## Chapter 21 OFFENSES AND MISCELLANEOUS PROVISIONS

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### ARTICLE I. BOMBINGS [[1]](#BK_3B2FBA58498684CC8EF8038D1D0D27AE)

[Sec. 21-1. Bombings and threats prohibited.](#BK_6B2B67E858CCA296F3C0153F5D12CD39)

[Sec. 21-2. Disseminating false information relating to.](#BK_77D3D695EA5F32254A521E5F66AC02AA)

[Sec. 21-3. Maliciously disrupting meetings with threats.](#BK_C1C3FF9A4342814DBF69ACE8927C01C9)

[Sec. 21-4. Law enforcement officers excepted.](#BK_D506691A19EE1FC76F7F241FFA24A6F9)

[Sec. 21-5. Violations, penalty.](#BK_B6B6307DE18BDFEBAEE4AAE6FFB31B46)

Sec. 21-1. Bombings and threats prohibited.

It shall be unlawful for any person willfully and maliciously to destroy, damage or deface, or to threaten the destruction, damage or defacement of any person or any public or private buildings, property, place or conveyance in the County by bombs, dynamite, explosives or any other instrumentality of destructive force.

(Ord. No. 58-43, § 2, 11-18-58)

Sec. 21-2. Disseminating false information relating to.

It shall be unlawful for any person knowingly or intentionally to give, transmit or disseminate, by word of mouth, telephone, written communication, or otherwise, any false information, false alarm, false report, or threat to the effect that any public or private building, property, place or conveyance (including, but not limited to, churches, schools, theaters, auditoriums, assembly halls, common carriers, private conveyances, or school buses) is, will, or may be subject to damage, destruction or defacement by bombs, dynamite, explosives or other instrumentality or destructive force.

(Ord. No. 58-43, § 3, 11-18-58)

**Cross reference—** Additional provisions relating to false alarms and reports, § 21-24.

Sec. 21-3. Maliciously disrupting meetings with threats.

It shall be unlawful for any person willfully or maliciously to cause the disruption, evacuation, abandonment, or interruption of any session or meeting at school, church, or other public or private buildings, place or property, by anonymously circulating or communicating any false report, alarm or threat to the effect that such building, place or property is, will, or may be subject to danger or hazard of damage or destruction by bombs, dynamite, explosives, or other instrumentality of destructive force.

(Ord. No. 58-43, § 4, 11-18-58)

Sec. 21-4. Law enforcement officers excepted.

The provisions of this article shall not be construed to anywise interfere with, hinder or prevent any police officer, law enforcement official or other public official in the performance of his official duties or in taking such precautionary measures as may be deemed necessary to prevent the possibility of loss of life or physical injury in respect to anonymous bombing threats.

(Ord. No. 58-43, § 5, 11-18-58)

Sec. 21-5. Violations, penalty.

Any person convicted for the violations of any provisions of this article shall be punished by a fine not exceeding one thousand dollars ($1,000.00) or by imprisonment in the County Jail for a term not to exceed one (1) year, or by both such fine and imprisonment.

(Ord. No. 58-43, § 6, 11-18-58)

FOOTNOTE(S):

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**Cross reference—** Intrusion and burglary security, Ch. 8C; permit to purchase, sell, use explosives, § 13-1 et seq.; seaport security and operations, Ch. 28A. [(Back)](#BK_9F52C7EEADEE9ED986FB66BCF445948F)

### ARTICLE II. MINORS

[Sec. 21-6. Purchase or sale of certain articles by.](#BK_E15107E18F14D83C23BEDF4BB32E582B)

[Sec. 21-7. Reserved.](#BK_89C8144705C8A69F6830F4A665724FBC)

[Sec. 21-7.1. Reserved.](#BK_1BDBE84A4CC283D49086B3F167A00D66)

[Sec. 21-8. Lodginghouse to report presence of.](#BK_281ACC2F2EA65BBD47683E57D462E3F1)

[Sec. 21-9. Tattooing.](#BK_295AA09DBFB29FB596CD7C21BA5AE322)

[Sec. 21-10. False statement or credentials for gaining admission to prohibited places.](#BK_91FC5EE5CDFD6C7BCCB76A3322E72673)

[Sec. 21-11. Minors engaging others for unlawful purpose.](#BK_64EADE88642559A9B2363C41491D6ECC)

[Sec. 21-12. Trial in Juvenile and Domestic Relations Court.](#BK_A35D59CE9E5324A0512D325BEE09073C)

[Sec. 21-13. Construction of provisions.](#BK_F49B4FF6A9C1FDD76C448854D29CB100)

Sec. 21-6. Purchase or sale of certain articles by.

(a) *When unlawful.* It shall be unlawful for any person to buy any used or secondhand article from a person under seventeen (17) years of age unless accompanied by a parent or legal guardian, and it shall likewise be unlawful for any person under seventeen (17) years of age to offer for sale any such articles.

(b) *Exception.* Persons under seventeen (17) years of age lawfully employed as a sales person in any established place of business shall be exempt herefrom.

(Ord. No. 58-5, § 23, 2-18-58)

**Cross reference—** Sale, loan, etc., of weapons to intoxicated persons, § 21-16; sales of glue, etc., to minors, § 21-35.

Sec. 21-7. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-7](../level3/PTIIICOOR_CH21OFMIPR_ARTIIMI.docx#PTIIICOOR_CH21OFMIPR_ARTIIMI_S21-7RE), sale of firearms to minors, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-7](../level3/PTIIICOOR_CH21OFMIPR_ARTIIMI.docx#PTIIICOOR_CH21OFMIPR_ARTIIMI_S21-7RE) derived from Ord. No. 58-5, adopted Feb. 18, 1958.

Sec. 21-7.1. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-7.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIIMI.docx#PTIIICOOR_CH21OFMIPR_ARTIIMI_S21-7.1RE), use of B-B guns and rifles by child under 16, limitation; trial in court of appropriate jurisdiction; penalty for violation, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-7.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIIMI.docx#PTIIICOOR_CH21OFMIPR_ARTIIMI_S21-7.1RE) derived from Ord. No. 66-32, adopted July 26, 1966.

Sec. 21-8. Lodginghouse to report presence of.

Each owner, agent, manager or keeper of a hotel, boardinghouse, tenement house or apartment house shall immediately report to the Miami-Dade Police Department the presence there (except for purely temporary purposes in the daytime) of all minors under the age of eighteen (18) years, unless such minors are accompanied by the parent, guardian or other person having the care and custody of such minors. The report shall include the name, age, last-known place of abode of the minors and the names and residences of the parents, guardian or other custodian of such minors, so far as such information can be ascertained from the minors or otherwise.

(Ord. No. 58-5, § 23.03, 2-18-58)

Sec. 21-9. Tattooing.

It shall be unlawful for any person to tattoo any minor in the County unless the parent, guardian, or other person having charge and custody of the minor shall first have given his or her written consent to the tattooing.

(Ord. No. 58-5, § 23.04, 2-18-58)

Sec. 21-10. False statement or credentials for gaining admission to prohibited places.

It shall be unlawful for any minor to make statements, or to furnish, present, or exhibit any fictitious or false registration card, identification card, or note or other document, or to furnish, present or exhibit such document or documents issued to a person other than the one (1) presenting the same, for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited articles, including, but not limited to, beer, liquor, wine, cigarettes, and tobacco.

(Ord. No. 58-5, § 23.05, 2-18-58)

Sec. 21-11. Minors engaging others for unlawful purpose.

It shall be unlawful for any minor to engage or utilize the services of any other person, and it shall be unlawful for any person, whether for remuneration or not, to procure for such minor any article which the minor himself is forbidden by law to purchase.

(Ord. No. 58-5, § 23.06, 2-18-58)

Sec. 21-12. Trial in Juvenile and Domestic Relations Court.

Where offenses set forth involve violation by minors, the same shall be tried in the Miami-Dade County Juvenile and Domestic Relations Court when so required by the laws of the State of Florida.

(Ord. No. 58-5, § 23.08, 2-18-58)

Sec. 21-13. Construction of provisions.

The grouping in this chapter of certain sections specifically relating to minors shall in no wise, or under any circumstances, be construed as excluding minors from the penal provisions of other sections of this Code where the plain language of any such section embraces and includes minors.

(Ord. No. 58-5, § 23.09, 2-18-58)

### ARTICLE III. WEAPONS [[2]](#BK_F5AC18513F244FD504492D045DE00932)

[DIVISION 1. - IN GENERAL](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx)

[DIVISION 2. - LICENSE TO SELL FIREARMS](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI.docx)

[DIVISION 3. - ELECTRONIC CONTROL DEVICES](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV3ELCODE.docx)

FOOTNOTE(S):

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**Cross reference—** Permit to establish shooting galleries, § 21-31. [(Back)](#BK_40B98D67A670062CE0508F0706BAA632)

**State Law reference—** Weapons, F.S. ch. 790. [(Back)](#BK_40B98D67A670062CE0508F0706BAA632)

#### DIVISION 1. IN GENERAL

[Sec. 21-14. Dangerous weapons; penalty; trial court.](#BK_508CBD00E08B29629699C364A51D033D)

[Sec. 21-14.1. Transmission of hoax substances.](#BK_7CD6C9A03F036BA4145796671A6F2586)

[Sec. 21-15. Reserved.](#BK_108D7F902B8CC3D8FD205A4A7E4EFFED)

[Sec. 21-16. Reserved.](#BK_3076750FD092A50453F8C0F875D0B95B)

[Sec. 21-17. Possession of weapons by felons, intoxicated persons, etc.](#BK_67ADE97A7E733D55717E9C80C41E68CF)

[Sec. 21-18. Handling weapon in dangerous manner.](#BK_BEEE836E08CEFAF8CCD807A6B7000419)

[Sec. 21-18.1. Reserved.](#BK_49E51B372A6CE9B66D99899577719F89)

[Sec. 21-19. Disposition of weapons seized on arrest.](#BK_EBC73A2891E15A7349A26227E4372EAA)

[Sec. 21-19.1. Reserved.](#BK_A53E892CB2EF8FA34241C23D53BAA5DF)

[Sec. 21-19.2. Reserved.](#BK_BDE9A0FC8408F0794C93E0F0E896E48B)

[Sec. 21-20. Reserved.](#BK_852E48360E71037CD6FA9AEA204520A6)

Sec. 21-14. Dangerous weapons; penalty; trial court.

(a) *Concealed dangerous weapons.* It shall be unlawful for any person to wear under his clothes, or concealed about his person, or to display in a threatening manner any dangerous or deadly weapon including, but not by way of limitation, any pistol, revolver, slingshot, cross-knuckles or knuckles of lead, brass or other metal, or any bowie knife, razor, dirk, dagger, or any knife resembling a bowie knife, or any other dangerous or deadly weapon, except as hereinafter provided.

**Note—**Florida Statutes § 790.33, as amended, preempts and declares null and void all local ordinances, administrative regulations and rules in the field of firearms and ammunition, with limited exceptions set forth in § 790.33, as amended.

(b) *Switch blades.* It shall be unlawful for any person to sell, offer to sell, display, use, possess or carry any knife or knives having the appearance of a pocket knife, the blade or blades of which can be opened by a flick of a button, pressure on the handle, or other mechanical contrivance. Any such knife is hereby declared to be a dangerous or deadly weapon, within the meaning of subsection (a) and shall be subject to forfeiture to the County as provided by subsection (c).

(c) *Forfeiture in addition to other penalties.* Every person convicted of any violation of this section shall forfeit to the County such dangerous or deadly weapon so concealed or displayed.

(d) *Exception.* Nothing in this section shall be construed to forbid any regular, special or ex officio police officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharging of his duty.

(e) *Penalty.* Every person who is convicted for a violation of subsection (a) shall for first conviction thereof be punished by imprisonment for not less than six (6) months and by a fine of not less than one thousand dollars ($1,000.00); for a second or subsequent conviction of a violation of subsection (a) such person shall be punished by imprisonment for not less than one (1) year and by a fine of not less than one thousand dollars ($1,000.00).

(f) *Court of appropriate jurisdiction vested with trial jurisdiction.* All violations of [Section 21-14](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-14DAWEPETRCO)(a) shall be prosecuted only in the court of appropriate jurisdiction which shall have original, exclusive jurisdiction to try all cases arising hereunder. Provided, however, that where an act is recognized by State law as a misdemeanor and by this section as an offense, complaints against persons charged with such unlawful acts may be filed and prosecuted in either the court of appropriate jurisdiction or the Criminal Court of Record of Miami-Dade County, Florida, as the prosecuting attorney shall direct.

(g) *Certain municipal ordinances superseded.* The provisions of [Section 21-14](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-14DAWEPETRCO), Miami-Dade Code, as amended by Ordinance 68-72, shall pertain to all violations thereof within the County and supersede and nullify those provisions of any and all municipal ordinances, codes and laws which define or penalize any act prohibited by [Section 21-14](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-14DAWEPETRCO)(a) except those municipal ordinances, codes and laws not in conflict therewith and which contain an identical penalty provision.

(Ord. No. 58-5, § 22.01, 2-18-58; Ord. No. 68-72, §§ 1, 2, 11-19-68; Ord. No. 68-84, § 1, 12-17-68)

**Editor's note—**

Ord. No. 68-72, amended [§ 21-14](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-14DAWEPETRCO) by adding subsection (c). Subsection (f) of [§ 21-14](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-14DAWEPETRCO), derived from § 2 of said Ord. No. 68-72, was codified as said subsection pursuant to the authority set out in § 3 of said Ord. No. 68-72. Ord. No. 68-84, § 1, amended Ord. No. 68-72 by adding thereto another section which the editors, in their discretion, have codified as subsection (g) of [§ 21-14](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-14DAWEPETRCO)

Sec. 21-14.1. Transmission of hoax substances.

It shall be a violation of this section for any person to knowingly and intentionally transmit, send, deliver, or display, or to threaten or conspire to transmit, send, deliver, or display, to another person or organization, whether public or private, any hoax substance which a reasonable person would believe is a chemical or biological agent intended to cause the illness or death of any person. Any person convicted of a violation of this section shall be punished by a fine not to exceed five hundred dollars ($500.00), or by imprisonment not to exceed sixty (60) days, or both such fine and imprisonment in the discretion of the court.

(Ord. No. 01-198, § 1, 12-4-01)

Sec. 21-15. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-15](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-15RE), concealed weapons permit, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-15](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-15RE) derived from Ord. No. 58-5, adopted Feb. 18, 1958; Ord. No. 75-101, adopted Nov. 4, 1975; Ord. No. 79-31, adopted April 17, 1979; and Ord. No. 79-55, adopted July 3, 1979.

Sec. 21-16. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-16](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-16RE), sale, loan, etc., weapons to intoxicated persons, etc., has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-16](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-16RE) derived from Ord. No. 58-5, adopted Feb. 18, 1958; and Ord. No. 73-95, adopted Nov. 12, 1973.

Sec. 21-17. Possession of weapons by felons, intoxicated persons, etc.

It shall be unlawful for any person who has been convicted of a felony, or who is under the influence of alcohol or a narcotic or drug to wear or have about his person or in any vehicle in which he is an occupant any firearm or other dangerous or deadly weapon.

(Ord. No. 58-5, § 22.04, 2-18-58)

**Note—**Florida Statutes § 790.33, as amended, preempts and declares null and void all local ordinances, administrative regulations and rules in the field of firearms and ammunition, with limited exceptions set forth in § 790.33, as amended.

Sec. 21-18. Handling weapon in dangerous manner.

It shall be unlawful for any person to display, flourish, or handle in a threatening manner, any dangerous or deadly weapons in the presence of one (1) or more persons, except in self-defense or in the defense of person or property.

(Ord. No. 58-5, § 22.05, 2-18-58)

**Note—**Florida Statutes § 790.33, as amended, preempts and declares null and void all local ordinances, administrative regulations and rules in the field of firearms and ammunition, with limited exceptions set forth in § 790.33, as amended.

Sec. 21-18.1. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-18.1](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-18.1RE), discharge of firearms over private property, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-18.1](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-18.1RE) derived from Ord. No. 70-14, adopted Feb. 18, 1970; and Ord. No. 94-147, adopted July 14, 1994.

Sec. 21-19. Disposition of weapons seized on arrest.

It shall be the duty of every police officer, upon making any arrest and taking a weapon under any provision of this article, to deliver such weapon to the clerk of the court of appropriate jurisdiction, to be held by the clerk until the final determination of the prosecution. Upon a finding of guilt, it shall be the duty of the clerk to deliver the weapon or weapons forthwith to the Miami-Dade Police Department which shall dispose of the weapon. If the person charged be acquitted of the offense, the weapon taken from him shall be returned to him upon request; provided, however, that if it is not called for within sixty (60) days from and after the date of his acquittal or the dismissal of the charges against him, the weapon shall be disposed of as in the case of conviction.

(Ord. No. 58-5, § 22.05, 2-18-58)

**Note—**Florida Statutes § 790.33, as amended, preempts and declares null and void all local ordinances, administrative regulations and rules in the field of firearms and ammunition, with limited exceptions set forth in § 790.33, as amended.

Sec. 21-19.1. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-19.1](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-19.1RE), sale of Saturday night specials in Miami-Dade County prohibited, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-19.1](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-19.1RE) derived from Ord. No. 73-93, adopted Nov. 12, 1973.

Sec. 21-19.2. Reserved.

**Editor's note—**

[Section 21-19.2](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-19.2RE), pertaining to the sale, possession, etc., of armor-piercing, KTW, etc., bullets, has been deleted as preempted by F.S. §§ 125.0107, 166.044. The section was derived from Ord. No. 82-34, §§ 1—4, adopted May 4, 1982.

Sec. 21-20. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-20](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-20RE), registration of sales and transfers required; penalty, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-20](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-20RE) derived from Ord. No. 58-5, adopted Feb. 18, 1958; Ord. No. 67-72, adopted Oct. 3, 1967; Ord. No. 68-71, adopted Nov. 19, 1968; and Ord. No. 73-95, adopted Nov. 12, 1973.

#### DIVISION 2. LICENSE TO SELL FIREARMS

[Secs. 21-20.1—21-20.14.1. Reserved.](#BK_894691A87DFE29830D3B4C1F973AA699)

[Sec. 21-20.15. Penalty.](#BK_BEAD13917080E8DF710FF78680853817)

[Sec. 21-20.16. Reserved.](#BK_BF9CF2ED3C9DF7E0CE661CC84B73CEB3)

[Sec. 21-20.17. Reserved.](#BK_075A0FD56A954DB1E57E2AC2DF3CC098)

[Sec. 21-20.18. Five-day waiting period and criminal history records check on firearms sales.](#BK_4DA07B3D985365703B12D0E21E34F871)

[Sec. 21-20.19. Reserved.](#BK_012035EEBC352E0ECF312D0545A8A90A)

Secs. 21-20.1—21-20.14.1. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, §§ 21-20.1—21-20.14.1, regarding license to sell firearms, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former §§ 21-20.1—21-14.1 derived from Ord. No. 66-17, adopted April 26, 1966; Ord. No. 66-53, adopted Oct. 18, 1966; Ord. No. 68-66, adopted Nov. 5, 1968; Ord. No. 73-93, adopted Nov. 12, 1973; Ord. No. 73-94, adopted Nov. 12, 1973; Ord. No. 73-95, adopted Nov. 12, 1973; Ord. No. 75-98, adopted Nov. 4, 1975; Ord. No. 79-31, adopted April 17, 1979; Ord. No. 81-79, adopted July 7, 1981; Ord. No. 87-31, adopted May 19, 1987; and Ord. No. 88-57, adopted June 21, 1988.

