



AGENDA ITEM COVER PAGE

File ID: #8681

Ordinance

Second Reading

Sponsored by: Alex Diaz de la Portilla, Commissioner

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 35/ARTICLE VIII/SECTION 35-292 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, TITLED "MOTOR VEHICLES AND TRAFFIC/PRIVATE PARKING LOTS/ISSUANCE OF PRIVATE PARKING VIOLATIONS PROHIBITED," TO MAKE THE REGULATIONS CONSISTENT WITH SECTION 21-46 OF THE CODE OF MIAMI-DADE COUNTY; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.



City of Miami

Legislation

Ordinance

File Number: 8681

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 35/ARTICLE VIII/SECTION 35-292 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, TITLED "MOTOR VEHICLES AND TRAFFIC/PRIVATE PARKING LOTS/ISSUANCE OF PRIVATE PARKING VIOLATIONS PROHIBITED," TO MAKE THE REGULATIONS CONSISTENT WITH SECTION 21-46 OF THE CODE OF MIAMI-DADE COUNTY; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, following the enactment of Section 35-292 of the Code of the City of Miami, Florida, as amended ("City Code"), Miami-Dade County ("County") enacted Chapter 21, Article IV, Section 46 of the Code of Miami-Dade County, Florida, as amended ("County Code"), titled, "Issuance of Non-Governmental Parking Citations, Notice of Violations, or Tickets" pursuant to Ordinance Number 20-19 on February 19, 2020; and

WHEREAS, Section 21-46 of the County Code provides that it applies to both incorporated and unincorporated areas of the County and that no non-governmental person or entity may issue any invoice, document, or other article that seeks to impose monetary charges for use of a private parking lot using the words "violation, citation, or ticket"; and

WHEREAS, Section 21-46 of the County Code further provides that any document issued must include in 14 point bold face type "THIS INVOICE IS PRIVATELY ISSUED, IS NOT ISSUED BY A GOVERNMENTAL AUTHORITY, AND IS NOT SUBJECT TO CIVIL OR CRIMINAL PENALTIES," and provides that a municipality may issue its own code provision that provides "prohibitions or greater protections or penalties"; and

WHEREAS, the City Code only provides for the prosecution of "persons engaged in the operation of a private parking lot" which is less stringent than the requirements provided for in Section 21-46 of the County Code; and

WHEREAS, the City of Miami ("City") can repeal the language currently in Section 35-292 of the City Code and replace it with the County Code Section while still providing for the City's authority to prosecute violators; and

WHEREAS, it is in the best interests of the residents of the City to have the City Code in comply with the County Code and provide for an efficient enforcement mechanism;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 35 of the City Code is amended in the following particulars:¹

“CHAPTER 35

MOTOR VEHICLES AND TRAFFIC

* * * *

ARTICLE VIII. PRIVATE PARKING LOTS

* * * *

Sec. 35-292. - Issuance of private parking violations prohibited

(a) ~~It shall be unlawful for any person engaged in the operation of a private parking lot to issue a notice of violation, citation, or ticket to any vehicle that is parked on the lot under their control. Any such notice of violation, citation, ticket, or invoice is declared null, void, and unenforceable.~~ It is unlawful for any non-governmental person or entity to issue an invoice or other document which seeks to impose a monetary charge for any motor vehicle parked in a privately operated parking lot or facility that includes the word violation, citation, or ticket. Notwithstanding the foregoing, an invoice or other document issued by a non-governmental person or entity does not violate this Section if the form of such document includes a statement in 14 point bold face font, in substantially the following form: "THIS INVOICE IS PRIVATELY ISSUED, IS NOT ISSUED BY A GOVERNMENTAL AUTHORITY, AND IS NOT SUBJECT TO CIVIL OR CRIMINAL PENALTIES."

