

IN THE CIRCUIT COURT IN AND FOR MIAMI-DADE COUNTY FLORIDA

CIVIL DIVISION
CASE NO.:

JOHN DOE #1
JOHN DOE #2
JOHN DOE #3
JOHN DOE #4

Plaintiffs

v.

MIAMI-DADE COUNTY,
Defendant.

COMPLAINT

Plaintiffs, John Does #1, #2, #3 and #4 file this Complaint for declaratory and injunctive relief against Defendant, Miami Dade County, and state:

JURISDICTION AND VENUE

1. Plaintiffs John Does are residents of Miami-Dade County, Florida.
2. Defendant is the local county government.
3. The cause of action arose in Miami-Dade County, Florida, and venue in this Court is proper.

FACTS COMMON TO ALL CLAIMS

4. Since 2013, hundreds of homeless individuals, formerly convicted of certain sexual offenses, have formed a makeshift encampment near the intersection of NW 36th Ave. and NW 71st Street. The area is in a warehouse district in unincorporated Miami-Dade.

5. Inhabitants of the encampment are not there by choice or circumstance. They were forced into involuntary homelessness by Defendant's deliberate, long-standing policy of severely restricting where individuals formerly convicted of certain sexual offenses may reside in Miami-Dade County.

6. All four plaintiffs have been convicted of qualifying sexual offenses and have completed their prison sentences.

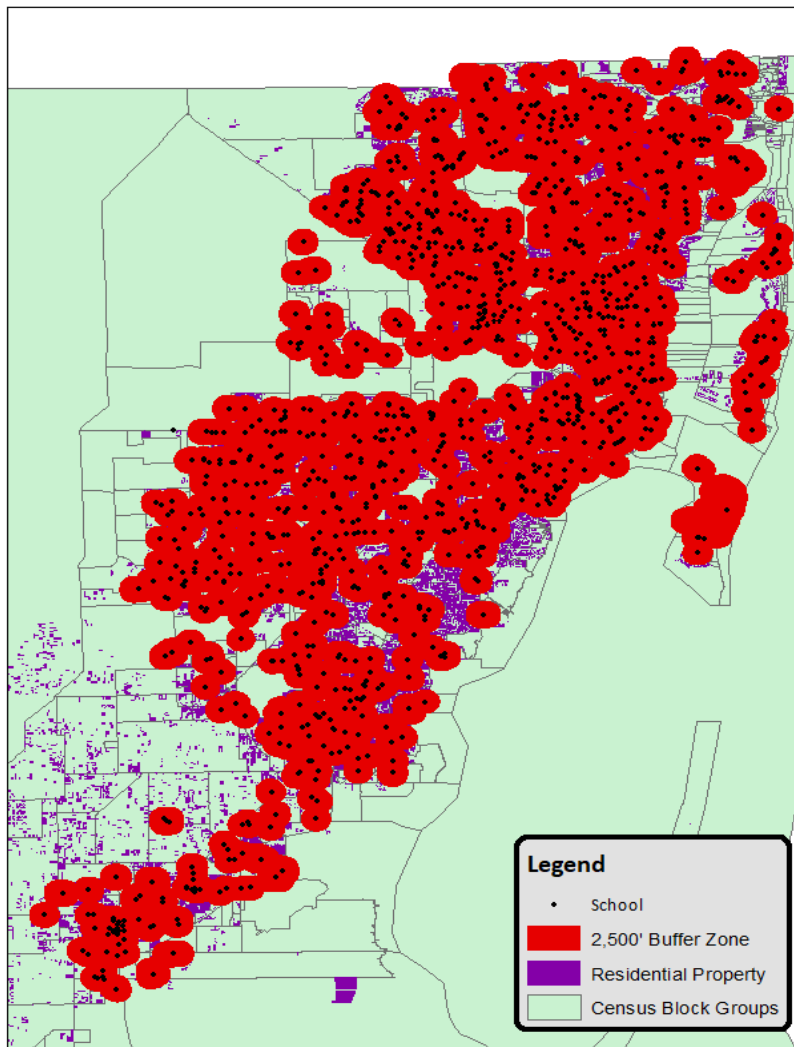
7. Plaintiffs live at the encampment because they have not been able to find anywhere else to live and are involuntarily homeless. Plaintiff John Doe #1 sleeps in his vehicle parked on the swale. Plaintiff John Doe #2, Plaintiff John Doe #3, and Plaintiff John Doe #4 sleep in tents and sleeping bags in and around the swale.

