle;
- (k) An order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas and public buildings;
- (l) In addition to the provisions of section 8A-5 of the Code of Miami-Dade County, orders to prevent price gouging for any essential commodity, dwelling unit, or storage facility;
- (m) Orders requesting the conservation of water supplies;
- (n) The ~~[[Manager]]~~>>Mayor<< shall cause any proclamation ordered by the Mayor or the Board pursuant to the authority of this chapter to be delivered to all news media within Miami-Dade County, and shall utilize whatever available means to give public notice of such proclamation.
- (o) Such other orders as are immediately necessary for the protection of life and property; provided, however that any such orders shall, at the earliest practicable time, be presented to the Board for ratification >>, amendment, or rejection<< ~~[[or confirmation]]~~ in accordance with this chapter.

>>(3) Notwithstanding any else in this section to the contrary, no emergency order issued pursuant to section 8B-7(2)(o) shall be of legal force and effect unless, no less than 24 hours prior to the effective date of the order, the County Mayor provides a copy of such order to the Board of County Commissioners and also electronically publishes such order.<<

~~[(3)]~~>>(4)<< Appoint a Director of the Office of Emergency Management.

[(4)]>>(5)<< The [[~~Manager~~]] >>Mayor<< will require all Miami-Dade County department and agency directors to develop emergency operations plans, establish staff members who will carry out these plans, represent their agencies during a disaster or emergency, and will make available to the Office of Emergency Management twenty-four (24) hour contact information and a system of notification of key employees.

- (a) The directors of all Miami-Dade County departments and agencies that are required to report to and function in the EOC as outlined in the Plan, will appoint no less than six (6) staff members who will form the pool of that department's or agency's representatives that will be assigned to report to the EOC upon activation to represent their department or agency or serve as lead agency for a specific function.
- (b) The directors of all Miami-Dade County departments and agencies will designate each staff member as essential or non-essential as defined in § 8B-2 (14-15). The function and responsibilities of "essential" staff will be outlined in the department's or agency's preparedness plan pursuant to § 8B-9 (1). The directors shall submit a list of all "non-essential" staff members to the Office of Emergency Management each May. These "non-essential" staff members will serve in the Disaster Assistance Employee program.

[(5)]>>(6)<< The [[~~Manager~~]] >>Mayor<< or designee shall present an annual emergency preparedness report to the Board [[~~and the Mayor~~]]. This report, to be presented in writing, shall ensure that the Board and the Mayor are informed on the status of the ability of Miami-Dade County to prepare for, respond to, and manage disasters and emergencies. This report is pursuant to the Citizens' Bill of Rights, Section 10 of the Miami-Dade County Home Rule Charter and F.S. 252.

[(6)]>>(7)<< During training or exercises requiring the participation of any or all Miami-Dade County departments or agencies, it shall be the responsibility of the [[~~Manager~~]] >>Mayor<< to ensure appropriate participation by said departments in support of the Plan.

Section 2. 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 3. 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 4. 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:

GBK
DMM

Prepared by:

David M. Murray

Prime Sponsor: Commissioner Joe A. Martinez
Co-Sponsors: Chairwoman Audrey M. Edmonson
Commissioner Sally A. Heyman