Sec. 21-20.15. Penalty.

Every person who is convicted of a violation of this division shall be punished by a fine not to exceed five hundred dollars ($500.00) or imprisonment in the County Jail for not more than thirty (30) days, or by both such fine and imprisonment; for a second conviction of a violation of this division such person shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment in the County Jail not more than twelve (12) months, or by both such fine and imprisonment.

(Ord. No. 66-17, § 15, 4-26-66)

Sec. 21-20.16. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-20.16](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI_S21-20.16RE), handgun purchaser's instruction and qualification procedure, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-20.16](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI_S21-20.16RE) derived from Ord. No. 73-95, adopted Nov. 12, 1973.

Sec. 21-20.17. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-20.17](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI_S21-20.17RE), unlawful to sell handguns to persons who have not qualified, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-20.17](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI_S21-20.17RE) derived from Ord. No. 73-95, adopted Nov. 12, 1973.

Sec. 21-20.18. Five-day waiting period and criminal history records check on firearms sales.

(a) *Definitions.* For purposes of this section, the following terms shall be defined as follows:

(1) *Any part of the transaction* means any part of the sales transaction, including but not limited to, the offer of sale, negotiations, the agreement to sell, the transfer of consideration, or the transfer of the firearm.

(2) *Antique firearms* means any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and any replica of any such firearm if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(3) *Firearm* means any weapon which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; and firearm muffler or firearm silencer; any destructive device; or any machine gun. Such term does not include an antique firearm.

(4) *Property to which the public has the right of access* means any real or personal property to which the public has a right of access, including property owned by either public or private individuals, firms and entities and expressly includes, but is not limited to, flea markets, gun shows and firearms exhibitions.

(5) *Sale* means the transfer of money or other valuable consideration.

(b) *Application and enforcement of section.* Law enforcement officers shall have the right to enforce the provisions of this section against any person found violating these provisions within their jurisdiction.

(c) *Sale and delivery of firearms; mandatory five-day waiting period.* There shall be a mandatory five-day waiting period, which shall be five full days, excluding weekends and legal holidays, between the hour of the sale and the hour of the delivery of any firearm when any part of the transaction is conducted within Miami-Dade County on property to which the public has the right of access.

(d) *Sale and delivery of firearms; mandatory criminal records check.* No person, whether licensed or unlicensed, shall sell, offer for sale, transfer or deliver any firearm to another person when any part of the transaction is conducted on property to which the public has the right of access within Miami-Dade County until all procedures specified under section 790.065, Florida Statutes, have been complied with by a person authorized by that section to conduct a criminal history check of background information as specified in that section, and the approval number set forth by that section has been obtained and documented. Upon the repeal of section 790.065, Florida Statutes, no person, whether licensed or unlicensed, shall sell, offer for sale, transfer or deliver any firearm to another person when any part of the transaction is conducted on property to which the public has the right of access until all procedures specified under any other state or federal law which requires a national criminal history information or national criminal history check on potential buyer or transferee of firearms have been complied with by any person authorized by law to conduct the required national criminal history or background records check and any required approval under such state or federal law or rule has been obtained. "Person" for purposes of this subsection shall include any person, including, but not limited to a licensed importer, licensed manufacturer or licensed dealer and any unlicensed person.

In the case of a seller who is not a licensed importer, licensed manufacturer or licensed dealer, compliance with section 790.065 or its state or federal successor shall be achieved by the seller requesting that a licensed importer, licensed manufacturer or licensed dealer complete all the requirements of section 790.065 or its state or federal successor. Licensed importers, manufacturers and dealers may charge a reasonable fee of an unlicensed seller to cover costs associated with completing the requirements of section 790.065.

(e) *Exemptions.* Holders of a concealed weapons permit as prescribed by state law and holders of an active certification from the Criminal Justice Standards and Training Commission as a law enforcement officer, a correctional officer, or a correctional probation officer as set forth in state law shall not be subject to the provisions of this section.

Sales to a licensed importer, licensed manufacturer or licensed dealer shall not be subject to the provisions of this section.

(f) *Penalties.* Any person violating any provision of this section shall be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or by both such fine and imprisonment. Nothing contained herein shall be construed to preempt the imposition of any higher penalties imposed by state or federal law.

(g) *Reporting of information.* To the fullest extent permissible by law, all information acquired in relation to a violation of this section shall be reported to appropriate federal and state officials.

(Ord. No. 98-169, § 1, 12-1-98)

Sec. 21-20.19. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-20.19](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI_S21-20.19RE), locking devices required for firearms, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-20.19](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV2LISEFI_S21-20.19RE) derived from Ord. No. 00-123, adopted Oct. 3, 2000.

#### DIVISION 3. ELECTRONIC CONTROL DEVICES

[Sec. 21-20.20. Definitions.](#BK_E227452A49A91281FC9BE32AC6371A0A)

[Sec. 21-20.21. Five-day Waiting Period and Criminal History Records Check on Electronic Control Device Sales.](#BK_F49E9A6A9234CB54A5D7FEEB200996E7)

[Sec. 21-20.22. Unlawful to sell electronic control devices to persons who have not had mandatory training on the proper use of electronic control devices.](#BK_6D11E13987292D5A6FF834CC43C8B083)

[Sec. 21-20.23. Sale or delivery of electronic control devices to certain classes of persons is prohibited.](#BK_5832A535D169D428BBA71A4DB0F40D76)

[Sec. 21-20.24. Possession of electronic control device.](#BK_2D9F29E2318444D9356F7B08148B0503)

[Sec. 21-20.25. Electronic control device must be kept secure.](#BK_315B8BE5CB6AD7E8FF3AA72B569E4EFD)

[Sec. 21-20.26. Penalties.](#BK_6E2BA81B58F3507812D73DD023A69D7F)

Sec. 21-20.20. Definitions.

For purposes of this division, the following terms shall be defined as follows:

(a) The word "Electronic Control Device" as used in this division shall be construed to mean any portable device which is designed or intended by the manufacturer to be used, offensively or defensively, which fires one or more barbs attached to a length of wire and which, upon hitting a person, can send out an electric pulse or current capable of temporarily immobilizing or incapacitating a person by disrupting that person's nervous system.

(b) "Any part of the transaction" means any part of the sales transaction, including but not limited to, the offer of sale, negotiations, the agreement to sell, the transfer of consideration, or the transfer of the electronic control device.

(c) "Property to which the public has the right of access" means any real or personal property to which the public has a right of access, including property owned by either public or private individuals, firms and entities and expressly includes, but is not limited to, flea markets, gun shows and firearm exhibitions.

(d) "Sale" means the transfer of money or other valuable consideration.

(Ord. No. 05-201, § 1, 11-3-05)

Sec. 21-20.21. Five-day Waiting Period and Criminal History Records Check on Electronic Control Device Sales.

(a) *Application and enforcement of section.* Law enforcement officers shall have the right to enforce the provisions of this section against any person found violating these provisions within their jurisdiction.

(b) *Sale and delivery of electronic control devices; mandatory five-day waiting period.* There shall be a mandatory five-day waiting period, which shall be five full days, excluding weekends and legal holidays, between the hour of the sale and the hour of the delivery of any electronic control device when any part of the transaction is conducted within Miami-Dade County on property to which the public has the right of access.

(c) *Sale and delivery of electronic control devices; mandatory criminal records check.* No person, whether licensed or unlicensed, shall sell, offer for sale, transfer or deliver any electronic control device to another person when any part of the transaction is conducted on property to which the public has the right of access within Miami-Dade County unless the buyer or the transferee has undergone the criminal history and background check procedures specified under section 790.065, Florida Statutes (2005) and has been provided with a unique approval number.

In the case of a seller who is not a licensed importer, licensed manufacturer or licensed dealer, compliance with section 790.065 or its state or federal successor shall be achieved by the seller requesting that a licensed importer, licensed manufacturer or licensed dealer complete all the requirements of section 790.065 or its state or federal successor. Licensed importers, manufacturers and dealers may charge a reasonable fee of an unlicensed seller to cover costs associated with completing the requirements of section 790.065.

(d) *Records available for inspection.* Records of electronic control device sales must be available for inspection by any law enforcement officer as defined in section 934.02(6), Florida Statutes (2005).

(e) *Exemptions.* Holders of a concealed weapons permit as prescribed by state law and holders of an active certification from the Criminal Justice Standards and Training officer, or a correctional probation officer as set forth in state law shall not be subject to the provisions of this section.

Sales to a licensed importer, licensed manufacturer or licensed dealer shall not be subject to the provisions of this section.

(Ord. No. 05-201, § 1, 11-3-05)

Sec. 21-20.22. Unlawful to sell electronic control devices to persons who have not had mandatory training on the proper use of electronic control devices.

(a) It shall be unlawful for any person to acquire an electronic control device in Miami-Dade County unless such person has received safety instruction and is otherwise qualified, pursuant to this section, or unless he is specifically exempted from the operation of this section.

(b) In order to qualify under this section the purchaser must complete the training course offered by the manufacturer of the electronic control device or any other instructor certified by the manufacturer. Persons who have successfully completed the training course offered by the manufacturer in the course of purchasing an electronic control device shall not be required to repeat the training in any given year in order to purchase another electronic control device.

(c) This section shall not apply to:

(1) Law enforcement officers or agents of any state of the United States, or any political subdivision, municipal corporation, department or agency of either, members of the organized militia of any state for the armed forces of the United States, or law enforcement officers of any political subdivision, municipal corporation, department or agency of either, while engaged in the discharge of their official duties.

(2) Wholesale dealers in their business intercourse with retail dealers or retail dealers in their business intercourse with other retail dealers or to wholesale or retail dealers in the regular or ordinary transportation of electronic control devices by mail, express or other mode of shipment to points outside the country.

(3) Nonresidents of the United States having proper authorization from his or her consulate, acting consulate, commercial attache, or such other authorized representative.

(Ord. No. 05-201, § 1, 11-3-05)

Sec. 21-20.23. Sale or delivery of electronic control devices to certain classes of persons is prohibited.

It shall be unlawful to sell or deliver any electronic control device to any person who the seller has reasonable grounds to believe is under the age of eighteen (18); is under the influence of intoxicating liquor, narcotic drugs, barbiturates, hallucinogens, other controlled substance; is addicted to the use of any narcotic drug, barbiturate, hallucinogens, or other controlled substance; is a habitual alcoholic; is of unsound mind; has been convicted of a felony; or is a fugitive from justice.

(Ord. No. 05-201, § 1, 11-3-05)

Sec. 21-20.24. Possession of electronic control device.

It shall be unlawful to possess an electronic control device in Miami-Dade County unless the person possessing the electronic control device has undergone the criminal history and background check procedures specified under section 790.065, Florida Statutes, and the mandatory training requirements specified in [section 21-20.22](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV3ELCODE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV3ELCODE_S21-20.22UNSEELCODEPEWHHANOHAMATRPRUSELCODE) of this division. Upon request, a person possessing an electronic control device in Miami-Dade County must be able to provide proof of having undergone the criminal history and background check procedures specified under section 790.065, Florida Statutes, and the mandatory training requirements specified in [section 21-20.22](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV3ELCODE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV3ELCODE_S21-20.22UNSEELCODEPEWHHANOHAMATRPRUSELCODE) of this division.

It shall be unlawful for a person who has been convicted of a felony to possess an electronic control device in Miami-Dade County.

(Ord. No. 05-201, § 1, 11-3-05)

Sec. 21-20.25. Electronic control device must be kept secure.

(a) If a person stores or leaves a firearm at any location where the person knows or reasonably should know that a minor might gain access to the electronic control device, the person shall secure the electronic control device in a securely locked box or container except when it is carried on his or her body or is located within such close proximity that the person can retrieve the electronic control device and prevent access to it by a minor.

(b) A violation of this section is a breach of a duty of safety owed by the person who owns or possesses the electronic control device to all minors who might gain access to it and to the general public.

(Ord. No. 05-201, § 1, 11-3-05)

Sec. 21-20.26. Penalties.

Any person violating any section of this division shall be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment. Nothing contained herein shall be construed to preempt the imposition of higher penalties imposed by state or federal law.

(Ord. No. 05-201, § 1, 11-3-05)

### ARTICLE IV. MISCELLANEOUS

[Sec. 21-21. Alcoholic beverage establishments, solicitation of drinks in.](#BK_019EAE0BB17830DC9C71DDD13B978CBD)

[Sec. 21-21.1. Reserved.](#BK_6E7E0E11ED7D0EDB2B2FA01D13DA1888)

[Sec. 21-21.2. Alcoholic beverages and drugs at open house parties.](#BK_807E52603FAECBD6AD2BC20F36FB2A30)

[Sec. 21-21.3. Prohibition of sale of drug-related paraphernalia.](#BK_AC91D3468C52DB33F8F3E78D0E5092A1)

[Sec. 21-22. Sale, offer for sale, purchase with intent to sell and public display for sale of synthetic cannabinoid herbal incense prohibited.](#BK_8EE822A27668655C0196427F94BF9F25)

[Sec. 21-22.1. Sale, offer for sale, purchase with intent to sell and public display for sale prohibited of synthetic stimulant bath salts, synthetic cathinones, synthetic amphetamines and other synthetic stimulants that mimic illegal drugs.](#BK_9301C341F580ECA05801B5397A1FB94A)

[Sec. 21-23. Duty of custodian.](#BK_6F313FC8B89C87C56F53CD2DF94B4652)

[Sec. 21-23.1. Commercial signs along expressways, highways, etc., prohibited.](#BK_07A85EC2D93C5ACC79E5931FC10BD0CA)

[Sec. 21-23.2. Reserved.](#BK_E8B5F40AA804BB0AA28139EADC3C2527)

[Sec. 21-24. False alarms and reports.](#BK_0BE4D3E1A6A9656926FDD53288582CA9)

[Sec. 21-24.1. False statements with intent to receive benefit.](#BK_A7EC673E0CE093138EFC2C15E9252A8B)

[Sec. 21-25. Fire and police alarm systems; obstructing or interfering with.](#BK_41A57A3DC62385CBA35136F3EBD8E1ED)

[Sec. 21-26. Firefighters, policemen, service, execution of process; court order; hindering, obstructing justice.](#BK_0E57CE43A63280234DC7B6853EE8694F)

[Sec. 21-27. Fires; obedience to firefighters and police officers.](#BK_3F45B63DF78BC55A014DE929D1F360C4)

[Sec. 21-27.1. Merchandise—Selling, serving, vending in public rights-of-way near schools.](#BK_EF6ECF89E489E23F1F5D396BF3A3AD50)

[Sec. 21-27.2. Same—Selling, serving, vending in public rights-of-way near public parks.](#BK_B558FCB3D2258A1CB3F1FE77A74B277B)

[Sec. 21-27.3. Railroad train whistle and horn noise pollution prohibited.](#BK_FD29E1C898110296FC65B98D8B0D2E02)

[Sec. 21-27.4. Reserved.](#BK_3D6B5B8E685C5C4B168DA54940B87FF2)

[Sec. 21-28. Noises; unnecessary and excessive prohibited.](#BK_2A30C22C0A5D5B3641ECAB4B3EDFE85F)

[Sec. 21-28.1. Open-air concerts, musical broadcasts, etc.](#BK_1BE6EB54236E001E09B93AFA6431EBF0)

[Sec. 21-29. Secondhand dealers.](#BK_23AF380E577DD5E285011FB32CEB818A)

[Sec. 21-29.1. Private business, advertising on public property prohibited; exceptions; penalty; enforcement.](#BK_404B1ACA525BE52A4A981D2C38AFABFC)

[Sec. 21-29.2. Unauthorized use of official County emblem and stationery prohibited; exceptions.](#BK_93E19C34E4C54CF73205BD2D5E4EF4D2)

[Sec. 21-29.3. Library Rules of Conduct and Eviction Procedure.](#BK_7D721B991EBF6570B3A8B57FE067FFB2)

[Sec. 21-30. Offenses against public and private property.](#BK_30F4AF272A50D49C1764C69C72CD341C)

[Sec. 21-30.01. Graffiti.](#BK_CFDD2FCD01E98C5147F966F96C5F4D34)

[Sec. 21-30.1. Public dance halls.](#BK_59C5CA7411E9995813ADE9B6C3F6493D)

[Sec. 21-30.2. Reserved.](#BK_07E572ECE06688B35B9FE82D19CBDFB6)

[Sec. 21-30.3. Honeybee hives or colonies.](#BK_4E0EEEC9EBDB203689C7FA540593F28A)

[Sec. 21-31. Reserved.](#BK_7DD469815A7FFA52D3A0DE46ADFDCEA5)

[Sec. 21-31.1. Disorderly conduct, loitering; penalties, trial for violations.](#BK_C235D877945D85B89AA195C6C2ACCF3D)

[Sec. 21-31.2. Consumption or possession of alcohol in open containers near store selling alcoholic beverages, religious property, and other locations. Signs required in such stores.](#BK_1CB77112C9CB2DD1953ED5B165DC4168)

[Sec. 21-31.3. Warning signs required for retail sale of alcoholic beverages.](#BK_B82A019ADA81EA7751A44637FB5ACDD7)

[Sec. 21-31.4. Aggressive or obstructive panhandling prohibited.](#BK_7CD541C7DDFA0C179C02CFBC25AC1CDC)

[Sec. 21-32. Tip sheets for racing.](#BK_B1B51A0327261302D793441A80CAEB7C)

[Sec. 21-33. Races, automobiles and motorcycles.](#BK_F143F22A1B90B226B62AE7DCE1D6862E)

[Sec. 21-34. Watercourse, canal, drain, ditch, etc.; obstructing, damaging prohibited, penalty.](#BK_CC8D7DF8FF0D3113224EDB1C12185B7D)

[Sec. 21-35. Glue and cement; sales to minors; exception; intoxication; applicable areas; penalty for section violation; trials.](#BK_FFA457817ABD8F1ACF7F97DA19B1EC73)

[Sec. 21-36. Sidewalk solicitation of business; enforcement; penalty for section violation.](#BK_001278AD41387749A89C336583EAA942)

[Sec. 21-36.1. Street corner automobile window washers restricted.](#BK_D6B0117BB74D49F04062626D2D1FF57A)

[Sec. 21-37. Persons confined in Miami-Dade County Jail for violations of the Miami-Dade Code; unlawful acts; penalty.](#BK_18FF3508694A0C238197B07348E2F81E)

[Sec. 21-38. Hypodermic syringe or needle; sale prohibited without prescription; discarding prohibited without destruction or mutilation and packaging and sealing.](#BK_9E7B6AC3A118FD83F15FEC854AD81474)

[Sec. 21-39. Collection of bond posted for prisoners on bail; repeal of Chapter 10060.](#BK_1A1D58F2F40663EAE768EFE6A8A732B4)

[Sec. 21-40. Smoking, spitting within certain public vehicles prohibited.](#BK_C4884C784F11D52AB2087D6AF959FCEA)

[Sec. 21-40.1. Reserved.](#BK_2C1C154A2CE5F2F353228B8AAC3F061F)

[Sec. 21-41. Right of tenants to present grievances; retaliation, discrimination by management prohibited; violations and penalties.](#BK_B5AEDDB2B4AD5E009D161FC32878A5B5)

[Sec. 21-42. Obscene materials or performances.](#BK_3651211F1386A32F8329FEC4C76DB755)

[Sec. 21-43. Promotion, delivery, possession with intent to promote or deliver torture materials, instruments or devices.](#BK_488120D3CFD8DBF3990CF62629851F2C)

[Sec. 21-44. Manholes; safety requirements; penalty.](#BK_1A9196504A056697B543AAD929E7AAD0)

[Sec. 21-45. Vehicles, painted to resemble law enforcement vehicles.](#BK_2804E5C1E407965E7D95E43249320A0A)

[Sec. 21-46. Reserved.](#BK_ED794BC0A92696A5FE775E4BA56DCDE3)

[Sec. 21-47. Sexual activity in bathhouses and health clubs.](#BK_308400403B64FB97132F7948DAC62B88)

[Sec. 21-47.1. Sexual activity in adult bookstores and adult video stores.](#BK_05510EF9215CD7438EF7F9EFD1912B10)

[Sec. 21-48. Sale and installation of satellite dish antennas to residential customers.](#BK_D5DAE7755F3BAFA7FFDACA2A94A56F37)

[Sec. 21-49. Loitering for the purpose of obtaining temporary employment; prohibiting employment; penalty.](#BK_B5797E68A4FF6B3BC7454707F3D351FF)

[Sec. 21-50. Reserved.](#BK_B2595B7819B8946A80086BAC348403E8)

Sec. 21-21. Alcoholic beverage establishments, solicitation of drinks in.