8. Sleeping in public is involuntary conduct for Plaintiffs because of the residency restrictions. Because of the unavailability of housing, Plaintiffs have no choice but to conduct involuntary, life-sustaining activities in public places.

9. After the nearly five-year persistence of a notorious encampment under the Julia Tuttle Causeway, which at its peak numbered more than one hundred people formerly convicted of certain sexual offenses, Miami-Dade County amended its residence restriction ordinance in January 2010 to preempt the patchwork of restrictions enacted by nearly every city in the County. (Ord. No. 10-01, § 2, 1-21-10, amending Article XVII of Chapter 21 of the Miami-Dade County Code of Ordinances).

10. The County's residence restriction ordinance prohibits those formerly convicted of certain crimes involving a victim under the age of 16 from residing within 2,500 feet of any school. Ch. 23, art. XVII, sec. 21-281(a).

11. The residence restriction ordinance excludes nearly all available and affordable housing in the County. This is in part due to its breadth, Miami-Dade County's population-density, and the county's large number of schools. Below is a map of residential housing outside the excluded areas, before considering availability or affordability.



12. The excessive reach of the county's residence restriction has drastically exacerbated and continues to drastically exacerbate transience and homelessness in Miami-Dade County.

13. Violating the residence restriction is a crime punishable by a maximum fine of \$1000 and/or imprisonment for up to 364 days. Ch. 23, art. XVII, sec. 21-281(c).

14. After the 2010 amendments, city, county, and state officials disbanded the Julia Tuttle Causeway encampment. However, homeless encampments persisted and the current encampment on NW 71st Street has existed since approximately August 2013.

15. Individuals living at the encampment, like Plaintiffs, are using outdoor space for living accommodations and reside there from sunset to sunrise. Some sleep in tents and others sleep in their vehicles. For most of the time, there were no bathroom facilities or water, but the County recently began providing those services on a temporary basis in April 2018.

16. In August 2017, after nearby warehouse owners complained about the encampment and obtained media attention, the County, through the Homeless Trust, declared that the encampment must close.

17. The County, through the Homeless Trust, has offered rental assistance to those living at the encampment. The rental assistance would provide security deposits and a few months of rent, but the encampment residents are required to locate their own housing.

18. Because of the residence restrictions, encampment residents, like Plaintiffs, have been unable to find housing where they could use the rental assistance.

19. With the intent to close the encampment, in January 2018, the County amended its prohibition on camping in public to exclude sex offenders from the requirement that police officers first offer placement at a homeless shelter before arresting someone for trespassing. A copy of the amended ordinance is attached as Exhibit A.

20. The amendment was necessary because, along with excluding sex offenders from nearly all of the County's residential areas, the County also prohibits sex offenders from staying at any

homeless shelter. Under the previous version of the camping ordinance, sex offenders were not subject to arrest for camping in public because police officers could not offer them placement at a homeless shelter.

21. Relying on the new amendment to the camping ordinance, on or about March 22, 2018, the County notified residents at the encampment that they must leave by Sunday, May 6, 2018, or they could ultimately be arrested for trespassing.

22. Section 21-286 of the County Code, “Prohibition on Overnight Camping” states the following: “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.” (emphasis added) *See* Exhibit A.

23. The camping ordinance was enacted in 2012 in a reaction to the “Occupy Miami” tent city near Government Center.

24. When the ordinance was originally proposed, it prohibited camping on “County property.” But, to address concerns about the breadth of the ordinance, the Commission ultimately changed the final language to “County facility/property.”

