

MEMORANDUM

CSSEM
Agenda Item No. 1(G)2

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

DATE: November 13, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to overnight camping on County property; amending section 21-286 of the Code; revising penalties; amending section 8CC-10 of the Code and updating schedule of civil penalties to conform to amendments

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kionne L. McGhee.



Geri Bonzon-Keenan
County Attorney

GBK/ks

MDC001



MEMORANDUM
(Revised)

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

DATE: October 16, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 4(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 ____, majority plus one ____, 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) ____, 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(D)
10-16-24

ORDINANCE NO. _____

ORDINANCE RELATING TO OVERNIGHT CAMPING ON COUNTY PROPERTY; AMENDING SECTION 21-286 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PENALTIES; AMENDING SECTION 8CC-10 OF THE CODE AND UPDATING SCHEDULE OF CIVIL PENALTIES TO CONFORM TO AMENDMENTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board finds that it is in the interest of the County to maintain County property in an attractive and intact condition, readily available for the enjoyment of all of its visitors; and

WHEREAS, County property is an inappropriate setting for overnight camping activities for reasons that include, but are not limited to, the lack of adequate means for disposing of waste and access to utilities; and

WHEREAS, overnight camping in areas not equipped for such activities leads to the physical deterioration of such areas; and

WHEREAS, prohibiting overnight camping on County property helps to keep County property in an attractive and intact condition by reducing wear and tear on these areas; and

WHEREAS, prohibiting overnight camping on County property also helps to keep these areas accessible to visitors; and

WHEREAS, the County has previously enacted a prohibition on overnight camping which authorized as a penalty arrest for trespassing pursuant to section 810.09, Florida Statutes, of any person violating the prohibition on overnight camping; and

WHEREAS, the Supreme Court of the United States in *City of Grants Pass v. Johnson*, recently ruled that cities and other jurisdictions may arrest people, including those that are unhoused, for camping in public; and

WHEREAS, although constitutionally permitted, arresting persons engaged in overnight camping, many of whom are unhoused and lack stable, safe, and functional housing, is not only costly, but also diverts already-strained law enforcement, jail and court resources away from dealing with serious and violent offenders; and

WHEREAS, imposing a fine on persons engaged in prohibited overnight camping, rather than arresting them, may have a similar deterrent effect to an arrest while also presenting a more compassionate approach and saving the County the cost and resources associated with arresting those persons,

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

Section 1. Section 21-286 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

Sec. 21-286. - Prohibition on overnight camping.

- (1) Except as otherwise provided for in this Code, there shall be no overnight camping on County facility/property. Overnight camping is defined as the use of outdoor space for living accommodation purposes involving the erection of structures such as the setting up of any tents, shacks, or shelters for sleeping activities, from the hours of sunset to sunrise. The provisions of this chapter shall apply to the incorporated and unincorporated areas of 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.

- (2) Any person violating this section shall, upon being warned by a County official or a law enforcement officer, cease the prohibited activity. If the person continues the prohibited activity after such warning, the official or law enforcement officer may direct the individual to leave the premises. Any individual who does not leave as directed is subject to ~~[[arrest for trespassing pursuant to Section 810.09 Florida Statutes.]]~~ >>penalties provided in section 8CC-10 of the Code.<<
- (3) Any homeless person, as defined in 24 CFR Section 583.5, violating this section shall first be offered an opportunity to go to a homeless shelter by a County official or law enforcement officer, if there is space available at such a shelter. The requirement to offer an opportunity to go to a homeless shelter shall not apply to any sexual predator or sexual offender, as defined in section 21-280 of the Code, or to any person that is otherwise ineligible to stay at a homeless shelter.

Section 2. 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.

Code Section	Description of Violation	Civil Penalty
*	*	*
>> <u>21-286</u>	<u>Violation of section 21-286 – First Offense</u>	<u>Warning</u>
	<u>Violation of section 21-286 – Second Offense</u>	<u>Warning</u>

	<u>Violation of section 21-286 – Each Subsequent Offense</u>	<u>25.00</u> <<
	*	*

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:

Approved by County Attorney as
to form and legal sufficiency:

MAG for GBK

Prepared by:



Shannon D. Summerset-Williams

Prime Sponsor: Commissioner Kionne L. McGhee