(a) *Soliciting drinks.* It shall be unlawful for any host, hostess, waiter, waitress, male or female entertainer or employee in a place dispensing alcoholic beverages for consumption on the premises to solicit any beverage, whether an alcoholic beverage or otherwise, for which the customer or patron in such establishment pays.

(b) *Mingling incident to soliciting drinks.* It shall be unlawful for any male or female employee or entertainer in places dispensing alcoholic beverages for consumption on the premises to mingle or fraternize with the customers or patrons of such establishments incident to soliciting the purchase of beverages, alcoholic or otherwise, for any such employee and for which the patron or customer in such establishment pays.

(c) *Employing persons to solicit drinks.* It shall be unlawful for any owner, operator, manager or other employee of a place dispensing alcoholic beverages for the consumption on the premises to employ or permit on the premises any person to solicit drinks for himself or herself or any other person.

(d) *Loitering to solicit drinks.* It shall be unlawful for any man or woman to frequent or loiter in any tavern, cabaret or night club for the purpose of soliciting drinks.

(Ord. No. 58-5, § 24.02, 2-18-58)

**Cross reference—** Zoning regulations relating to alcoholic beverage establishment, § 33-150 et seq.

Sec. 21-21.1. Reserved.

**Editor's note—**

Ord. No. 86-20, § 1, adopted March 18, 1986, added [§ 21-21.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-21.1RE), concerning a limit on the number of liquor licenses. Ord. No. 86-31, § 1, adopted April 15, 1986, repealed Ord. No. 86-20.

Sec. 21-21.2. Alcoholic beverages and drugs at open house parties.

(a) *Definitions.* For purposes of this section, the following terms shall be defined as follows:

(1) "Adult" means a person not legally prohibited by reason of age from possessing alcoholic beverages pursuant to Chapter 562, Florida Statutes, as the same may be amended from time to time.

(2) "Alcoholic beverage" means any beverage containing more than one (1) percent of alcohol by weight. The percentage of alcohol by weight shall be determined in accordance with the provisions of Section 561.01(4)(b), Florida Statutes, as the same may be amended from time to time.

(3) "Drug" means "controlled substance" as that term is defined in Section 893.02(3) and 893.03, Florida Statutes, as the same may be amended from time to time.

(4) "Minor" means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to Chapter 562, Florida Statutes, as the same may be amended from time to time.

(5) "Open house party" means a social gathering at a residence.

(6) "Residence" means a home, apartment, condominium or other dwelling unit.

(b) *Responsibility of adults.* No adult having control of any residence shall allow an open house party to take place at said residence if any alcoholic beverage or drug is possessed or consumed at said residence by any minor where the adult knew or reasonably should have known that an alcoholic beverage or drug was in the possession of or being consumed by a minor at said residence, and where the adult failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage or drug.

(c) *Exception.* The provisions of this section shall not apply to the use of alcoholic beverages at legally protected religious observances or activities.

(d) *Penalties.* The penalties for violation of this section are as follows:

(1) For the first violation, a fine not exceeding five hundred dollars ($500.00);

(2) For subsequent violations, a fine not exceeding five hundred dollars ($500.00) or imprisonment in the County Jail for a term not to exceed sixty (60) days, or by both such fine and imprisonment.

(Ord. No. 84-60, §§ 1—4, 7-17-84)

**Editor's note—**

Inclusion of §§ 1—4 of Ord. No. 84-60, adopted July 17, 1984, has been at the editor's discretion.

Sec. 21-21.3. Prohibition of sale of drug-related paraphernalia.

*Definition:* Drug-related paraphernalia means any device, contrivance or instrument as defined in Florida Statutes Sections 893.145 and 893.146.

*Prohibitions:*

(1) It is unlawful for any person to own, possess, have under his control, sell or deliver any paraphernalia with the intent that the paraphernalia be used for unlawfully injecting, smoking, swallowing or using an illegal drug.

(2) It is unlawful to sell to any person younger than twenty-one (21) years of age any paraphernalia that can be used for injecting, smoking, swallowing, processing or storing an illegal drug. This provision shall not apply to the dispensation of hypodermic syringes, needles or other such objects pursuant to a valid prescription by a licensed practitioner, parent, or legal guardian or pharmacist.

(3) It is unlawful to sell to any person twenty-one (21) years of age and older any paraphernalia which can be used for injecting, smoking, swallowing, processing or storing an illegal drug, if a reasonable person would know that person is acting as a straw purchaser for a person younger than twenty-one (21) years of age.

*Penalties.* For the first offense of any provision in this Section may result in a criminal penalty of up to two thousand dollars ($2,000.00) and up to sixty (60) days imprisonment. Any subsequent offense of any provision of this Section may result in a criminal penalty of up to two thousand dollars ($2,000.00), up to sixty (60) days of imprisonment and the revocation of all County Occupational Licenses and Certificates of Operation.

(Ord. No. 00-20, § 1, 2-24-00)

Sec. 21-22. Sale, offer for sale, purchase with intent to sell and public display for sale of synthetic cannabinoid herbal incense prohibited.

(a) *Purpose and intent.* The Miami-Dade County Board of County Commissioners finds and declares that the products and synthetic substances described hereunder are commonly used as alternatives to marijuana. The Board further finds that these synthetic substances are particularly appealing to youth, and that these synthetic substances are potentially dangerous to users in the short term and that the long term effects are not yet known. The Board finds that the products which contain these synthetic substances often use a disclaimer that the product is "not for human consumption" to avoid regulations requiring the manufacturer to list the product's active ingredients. The Board finds drug designers and chemists can quickly create new synthetic drugs once federal or state law makes a particular synthetic drug illegal. As such, the Board finds there is a need to declare illegal the sale, offer for sale, purchase with intent to sell and public display for sale of synthetic substances that mimic illegal controlled substances that have not yet themselves been categorized as illegal controlled substances under federal or state law. The Board further finds that it is proper and necessary for the Board to exercise its authority to safeguard and protect the public health, safety and welfare by taking this action.

(b) *Application.* This section shall be applicable in the incorporated and unincorporated areas of Miami-Dade County, with the enforcement of the provision of this section in the unincorporated area being the responsibility of Miami-Dade County and in the incorporated area being the responsibility of the respective municipalities.

(c) *Preemption.* This section shall not preempt any municipal ordinance governing this subject area that is more stringent than this ordinance or that declares illegal a substance that is not declared illegal by this ordinance.

(d) *Definitions.* For purposes of this section, the following terms apply:

(1) *Structurally similar* as used in this section shall mean chemical substitutions off a common chemical backbone associated with synthetic cannabinoids, synthetic cannabinoid-mimicking compounds, 2-[(1R, 3S)-3-hydroxycyclohexyl]-5- (2-methyloctan-2-yl) phenol, also known as CP 47,497 and its dimethyloctyl (C8) homologue, (6aR, 10aR) -9- (hydroxymethyl) -6, 6-dimethyl-3- (2-methyloctan-2-yl) -6a, 7, 10, 10a-tetrahydrobenzo [c] chromen-1-ol, also known as HU-210, 1-Pentyl-3- (1-naphthoyl) indole, also known as JWH-018, 1-Butyl-3- (1-naphthoyl) indole, also known as JWH-073, 1-[2-(4-morpholinyl)ethyl]-3-(1- naphthoyl)indole, also known as JWH-200, JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole), JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1- naphthalenylmethanone), JWH-019 (Naphthalen-1-yl-(1-hexylindol-3-yl)methanone), JWH-020 (1- heptyl-3-(1-naphthoyl)indole), JWH-072 (Naphthalen-1 -yl-(1-propyl-1H-indol-3-yl)methanone), JWH-081 (4-methoxynaphthalen-1-yl-(l-pentylindol-3-yl)methanone), JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole), JWH-133 ((6aR, 10aR)-3-(1,1-Dimethylbutyl)-6a.,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)), JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-indole), JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole), JWH-203 (2-(2- chlorophenyl)-1-(1-pentylindol-3-yl)ethanone), JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone), JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone), JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone), JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole), JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole), HU-211 ((6aS, 10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3 -(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol), HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol), HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-( 1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione), CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone), CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-undecanamide), CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-undecanamide), CP 55,940 (2-[(1R,2R,5R)-5- hydroxy-2-(3hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol), AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone), AM-2201 (1-[(5- fluoropentyl)-1H-indol-3-yl]-(naphthalen-1-yl)methanone), RCS-4 ((4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone), RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenylethanone), WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4- benzoxazin-6-yl]-1-naphthalenylmethanone), WIN55,212-3 ([(3S)-2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone), or related salts, isomers, and salts of isomers, listed in the controlled substance schedules in Chapter 893, Florida Statutes, as amended, or otherwise prohibited by federal or state law.

(2) *Synthetic cannabinoid herbal incense* as used in this section shall mean aromatic or nonaromatic plant material containing a synthetic drug, or to which a synthetic drug has been sprayed, applied or otherwise added, that is distributed in a loose, leafy, powder or granular form or in a compressed block or blocks that can be crushed to result in a powder or granular form, and can be placed into a pipe, cigarette paper or drug paraphernalia for purposes of ingestion by smoking, inhaling or other method, regardless of whether the substance is marketed as not for the purpose of human consumption, and regardless of how the substance is labeled, including, but not limited to, insect repellant, plant food, herbs, incense, nutrient, dietary supplement or spice.

(3) *Synthetic drug* as used in this section shall mean any chemical or mixture of chemicals, however packaged, that is structurally similar to synthetic cannabinoids, synthetic cannabinoid-mimicking compounds or any other substance listed in paragraph (1) above, or related salts, isomers, or salts of isomers, as listed in the controlled substance schedules in Chapter 893, Florida Statutes, or otherwise prohibited by federal or state law, as such may be amended from time to time. "Synthetic drug" also shall include any chemical or mixture of chemicals, however packaged, that mimics the effects of tetrahydrocannabinol (also known as THC), the main active ingredient found in marijuana or any other substance listed in paragraph (1) above, or related salts, isomers, or salts of isomers, as Packaging that indicates or implies that a product mimics the effects of marijuana, such as "fake weed" or "fake pot" or any other substance listed in paragraph (1) above, shall create a presumption that the product mimics the effects of tetrahydrocannabinol. "Synthetic drug" shall not include any substance currently listed in the controlled substance schedules in Chapter 893, Florida Statutes, or otherwise prohibited by federal or state law, as such may be amended from time to time.

(e) *Sale, offer for sale and purchase with intent to sell synthetic cannabinoid herbal incense prohibited.* It shall be unlawful for any store owner, store manager, store purchasing agent or other person to sell, offer for sale or purchase with intent to sell any synthetic cannabinoid herbal incense as defined herein.

(f) *Public display for sale of synthetic cannabinoid herbal incense prohibited.* It shall be unlawful for any store owner, store manager, store purchasing agent or other person to publicly display for sale any synthetic cannabinoid herbal incense as defined herein.

(g) *Affirmative defense.* It shall be an affirmative defense to prosecution of a violation of this section if the sale, offer for sale or public display for sale of synthetic cannabinoid herbal incense is pursuant to the direction or prescription of a licensed physician or dentist authorized in the State of Florida to direct or prescribe such act.

(h) *Seizure and destruction of synthetic cannabinoid herbal incense.* Synthetic cannabinoid herbal incense prohibited herein may be seized by law enforcement officers and may be destroyed in the same manner used to destroy narcotics and contraband substances, after its use for evidentiary purposes in any judicial proceeding is no longer required.

(i) *Injunctive relief.* Miami-Dade County shall have the authority to seek an injunction against any person or business violating the provisions of this section. In any action seeking an injunction, Miami-Dade County shall be entitled to collect its enforcement expenses, including forensic costs, law enforcement costs and reasonable attorney fees and costs incurred at trial and on appeal.

(j) *Subsequent federal or state action.* If Congress or a federal agency amends federal law to include a particular substance or otherwise enacts or amends a federal law providing for criminal penalties for the prohibitions of substances set forth in this ordinance, then upon the effective date of such enactment or amendment, the provisions of this ordinance addressed by federal law shall no longer be deemed effective. Any violations of this ordinance committed prior to the Congress or a federal agency enacting a federal law may be prosecuted.

If the Florida Legislature amends the controlled substance schedules in Section 893.01, Florida Statutes, to include a particular substance or otherwise enacts, or amends a state statute providing for criminal penalties for the prohibitions of substances set forth in this ordinance, then upon the effective date of such enactment or amendment, the provisions of this ordinance addressed by the state statute shall no longer be deemed effective.

If the Florida Attorney General pursuant to the rulemaking authority provided in Chapter 893[, Florida Statutes,] adds a particular substance to the controlled substance schedules in Section 893.01, Florida Statutes, then upon the effective date of such enactment or amendment, the provisions of this ordinance addressed by the state statute shall no longer be deemed effective. Any violations of this ordinance committed prior to the Florida Legislature enacting such a statute or the Florida Attorney General promulgating rules may be prosecuted.

(k) *Penalty.* Any store owner, store manager, store purchasing agent or other person violating any provision of this section shall be punishable by:

(1) A fine not to exceed five hundred dollars ($500.00);

(2) Imprisonment in the county jail for a period not to exceed sixty (60) days;

(3) Both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;

(4) Fines in accordance with [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County; or

(5) Completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

(Ord. No. 12-44, § 1, 7-3-12)

Sec. 21-22.1. Sale, offer for sale, purchase with intent to sell and public display for sale prohibited of synthetic stimulant bath salts, synthetic cathinones, synthetic amphetamines and other synthetic stimulants that mimic illegal drugs.

(a) *Purpose and intent.* The Miami-Dade County Board of County Commissioners finds and declares that the products and synthetic substances described hereunder are commonly used as alternatives to amphetamines, cocaine, ecstasy and other illegal drugs. The Board further finds that these synthetic substances are particularly appealing to youth, and that these synthetic substances are potentially dangerous to users in the short term and the long term effects are not yet known. The Board finds that the products which contain these synthetic substances often use a disclaimer that the product is "not for human consumption" to avoid regulations that require the manufacturer to list the product's active ingredients. The Board finds that drug designers and chemists can quickly create new synthetic drugs once federal or state law makes a particular synthetic drug illegal. As such, the Board finds there is a need to declare illegal the sale, offer for sale, purchase with intent to sell and public display for sale of synthetic substances that mimic illegal controlled substances, even though such synthetic substances have not yet themselves been categorized as illegal controlled substances under federal or state law. The Board further finds that it is proper and necessary for the Board to exercise its authority to safeguard and protect the public health, safety and welfare by taking this action.

(b) *Application.* This section shall be applicable in the incorporated and unincorporated areas of Miami-Dade County, with the enforcement of the provision of this section in the unincorporated area being the responsibility of Miami-Dade County and in the incorporated area being the responsibility of the respective municipalities.

(c) *Preemption.* This section shall not preempt any municipal ordinance governing this subject area that is more stringent than this ordinance or that declares illegal a substance that is not declared illegal by this ordinance.

(d) *Definitions.* For purposes of this section, the following terms apply;

(1) *Structurally similar* as used in this section shall mean chemical substitutions off a common chemical backbone associated with cathinone, methcathinone, amphetamine, methamphetamine, cocaine, 3,4-methylenedioxymethamphetamine (MDMA), 3,4-methylenedioxymethcathinone, 3,4- methylenedioxypyrovalerone (MDPV), methylmethcathinone, methoxymethcathinone, methylethcathinone, fluoromethcathinone, BZP (benzylpiperazine), fluorophenylpiperazine, methylphenylpiperazine, chlorophenylpiperazine, methoxyphenylpiperazine, DBZP (1,4- dibenzylpiperazine), TFMPP (3-Trifluoromethylphenylpiperazine), MBDB (Methylbenzodioxolylbutanamine), 5-Hydroxy-alpha-methyltryptamine, 5-Hydroxy-N-methyltryptamine, 5-Methoxy-N-methyl-N-isopropyltryptamine, 5-Methoxy-alpha-methyltryptamine, methyltryptamine, 5-Methoxy- N,N-dimethyltryptamine, 5-Methyl-N,N-dimethyltryptamine, 5-Methoxy-N,N-Diisopropyltryptamine, DiPT (N,N-Diisopropyltryptamine), DPT N,N-Dipropyltryptamine) 4-Hydroxy-N,N-diisopropyltryptamine, N,N-Diallyl-5-Methoxytryptamine, DOI (4-Iodo-2,5-dimethoxyamphetamine), DOC (4-Chloro-2,5- dimethoxyamphetamine), 2C-E (4-Ethyl-2,5- dimethoxyphenethylamine), 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine), 2C-C (4-Chloro-2, 5-dimethoxyphenethylamine), 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine), 2C- T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine), 2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine), 2C-I (4-Iodo-2,5-dimethoxyphenethylamine), Butylone (beta-keto-N-methylbenzodioxolylpropylamine), Ethcathinone, Ethylone (3,4-methylenedioxy-N-ethylcathinone), Naphyrone (naphthylpyrovalerone), N-N-Dimethyl-3,4-methylenedioxycathinone, N-N-Diethyl-3,4-methylenedioxycathinone, 3,4-methylenedioxy-propiophenone, 2-Bromo-3,4-Methylenedioxypropiophenone, 3,4-methylenedioxy-propiophenone-2-oxime, N-Acetyl-3,4-methylenedioxycathinone, N-Acetyl-N-Methyl-3,4-Methylenedioxycathinone, N-Acetyl-N-Ethyl-3,4-Methylenedioxycathinone, Bromomethcathinone, Buphedrone (alpha-methylamino-butyrophenone), Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine), Dimethylcathinone, Dimethylmethcathinone, Pentylone (beta-Keto-Methylbenzodioxolylpentanamine), (MDPPP) 3,4-Methylenedioxy-alpha pyrrolidinopropiophenone, (MDPBP) 3,4-Methylenedioxy-alpha pyrrolidinobutiophenone, Methoxy-alpha-pyrrolidinopropiophenone (MOPPP), Methyl-alpha-pyrrolidinohexiophenone (MPHP), Benocyclidine (BCP), benzothiophenylcyclohexylpiperidine (BTCP), Fluoromethylaminobutyrophenone (F- MABP), Methoxypyrrolidinobutyrophenone (MeO- PBP), Ethyl-pyrrolidinobutyrophenone (Et-PBP), 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO- MCAT), Methylethylaminobutyrophenone (Me-EABP), Methylamino-butyrophenone (MABP), Pyrrolidinopropiophenone (PPP), Pyrrolidinobutiophenone (PBP), Pyrrolidinovalerophenone (PVP), Methyl-alpha-pyrrolidinopropiophenone (MPPP), or related salts, isomers, and salts of isomers, listed in the controlled substance schedules in Chapter 893, Florida Statutes, as amended, or otherwise prohibited by federal or state law.