25. At the December 18, 2012, Board of County Commissioners meeting, Assistant County Attorney, Daniel Frastai, stated that the ordinance did not apply to bus shelters or benches because “it was limited to County facility properties, which meant County properties with buildings.” *See* Legislative History, File No. 130012, Ref. 12-114, December 18, 2012. A copy of the Legislative History is attached as Exhibit B.

26. None of the swales along NW 71st Street, where Plaintiffs live, have a County

building or facility.

27. The County had instructed Plaintiffs and the other residents at the encampment to move to the intersection of Krome Avenue and SW 88th Street. The County distributed a flyer to encampment residents which showed this location. A copy of the flyer is attached as Exhibit C.

28. This intersection is near the border of the Everglades and near a quarry. It is more than a mile from the nearest bus stop. There is no running water, electricity, or bathrooms. People who go to that intersection will also be camping in the swale, like those at the encampment.

29. But after residents near Krome Avenue complained to County officials, the County notified residents that they cannot move to that location.

30. Plaintiffs are fearful that the County will shut down the encampment because they will have nowhere to go. Plaintiffs are on probation and are fearful that they could be arrested for trespass if they remain living at the encampment. If they are arrested, they may violate probation and could be sent to prison.

31. Plaintiffs sent a demand letter to the County asking that it rescind the instruction to vacate the encampment by May 6, 2018. In response, the County merely extended the deadline to vacate the encampment to Thursday, May 10, 2018, but stated that it will remove the bathrooms, handwashing station, and garbage cans. A copy of the letter is attached as Exhibit D.

32. If Plaintiffs relocate to another location, it will be another location where they are camping in public and could, once again, be subject to threat of arrest if they use a tent or shelter to protect themselves from the elements.

COUNT ONE
DECLARATORY JUDGMENT

33. Plaintiffs reassert and reallege paragraphs 4 through 32.

34. There is a bona fide dispute between the parties as to whether Plaintiffs can live on the swale and remain at the encampment.

35. Since there are no County buildings or facilities on the swales where Plaintiffs live, they are not a “County facility/property” and Plaintiffs do not violate the ordinance by camping on the swale.

36. There is a bona fide dispute between Plaintiffs and the County as to whether Section 21-286 of the County Code, “Prohibition on Overnight Camping” applies to Plaintiffs’ living situation.

37. There is a bona fide dispute as to whether the swales are a “County facility/property.”

38. There is a bona fide dispute as to whether sleeping in a vehicle parked on the swale meets the definition of “overnight camping.”

39. There is a bona fide dispute as to whether Section 21-286 violates the Florida Constitution’s prohibition on cruel and unusual punishment since it punishes Plaintiffs as a result of their involuntary status of being homeless.

40. Plaintiffs have a justiciable question as to whether living at the encampment violates Section 21-286 and whether Section 21-286 violates the Florida Constitution’s prohibition on cruel and unusual punishment.

41. Plaintiffs and the County have an actual, present, adverse, and antagonistic interest in whether living at the encampment violates 21-286 and whether Section 21-286 violates the Florida Constitution’s prohibition on cruel and unusual punishment, and any declaration would not

amount to mere legal advice.

42. Plaintiffs are in doubt as to their rights under the law.

43. The declaration sought deals with a present, ascertainable set of facts.

44. Plaintiffs must meet their basic human need for shelter, but if they remain living at the encampment, they could be arrested. If they move to another location and once again camp in public, they could be subject to prosecution under 21-286.

45. Plaintiffs' right to remain living at the encampment depends on how the law is applied to their facts.

46. There is a bona fide, actual, present need for the declaration since the County has notified people living at the encampment that they must vacate the encampment by Thursday, May 10, 2018, but Plaintiffs have nowhere to go.

