

MEMORANDUM

Agenda Item No. 5(C)

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

DATE: (Public Hearing: 11-6-24)
October 16, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to security and emergency response planning at water and sewer utilities in Miami-Dade County; amending chapter 32 of the Code; providing legislative intent and purpose; establishing minimum security and emergency response planning standards for water and sewer utilities in Miami-Dade County; requiring municipally-run utilities to submit an annual security plan to the Miami-Dade County Department of Emergency Management, or its successor entity; requiring municipally-run utilities relying on law enforcement or fire services of another municipality to enter into an agreement to ensure such municipality has adequate resources and staffing to allow the utility to meet such minimum standards

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Oliver G. Gilbert, III.



Geri Bonzon-Keenan
County Attorney

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MEMORANDUM
(Revised)

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

DATE: November 6, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(C)

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. 5(C)
11-6-24

ORDINANCE NO. _____

ORDINANCE RELATING TO SECURITY AND EMERGENCY RESPONSE PLANNING AT WATER AND SEWER UTILITIES IN MIAMI-DADE COUNTY; AMENDING CHAPTER 32 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING LEGISLATIVE INTENT AND PURPOSE; ESTABLISHING MINIMUM SECURITY AND EMERGENCY RESPONSE PLANNING STANDARDS FOR WATER AND SEWER UTILITIES IN MIAMI-DADE COUNTY; REQUIRING MUNICIPALLY-RUN UTILITIES TO SUBMIT AN ANNUAL SECURITY PLAN TO THE MIAMI-DADE COUNTY DEPARTMENT OF EMERGENCY MANAGEMENT, OR ITS SUCCESSOR ENTITY; REQUIRING MUNICIPALLY-RUN UTILITIES RELYING ON LAW ENFORCEMENT OR FIRE SERVICES OF ANOTHER MUNICIPALITY TO ENTER INTO AN AGREEMENT TO ENSURE SUCH MUNICIPALITY HAS ADEQUATE RESOURCES AND STAFFING TO ALLOW THE UTILITY TO MEET SUCH MINIMUM STANDARDS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, water and sewer utilities are critical infrastructure that are necessary and essential for the protection and preservation of the public health, safety and welfare; and

WHEREAS, federal law, including the America’s Water Infrastructure Act of 2018 (AWIA), recognizes the importance of this critical infrastructure by requiring any community water system serving more than 3,300 customers to conduct assessments of the risk to, and resilience of, such system and to develop an emergency response plan following such assessment; and

WHEREAS, the County wishes to ensure that this critical infrastructure is adequately protected and that there are adequate law enforcement and fire rescue resources available to fulfill the security and emergency response planning needs at water and sewer utilities across Miami-Dade County; and

WHEREAS, on November 6, 1956, the people of Florida amended the Florida Constitution by adopting Article VIII, Section 11 of the Florida Constitution of 1885, preserved in Article VIII, Section 6 of the Florida Constitution of 1968 (“Home Rule Amendment”), which authorized the people of Miami-Dade County to adopt a home rule charter; and

WHEREAS, the Home Rule Amendment provides that, upon the adoption of the Home Rule Charter, this Board would have “full power and authority . . . to pass ordinances relating to the affairs, property and government of Dade County and provide suitable penalties for the violation thereof; . . . and do everything necessary to carry on a central metropolitan government in Dade County” and to “provide a method by which any and all of the functions or powers of any municipal corporation or other governmental unit in Dade County may be transferred to the Board. . . .”; and

WHEREAS, on May 21, 1957, the electors of Miami-Dade County adopted a home rule charter (the “Home Rule Charter”); and

WHEREAS, section 1.01(A) of the Home Rule Charter grants this Board “the power to carry on a central metropolitan government,” including, among other things, to “[p]rovide and regulate or permit municipalities to provide and regulate waste and sewage collection and disposal and water supply and conservation programs” and to “[s]et reasonable minimum standards for all governmental units in the county for the performance of any service or function” and, “[i]f a governmental unit fails to comply with such standards, and does not correct such failure after reasonable notice by the Board . . . [to] take over and perform . . . any such service”; and

WHEREAS, section 252.38, Florida Statutes, provides that each local emergency management agency shall have jurisdiction over and serve an entire county, requires each county to establish and maintain an emergency management agency, and requires each county to develop a county emergency management plan; and

WHEREAS, section 252.38, Florida Statutes, also requires municipal emergency management plans to be consistent with and subject to the applicable county emergency management plan,

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

Section 1. This Board ratifies and adopts the foregoing recitals as if fully set forth herein.