(b) ~~Any person issuing any such notice of violation, citation, ticket, or invoice to any vehicle that is parked on the lot under their control shall be subject to penalties described in section 1-13 of the City Code. Any invoice issued in violation of this Section is unenforceable.~~

(c) ~~Any parking lot owner or operator who authorizes the issuance of any such notice of violation, citation, ticket, or invoice to any vehicle that is parked on a lot under their control shall be subject to a \$500.00 civil violation which shall be enforced in accordance with chapter 2, article X of the City Code. Any such notice of violation, citation, ticket, or invoice found to be placed upon any vehicle or electronically issued against the vehicle parked on a lot under their control shall be prima facie evidence of a violation of this subsection. Each and every such issuance of a notice of violation, citation, ticket, or invoice shall be considered as a separate offense. An invoice or document as referred to in this Section shall not include anything called a ticket, citation, violation, or other similar such name. No non-governmental person or entity shall create any such document which resembles in size or font that of a governmentally issued citation nor shall any such issuance bear the Seal of the City or any other such governmental authority or bear any resemblance thereto.~~

(dc) Penalties; Enforcement.

1. Any parking lot owner or operator person or entity found to have authorized the issuance or issued of any such notice of violation, citation, ticket, or invoice or document to any vehicle that is parked on a lot under their control shall be subject to having their business tax receipt and Certificate of Use revoked in accordance with pursuant to Section 31-48 and Section 2-211 of the City Code.
2. Any person or entity who issues or authorizes the issuance of any such invoice or document to any vehicle shall be subject to a \$500.00 civil violation which may be enforced in accordance with Chapter 2, Article X of the City Code. Any such invoice or document found to be placed upon any vehicle or electronically issued against the vehicle shall be prima facie evidence of a violation of this

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

subsection. Each and every such issuance of an invoice or document shall be considered as a separate offense.

3. Any person or entity who issues or authorizes to be issued any such invoice or document invoice to any vehicle may be subject to penalties as described in Section 1-13 of the City Code.

4. Use of one method of enforcement shall not preclude the use of another and the City may further seek enforcement through any civil action provided for by law.

~~(e) In addition to any other remedies provided by this section or any other city ordinance, the city manager or designee shall have judicial remedies available for violations of this section including but not limited to:~~

~~(1) The institution of a civil action in a court of competent jurisdiction to establish liability and to recover damages for any costs incurred by the city in conjunction with the abatement of any condition prohibited by the provisions of this chapter.~~

~~(2) The institution of a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with the terms of this chapter or any rule or regulation promulgated hereunder, to enjoin and prohibit said violation, or to compel the performance of actions which will result in compliance with the terms of this chapter.~~

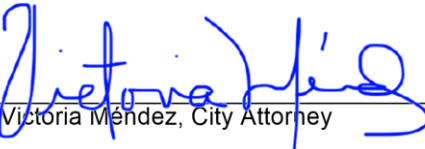
~~(f) Exemptions. Educational institutions are exempt from the provisions of this section. In addition, a parking lot whose owner(s) has entered into an agreement with the Miami Parking Authority for management of the parking lot is exempt from the provisions of this section.~~

* * * *

Section 3. If any section, part of section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective thirty (30) days after final reading and adoption thereof.²

APPROVED AS TO FORM AND CORRECTNESS:


Victoria Méndez, City Attorney 3/16/2021

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.



AGENDA ITEM COVER PAGE

File ID: #8781

Ordinance

Second Reading

Sponsored by: Manolo Reyes, Commissioner

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 18/ARTICLE III/SECTION 18-117 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, TITLED "FINANCE/CITY OF MIAMI PROCUREMENT ORDINANCE/ECONOMIC STIMULUS AWARDS AND AGREEMENTS," BY MAKING CERTAIN CLARIFICATIONS AND MODIFICATIONS AND FACILITATING THE EXPEDITING OF THE CAPITAL PROJECTS THAT WOULD BE LISTED ON ATTACHMENT "A" REFERENCED IN THIS SECTION, AS AMENDED FROM TIME TO TIME AND APPROVED BY THE CITY COMMISSION; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.