WHEREFORE, Plaintiff respectfully asks this Court to:

- A. Pursuant to Fla. Stat. § 86.011, enter a judgment declaring that the swales where Plaintiffs live are not a "County facility/property" as used in Section 21-286 of the Miami-Dade County Code, and that Plaintiffs do not violate Section 21-286 by camping or living on the swale.
- B. Pursuant to Fla. Stat. § 86.011, enter a judgment declaring that Plaintiffs who sleep in their vehicles are not engaged in "overnight camping" as used in Section 21-286 of the Miami-Dade County Code, and that Plaintiffs do not violate Section 21-286 by sleeping in their vehicles.
- C. Pursuant to Fla. Stat. § 86.011, enter a judgment declaring that Section 21-286 of the Miami-Dade County Code violates the Florida Constitution's prohibition on

cruel and unusual punishment because it criminalizes plaintiffs based on their involuntary homelessness.

- D. Enter a Temporary Injunction prohibiting the County from taking action to close the encampment until such time that the Court enters judgment in this case.
- E. Grant such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

LEGAL SERVICES OF GREATER MIAMI, INC.

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BY: _____/s/_____
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Daniel Rowinsky Quintian, Esq.
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MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

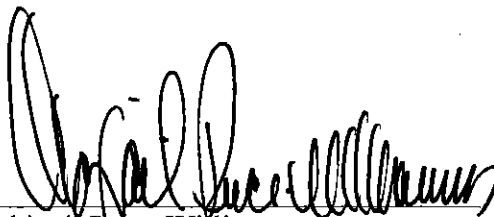
DATE: January 23, 2018

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to overnight camping on County property; amending section 21-286 of the Code; providing an exception to the requirement that law enforcement give violators the opportunity to go to a homeless shelter related to sexual predators, sexual offenders and certain other persons

This item was amended at the 12-13-17 Public Safety and Health Committee to correct factual errors that were in the original social equity statement.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Esteban L. Bovo, Jr., and Co-Sponsors Commissioner Jose "Pepe" Diaz and Commissioner Rebeca Sosa.



Abigail Price-Williams
County Attorney

APW/smm

EXHIBIT A



MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: January 23, 2018

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(A)

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 ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Memorandum



Date: January 23, 2018
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners
From: Carlos A. Gimenez
Mayor
Subject: Fiscal Impact Statement for Ordinance Relating to Overnight Camping on County
Property

Implementation of this ordinance will not have a fiscal impact to Miami-Dade County as the enforcement of this ordinance will be performed by existing staff.

A handwritten signature in black ink, appearing to read "MK", written over a horizontal line.

Maurice Kemp
Deputy Mayor

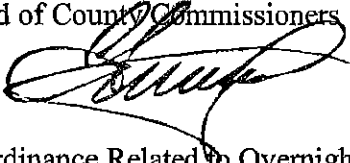
FIS01918 172445

Memorandum



Date: January 23, 2018

To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Social Equity for Ordinance Related to Overnight Camping on County Property

The proposed ordinance amends Section 21-286 of the Code of Miami-Dade County (Code) and provides that any homeless person, as defined in 24 Code of Federal Regulations Section 583.5, found to be in violation of 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 ordinance clarifies that the requirement to offer an opportunity to go to a homeless shelter does 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.

The amendment, therefore, makes clear an exception in Section 21-286 of the Code for sexual predators or offenders with regard to the requirement that individuals be provided an opportunity to go to a homeless shelter.

A handwritten signature in black ink, appearing to read "M. L. Kemp", written over a horizontal line.

Maurice L. Kemp
Deputy Mayor

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)

1-23-18

ORDINANCE NO. _____

ORDINANCE RELATING TO OVERNIGHT CAMPING ON COUNTY PROPERTY: AMENDING SECTION 21-286 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING AN EXCEPTION TO THE REQUIREMENT THAT LAW ENFORCEMENT GIVE VIOLATORS THE OPPORTUNITY TO GO TO A HOMELESS SHELTER RELATED TO SEXUAL PREDATORS, SEXUAL OFFENDERS AND CERTAIN OTHER PERSONS; 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, the County has an obligation to maintain its property clean, safe and publicly accessible in accordance with the requirements of law; 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 requires law enforcement to first offer any homeless person, as defined in 24 Code of Federal Regulations Section 583.5, who is violating the prohibition on overnight camping an opportunity to go to a homeless shelter if there is space available at such a shelter; and