(2) *Synthetic stimulant bath salts* as used in this section shall mean any substance, whether in powder, crystal, liquid, tablet or capsule form, containing a synthetic stimulant as defined herein or to which a synthetic stimulant has been added or applied, that can be ingested by smoking, inhaling or other method, regardless of whether the substance is marketed as not for the purpose of human consumption, and regardless of how the substance is labeled, including, but not limited to, bath salts, insect repellant, plant food, herbs, incense, iPod cleaner, nutrient, dietary supplement or spice.

(3) *Synthetic stimulant* as used in this section shall mean any chemical or mixture of chemicals, however packaged, that has a stimulant effect on the central nervous system and is structurally similar to cathinone, methcathinone, amphetamine, methamphetamine, cocaine, MDMA or any other substance listed in paragraph (1) above, or related salts, isomers, and salts of isomers, as listed in the controlled substance schedules in Chapter 893, Florida Statutes, or otherwise prohibited by federal or state law. "Synthetic stimulant" shall also include any chemical or mixture of chemicals, however packaged, that mimics the pharmacological effects of cathinone, methcathinone, amphetamine, methamphetamine, cocaine, MDMA or any other substance listed in paragraph (1) above, or related salts, isomers, and salts of isomers. Packaging that indicates, suggests or implies that a product mimics the pharmacological effects of cathinone, methcathinone, amphetamine, methamphetamine, cocaine, ecstasy or any other substance listed in paragraph (1) above, shall create a presumption that the product mimics the effects of the substance. "Synthetic stimulant" shall not include any substance currently listed in the controlled substance schedules in Chapter 893, Florida Statutes, or otherwise prohibited by federal or state law, as such may be amended from time to time.

(e) *Sale, offer for sale and purchase with intent to sell synthetic stimulant bath salts and synthetic stimulants prohibited.* It shall be unlawful for any store owner, store manager, store purchasing agent or other person to sell, offer for sale or purchase with intent to sell any synthetic stimulant bath salts as defined herein or any synthetic stimulants as defined herein.

(f) *Public display for sale of synthetic stimulant bath salts and synthetic stimulants prohibited.* It shall be unlawful for any store owner, store manager, store purchasing agent or other person to publicly display for sale any synthetic stimulant bath salts as defined herein or any synthetic stimulants as defined herein.

(g) *Affirmative defense.* It shall be an affirmative defense to prosecution of a violation of this section if the sale, offer for sale, purchase with intent to sell or public display for sale of synthetic stimulant bath salts as defined herein or synthetic stimulants as defined herein is pursuant to the direction or prescription of a licensed physician or dentist authorized in the State of Florida to direct or prescribe such act.

(h) *Seizure and destruction of synthetic stimulant bath salts and synthetic stimulants.* Synthetic stimulant bath salts and synthetic stimulants prohibited herein may be seized by law enforcement officers and may be destroyed in the same manner used to destroy narcotics and contraband substances, after its use for evidentiary purposes in any judicial proceeding is no longer required.

(i) *Injunctive relief.* Miami-Dade County shall have the authority to seek an injunction against any person or business violating the provisions of this section. In any action seeking an injunction, Miami-Dade County shall be entitled to collect its enforcement expenses, including forensic costs, law enforcement costs and reasonable attorney fees and costs incurred at the trial level and on appeal.

(j) *Subsequent federal or state action.* If Congress or a federal agency amends federal law to include a particular substance or otherwise enacts or amends a federal law providing for criminal penalties for the prohibitions of substances set forth in this ordinance, then upon the effective date of such enactment or amendment, the provisions of this ordinance addressed by federal law shall no longer be deemed effective. Any violations of this ordinance committed prior to Congress or a federal agency enacting a federal law may be prosecuted.

If the Florida Legislature amends the controlled substance schedules in Section 893.01, Florida Statutes, to include a particular substance or otherwise enacts, or amends a state statute providing for criminal penalties for the prohibitions of substances set forth in this ordinance, then upon the effective date of such enactment or amendment, the provisions of this ordinance addressed by the state statute shall no longer be deemed effective.

If the Florida Attorney General pursuant to the rulemaking authority provided in Chapter 893[, Florida Statutes,] adds a particular substance to the controlled substance schedules in Section 893.01, Florida Statutes, then upon the effective date of such enactment or amendment, the provisions of this ordinance addressed by the state statute shall no longer be deemed effective.

Any violations of this ordinance committed prior to the Florida Legislature enacting such a statute or the Florida Attorney General promulgating rules may be prosecuted.

(k) *Penalty.* Any store owner, store manager, store purchasing agent or other person violating any provision of this section shall be punishable by:

(1) A fine not to exceed five hundred dollars ($500.00);

(2) Imprisonment in the county jail for a period not to exceed sixty (60) days;

(3) Both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;

(4) Fines in accordance with [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County; or

(5) Completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

(Ord. No. 12-45, § 1, 7-3-12)

Sec. 21-23. Duty of custodian.

(a) *Acknowledgement that arrested person is in custody.* It shall be the duty of any officer having custody of an arrested person to acknowledge that such person is in custody when inquiry is made by a member of such person's immediate family or a duly authorized representative of the family.

(b) *Kangaroo courts outlawed.* It shall be the duty of any officer having charge or custody of persons under arrest to prevent such persons from conducting, or being subjected to, summary extrajudicial proceedings, sometimes referred to as kangaroo court, whereby certain prisoners are tried by other prisoners and forfeits demanded.

(Ord. No. 58-5, § 25.03, 2-18-58)

Sec. 21-23.1. Commercial signs along expressways, highways, etc., prohibited.

Pending the enactment of new uniform standards and criteria for commercial advertising signs along expressways, no permits shall be issued for the construction of any such signs upon any property abutting any expressways, limited changes or parallel service roads used in connection therewith; and it shall be unlawful for any person, firm, corporation or other legal entity to construct or maintain any new commercial advertising sign, as defined by [Section 33-112](../level4/PTIIICOOR_CH33ZO_ARTVISI_DIV4ENFE.docx#PTIIICOOR_CH33ZO_ARTVISI_DIV4ENFE_S33-112PEFEDE) of the Code of Miami-Dade County, upon any such property within the territorial areas of Miami-Dade County, Florida.

(Ord. No. 62-30, §§ 1—3, 7-3-62; Ord. No. 62-32, §§ 1, 2, 7-31-62)

**Editor's note—**

[Section 21-23.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-23.1COSIALEXHIETPR), derived from Ord. No. 62-30, §§ 1—3, and regulating commercial signs along expressways, highways, etc., was repealed by Ord. No. 62-32, § 1, enacted as an emergency measure on July 31, 1962. Sec. 2 of Ord. No. 62-32, not being expressly amendatory of this Code, has been codified in this manner at the editor's discretion.

**Charter reference—** Manner of adopting emergency measures, § 1.02(F).

Sec. 21-23.2. Reserved.

**Editor's note—**

[Section 21-23.2](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-23.2RE), pertaining to authorized deputies of constables, has been deleted as obsolete. Constables were an adjunct to the justice of the peace courts, which courts have been abolished. *See* Fla. Const. Art. V. The section was derived from Ord. No. 69-79, §§ 1—3, adopted November 5, 1969.

Sec. 21-24. False alarms and reports.

(a) *False alarms.* It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or a false alarm of the need for police or ambulance assistance; and it shall be unlawful for any person to aid or abet in the commission of any such act.

(b) *False reports.* It shall be unlawful to make to, or file with, the Miami-Dade Police Department or the Police Department of any municipality any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime, or offense, occurring within the County or any municipality within the County.

(Ord. No. 58-5, § 21.05, 2-18-58; Ord. No. 69-92, § 1, 12-17-69)

**Cross reference—** Disseminating false information relating to bombing, § 21-2.

Sec. 21-24.1. False statements with intent to receive benefit.

(a) *Declared unlawful.* It shall be unlawful for any person directly or indirectly to his own behalf or on behalf of another or others to make to or file with any officer or employee or department or division of the County any false statement or representation with knowledge of the falsity thereof and for the purpose or with the intention of receiving for himself or another or others any benefit, including, but not limited to, any permit, license, service, certificate, contract, the reduction or elimination of any regular fee, assessment or hospital or other charge payable to the County, the securing of employment by the County or the elimination of any charge which is a ground for reduction in grade or in suspension or dismissal from County employment.

(b) *Penalty for violation of provisions.* Any person who is convicted of a violation of subsection (a) shall be punished by a fine, or by imprisonment in the County Jail, or both, as provided in [Section 1-5](../level2/PTIIICOOR_CH1GEPR.docx#PTIIICOOR_CH1GEPR_S1-5GEPECOCILICRLIPE) of this Code, provided, however, that if the person so convicted is a County officer or employee he shall, in addition to any other penalty which may be imposed, forfeit his office or employment and shall not be eligible to hold County office or be employed by the County for a period of five (5) years from the date of such conviction.

(c) *Provisions declared cumulative.* This section shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter.

(Ord. No. 61-20, §§ 1—3, 5-9-61)

**Editor's note—**

Ord. No. 61-20 amended this Code to add the provisions designated by the editors as [§ 21-24.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-24.1FASTINREBE)

Sec. 21-25. Fire and police alarm systems; obstructing or interfering with.

It shall be unlawful for any person to place, or cause to be placed, any article or thing on or upon any sidewalk in such a manner as to interfere with or obstruct the free access or approach to any signal box of the fire and police systems, or without authority from the Miami-Dade Police Director, to run any wire on any of the telegraph poles or fixtures of such systems, or, without authority from the Miami-Dade Police Director, to break, remove or injure or cause to be broken, removed or injured, any of the parts or appurtenances of such systems; or, without authority, to make, or fit, or cause to be made or fitted, any key to the lock of any signal box of such systems; or without authority, to have or retain in his possession any key belonging to or fitted to the lock of any such signal box.

(Ord. No. 58-5, § 21.06, 2-18-58)

Sec. 21-26. Firefighters, policemen, service, execution of process; court order; hindering, obstructing justice.

(A) *Prohibitions.*

(1) It shall be unlawful for any person to knowingly resist or obstruct the performance by one, who the person knows or has reason to believe is a police officer or firefighter, of any authorized act within such officer's official capacity.

(2) It shall be unlawful for any person to knowingly resist or obstruct the authorized service or execution of any civil or criminal process or order of court.

(3) It shall be unlawful for any person to knowingly obstruct justice. A person obstructs justice when, with intent to prohibit the apprehension or obstruct the prosecution or defense of any person, the person knowingly commits any of the following actions:

(a) Destroys, alters, conceals or disguises physical evidence, plants false evidence, or furnishes false information; or

(b) Induces a witness having knowledge material to the subject at issue to leave the State or conceal himself; or

(c) Leaves the State or conceals himself when the person possesses knowledge material to the subject at issue.

(B) *Penalties.* Any person convicted of a violation of this section shall be punished by a fine not to exceed five hundred dollars ($500.00) or imprisonment in the County Jail for a term not to exceed sixty (60) days, or by both such fine and imprisonment in the discretion of the court.

(Ord. No. 58-5, § 21.02, 2-18-58; Ord. No. 69-92, § 2, 12-17-69)

Sec. 21-27. Fires; obedience to firefighters and police officers.

(a) Every person who shall be present at a fire shall be subject to the orders of the Miami-Dade Fire Department, the Fire Chief or other officers, including Miami-Dade Police, in extinguishing the fire and removing and protecting property, providing the official character of the officer be known or made known to the person.

(b) It shall be unlawful for any person to neglect or refuse to obey a lawful order authorized by this section.

(Ord. No. 58-5, §§ 21.03, 21.04, 2-18-58)

Sec. 21-27.1. Merchandise—Selling, serving, vending in public rights-of-way near schools.

(a) *Prohibited.* It shall be unlawful for any person to sell, offer for sale, serve, vend, or otherwise dispose of any goods, wares or merchandise, including ice cream, peanuts, popcorn, soda water products, drinks, candy, and food products, in the public rights-of-way, including streets, sidewalks or other public property, within five hundred (500) feet of any property used, owned or operated for public or private school purposes, or for any person to station himself, or operate any stand, establishment or vehicle, for such purpose within the prohibited areas unless within five hundred (500) feet of the school in a secure vending area established and controlled by the school principal. The term "secure vending area" means an area designated by the school principal which is cordoned off by movable barriers, is of sufficient size to accommodate a parked vehicle and student customers in numbers reasonably anticipated by the principal, is supervised by the principal or his or her designee, and for which specific designation thereof is made in writing and filed in the school and at the police station which provides service to the area.

(b) *Enforcement and penalties for violations.* It shall be the duty of all County and municipal peace officers to enforce the provisions of this section. Any person convicted of a violation of the provisions of this section shall be punished by a fine not to exceed five hundred dollars ($500.00), or by imprisonment not to exceed sixty (60) days, or both, in the discretion of the court of appropriate jurisdiction.

(Ord. No. 61-31, §§ 1, 2, 7-11-61; Ord. No. 89-74, § 1, 7-25-89)

**Cross reference—** Hawkers and peddlers disturbing peace of neighborhood, § 21-28(h).

Sec. 21-27.2. Same—Selling, serving, vending in public rights-of-way near public parks.

(a) *Prohibited.* It shall be unlawful for any person to sell, offer for sale, serve, vend, or otherwise dispose of any goods, wares or merchandise, including ice cream, peanuts, popcorn, soda water products, drinks, candy and food products, in the public rights-of-way, including streets, sidewalks and parkways, within five hundred (500) feet of any public park including beaches and marinas, in the unincorporated area of Miami-Dade County, Florida, or for any person to station himself, or operate any stand, establishment or vehicle, for such purpose within the prohibited areas.

(b) *Enforcement and penalties for violations.* It shall be the duty of all County officers to enforce the provisions of this section. Any person convicted of a violation of the provisions of this section shall be punished by a fine not to exceed five hundred dollars ($500.00), or by imprisonment not to exceed sixty (60) days, or both in the discretion of the County Court.

(Ord. No. 64-42, §§ 1, 2, 9-15-64)

**Editor's note—**

Ord. No. 64-42, §§ 1 and 2 from which [§ 21-27.2](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-27.2SAELSEVEPURI-WNEPUPA) of this Code is derived, did not designate the manner of codification, hence the same was at the discretion of the editors.

Sec. 21-27.3. Railroad train whistle and horn noise pollution prohibited.

(a) *Definitions.* "Person" means any individual, corporation, partnership, other legal entity, or any agent or employee thereof.

(b) *Applicability.* The provisions of this section shall be applicable only to public railroad-highway grade crossings within the incorporated or unincorporated areas of Miami-Dade County which are equipped with train-activated automatic traffic control devices which shall include ringing bells, flashing light signals, and automatic crossing gates on both sides of the railroad train track.

(c) *Prohibited acts.* Notwithstanding anything in this Code to the contrary, it shall be unlawful and a public nuisance for any person operating a railroad train of a railroad company operating wholly within this State to blow or activate, or permit to be blown or activated, any horn or whistle from the railroad train between 10:00 p.m. and 6:00 a.m. at and in advance of all public railroad-highway grade crossings after the municipality, County, or State has erected signs at such crossings announcing that railroad train horns and whistles will not be sounded during the aforesaid hours.

(d) *Enforcement; costs and attorneys' fees; injunctions; criminal penalty.*

(1) Any municipality or the Director of the Department of Environmental Resources Management or his designee may institute a civil action in a court of competent jurisdiction to seek mandatory and prohibitory injunctive relief to enforce compliance with this section.

(2) If any person violates any of the provisions of this section, such person, upon conviction of any such violation, shall be punished by a fine not to exceed five hundred dollars ($500.00) in the discretion of the court. Each day or portion thereof of continuing violation shall be deemed a separate violation of this section.

(3) All municipalities and the Director of the Department of Environmental Resources Management or his designee are hereby authorized to enforce this section and shall recover attorneys' fees, court costs and costs of enforcement and investigation in any action to enforce this section. Any costs recovered by the Director or his designee shall be deposited in a separate County fund to be used for the general enforcement of this section. Any costs recovered by a municipality shall be deposited in a separate fund of the municipality to be used for the general enforcement of this section.

(Ord. No. 81-56, § 1, 5-19-81; Ord. No. 82-83, § 1, 4-6-82; Ord. No. 84-51, § 1, 6-19-84; Ord. No. 86-89, § 1, 11-18-86)

**Editor's note—**

Ord. No. 81-56, § 1, adopted May 19, 1981; amended the Code by adding [§ 21-28.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-28.1OPRCOMUBRET) thereto; in order to avoid duplicate section numbers, the editor has redesignated said section as [§ 21-27.3](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-27.3RATRWHHONOPOPR)

Sec. 21-27.4. Reserved.

**Editor's note—**

While § 3 of Ord. No. 82-18, adopted March 16, 1982, stated the Board's intention that said ordinance be codified, it did not assign a section number thereto. Thus, at the editor's discretion, § 1(B), (C) was designated as [§ 21-27.4](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-27.4RE), concerning specific railroad grade crossings. Section 2 of Ord. No. 84-51, adopted June 19, 1984, repealed [§ 21-27.4](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-27.4RE)

Sec. 21-28. Noises; unnecessary and excessive prohibited.

It shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. Any person violating any of the provisions of this section shall be punished by (i) a fine not to exceed five hundred dollars ($500.00); (ii) imprisonment in the county jail for a period not to exceed sixty (60) days; (iii) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause; (iv) fines in accordance with [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County; or (v) completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street or public place of the County, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.

(b) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(c) *Animals, birds, etc.* The owning, harboring, possessing or keeping of any dog, animal or bird which causes frequent, habitual or long continued noise which is plainly audible at a distance of one hundred (100) feet from the building, structure or yard in which the dog, animal or bird is located.

(d) *Whistles.* The blowing of any locomotive whistle or whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of the proper municipal or County authorities.

(e) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom.

(f) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within a residential area.

(g) *Schools, courts, hospitals.* The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning, house of worship or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that it is a school, hospital or court street.

(h) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

(i) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.

(j) *Loudspeakers, etc.* The use or operation on or upon the public streets, alleys and thoroughfares anywhere in this County for any purpose of any device known as a sound truck, loud speaker or sound amplifier or radio or any other instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing upon such streets or public places aforementioned. It is provided, however, that this subsection is not intended to be construed in a manner that would interfere with the legitimate use of the foregoing loudspeaker type devices in political campaigns.

(k) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chain saws, power tools and other noise-producing tools which are used to maintain or at a residence out-of-doors between 8:00 p.m. and 7:00 a.m.

(l) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.

(Ord. No. 58-5, § 21.07, 2-18-58; Ord. No. 96-130, § 1, 9-10-96; Ord. No. 10-52, § 5, 9-21-10)

**Cross reference—** Vending in public ways near schools, § 21-27.1.

Sec. 21-28.1. Open-air concerts, musical broadcasts, etc.