Section 2. Chapter 32 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

**Chapter 32
WATER AND SEWER REGULATIONS**

* * *

Secs. 32-179—32-~~200~~>>190<<. - Reserved.

>>ARTICLE X. SECURITY AT WATER AND SEWER UTILITIES IN MIAMI-DADE COUNTY

Sec. 32-191. Declaration of Legislative Intent.

It is hereby determined and declared that waste and sewage collection and disposal systems, and water supply, treatment and distribution systems in Miami-Dade County are critical

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.

infrastructure that are necessary and essential for the protection and preservation of the public health, safety and welfare. The particular public utilities designated and described herein are declared to be vested with a public interest subject to governmental regulation, supervision and control, and this article shall be deemed and construed as the exercise of the police power for the proper and necessary protection and preservation of the public health, safety and welfare. The purpose and intent of this article is to protect the public interest, health, safety and welfare of the County, its citizens, residents and visitors, by providing for reasonable uniform, minimum standards for the security and emergency response planning provided at water and sewer systems.

Sec. 32-192. Minimum Security and Emergency Response Planning Standards.

All waste and sewage collection and disposal systems, and water supply, treatment and distribution systems in Miami-Dade County shall, at all times, be consistent with Miami-Dade County's Comprehensive Emergency Management Plan and in compliance with all applicable federal and state requirements relating to security and emergency response planning, including, but not limited to, America's Water Infrastructure Act of 2018 (AWIA), as may be amended from time to time.

Sec. 32-193. Ensuring Adequate Resources to Meet Minimum Security and Emergency Response Planning Standards.

- (a) To ensure consistency with Miami-Dade County's Comprehensive Emergency Management Plan, any municipally-run sewage collection and disposal system, or municipally-run water supply, treatment and distribution system in Miami-Dade County must develop and submit to the Miami-Dade County Department of Emergency Management, or its successor entity, an annual security and emergency response plan outlining the security and emergency response measures in place at each of the utility's facilities. Such security and emergency response plan shall, at a minimum, identify the entity or agency responsible for the provision of law enforcement and fire rescue and emergency response services for each facility.
- (b) The Miami-Dade County Department of Emergency Management, or its successor entity, shall provide notice to the municipally-run sewage collection and disposal system, or municipally-run water supply, treatment and distribution system

of any inconsistency or deficiency in such municipally-run system's security and emergency response plan, and provide said system with recommended actions to remedy any inconsistency or deficiency. The Miami-Dade County Department of Emergency Management, or its successor entity, shall accord any security or emergency response plan provided under this section with the same confidentiality as authorized or required by state or federal law.

- (c) For any municipally-run sewage collection and disposal system, or municipally-run water supply, treatment and distribution system in Miami-Dade County that relies upon the law enforcement or fire rescue services of another municipality to meet its security and emergency response planning requirements at facilities that lie outside the municipality's jurisdiction, such municipally-run system is required to enter into an agreement with the municipality in which the facility lies to ensure the availability of law enforcement and fire resources. The municipality responsible for law enforcement and fire rescue and response services shall be allowed to impose a charge should the security and emergency response needs of a facility within its municipal boundaries require enhanced law enforcement or fire rescue services. Each municipally-run system shall be required to enter into an agreement for law enforcement and fire rescue services no later than ninety (90) days from the date of enactment of this section. In the event that an agreement is not reached regarding the applicable charge for any necessary enhanced law enforcement or fire rescue services, then the municipality providing law enforcement or fire rescue services shall be allowed to charge its latest adopted off-duty rates to the municipally-run system until an agreement is reached. If the municipally-run system has an agreement with the host municipality consistent with the requirements of section 180.19, Florida Statutes, then the provisions of this subsection shall be deemed to be met.

Sec. 32-194 – 32-200. Reserved.<<

ARTICLE ~~[[X]]~~>>XI<<.
DOWNTOWN KENDALL SYSTEM BETTERMENT

* * *

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:

Prepared by:

Michael B. Valdes

Prime Sponsor: Chairman Oliver G. Gilbert, III