WHEREAS, the requirement to offer homeless persons violating the prohibition an opportunity to go to a homeless shelter has proven unworkable, unduly burdensome on law enforcement, and has rendered the prohibition meaningless when the homeless person is a sexual predator, sexual offender, or is otherwise ineligible to stay at homeless shelters,

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.
- (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. 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:

APW
SA

Prepared by:

Shannon D. Summerset-Williams

Prime Sponsor: Chairman Esteban L. Bovo, Jr.
Co-Sponsors: Commissioner Jose "Pepe" Diaz
Commissioner Rebeca Sosa



Miami-Dade Legislative Item

File Number: 130012

EXHIBIT B

File Number: 130012 **File Type:** Ordinance **Status:** Adopted
Version: 0 **Reference:** 12-114 **Control:** Board of County Commissioners
File Name: ORDINANCE PROHIBITING OVERNIGHT CAMPING ON COUNTY PROPERTY **Introduced:** 1/3/2013
Requester: Internal Services **Cost:** **Final Action:** 12/18/2012
Agenda Date: 12/18/2012 **Agenda Item Number:** 7D

Notes: THIS IS FINAL VERSION AS ADOPTED. ALSO SEE 122354
Title: ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA CREATING ARTICLE XVIII, SECTION 21-286 PROHIBITING OVERNIGHT CAMPING ON COUNTY PROPERTY; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE [SEE ORIGINAL ITEM UNDER FILE NO. 122354]

Indexes: ORDINANCE PROHIBITING OVERNIGHT CAMPING

Sponsors: Lynda Bell, Prime Sponsor

Sunset Provision: No

Effective Date:

Expiration Date:

Registered Lobbyist: None Listed

Legislative History

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
County Attorney	2/7/2013		Assigned	Daniel Frastai		2/7/2013	
County Mayor	1/3/2013		Assigned	County Attorney	12/18/2012		
REPORT:	ISD (amended version to 122354) - Danny Frastai assisted - Linda Bell Sponsor - Attachments: None						
County Mayor	1/3/2013		Assigned	Ed Marquez		1/3/2013	
Board of County Commissioners	12/18/2012	7D Amended	Adopted as amended				P
REPORT:	County Attorney Robert Cuevas read into the record the title of the foregoing proposed ordinance. Assistant County Attorney Daniel Frastai noted paragraph one on handwritten page 5 should be amended to read as follows: "(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". He also advised that paragraph three should be amended to read as follows: "(3) Any homeless person, as defined by 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." It was moved by Commissioner Bell that the foregoing proposed resolution be adopted, as amended. This motion was seconded by Commissioner Sosa, followed by discussion. Commissioner Heyman noted some of the County's parks were used for exceptional activities. She asked whether this item would make it illegal to hold such events on County property. Assistant County Attorney Frastai confirmed that an exception was made for what was otherwise provided in the County Code. Commissioner Monestime expressed concern with this item. He asked whether it was necessary to legislate a ban and why was it not possible to deal with it administratively. Mr. Lester Sola, Director, Internal Services Department, explained that at the time of the Occupy Miami Movement, free speech areas existed, but no laws regulated what types of activities could be conducted in the areas that did not carry such a designation. He indicated that this ordinance would allow the County to regulate the types of activities that could be carried out in non free speech areas. Commissioner Monestime asked whether the residents who participated in the Occupy Miami Movement had permits to carry out these activities. Mr. Sola confirmed that the permits were granted, but not for the correct area. Therefore, the County opened the door for that group to erect tents in a non free speech area. Commissioner Monestime asked whether there were specific areas where the group would have been allowed to erect their tents. Mr. Sola said that the County made a mistake by giving them a permit to set up their tents in a non free speech area. He stated that having learned from that mistake, staff wanted to ensure that residents were aware of the free speech areas in the buildings, but did not want people to set up tents and living quarters in non free speech areas. Mr. Sola said that this ordinance would allow the Administration to regulate the activities while not hindering free speech within its buildings. Commissioner Monestime said he understood that it was necessary to maintain order, but the right to free speech was protected under the United States Constitution, and residents had the right to protest in the public places. He noted in any case, the item's objective could be achieved administratively. Vice Chairwoman Edmonson asked how much it cost the County to clean up the areas where the Occupy Miami activists set up camp. Mr. Sola said that it cost the County between \$10,000-17,000 to restore the site where the Occupy Miami activists set up camp; in addition, significant costs were associated with having police officers designated to monitor the site 24 hours a day. In response to Vice Chairwoman Edmonson's question as to whether the County recovered these costs, Mr. Sola stated that the Administration sent the activists an invoice, but they did not respond. Commissioner Suarez noted the Coalition for the Homeless' concern with this item. He referred to the Pottinger vs. City of Miami case, which led to an arrangement whereby a homeless person who was camping in an unauthorized area had to be offered an opportunity to go to a shelter before he/she could be arrested by an officer. County Attorney Cuevas indicated that the proposed ordinance contained that provision. Commissioner Moss asked where the free speech zones were located in the Stephen P. Clark Government Center. Mr. Sola indicated that the paved areas in the front of the building and on the west side constituted the free speech zones. Commissioner Moss asked the County Attorneys whether the proposed ordinance applied to the bus shelters and benches. Assistant County Attorney Frastai said that the proposed ordinance would not apply to the bus shelters and benches because it was limited to County facility properties, which meant County properties with buildings. Commissioner Moss asked whether the County currently had any legislation that applied to camping at bus shelters. Assistant County Attorney Frastai said he believed legislation to that effect was submitted in the past, but it was not adopted. Commissioner Jordan asked what would happen to the homeless persons who were sleeping outside without shelter. Mr. Sola stressed that this ordinance did not apply to the homeless. He clarified that this ordinance was purely meant to prohibit the erection of tents in non designated areas. Commissioner Jordan asked whether the homeless would be given the opportunity to go to a shelter before being arrested. Mayor Gimenez noted all the homeless in the City of Miami were governed by the Pottinger decision; if you were homeless, even if you were engaged in an activity that was against the Code, such as sleeping in a non designated area, you could continue this activity as long as no bed was available in a shelter. Pursuant to Commissioner Monestime's question, Mr. Sola confirmed that the portion pertaining to individuals sleeping outside covering themselves had been removed from the ordinance. Commissioner Bell pointed out that the proposed ordinance had nothing to do with the homeless. She stressed that the proposed ordinance pertained solely to overnight camping. Hearing no further questions or comments, the Board members proceeded to vote on the foregoing proposed resolution, as amended by Assistant County Attorney Frastai .

Legislative Text

TITLE

ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA CREATING ARTICLE XVIII, SECTION 21-286 PROHIBITING OVERNIGHT CAMPING ON COUNTY PROPERTY; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BODY

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, the County has an obligation to maintain its property clean, safe and publicly accessible in accordance with the requirements of law; 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 would help 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 would also help keep these areas accessible to visitors,

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

Section 1. Article XVIII, Section 21-286 of the Code of Miami-Dade County, Florida is hereby created within Chapter 21, Offenses and Miscellaneous Provisions, to read as follows.

ARTICLE XVIII. PROHIBITION ON OVERNIGHT CAMPING**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.

(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 Chapter 810.09 Florida Statutes.

(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.

Section 2. If any section, subsection, sentence, or clause 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 re-lettered 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.

HEADER

Date:

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Prohibiting Overnight Camping on County Property

STAFF RECOMMENDATION

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance which establishes Article XVIII, Section 21-286 of the Code of Miami-Dade County (Code) to prohibit overnight camping on County property.