(a) *Permit required; presumption.* It shall be unlawful and a violation of this section for any person, firm, partnership or corporation to play, broadcast or transmit music in such a manner as would reasonably be calculated to attract a crowd or cause numbers of persons to congregate in or on any open space, lot, yard, sidewalk or street, or to permit the same to occur on or from any property owned, leased or occupied by said person, firm, partnership, or corporation, without first having obtained a permit to do so from the Miami-Dade Police Department; except no permit shall be required of any person in order to engage in such activity within the residential property wherein such person resides. The use of any amplifier or loudspeaker to play, broadcast or transmit music shall constitute prima facie evidence that the music is being played, broadcasted or transmitted in such a manner as would reasonably be calculated to attract a crowd or cause numbers of persons to congregate.

(b) *Permit contents, time restrictions.* Permits issued under this section shall specify the date and time during which the activity authorized by the permit may be conducted. No permit shall issue which encompasses more than one (1) calendar date, or a span of hours in excess of six (6) hours; nor shall the requested activity commence or continue beyond the hour of 11:00 p.m. in any case.

(c) *Permit application information.* The application for a permit under this section shall contain the following information:

(1) The name, date of birth, address and telephone number of the person who will be in charge of the activity for which a permit is requested.

(2) The name of the person, firm, partnership or corporation seeking the permit.

(3) The exact date and times for which the permit is sought.

(4) The exact location of the event for which a permit is requested.

(d) *Filing application for permit.* Applications for a permit required under this section must be submitted to the Miami-Dade Police Department at least five (5) days prior to the date of the event for which the permit is requested.

(e) *Procedures for administering permits.* The Director of the Miami-Dade Police Department is hereby authorized and directed to promulgate reasonable rules and procedures for the application, issuance and revocation of such permits.

(f) *Criteria for permit issuance; posting of bond.* Issuance of the permit required under this section shall be based on a determination by the Miami-Dade Police Department that the event for which a permit is requested does not constitute a threat to public safety; constitute a danger or impediment to the normal flow of traffic; or constitute a potential disturbance of the peace and quiet of persons outside the premises where the event is located. Subsequent permits under this section may be denied to, or a bond required of, any person known to have been convicted for violations of a previous permit under this section. The bond shall be in an amount sufficient to secure the costs of cleanup and repair or replacement of damage or destruction of property and shall be subject to forfeiture for purposes of paying any judgment against the permit holder which may be entered by a court of competent jurisdiction on account of such property damage or destruction or cleanup cost.

(g) *Review of permit denial or revocation.* Any person dissatisfied or aggrieved with the decision of the Director of the Miami-Dade Police Department with reference to denial of his application for such permit or the revocation of such permit may, within ten (10) days after such denial or revocation, appeal to and appear before the Manager or his designee; and, upon the affirmance or approval of the action taken by the Director of the Miami-Dade Police Department, such action shall be final and subject to judicial review by writ of certiorari in accordance with the Florida Rules of Appellate Procedure. In the event the Manager or his designee, upon the original review, determines that the applicant is entitled to such permit, then in that event the Director of the Miami-Dade Police Department shall immediately issue such permit.

(h) *Surrender of permit upon demand.* It shall be unlawful and a violation of this section for the person designated in the permit application as being in charge of the event for which a permit is sought to fail or refuse to surrender the permit, on demand, to any State, County, or municipal police officer.

(i) *Person designated as being in charge to be present.* The person designated in the permit application required in this section as being the person in charge of the event for which the permit is sought must remain at the location of said event during the entire time stated in the permit for which the event is authorized. It shall be unlawful and a violation of this section for said designated person in charge to fail to remain in attendance at the location of the event authorized by the permit for the entire time specified in the permit.

(j) *Penalties for violations.* Any violation of any provision of this section shall be punishable by imprisonment in the County Jail for a term not to exceed thirty (30) days or a fine of up to five hundred dollars ($500.00), or both.

(Ord. No. 80-84, § 1, 7-17-80)

Sec. 21-29. Secondhand dealers.

(a) *Definitions.*

(1) *Secondhand dealers:* For the purpose of this section, the term "secondhand dealers" shall mean any person, firm, corporation or partnership engaged in the business of buying, selling, bartering, exchanging in any manner at retail or wholesale or otherwise dealing for profit in secondhand goods as defined in subsection (2) hereof, whether or not at a fixed place of business. Such term shall include pawnbrokers and all dealers who buy, trade or sell or who make loans of money upon the deposit or pledge of any secondhand goods. Provided, however, that nothing in this section shall apply to:

a. Registered religious or charitable organizations selling reconditioned or used articles;

b. Licensed garage sales;

c. Any person whose primary business is dealing in gold or silver coins if such business is licensed pursuant to law or ordinance.

(2) *Secondhand goods:* For the purposes of this section, "secondhand goods" shall mean personal property previously owned or used which is not purchased or sold as new and shall include but shall not be limited to items containing gold, silver, platinum or other precious metal; jewelry, diamonds, gems, and other precious stones; audio and video electronic equipment, including but not limited to television sets, radios, amplifiers, receivers, turntables, tape recorders, videotape recorders, speakers and citizens' band radios; photographic equipment, including but not limited to cameras, lenses, electronic flashes, tripods and developing equipment; machinery; tools, electric motors, calculators, tires, hub caps, musical instruments, typewriters and firearms.

**Note—**Florida Statutes § 790.33, as amended, preempts and declares null and void all local ordinances, administrative regulations and rules in the field of firearms and ammunition, with limited exceptions set forth in § 790.33, as amended.

(b) *Records of transactions to be kept.* Every secondhand dealer shall keep a record approved as to type and form by the Miami-Dade Police Director. The record shall be clearly and legibly written in ink in the English language at the time of each acquisition and shall contain an accurate and true description of each article purchased, bartered, exchanged or received, including a notation as to any identifying markings or characteristics such as serial numbers; the amount of money or other consideration loaned thereon or paid or given therefor; the date and time of the acquisition of such article by the secondhand dealer; the true name of the person dealt with, as nearly as known, as well as such person's signature and thumbprint, place of residence, sex, age, height, weight, build, color of hair, color of eyes, complexion and reasonable proof of identification by an exhibition of a driver's license or other picture identification or other reliable means of identification. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon. For purposes of this section, credit cards, Social Security cards, handwritten identification cards and nonphoto I.D. shall not constitute acceptable I.D. No entry made in such record shall be erased, obliterated or defaced. Every secondhand dealer shall deliver to the Office of the Miami-Dade Police Director a complete and correct copy of said record within forty-eight (48) hours of the date of acquisition of items covered under this section.

A special tag shall be affixed to all items not bearing a serial number. The tag shall exhibit information sufficient to enable ready reference to be made to the portion of the above record which pertains to the item bearing the tag. The County Manager shall issue an administrative order specifying a uniform format and design for the tag. The tag shall not be required to be affixed to articles of clothing. Organizations exempt from federal taxation pursuant to 26 U.S.C. Sec. 501(c)(3) and religious organizations shall be exempt from the requirement of affixing the tag.

The records created and maintained as required by subsections (b) and (c) of this section shall be made available for inspection and copying by any person desiring to do so, in the same manner and in accordance with the same procedures provided for the inspection and duplication of public records by the provisions of Florida Statutes, Section 119.07(1)(a), (b), as set forth at the time this paragraph becomes law.

(c) *Holding period.*

(1) Items containing gold, silver, platinum or other precious metal and jewelry, diamonds, gems and other precious stones shall be held by the secondhand dealer for a period of fifteen (15) days prior to sale, exchange or other disposition thereof. All other property covered by this section acquired in the course of a secondhand dealer's business shall be held for a period of thirty (30) days prior to disposition thereof; provided, however, that the provisions of this subsection shall not be applicable when the person known by the secondhand dealer to be the true owner of any article desires to redeem, repurchase or recover such article at any time within the required hold period. The secondhand dealer shall keep a record of the proof of ownership presented by the true owners.

(2) If a police officer has probable cause to believe that an item acquired by a secondhand dealer in the course of his business is the subject of a criminal investigation, such police officer may apply to a court of competent jurisdiction for an order which would prohibit the release of such property for a period of sixty (60) days. Upon release of such property, the secondhand dealer shall keep a record of the disposition thereof.

(d) *Inspection of premises and records.* Any law enforcement officer shall, upon authorization of the Miami-Dade Police Director or his designee, have the right to inspect during normal business hours the records required to be kept by this section.

(e) *Certain acts and practices prohibited.* Each of the following acts of either a secondhand dealer or any of his or her employees is hereby declared to be unlawful and shall subject the person convicted thereof by a court of competent jurisdiction to the penalties prescribed by [Section 1-5](../level2/PTIIICOOR_CH1GEPR.docx#PTIIICOOR_CH1GEPR_S1-5GEPECOCILICRLIPE), Code of Miami-Dade County:

(1) Knowingly purchasing or otherwise acquiring any article covered by this section from:

a. Any person under the influence of drugs or alcohol, or

b. Any minor unless said minor has the written consent of his or her parent or guardian, or

c. Any person using a name other than his own.

(2) Refusing, denying or interfering with the lawful inspection of the records required to be kept by this section by a police officer.

(3) Disposing of any property covered by this section contrary to the provisions of this section.

(4) Failing or neglecting to comply with any applicable provision of this section.

(5) Possessing property owned by Miami-Dade County, or any municipality within Miami-Dade County without documentation of the receipt of such property as required by this ordinance is prohibited and shall subject the person convicted thereof to a fine not to exceed one thousand dollars ($1,000.00) or imprisonment in the county jail for a term not to exceed one (1) year imprisonment.

(f) *Hours of operation.* No pawnshop shall engage in business within the incorporated or unincorporated areas of Miami-Dade County except between the hours of 7:00 a.m. and 7:00 p.m.

(g) *Applicability and enforcement.* This chapter [section] shall apply to both the incorporated and unincorporated areas, and in the unincorporated areas shall be enforced by the County and in the incorporated areas shall be enforced by the municipalities unless the County is notified by any municipality, in the form of a resolution of the governing council or commission that it is desirous of having the County enforce this chapter [section] in which event enforcement within the incorporated areas shall be by the County.

(Ord. No. 81-64, § 1, 6-2-81; Ord. No. 89-1, § 1, 1-17-89; Ord. No. 94-27, § 1, 2-1-94; Ord. No. 94-189, § 1, 10-7-94; Ord. No. 97-146, § 1, 9-9-97; Ord. No. 00-161, § 1, 12-7-00)

**Editor's note—**

Formerly, [§ 21-29](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-29SEDE) pertained to pawnbrokers and secondhand dealers and derived from Ord. No. 58-5, § 24.04, enacted Feb. 18, 1958; Ord. No. 66-16, § 1, adopted April 5, 1966; and Ord. No. 66-27, § 1, adopted June 7, 1966. Ord. No. 81-64 repealed said section and re-enacted it in its entirety.

Sec. 21-29.1. Private business, advertising on public property prohibited; exceptions; penalty; enforcement.

(a) It shall be unlawful for any person, firm, corporation or other legal entity to engage in any private business, commercial activity, or to undertake to provide any service for compensation, or to advertise or display merchandise, or to transact any business for profit, or to solicit business, on any property or facilities owned or operated by Miami-Dade County without first obtaining a permit, concession, lease, or other authorization in writing approved or authorized by the Board of County Commissioners. A County occupational license shall not authorize any person, firm, corporation or other legal entity to engage in any of the prohibited activities on County property or facilities.

(b) It shall be unlawful for any person, firm, corporation or other legal entity to post, display or distribute any signs, advertisements, circulars, handbills, printed or written matter relating to any business or commercial activities on any property or facilities owned or operated by or for Miami-Dade County, without first obtaining a written permit issued or authorized by the Board of County Commissioners; provided that the provisions of this section shall not be applicable to licensees, concessionaires, lessees or agencies of the County.

(c) The provisions of this section shall be applicable to all lands, buildings, improvements, facilities, equipment, projects, and all property, either real or personal, owned, operated, or under the custody or control of Miami-Dade County, or its agents, representatives, officials, departments or instrumentalities, except public streets, roads, highways and sidewalks.

(d) Any person, firm, corporation or other legal entity violating any provisions of this section shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars ($500.00), or by imprisonment in the County Jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the County Court.

(e) It shall be the duty of the Miami-Dade Police and the police officers of each municipality to enforce the provisions of this section against any person, firm, corporation or other legal entity found violating the same within their jurisdiction.

(Ord. No. 64-22, §§ 1—5, 5-19-64)

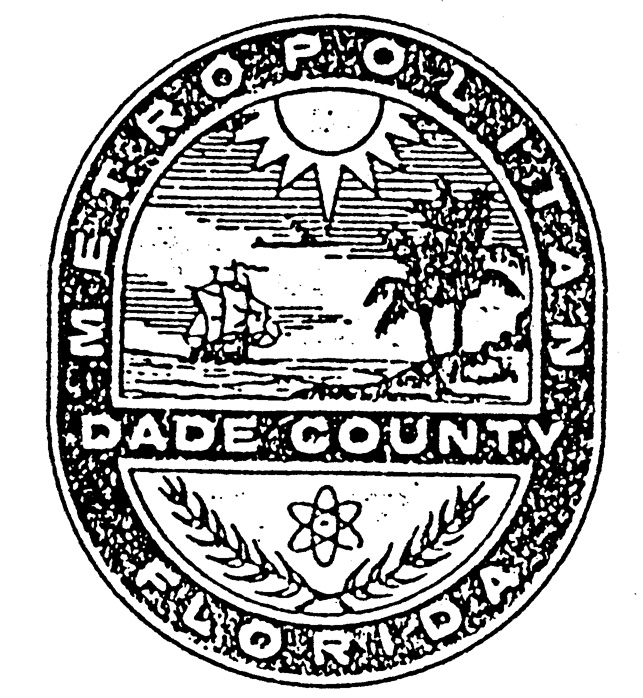
**Editor's note—**

Ord. No. 64-22, enacted May 19, 1964, effective May 29, 1964, amended the Code to read as set forth above and has been codified by the editors as [§ 21-29.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-29.1PRBUADPUPRPREXPEEN) for classification purposes.

Annotation—AO 8-5

Sec. 21-29.2. Unauthorized use of official County emblem and stationery prohibited; exceptions.

(a) *Official County emblem defined.* As used herein the official County emblem shall mean the emblem adopted and approved by Miami-Dade County Resolution No. 1860 dated July 29, 1958, which adopted and approved the following identifying symbol of Miami-Dade County, Florida, as the official emblem thereof:



(b) *Prohibition.* It shall be unlawful and a violation of this section for any person, firm, corporation or other legal entity to print for the purpose of sale or distribution or circulate, publish, use or offer for sale any letters, papers, documents or items of merchandise which simulate the official emblem of Miami-Dade County or the stationery of a real or fictitious Miami-Dade County agency, department or instrumentality without the express written authority of the County Manager or designee.

(c) *Exceptions.* The provisions of this section shall not be applicable to Miami-Dade County, its agencies, departments, instrumentalities, quasi-judicial and advisory bodies, acting within the scope of their official capacities or contractors thereof acting within the scope of their services to be performed.

(Ord. No. 78-1, § 1, 1-3-78)

Sec. 21-29.3. Library Rules of Conduct and Eviction Procedure.

(1) *Mission Statement.*

(a) The mission of Miami-Dade Public Library System, the "Library," is to maintain and improve the library services reflecting the informational, educational, and recreational needs of our diverse community.

(b) In order to maintain an appropriate atmosphere conductive to accomplishing this mission, the Library has adopted these Rules of Conduct.

(2) *Rules of Conduct.* The following actions, as well as any other behavior that disrupts the public use of the Library, are prohibited. Anyone who violates these rules may be asked by staff to leave the Library premises. The Library reserves the right to immediately discharge a patron that is dangerous or in any way threatening library staff or other patrons.

(a) Level One Offense:

(i) For the following Level One offenses, after having first been warned by Library staff to cease the inappropriate behavior, a second or continued violation will result in access to the Library premises being denied for the remainder of the day. If the patron feels that his one-day expulsion is unfair, Library staff will contact a supervisor who will make the final expulsion determination.

(ii) If feasible, a patron who is asked to leave the premises will be given a copy of the Rules of Conduct and will be told that he/she is welcome back in the Library the next day as long as the patron abides by all of the Rules.

(iii) Level One Prohibited Activities:

A) Smoking;

B) Eating or drinking, except in authorized areas;

C) Bringing pets into the building, except service animals;

D) Sleeping;

E) Placing feet on tables or chairs;

F) Loitering *(remaining in the Library without being engaged in purposes for which the Library was opened, such as reading, writing and quiet contemplation)*;

G) Leaving individuals requiring care unattended for long periods of time or at closing;

H) Loud, boisterous or disruptive behavior;

I) Bathing, shaving, washing clothes, or other inappropriate uses of Library restrooms;

J) Bodily hygiene that is so offensive as to constitute a nuisance to patrons or staff;

K) Operating any radio, telephone, or other device at a volume where others can hear it;

L) Inadequate attire (shirt and shoes are required);

M) Rollerskating, rollerblading, cycling or skateboarding on Library property;

N) Failing to abide by all Library rules and regulations as set forth herein, or as posted or related by Library staff;

O) Overt displays of gang behavior;

P) Failure to abide by the rules regarding public access computers, which are:

• Users must sign-in at the Service Desks;

• Users are limited to one 45-minute session per day;

• Printing must be completed before the session ends;

• Altering or abusing computer equipment and/or settings is prohibited;

• Users need to be considerate and should refrain from displaying objectionable materials because Internet workstations are located in public areas.

(iv) Subsequent violations of Level One offenses may be considered a Level Two offense.

(b) Level Two Offense:

(i) Upon violation of a Level Two offense, a patron will be evicted from the Library premises for an initial period of seven days. Library staff will give the patron a "Notice of Eviction" which advises the patron of his ability to appeal the eviction.

(ii) Patrons may request a hearing to appeal a Level Two eviction by submitting the "Hearing Request Form," along with a copy of the "Notice of Eviction," by mail and postmarked within forty-eight hours of the date of the "Notice of Eviction," to the Director, Miami-Dade Public Library System, 101 West Flagler, Miami, Florida 33130. Failure to make a timely request for a hearing will render the eviction decision final. The hearing will be held before one or more members of the Library Administration, who have had no prior involvement in the eviction decision.

(iii) Level Two Prohibited Activities:

A) Repeated violations of Level One offenses;

B) Harassing, intimidating, stalking or prolonged staring at patrons or staff;

C) Using abusive language in a threatening manner to other people;

D) Being drunk, intoxicated, or disorderly;

E) Sexual misconduct;

F) Damaging, destroying, or defacing Library property (the Library may require full restitution from patrons who damage or deface Library materials prior to restoring visitation);

G) Refuse, upon leaving, to allow a librarian, security guard or other authorized employee to inspect a package, backpack, or other container which is of sufficient size to contain a library book, provided that there is prominently displayed at each public entrance a sign which reads as follows:

WARNING-IN ORDER TO ASSURE THAT LIBRARY BOOKS AND OTHER MATERIALS ARE NOT REMOVED FROM THIS BUILDING WITHOUT AUTHORIZATION, THE LIBRARY RESERVES THE RIGHT TO INSPECT ALL PACKAGES, BACKPACKS, SHOPPING BAGS, LARGE HANDBAGS AND OTHER CONTAINERS BEING TAKEN OUT OF THE LIBRARY, ENTRY INTO THIS LIBRARY CONSTITUTES CONSENT TO SEARCH.);

H) Drinking alcoholic beverages in the Library;

I) Engaging in any activity prohibited by law;

J) Removing Library materials without checking them out.