Scope

Approval of this Ordinance will apply to all County facility/property throughout Miami-Dade County.

Fiscal Impact/Funding Source

There is no fiscal impact to the County with the approval of this ordinance.

Track Record/Monitor

Not applicable as this item codifies the County's policy on prohibiting overnight camping and does not approve or authorize the contracting with any vendor or require any additional administrative oversight by County staff.

MANAGER'S BACKGROUND

Background

This ordinance will prohibit overnight camping on County property, and specifically bans the use of County outdoor space for living accommodation purposes for sleeping activities from the hours of sunset to sunrise. Any person found in violation of this law, will be warned to cease their activities. Further violation of this law is subject to arrest.

Furthermore, any homeless person, as defined in 24 CFR Section 583.5, violating this section of the Code shall be offered an opportunity to go to a homeless shelter by a County official or law enforcement officer.

With approval of this ordinance, the County will help ensure the proper aesthetic maintenance and safety of our properties and facilities.

Edward Marquez
Deputy Mayor

MIAMI-DADE COUNTY

Sexual Offenders/Predators Residence Search



This map and report were created on Wed Apr 18 2018 for reference purposes only.

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No schools, day cares or parks were found within 2500 Ft. of the address entered.

ADDRESS: N KENDALL DR & KROME AVE, 30, 33193

This is A good ADDRESS

GIS Disclaimer:

Miami-Dade County provides this website as a public service to its residents and visitors. The County is continuously adding and updating GIS data to improve positional accuracy and information. No warranty, expressed or implied, are provided for the positional or thematic accuracy of the data herein, its use, or its interpretation. Although it is periodically updated, this information may not reflect the data currently on file at Miami-Dade County and the County assumes no liability either for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any decisions made, action taken, or action not taken by the user in reliance upon any information provided herein.

Some of the GIS datasets presented in this website are available for free download. Please visit our [GIS Self Service](#) website for more information.

EXHIBIT C

Sexual Predator and Offender Registration Office
1701 NW 87 Avenue, Suite #222 Doral, FL 33172
305-715-3333

May 4, 2018

Sent via e-mail to jhearne@legalservicesmiami.org

Jeff Hearne, Esq.
Director of Litigation
Legal Services of Greater Miami, Inc.
4343 West Flagler Street, Suite 100
Miami, FL 33134

Mr. Hearne,

This letter is in response to your correspondence titled "County Ordinance – Sec. 21-286 – Prohibition on overnight camping; Encampment at NW 71st Street & NW 36th Ave" dated May 2, 2018.

Your letter concerns individuals who reside at the encampment located at NW 71st Street and NW 36th Avenue and the County's efforts to address conditions at the encampment over a 45-day period running from March 22, 2018 through May 6, 2018.

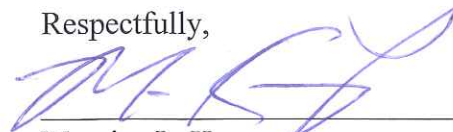
As previously stated, Miami-Dade County intends to re-evaluate the situation at the encampment at the end of this 45-day period and determine an appropriate next course of action.

After May 6, 2018, Miami-Dade County plans to assess the individuals remaining at the encampment to determine their specific needs so that assistance can be provided. Furthermore, Miami-Dade County has consistently stated that any enforcement action will be carefully evaluated and utilized only as a last resort.

In order to provide clarity as to what that means over the next few days, Miami-Dade County will not begin to take enforcement action relating to the encampment until at least Thursday, May 10, 2018. However, the temporary restrooms, handwashing stations, and garbage cans that have been provided by Miami-Dade County at the encampment may be removed prior to that date.

We hope that this clarification will provide sufficient time to clear up any misunderstandings and misinformation that is being shared among individuals at the encampment and to allow Miami-Dade County with the opportunity to provide correct information as to its next course of action.

Respectfully,

A handwritten signature in blue ink, appearing to read 'M. Kemp', written over a horizontal line.

Maurice L. Kemp
Deputy Mayor

EXHIBIT D