(iv) Subsequent violations of Level Two offenses may result in progressively longer evictions of up to a one-year period.

(c) Level Three Offense:

(i) Upon violation of a Level Three offense, a patron will be evicted from the Library premises for a period of at least one year. Library staff will give the patron a "Notice of Eviction" which advises the patron of his ability to appeal the eviction.

(ii) Patrons may request a hearing to appeal a Level Three eviction by submitting the "Hearing Request Form," along with a copy of the "Notice of Eviction," by mail and postmarked within ten days of the date of the "Notice of Eviction," to the Director, Miami-Dade Public Library System, 101 West Flagler, Miami, Florida 33130. The hearing of Level Three evictions will be held before an independent Hearing Examiner. Failure to make a timely request for a hearing will render the eviction decision final.

(iii) Level Three offenses are those that involve physically threatening behavior.

(Ord. No. 82-14, § 3, 3-2-82; Ord. No. 04-102, § 1, 5-11-04)

Sec. 21-30. Offenses against public and private property.

(a) No person in the County shall:

(1) Willfully, maliciously, wantonly or otherwise injure, deface, destroy or remove real property or improvements thereto, or movable or personal property, belonging to the County, any municipality in the County, any state or Federal agency in the County, or to any person in the County. For the purpose of this ordinance, "person" shall include any individual or entity as defined by Section 1.01(3) of the Florida Statutes.

(2) Destroy, damage, or vandalize, any County property, including but not limited to the swale area in the public right-of-way.

(3) Injure or knowingly suffer to be injured any meter, valve, valve or meter identification, piping or appurtenance thereto, connected with or belonging to a gas distribution system in the County, including portions thereof on private property and within buildings. No person shall tamper or meddle with or alter the condition of any meter, valve or meter identification, or other part of such system in the County, or appliance connected thereto, in such manner as to cause loss or damage to the owner of such facilities or the users thereof, or to create a hazard to life and property.

(4) Tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fireplug, topographical survey monument, or any other personal property erected or placed by the County.

(5) Place or erect upon any public way or passageway to any building, an obstruction of any type, provided that this section shall not prevent duly authorized or required placing of temporary barriers or signs for the purpose of safeguarding the public.

(6) Move, disturb, or take any earth, stone or other material from any public street, alley, park or other public ground.

(7) Remove or attempt to remove a library book or other library property from a public library without first obtaining authorization to do so from the librarian or other authorized person.

(b) Any person violating this ordinance shall: be punished by a fine not to exceed five hundred dollars ($500) for the first offense and each subsequent offense and by imprisonment in the County jail for a term not to exceed sixty (60) days. In addition to such punishment, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the defendant's offense in the amount or manner determined by the Court. In the case of a minor, the parents or legal guardian shall be jointly and severably liable, with the minor for payment of all fines and restitution. Failure of the violator to pay the fine or restitution shall be punished by an additional term of imprisonment in the County jail not to exceed twenty (20) days.

(c) This ordinance shall be applicable in incorporated and unincorporated areas of Miami-Dade County.

(Ord. No. 58-5, § 21.01, 2-18-58; Ord. No. 71-29, § 3, 3-18-71; Ord. No. 82-14, § 2, 3-2-82; Ord. No. 99-66, § 1, 6-8-99; Ord. No. 07-47, § 1, 3-6-07)

Sec. 21-30.01. Graffiti.

(a) *Definitions.* For the purpose of this section, the following terms apply.

(1) "*Broad tipped indelible marker*" means any felt tip marker, or similar implement, which contains a fluid which is not water soluble and which has a flat or angled writing surface one-half (½) inch or greater.

(2) "*Bona fide evidence of majority*" means a document issued by a federal, state, county, or municipal government or agency thereof, including but not limited to, a motor vehicle operator's license, or registration certificate issued under the Federal Selective Service Act, a passport, or an identification card issued to a member of the armed forces which identifies an individual and provides proof of the age of such individual.

(3) "*Business day*" means any day of the week except Saturday, Sunday, or legal holidays.

(4) "*Commercial property*" means real and personal property that is used for business, commercial, or for-profit purposes including but not limited to vehicles, dumpsters, advertisements and signs. It shall be prima facie evidence that a property is commercial if it (1) is located in a business, commercial, office, apartment, hotel or warehouse zoning district; (2) contains commercial or business advertising visible from the right-of-way; or (3) has posted on its premise a business occupational license. "Commercial property" shall include advertising and billboards. "Commercial property" shall include residential property of four (4) or more units that is rented or advertised for rent. "Commercial property" shall not include (1) single family homes or residential property of three (3) or less units; (2) property owned by governments; (3) property used for non-profit purposes by educational institutions, charities, or religious institutions; (4) property used for agricultural purposes except for those portions of the property containing a business open to the general public.

(5) "*Corrective action*" mean an act required to remove or effectively obscure graffiti that is visible from the right-of-way.

(6) "*Director*" mean the Director of the Public Works Department or his or her designee.

(7) "*Non-commercial property*" means all property that is not included in the definition of commercial property in this section.

(8) "*Owner*" means any and all persons with legal and/or equitable title to real property in Miami-Dade County as their names and addresses are shown upon the records of the Property Appraiser Department.

(9) "*Supervising adult*" means an individual twenty-one (21) years of age or older who has been given responsibility by the minor's parents, legal guardian, or other lawful authority to supervise the minor.

(10) "*Used or intended to be used*" includes usage in the course of a violation or usage to transport a violator to or from the scene of a violation.

(b) *Application of section.*

(1) This section shall be applicable in incorporated and unincorporated areas of Miami-Dade County, with the enforcement of the provision of this section in the unincorporated area being the responsibility of Miami-Dade County and in the incorporated area being the responsibility of the municipalities.

(c) *Affect on municipal ordinances.* It is the intent of the Board to provide a minimum standard for those graffiti offenses provided in subsections (f), (h), and (i) in incorporated areas of Miami-Dade County. Any municipality in Miami-Dade County may adopt more stringent graffiti regulations and/or higher penalties for graffiti offenses than those provided herein.

(d) *Graffiti prohibited.*

(1) No person shall write, paint, or draw any inscription, figure, or mark of any type on any public or private building or structure or other real or personal property, owned, operated, or maintained by a governmental entity or any agency or instrumentality thereof or by any person, firm, or corporation, unless the express prior written permission of the owner, owner's agent, manager or operator of the property has been obtained and filed with the Public Works Department, Graffiti Coordinator. No filing is required if the owner, owner's agent, manager or operator of the property has obtained a valid painting permit in accordance with other pertinent law.

(2) Any person violating this subsection shall be punished by a fine of two hundred and fifty dollars ($250.00) for the first offense; five hundred dollars ($500.00) for the second offense and one thousand dollars ($1,000.00) for each subsequent offense or by imprisonment in the County jail for a term not to exceed sixty (60) days or by both fine and imprisonment at the discretion of the court.

(I) In the case of a minor, the parents or legal guardian shall be jointly and severably liable with the minor for payment of all fines.

(II) Failure of the parents or legal guardian to make payment, will result in the filing of a lien on the parents or legal guardian's property to include the fine and administrative costs.

(III) Upon an application and finding of indigency, the court may decline to order fines against the minor or parents.

(3) In addition to any punishment listed in subsection (d)(2), the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the defendant's offense in the amount or manner determined by the court.

(I) In the case of a minor, the parents or legal guardian shall be ordered jointly and severably liable with the minor to make such restitution.

(4) In addition to any punishment listed in subsection (d)(2) or restitution ordered under subsection (d)(3), the court shall order any violator to perform monitored community service in the removal of graffiti of not less than forty (40) hours and not more than one hundred (100) hours.

(5) Forfeiture of personal property. All personal property, including, but not limited to automobiles and bicycles, used or intended to be used in violating this subsection, shall be forfeitable to Miami-Dade County. In forfeiting such personal property, the County shall follow the procedures outlined in [Section 31-116](../level3/PTIIICOOR_CH31VEHI_ARTIIIPAMOCA.docx#PTIIICOOR_CH31VEHI_ARTIIIPAMOCA_S31-116SEIMFO) et seq. of the Miami-Dade County Code concerning forfeitures of passenger motor vehicles for violation of the transportation code, except that one (1) violation of this subsection shall be the basis for forfeiture; the County Manager or his designee shall act as the party for the County in lieu of CSD as recipient of all request for hearings and for all other purposes under the procedure; the property subject to forfeiture shall be personal property as described above. In any forfeiture under this section, the court shall not order a forfeiture unless it finds that the forfeiture is commensurate with the severity of the violation to the extent required by Florida and Federal Constitution.

(I) Municipalities may establish their own system for the forfeiture of personal property.

(e) *Graffiti removal by the County.*

(1) Whenever the County becomes aware of the existence of graffiti on any property, including any structure or improvement, that abuts the public right-of-way within any unincorporated area of the County, County personnel are authorized to immediately remove or obscure such graffiti.

(2) For purposes of this subsection (e) only, "property that abuts the public right-of-way" means property that can be accessed by County personnel without substantially encroaching onto private property, such as subdivision walls and other structures and improvements lying at or near the public right-of-way.

(3) General notice. Property owners are hereby put on notice of the County's intention to immediately obscure graffiti placed on walls, buildings and other surfaces that abut the public right-of-way. Team Metro shall also publish notice once during each week for four (4) consecutive weeks in the Miami Herald and shall substantially comply with Chapter 50, Florida Statutes. Any property owner who objects to graffiti being obscured on property abutting the public right-of-way shall file a statement of objection with the County Manager or his designee within thirty (30) days of the date of the final published notice. Such objection shall be effective for one (1) year. A new objection must be filed each year thereafter to preserve the objection. If an objection is filed, subsection (e) shall not apply to the property owner's property. The County reserves the right, however, to ensure that graffiti is obscured on such property by citation and fine under subsection (g).

(4) Specific notice to affected property owner. The appearance of graffiti on a wall, building or other surface abutting the public right-of-way shall serve as notice to the property owner that the graffiti is subject to being obscured or removed by the County. Any property owner who has not filed a statement under subsection (3) and who desires to obscure or remove the graffiti himself shall (i) immediately remove the graffiti; or (ii) notify the County Manager or his designee immediately of his intention to remove the graffiti within forty-eight (48) hours. Graffiti not removed within forty-eight (48) hours is subject to removal by the County.

(5) Nothing contained in this subsection (e) shall be construed to supersede or otherwise affect the provisions contained in subsection (g).

(f) *Graffiti removal by the property owner.*

(1) Whenever the County becomes aware of the existence of graffiti visible from the public right-of-way on any property, real or personal, including structures or improvements within the County, a Code Enforcement Officer is authorized, upon such discovery, to give, or cause to be given, notice to take corrective action to the property owner or the property owner's agent or manager.

(2) For commercial property, the property owner or the property owner's agent or manager shall take corrective action within two (2) business days from receipt or posting of the notice listed in subsection (f)(1). For non-commercial property, the property owner or the property owner's agent or manager shall take corrective action within fourteen (14) calendar days from receipt or posting of the notice listed in subsection (f)(1).

(3) If the property owner or the property owner's agent or manager fails to take corrective action, he or she shall be cited pursuant to [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of this Code or by any municipal citation system.

(I) For commercial property, the property owner or the property owner's agent or manager has two (2) business days from receipt or posting of the citation to file for an appeal hearing before an 8CC hearing officer, or municipal hearing officer, or take corrective action. For non-commercial property, the property owner or the property owner's agent or manager has seven (7) calendar days from receipt or posting of the citation to file for an appeal hearing before an 8CC Hearing Officer, or municipal hearing officer, or take corrective action.

(II) If the owner or the property owner's agent or manager does not appeal the citation, they shall pay the fine in accordance with [Section 8CC-10](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN_S8CC-10SCCIPE) of the Code, or in accordance with the applicable municipal citation system. Thereafter, each day the owner, or property owner's agent or manager fails to take corrective action counts as a continuing violation.

(4) The above listed hearing shall be conducted not sooner than five (5) calendar days, but not later than twenty (20) calendar days after receipt of the appeal.

(5) Notwithstanding any provision of this Chapter or [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Miami-Dade County Code to the contrary, the appeal of a violation of this section shall not extend or otherwise change the time period for corrective action of the violation. Continuing penalties as provided for herein and in [Section 8CC-4](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN_S8CC-4CIPERETECO)(c) shall accrue upon the expiration of the time period provided in subsection (3) above.

(6) The Director, or City Manager of a municipality, shall cause corrective action to take place at the owner's expense after two (2) business days for commercial property, or fourteen (14) calendar days for non-commercial property from the date of citation or date of the rendering of the Hearing Officer's order, which finds the violator guilty.

(I) The County or municipality shall have the right to enter upon private property to the extent necessary to take corrective action. Entry into any dwelling or structure is expressly prohibited.

(II) After taking corrective action, the Director, or City Manager of a municipality, shall file a lien in the amount of all expenses incurred in correcting the condition, including all fines, continuing penalties and actual administrative costs.

(III) Such liens shall be enforceable in the same manner as a tax lien and may be satisfied at any time by payment thereof, including accrued interest. Upon such payment, the Clerk of the Circuit Court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof. Notice of such lien may be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Miami-Dade County, Florida.

(7) It shall be an affirmative defense preventing any fines from issuing under this section if the property owner proves at a hearing that, at the subject location, he or she had been victimized by graffiti three (3) or more times within the calendar year of the violation and had removed or effectively obscured the graffiti within two (2) business days of its appearance for commercial property, or within fourteen (14) days of its appearance for non-commercial property, or within the times provided in this ordinance if a notice or violation was issued. This mitigation provision applies only to fines and shall not prevent the Director, pursuant to section (d)(6), from taking corrective action and liening the property for costs, if the property owner fails to take corrective action.

(g) *Possession of spray paint and markers.*

(1) Possession of spray paint and markers with intent to make graffiti is prohibited. No person shall carry an aerosol spray paint can or broad-tipped indelible marker with the intent to violate the provisions of subsection (d)(1).

(2) Possession of spray paint and markers by minors on public property prohibited. No person under the age of eighteen (18) shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any public property, highway, street, alley or way except in the company of a supervising adult.

(3) Possession of spray paint and markers by minors on private property prohibited without consent of owner. No person under the age of eighteen (18) shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any private property unless the owner, agent, or manager, or person in possession of the property knows of the minor's possession of the aerosol container or marker and has consented to the minor's possession while on his or her property.

(4) Any person violating this subsection (g)(1), (2) or (3) shall be punished by a fine of two hundred and fifty dollars ($250.00) for a first offense, and five hundred dollars ($500.00) for a second offense and one thousand dollars ($1,000.00) for each subsequent offense, or by imprisonment in the County Jail for a term not to exceed sixty (60) days, or by both fine and imprisonment in the discretion of the court.

(I) In the case of a minor, the parents or legal guardian shall be responsible for payment of all fines.

(II) Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents or legal guardian's property to include the fine and administrative costs.

(5) In addition to any punishment, the court shall order any person found in violation of subsection (g)(1), (2) or (3) to make restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense in a reasonable amount or manner to be determined by the court.

(I) Where the defendant is a minor, the parent or legal guardian shall be jointly and severably liable with the minor to make such restitution.

(6) In addition to any punishment listed in subsection (g)(5) or restitution ordered under subsection (g)(6), the court shall order any person found in violation of subsection (g)(1), (2), or (3) to perform monitored community service in the removal of graffiti of not less than forty (40) hours and not more than one hundred (100) hours.

(h) *Storage and sale of spray paint and markers.*

(1) *Sale to minors prohibited.* No person or firm shall sell or cause to be sold to any person under the age of eighteen (18) years, and no person under the age of eighteen (18) years shall buy any aerosol container of spray paint or broad-tipped indelible markers. Evidence that a person, his or her employee, or agent demanded and was shown bona fide evidence of majority and acted upon such evidence in a transaction or sale shall be a defense to any prosecution thereof.

(2) *Display or spray paint and markers.* Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers of spray paint or broad-tipped indelible markers shall:

(I) Place a sign in clear public view at or near the display of such products stating:

"GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR ANY OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME PUNISHABLE BY IMPRISONMENT OF UP TO 60 DAYS AND/OR A FINE UP TO $1,000.00."

(II) Place a sign in the direct view of such persons responsible for accepting customer payment for aerosol containers of spray paint or broad-tipped indelible markers.

"IT IS A VIOLATION OF THE LAW TO SELL AEROSOL CONTAINERS OF SPRAY PAINT OR BROAD-TIPPED INDELIBLE MARKERS TO PERSONS UNDER 18 YEARS OF AGE PUNISHABLE BY A CIVIL FINE OF $100.00."

(III) Store or cause such aerosol containers or marker pens to be stored either (a) in the direct line of sight from the cash-register work station or any other work station that is normally continuously occupied while the store is open, or (b) in a place not accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such marker pens or paint containers.

(3) Violation of subsection (h)(1) or (2) shall result in a civil penalty of one hundred dollars ($100.00) for a first offense and two hundred dollars ($200.00) for subsequent offenses. When three (3) violations of subsection (h)(1) or (2) occur within any calendar year at a commercial establishment, that establishment shall be subject to an injunction from a court of competent jurisdiction forbidding the sale of aerosol containers of spray paints and broad-tipped indelible markers for a period up to two (2) years. Violation of such injunction shall be punished by a fine of one hundred dollars ($100.00) per day of violation in addition to any other penalties levied by the Court. Failure to make payment of fines will be subject to an injunction from a court of competent jurisdiction forbidding the sale of aerosol containers of spray paints and broad-tip indelible markers until payment of the fine, attorney's fees and costs.

(i) *Anti-graffiti trust fund.*

(1) There is hereby created the Miami-Dade County Anti-Graffiti Trust Fund. Civil and criminal penalties assessed against violators of this section shall be placed in the fund. The Board of County Commissioners shall direct the expenditures of monies in the fund. Such expenditures shall be limited to the payment of the cost of removal of graffiti, the payment, at the discretion of the County Manager, or rewards for information leading to the arrest, taking into custody, adjudication, referral to pre-trial programs or conviction for violation of this section or other state laws relating to graffiti, the costs of administering this ordinance, and such other public purposes as may be approved by the Miami-Dade County Commission by resolution.

(2) Each jurisdiction that enforces the provisions of this section shall have the right to create its own anti-graffiti trust fund to fund anti-graffiti measures.

(Ord. No. 94-199, § 2, 11-1-94; Ord. No. 94-239, § 1, 12-20-94; Ord. No. 96-133, § 1, 9-10-96; Ord. No. 97-25, § 2, 4-8-97; Ord. No. 97-31, § 1, 4-15-97; Ord. No. 98-33, §§ 1, 2, 2-19-98; Ord. No. 09-88, § 1, 10-6-09)

**Editor's note—**

Ord. No. 94-199, § 1, adopted Nov. 1, 1994, repealed former [§ 21-30.01](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-30.01GR), relative to graffiti, and § 2 of said ordinance enacted a new [§ 21-30.01](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-30.01GR) to read as herein set out. The provisions of former [§ 21-30.01](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-30.01GR) derived from Ord. No. 88-113, § 1, adopted Dec. 6, 1988; Ord. No. 91-40, § 1, adopted April 2, 1991; Ord. No. 93-115, § 1, adopted Nov. 3, 1993; Ord. No. 94-46, § 2, adopted March 17, 1994.

Sec. 21-30.1. Public dance halls.

(a) *Definitions of terms.*

The term "public dance" or "public ball," as used under this section, shall be taken to include any dance or ball conducted in connection with instruction in dancing for hire, and any dance or ball to which admission may be had by the payment of a fee or by the purchase, possession, or presentation of a ticket or token, or in connection with which a charge is made for caring for clothing or other property; and any dance or ball to which the public generally may gain admission with or without the payment of a fee.

The term "dance hall" or "ballroom," as used in this section, shall be taken to include any room, place, or space, in which a public dance or public ball, as herein defined, shall be held, and any room, hall, or academy, in which classes in dancing are held and instruction in dancing is given for hire.

The term "owner", as used in this section, shall be taken to include the owner, operator, manager or other person having supervision of a dance hall or ballroom as defined herein. Any license required by State or municipal laws for the operation of a dance hall or ballroom shall be prima facie evidence that the licensee named therein is the owner of said dance hall or ballroom as defined herein.

(b) *Regulation of employees and other persons.* It shall be unlawful:

(1) For any hostess, waitress, female entertainer, or female employee in a dance hall or ballroom to be served any beverage, whether an alcoholic beverage or otherwise, for which a customer or patron in such establishment pays;

(2) For any person in or about any dance hall or ballroom to solicit dancing partners on a commission basis, directly or indirectly;

(3) For any person in or about any dance hall or ballroom to solicit the purchase of refreshment on a commission basis, directly or indirectly;

(4) For a female employee in a dance hall or ballroom to sell her time to a male customer other than for the purpose of giving dance instructions to such customer;

(5) For female employees or entertainers in dance halls or ballrooms to mingle or fraternize with the customers or patrons of such establishments except when actually providing dance instruction to such customers or patrons.

(c) *Responsibility of owners.* It shall be unlawful for the owner of any dance hall or ballroom to permit or allow therein any solicitation, sale, or fraternization as prohibited in this section.

(d) *Penalty.* Any person violating any of the provisions of this section shall be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment in the County Jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment.

(Ord. No. 65-43, §§ 1—4, 5-18-65)

**Editor's note—**

[Sec. 21-30.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-30.1PUDAHA) is derived from Ord. No. 65-43, §§ 1—4, adopted May 18, 1965, effective ten (10) days thereafter, and codified as (a)—(d), pursuant to authorization in § 6 of said ordinance.

Sec. 21-30.2. Reserved.

**Editor's note—**

Ord. No. 80-130, § 1, adopted Nov. 18, 1980, repealed [§ 21-30.2](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-30.2RE), restricting residential picketing. Said section derived from Ord. No. 69-91, §§ 1—3, enacted Dec. 17, 1969.

Sec. 21-30.3. Honeybee hives or colonies.

(a) *Placement and maintenance of hives or colonies.* Honeybee hives shall only be placed and maintained in accordance with the provisions of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Code of Miami-Dade County, Florida.

(b) *Identification.* Every honeybee owner or keeper shall cause to be placed at every apiary location an identification sign specifying the owner's or keeper's name, address and telephone number. It shall be unlawful for any person to remove, deface or destroy such identification sign.

(c) *Consent of property owner.* It shall be unlawful to place or maintain honeybee hives or colonies on any public or private land without the consent of the landowner. Where hives or colonies have been placed on land without the landowner's consent, the Miami-Dade Police Department or other authorized agent designated by the County Manager ("authorized agent") may, upon receipt of written authorization from the landowner, impound the hives or colonies in accordance with the procedures set forth in subsection (d).

(d) *Impoundment; redemption; auction.*

(1) Any honeybee hive or colony found in violation of this section or of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) may be impounded by the Miami-Dade Police Department or authorized agent in accordance with the procedures set forth herein. Impoundment shall be at a site designated by the Miami-Dade Police Department or other agent.

(2) Fifteen (15) days prior to the impoundment of the honeybee hives or colonies, the Miami-Dade Police Department or other authorized agent shall post on the honeybee hives or colonies a notice to the honeybee owner or keeper at the address identified on the hive or colony. The notice of intent to impound shall identify the alleged violation of this section or of provisions of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) relating to honeybees. The owner or keeper may, within fifteen (15) days, correct the violation or make written request to the County Manager for a hearing before him or his designee to show that the violation alleged in the notice does not exist. Where a request for hearing is received, further enforcement action pursuant to this section shall be stayed pending resolution of the hearing.

(3) Voluntary removal of hives or colonies and replacement of same on another site which is likewise unlawful shall not constitute compliance with this section but shall be deemed a continuing violation.

(4) Prior to impoundment, the Miami-Dade Police Department or other authorized agent shall attempt to secure the written consent of the landowner on whose land the hives or colonies have been placed to go on the land and remove the hives or colonies. Where the landowner's consent has not or can not be obtained, the Miami-Dade Police Department or other authorized agent may attempt to obtain a search warrant pursuant to Chapter 933, Florida Statutes, or other applicable provision of State law.

(5) Any hive or colony impounded pursuant to this section shall be held by the Miami-Dade Police Department or other authorized agent for thirty (30) days. Notification of impoundment shall be posted at the site from which the hives or colonies have been removed and a copy shall be sent to the honeybee owner or keeper by mail at the address identified on the hive or colony.

(6) The honeybee owner or keeper may redeem the hives or colonies within thirty (30) days by payment of impoundment and redemption fees. The Board of County Commissioners shall establish impoundment and redemption fees.

(7) All impounded hives or colonies, if not claimed within thirty (30) days, shall be sold at public auction following publication of a notice of auction in a newspaper of general circulation at least ten (10) days prior to the date of the auction. Notice of the auction shall also be mailed to the honeybee owner or keeper at the address identified on the hive.

(8) All notices mailed pursuant to this section shall be deemed courtesy notices. Failure of the honeybee owner or keeper to receive such notice shall not invalidate notice given by posting or publication.

(e) *Remedies cumulative.* The remedies provided in this section shall not be exclusive but shall be supplemental and in addition to any other remedies which may be provided by law.

(f) [*Applicability.*] This section shall be applicable only in the unincorporated area of Miami-Dade County.

(Ord. No. 84-4, § 1, 1-17-84)

Sec. 21-31. Reserved.

**Editor's note—**

At the direction of the County Attorney as authorized by Ord. No. 11-80, [§ 21-31](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-31RE), shooting galleries, has been preempted and declared null and void by F.S. § 790.33, which is titled "Field of Regulation of Firearms and Ammunition Preempted." Former [§ 21-31](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-31RE) derived from Ord. No. 58-5, adopted Feb. 18, 1958.

Sec. 21-31.1. Disorderly conduct, loitering; penalties, trial for violations.

(a) *Disorderly conduct.* Any person commits the offense of disorderly conduct when he knowingly:

(1) With intent to harass, annoy, abuse or threaten another, makes a telephone call, whether or not conversation thereby ensures; or

(2) Enters upon the property of another and for lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(3) Engages in fighting or brawling in any public place or place open to the general public; or

(4) Uses profane, vulgar, or indecent language, in any public place, or upon the private premises of another, or so near thereto as to be heard by another.

(b) *Loitering.* For the purpose of this section "loitering" means the act of standing, remaining or sleeping on, in or about any public street, public sidewalk, public overpass, public bridge, public library or other place specifically enumerated herein. A person commits the offense of loitering when he knowingly:

(1) Loiters on any public street, public sidewalk, public overpass, public bridge or public place so as to hinder or impede the passage of pedestrians or vehicles.

(2) Reserved.

(3) Loiters in or about any police station, police headquarters building, County building, hospital, court building, or any other public building or place for the purpose of soliciting employment of legal services or sureties upon criminal recognizances.

(4) Loiters in or about a school, college or university campus so as to hinder or impede the orderly conduct of instructional, recreational or other school activities.

(5) Loiters in or about a public library so as to hinder or impede the normal operation of the library.

(c) *Penalties for violation.* Any person convicted of a violation of subsection (a)(3) or (a)(4) of this section shall be punished by a fine not to exceed two hundred fifty dollars ($250.00) or by imprisonment in the County Jail for a term not to exceed thirty (30) days, or by both such fine and imprisonment, in the discretion of the court. Any person convicted of a violation of any other subsection of this section shall be punished by a fine of five hundred dollars ($500.00) or by imprisonment in the County Jail for a term not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the court. This section is applicable in both the incorporated and unincorporated areas of Miami-Dade County and all violations thereof shall be prosecuted in the County Court.

(d) *Trial in Juvenile and Domestic Relations Court.* Where the offense set forth involves violation by minors, the same shall be tried in the Miami-Dade County Juvenile and Domestic Relations Court when so required by the laws of the State of Florida.

(e) *Fingerprinting.* Every person charged with any violation of the provisions of subsection (a) or (b) of this section may be fingerprinted and photographed by the Miami-Dade Police Department. Upon an adjudication of not guilty of a charged violation of subsection (a) or (b), the Miami-Dade Police Department will cause all fingerprints and photographs to be expunged and destroyed, including any forwarded to the Federal Bureau of Investigation or the Florida Sheriff's Bureau, provided such fingerprints and photographs result solely from such charge or charges so adjudicated.

(Ord. No. 67-17, §§ 1—3, 3-7-67; Ord. No. 67-56, § 1, 7-25-67; Ord. No. 69-93, § 1, 12-17-69; Ord. No. 70-68, § 1, 9-15-70; Ord. No. 71-81, § 1, 10-5-71; Ord. No. 71-96, § 1, 2-21-71; Ord. No. 73-34, § 1, 4-3-73; Ord. No. 74-43, § 1, 6-18-74; Ord. No. 80-76, § 1, 7-15-80; Ord. No. 82-14, § 1, 3-2-82)

Annotation—Former Section 21-31.1(b)(2), defining the offenses of loitering to include knowingly loitering "in any place with one (1) or more persons knowing that a narcotic or dangerous drug, as defined in Sections 893.01 and 893.15, Florida Statutes, is being unlawfully used or possessed" was held unconstitutional in Sawyer v. Sandstrom, 615 F .2d 311. (Said provision was repealed pursuant to Ord. No. 80-76, adopted July 15, 1980.)

Sec. 21-31.2. Consumption or possession of alcohol in open containers near store selling alcoholic beverages, religious property, and other locations. Signs required in such stores.

(a) *Definitions.* The following definitions shall apply for purposes of this section.

(1) *Alcoholic beverage* shall mean any beverage containing more than one (1) percent of alcohol by weight.

(2) *Food store selling alcoholic beverages* shall mean any food or convenience store which has a license for package sales of alcoholic beverages from the Florida Division of Beverages and Tobacco in the classification 1-APS, 2-APS, or PS.

(3) *Open container* means any bottle, can, cup, glass, or other receptacle containing any alcoholic beverage which is open, which has been opened, which has its seal broken, or which has had its contents partially removed.

(4) *Operator* shall mean any person physically present at a store defined in [Section 21-31.2](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-31.2COPOALOPCONESTSEALBEREPROTLOSIRESUST)(a)(2) or (6) who is managing said store or is otherwise in charge of its operation.

(5) *Owner* shall mean any person holding an occupational license for a store defined in [Section 21-31.2](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-31.2COPOALOPCONESTSEALBEREPROTLOSIRESUST)(a)(2) or (6).

(6) *Package store* shall mean any store primarily engaged in the business of selling alcoholic beverages which has a license for package sales from the Florida Division of Beverages and Tobacco in the classifications of 1-APS, 2-APS or PS.

(7) *Person* shall mean any individual, firm, partnership, joint venture, syndicate or other group or combination acting as a unit association, corporation, or other legal entity and shall include the plural as well as the singular.

(b) *Public nuisance; unlawful acts.*

(1) It is a public nuisance and shall be unlawful and in violation of this section for any person to consume any alcoholic beverage while within one hundred (100) feet of any package store or food store selling alcoholic beverages, property regularly used for religious purposes, community center, senior citizens' center, day care center, funeral home, or school.

(2) It is a public nuisance and shall be unlawful and in violation of this section for any person to possess an open container of alcoholic beverages while stopping, standing, or remaining within one hundred (100) feet of any package store or food store selling alcoholic beverages, property regularly used for religious purposes, community center, senior citizens' center, day care center, funeral home, or school.

(3) The owner or operator of any package store or food store selling alcoholic beverages shall prominently post, on the outside of each entrance and on the inside of the main customer exit of each food store selling alcoholic beverage or package store, a sign with contrasting letters at least two (2) inches tall, stating the following:

IT IS UNLAWFUL FOR ANY PERSON TO CONSUME, OR POSSESS, IN AN OPEN CONTAINER, ANY ALCOHOLIC BEVERAGE IN THIS STORE OR WITHIN 100 FEET OF ANY PART OF THIS STORE. VIOLATORS ARE SUBJECT TO ARREST AND PROSECUTION.

(4) The owner or operator of any package store or food store selling alcoholic beverages shall prominently post, on the outside of the display case and coolers containing alcoholic beverages, a sign which is at least eleven (11) inches by seventeen (17) inches in size, which is plainly visible and legible, stating the following:

IT IS UNLAWFUL TO POSSESS AN OPEN CONTAINER OF ALCOHOL WHILE DRIVING OR RIDING IN A MOTOR VEHICLE. DRIVING UNDER THE INFLUENCE OF ALCOHOL IS UNLAWFUL. VIOLATORS ARE SUBJECT TO IMMEDIATE ARREST AND IMPOUNDMENT OF THEIR VEHICLE. REMEMBER: JUST ONE BOTTLE OF BEER OR OTHER ALCOHOLIC DRINK COULD LAND YOU IN JAIL.

(5) The signs required by this ordinance shall be posted in English, Spanish and Haitian Creole.

(c) *Area of applicability and exceptions.* For the purpose of this section, the area within one hundred (100) feet of any property described in sections (b)(1) and (2) shall be the area within a one hundred-foot radius of any part of such property, but shall not include any property lawfully used for a private residence or any area where possession or consumption of alcoholic beverages is specifically prohibited or permitted by State law or by any license or permit issued pursuant thereto. Nor shall this provision apply to any alcoholic beverage served by a religious organization, community center, senior citizens' center, day care center, funeral home, or school and consumed on its premises as part of a religious service, community meal, or event sponsored by that organization.

(d) *Penalties.* A violation of subsection (b)(3) and (b)(4) shall be penalized as follows:

(1) A first violation will be punishable by a fine of fifty dollars ($50.00);

(2) A second violation will be punishable by a fine of one hundred dollars ($100.00);

(3) The third and each additional violation will be punishable by a fine of not less than one hundred fifty dollars ($150.00) or greater than three hundred dollars ($300.00), or by imprisonment of not less than ten (10) days or greater than thirty (30) days in jail, or both.

Any person violating any of the provisions of subsection (b)(1) or (b)(2) shall be punished by:

(1) A fine not to exceed five hundred dollars ($500.00);

(2) Imprisonment in the county jail for a period not to exceed sixty (60) days;

(3) Both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;

(4) Fines in accordance with [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County; or

(5) Completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

(Ord. No. 87-66, § 2, 10-6-87; Ord. No. 94-30, § 1, 2-1-94; Ord. No. 04-94, § 1, 5-11-04; Ord. No. 05-182, § 1, 10-18-05; Ord. No. 10-52, § 6, 9-21-10)

Sec. 21-31.3. Warning signs required for retail sale of alcoholic beverages.

(a) For the purposes of this section the following definitions shall apply:

(1) *Alcoholic beverages* shall mean alco- holic beverages as set forth in Section 561.01(4)(a), Florida Statutes, as same may be amended from time to time.

(2) *Sale* and *sell* shall mean "sale" and "sell" as set forth in Section 561.01(9), Florida Statutes, as same may be amended from time to time.

(3) *Retail* shall mean sale to the ultimate consumer.

(b) No person shall sell at retail any alcoholic beverage unless said person has posted in a conspicuous place where the sale is to occur a sign which is at least eleven (11) inches by seventeen (17) inches in size, which is plainly visible and legible to all persons entering the premises and which shall read as follows:

HEALTH WARNING

ALCOHOL IN BEER, WINE AND LIQUOR CAN CAUSE:

\* INTOXICATION

\* ADDICTION

\* BIRTH DEFECTS

REDUCE YOUR RISKS:

• DO NOT DRINK BEFORE DRIVING OR OPERATING MACHINERY.

• DO NOT MIX ALCOHOL WITH OTHER DRUGS (IT CAN BE FATAL).

• DO NOT DRINK DURING PREGNANCY.

Notwithstanding any provision of the Code of Miami-Dade County, said sign shall also be translated into Spanish and posted.

(c) Hotels, restaurants, lounges and other establishments which are permitted to sell alcoholic beverages for consumption on the premises are expressly exempt from the provisions of this section.

(d) Any person violating any of the provisions of this section shall, upon conviction of such offense, be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or both, in the discretion of the court. Each day of continued violation shall be considered a separate offense.

(Ord. No. 91-49, § 1, 5-7-91)

Sec. 21-31.4. Aggressive or obstructive panhandling prohibited.

(A) *Definitions.* The following definitions apply in this section:

(1) *Aggressively beg* means to beg with the intent to intimidate another person into giving money or goods.

(2) *Intimidate* means to engage in conduct which would make a reasonable person fearful or feel compelled. Among the circumstances which may be considered in determining whether the actor intends to intimidate another person into giving money or goods are that the actor: (a) touches the person solicited; (b) follows the person solicited, and persists in begging after the person solicited has given a negative response; (c) directs profane or abusive language toward the person solicited; or (d) uses violent or threatening gestures toward the person solicited.

(3) *Beg* means to ask or solicit for money or goods as a charity, whether by word, bodily gestures, signs, or other means.

(4) *Obstruct pedestrian or vehicular traffic* means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take unreasonable evasive action to avoid physical contact.

(5) *Public place* means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(6) *Unreasonable evasive action* means causing a vehicle to depart from the lane of traffic in which it is traveling to change lanes, to straddle lanes, or to enter onto a swale to obtain passage; it also means causing a pedestrian to leave the sidewalk on which she or he is traveling or to make contact with a wall or fence bordering the sidewalk.

(B) *Prohibited acts.* A person is guilty of pedestrian interference if, in a public place, he or she intentionally:

(1) Obstructs pedestrian or vehicular traffic; or

(2) Aggressively begs.

(C) *Permitted activities.* Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a permit duly issued by a lawful authority shall not constitute obstruction of pedestrian or vehicular traffic.

(D) *Penalties.* Any person convicted of:

(1) A violation of this section shall be punished by:

a. Not more than thirty (30) days imprisonment;

b. A fine of not more than one hundred dollars ($100.00);

c. Both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;

d. Fines in accordance with [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County; or

e. Completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

(2) A second or subsequent violation of this section shall be punished by:

a. Not more than sixty (60) days imprisonment;

b. A fine not more than two hundred dollars ($200.00);

c. Both such fine and imprisonment in the discretion of the court having jurisdiction over the cause;

d. Fines in accordance with [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County; or

e. Completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

(E) *Alternative programs.* Nothing herein shall limit the discretion of the police, court personnel, and judges from referring individuals suspected, charged, or convicted of a violation of this provision to treatment programs or facilities as an alternative to prosecution or incarceration, provided that the individual freely consents. For homeless individuals, such alternative programs shall include, but not be limited to, the Miami-Dade County Homeless Assistance Project.

(Ord. No. 94-41, § 1, 3-17-94; Ord. No. 10-52, § 7, 9-21-10)

Sec. 21-32. Tip sheets for racing.

(a) *Selling or offering for sale papers predicting outcome of races.* No person shall engage in or manage the business of displaying, selling or offering for sale any tip sheet or touting services, the sole purposes of which is to predict the outcome of any horse or dog race or other lawful competitive contest without first having obtained a permit from the Miami-Dade Police Director.

(b) *Papers to be printed only under true name of person making prediction.* No sheet, paper or pamphlet described in this section shall be printed except under the true and correct name of the person making such prediction, and all such sheets, papers and pamphlets shall contain the following words stamped thereon, "Prediction Made Prior to 1 o'clock P.M. on the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_/\_\_\_\_\_\_\_\_\_\_\_\_/\_\_\_\_\_\_\_\_\_\_\_\_, 19\_\_\_\_\_\_\_\_\_\_\_\_", with the true date inserted in the blank spaces appearing thereon.

(c) *Registration of production with police.* No person shall display, sell or offer for sale any sheet, paper or pamphlet, as herein described, without first having registered the prediction of the horses or dogs or other contestant designated to win with the Miami-Dade Police Director or his duly authorized agent, not later than 1:00 p.m. of the day on which the race or other event is to be held.

(d) *Newspapers and operators of licensed race tracks exempt.* Newspapers, as that term is defined in Section 49.01, Florida Statutes, and operators of licensed race tracks are expressly exempt from the provisions of this section.

(e) *Application for tip sheet permit.* Application for a tip sheet permit shall be made, in writing, to the Miami-Dade Police Director and accompanied by an application fee, which fee shall be utilized to defray the cost of enforcement of this section. The amount of such application fee shall be established by administrative order of the County Manager, in accordance with Section 4.02 of the Miami-Dade County Charter. All applicants shall be fingerprinted and photographed by the Miami-Dade Police Department, which shall issue a permit, if said application is approved, within ten (10) days from the date of such application.

(Ord. No. 58-5, § 24.03, 2-18-58; Ord. No. 77-33, § 1, 6-21-77)

Sec. 21-33. Races, automobiles and motorcycles.

(a) *Permit required.* It shall be unlawful for any person to engage in, participate in, conduct, operate, or assist in the conducting or operating of a motor vehicle or motorcycle race or race meet in any public place or on any public street, road or highway in Miami-Dade County, Florida, without first obtaining a permit issued under and pursuant to the provisions of this section. The requirement of this section shall not relieve any person from compliance with the provisions of Chapter 549, Florida Statutes.

(b) *Application for permit; conditions for issuance.* All applications for permits under this section shall be filed with the Miami-Dade Police Director or Metropolitan Sheriff and shall set forth in detail the full name and address of the applicant, the time when, and the place where such race or race meet is to occur, and what safeguards will be taken to protect the public and the participants from injury, and such other information as may be prescribed by the Public Safety Director. Such application shall be signed and sworn to by the applicant. The Director shall prescribe the form of application and furnish such application forms to applicants upon request.

Permit shall not be issued when the Director has good reason to believe that the proposed race or race meet will disturb the public peace, cause congestion of traffic, or endanger the lives or property of the public, participants or spectators.

(c) *Fees; contents of permits.* The County Manager shall establish a schedule of filing fees to cover the cost of investigating and processing applications for permits. The permit issued hereunder shall show the time or period of time when and the place where the race or race meet is to occur; however, no race meet shall be permitted for a period of time in excess of thirty (30) days.

(d) *Intent of section; supplementary to State law.* This section is intended to implement and supplement Chapter 549, Florida Statutes, and not to supersede or conflict with any provisions thereof. The intent and purpose of this section is hereby declared to be to provide more stringent regulation and control of motor vehicle and motorcycle races and race meets in this County, for the public safety, health and welfare. Any person who violates any of the provisions of Chapter 549, Florida Statutes, shall be deemed to have violated the provisions of this section and may be prosecuted in the court of appropriate jurisdiction of Miami-Dade County, Florida.

(Ord. No. 60-28, §§ 1—3, 9-20-60; Ord. No. 61-5, § 1, 2-14-61)

Annotation—AO 4-15

Sec. 21-34. Watercourse, canal, drain, ditch, etc.; obstructing, damaging prohibited, penalty.

(a) No person may willfully, or otherwise, obstruct, damage, destroy or interfere in any way with the functioning of any canal, drain, ditch or watercourse, or any drainage, flood control or water conservation works constructed by or for Miami-Dade County.

(b) Any person who shall willfully obstruct, damage, destroy or interfere in any way with the functioning of any canal, drain, ditch, or watercourse, or any drainage, flood control or water conservation works constructed by or for Miami-Dade County shall be liable to the County for double the cost of removing such obstruction, repairing such damage or replacing such destroyed works.

(c) Any person who shall willfully obstruct, damage, destroy or interfere in any way with the functioning of any canal, drain, ditch, or watercourse, or any drainage, flood control or water conservation works constructed by or for the County, shall, upon conviction thereof, be punished by imprisonment in the County Jail not exceeding a period of one (1) year, or by a fine not exceeding one thousand dollars ($1,000.00), or by both such imprisonment and fine.

(Ord. No. 61-1, §§ 1—3, 1-17-61)

**Editor's note—**

[Section 21-34](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-34WACADRDIETOBDAPRPE) is derived from Ord. No. 61-1, enacted January 17, 1961. As this ordinance did not amend this Code it has been designated as said section at the discretion of the editors.

**Cross reference—** Water conservation district established, § 7-1; motor boat regulations, § 7-21 et seq.

Sec. 21-35. Glue and cement; sales to minors; exception; intoxication; applicable areas; penalty for section violation; trials.

(a) *Sales to persons under eighteen prohibited.* Except as otherwise provided herein, no person shall sell, deliver or give to any individual under the age of eighteen (18) years, any glue, cement, or automotive transmission or brake fluids containing one (1) or more of the following volatile solvents:

(1) Toluol or toluene

(2) Hexane

(3) Trichloroethylene

(4) Acetone

(5) Toluene

(6) Ethyl acetate

(7) Methyl ethyl ketone

(8) Trichloroethane

(9) Isopropanol

(10) Methyl isobutyl ketone

(11) Methyl cellosolve acetate

(12) Cychlohexanone

(b) *Exception—Glue or cement.* The provisions of subsection (a) shall not apply where no more than one (1) tube of the glue or cement is sold, delivered or given simultaneously with or as part of a kit used for the construction of model airplanes, model boats, model automobiles, model trains or other similar models.

(c) *Same—Transmission or brake fluids.* The provisions of subsection (a) shall not apply to the sale or delivery of transmission or brake fluids when those substances are placed directly into the automobiles of minors sixteen (16) or seventeen (17) years of age who possess a valid drivers license.

(d) *Intoxication in public place.* It shall be unlawful for any person to be found in a public place under the influence of or in a state of intoxication as the result of inhaling any glue, cement or automotive transmission or brake fluids containing one (1) or more of the solvents named in subsection (a).

(e) *Applicable areas.* This section is applicable in both the incorporated and unincorporated areas of Miami-Dade County.

(f) *Penalty for violation of section.* Any person violating any of the provisions of this section shall be punished by fine not to exceed five hundred dollars ($500.00) or by imprisonment in the County Jail for a period not to exceed sixty (60) days or both at the discretion of the court.

(Ord. No. 67-33, §§ 1—6, 5-16-67; Ord. No. 75-82, §§ 1, 2, 4, 10-1-75)

**Cross reference—** Offenses involving minors, § 21-6 et seq.

Sec. 21-36. Sidewalk solicitation of business; enforcement; penalty for section violation.

(a) It shall be unlawful for any person, firm or corporation on any public street or sidewalk within the unincorporated area of Miami-Dade County, Florida or in any area or doorway or entranceway immediately abutting thereon, to solicit the sale to street or sidewalk traffic of any real or personal property to be delivered at a subsequent time, or to solicit to street or sidewalk traffic the participation by any person in any excursion, trip, or other activity having as a purpose the sale of real or personal property to such person.

(b) It shall be the duty of all County officers to enforce the provisions of this section.

(c) Any person convicted of a violation of this section shall be punished by a fine not to exceed five hundred dollars ($500.00), or by imprisonment not to exceed sixty (60) days, or both, in the discretion of the County Court.

(Ord. No. 67-43, §§ 1, 2, 6-20-67)

Sec. 21-36.1. Street corner automobile window washers restricted.

(a) It shall be unlawful for any person to approach an automobile waiting at a traffic light or intersection and either request permission to clean, service or repair the windshield or any other part of the automobile or to clean, service or repair the windshield or any other part of the automobile.

(b) Any person convicted of a violation of this section shall be punished by a fine not to exceed five hundred dollars ($500.00), or by imprisonment not to exceed sixty (60) days, or both such fine and imprisonment.

(Ord. No. 89-9, § 2, 2-21-89)

Sec. 21-37. Persons confined in Miami-Dade County Jail for violations of the Miami-Dade Code; unlawful acts; penalty.

(a) *Escape or attempted escape.* It shall be unlawful for any person arrested for or convicted of a violation of the Miami-Dade Code, who is confined in the Miami-Dade County Jail, or who is being transported to or from said place of confinement, or who is working outside of said place of confinement as a prisoner, to escape or attempt to escape from such custody or confinement.

(b) *Conspiracy to violate subsection (a).* It shall be unlawful for any person to conspire, combine or confederate with another to violate the provisions of subsection (a) of this section.

(c) *Harboring, concealing, aiding escaped prisoners.* It shall be unlawful for any person to knowingly harbor, conceal, maintain, assist or give any aid to any person violating subsections (a), (b) or (d) of this section.

(d) *Failure to return to jail under release time program.* It shall be unlawful for any person who has been convicted of a violation of the Miami-Dade Code and whose sentence permits participation in the release time program to fail to return to the Miami-Dade County Jail at the time specified by the program.

(e) *Penalties.* Every person who is convicted of a violation of this section shall be punished by imprisonment in the Miami-Dade County Jail for not more than ninety (90) days. Any sentence imposed for a violation of this section shall run consecutively to any former sentence imposed upon any person convicted hereunder.

(Ord. No. 67-79, §§ 1—5, 10-17-67)

**Editor's note—**

Pursuant to the authority of Section 8 of Ord. No. 67-79, enacted and effective Oct. 17, 1967, Sections 1—5 of said ordinance were codified, in the discretion of the editors, as [§ 21-37](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-37PECOMIDECOJAVIMIDECOUNACPE)

Sec. 21-38. Hypodermic syringe or needle; sale prohibited without prescription; discarding prohibited without destruction or mutilation and packaging and sealing.

(a) It shall be unlawful for any person to sell or distribute on a retail basis any hypodermic syringe or needle, designed principally for subcutaneous injection, except when authorized by prescription, as such terms is defined in Section 465.031(2), Florida Statutes, by such persons as are authorized under Florida law to issue prescriptions for drugs to be administered subcutaneously by hypodermic syringe.

(b) It shall be unlawful for any person to discard any hypodermic syringe or needle, designed principally for subcutaneous injection, without first rendering such hypodermic syringe or needle useless by destruction or mutilation of the syringe barrel and needle.

(c) It shall be unlawful for any person to place any item set forth in subsection (b) of this section, including the destroyed or mutilated remains thereof, into a garbage or trash container unless said item shall have been first packaged and sealed.

(d) Every person who is convicted of a violation of subsection (a), (b) or (c) shall be punished by fine not to exceed five hundred dollars ($500.00) or imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment.

(Ord. No. 70-79, §§ 1, 2, 10-27-70; Ord. No. 73-12, §§ 1—3, 2-6-73)

Sec. 21-39. Collection of bond posted for prisoners on bail; repeal of Chapter 10060.

Chapter 10060, Laws of Florida, 1925, providing the County with a means of collecting bonds posted for prisoners on bail and made an ordinance of Miami-Dade County by Chapter 71-29, Laws of Florida, 1971 is hereby repealed in its entirety.

(Ord. No. 71-75, § 1, 9-22-71)

**Editor's note—**

Ord. No. 71-75 amended this Code, but did not specify the manner thereof, hence inclusion of § 1 herein as [§ 21-39](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-39COBOPOPRBARECH10060) was at the discretion of the editors.

Sec. 21-40. Smoking, spitting within certain public vehicles prohibited.

Passengers are prohibited from smoking or spitting within any fixed guideway mass transit vehicles, buses, limousines, or jitneys operated for public use in the County, including Miami-Dade County municipalities; and the operators of such vehicles shall provide a sign within each of their vehicles so advising. Penalties for anyone violating the provisions hereof shall be the same as those provided in [Section 1-5](../level2/PTIIICOOR_CH1GEPR.docx#PTIIICOOR_CH1GEPR_S1-5GEPECOCILICRLIPE) of the Code of Miami-Dade County, Florida.

(Ord. No. 72-61, § 1, 9-19-72; Ord. No. 84-37, § 1, 5-15-84)

**Editor's note—**

Ord. No. 72-61, § 1, has been included herein as [§ 21-40](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-40SMSPWICEPUVEPR) at the discretion of the editors. Section 2 of said ordinance provided for inclusion in this Code, but did not specify the manner thereof.

**Cross reference—** Similar provisions applicable to public transit vehicles, § 30B-4(5).

Sec. 21-40.1. Reserved.

**Editor's note—**

At the discretion of the editor, the provisions of [§ 21-40.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-40.1RE), "Impeding, hindering operators of public transit vehicles prohibited," have been deleted as being covered under [§ 30B-4](../level2/PTIIICOOR_CH30BTRAGRURE.docx#PTIIICOOR_CH30BTRAGRURE_S30B-4PEAC). [Section 21-40.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-40.1RE) derived from §§ 2 and 3 of Ord. No. 79-53, adopted July 3, 1979.

Sec. 21-41. Right of tenants to present grievances; retaliation, discrimination by management prohibited; violations and penalties.

(a) Any tenant or group of tenants may at any time submit in oral or written form a list of grievances to the landlord or his agents concerning the management, the physical conditions or operation of the rental unit or units.

(b) The management of any rental unit complained against or criticized shall not coerce, retaliate, or discriminate in any manner against a tenant or tenant group because he had participated in the presentation of a grievance or complaint.

(c) Any person convicted of violating any provision of this section shall, upon conviction in the County Court, be subject to a fine not to exceed five hundred dollars ($500.00) or imprisonment in the County Jail for not more than sixty (60) days or by both such fine and imprisonment.

(d) It shall be unlawful for any person to wilfully and knowingly initiate any complaint under the provisions of this section without probable cause and for the purpose of harassment. Any person convicted of violating this section shall be subject to a fine or imprisonment as hereinabove provided.

(Ord. No. 72-50, §§ 1—4, 9-19-72)

**Editor's note—**

Section 5 of Ord. No. 72-50 provided that said ordinance be included in this Code, but did not specify the manner thereof, hence inclusion of §§ 1—4, herein as [§ 21-41](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-41RITEPRGRREDIMAPRVIPE) was at the discretion of the editors.

**Cross reference—** Discrimination relative to housing, § 11A-19 et seq.

Sec. 21-42. Obscene materials or performances.

(A) As used herein the following words shall be construed as defined:

(1) *Obscene.* Any material or performance is "obscene" if:

(a) Considered as a whole, applying community standards, its predominant appeal is to be the prurient interests of the average adult, and

(b) It is patently offensive because it goes substantially beyond the customary limits of candor in its description of sex, nudity, or excretion, and

(c) It is utterly without redeeming social value.

(2) *Material* means anything tangible which is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner.

(3) *Performance* means any play, motion picture, dance or other exhibition performed before an audience.

(4) *Promote* means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, produce, present, direct, exhibit or advertise, or to offer or to agree to do the same.

(5) *Wholesale promote* means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, produce, present, direct, exhibit or advertise, or to offer or agree to do the same for purposes of resale.

(6) *Person* includes individuals, firms, associations, corporations, and all other groups and combinations.

(7) *Commission* means the Board of County Commissioners of Miami-Dade County, Florida.

(B) Within the boundaries of Miami-Dade County, Florida, it shall be unlawful for any person, who, knowing its content and character:

(1) Promotes or wholesale promotes, or possesses with intent to promote or wholesale promote, any performance which is obscene; or

(2) Promotes or wholesale promotes, or possesses with intent to promote or wholesale promote, any performance which is obscene or participates in any portion thereof which is obscene or which contributes to its obscenity.

(C) No material or performance which is conceived to be obscene as defined by this section shall be seized before a prior, judicially supervised adversary proceeding is held on the question of the obscenity of such material or performance.

(D) A person who promotes or wholesale promotes any obscene material or performance, or possesses the same with intent to promote or wholesale promote it, is presumed to do so with knowledge of its content and character.

(E) Defenses.

(1) In any prosecution for obscenity, it is an affirmative defense that the persons to whom allegedly obscene material was promoted, or the audience to which an allegedly obscene performance was portrayed, consisted of persons of institutions having scientific, educational, governmental or other similar justification for possessing or viewing the same.

(2) In any prosecution for obscenity, it is an affirmative defense that the person so charged was a motion picture projectionist, stage employee or spotlight operator, cashier, doorman, usher, candy stand attendant, porter or functioned solely in any other nonmanagerial or nonsupervisory capacity in any promotion or obscene material or performance; provided that the person had no financial interest, other than the person's employment, which employment does not encompass compensation based upon any proportion of the net or gross receipts, in the promotion of any obscene material or performance, and that the person did not personally participate in or contribute to the obscene performance as defined by this ordinance, or promote, wholesale promote or possess for such purposes any obscene material as defined by this section.

(F) Any person who shall erect, establish, continue, maintain, own or lease any building, booth, tent or other place, or otherwise has any legal or equitable estate in any premises, whether alone or jointly with others, and whether in possession or not, where any obscene material or obscene performance is promoted in violation of this section, or where any materials or performances have been declared obscene by any court having competent jurisdiction to provide a prior, judicially supervised adversary proceeding as required by this section shall be deemed to be doing so against the public peace, health, welfare, prosperity and morals of the County of Miami-Dade, and such conduct shall be declared a public nuisance. Such conduct and persons responsible for same shall be abated or enjoined as provided by law.

(G) There shall be no right of property in any obscene material or obscene performance, and upon the seizure of any such obscene material or obscene performance by any authorized law enforcement officer or upon the surrender of such material or performance, the same shall be delivered to and held by the clerk of the court having jurisdiction. When the same is no longer required as evidence, the prosecuting officer or any claimant may move the court in writing for the disposition of the same and after notice and hearing, the court, if it finds the same to be obscene or otherwise in violation of this section, shall order the material or performance destroyed in the presence of the clerk; otherwise, the court shall order the same returned to the claimant if he shows that he is entitled to possession. If destruction is ordered, the clerk shall file a certificate of compliance.

(H) Any person violating the provisions of this section, upon conviction, shall be punished by a fine not exceeding five hundred dollars ($500.00) or imprisonment for a term not exceeding six (6) months, or both, in the discretion of the court.

(I) It is the specific intent of the Commission in enacting this section to exercise and make effective its general powers and police powers, necessary to promote the peace, health, welfare, prosperity, and morals of the County of Miami-Dade, and this section shall only be applied prospectively from and after its effective date.

(Ord. No. 73-31, §§ 1—9, 4-3-73)

**Editor's note—**

Ord. No. 73-31 amended this Code, but did not specify the manner thereof, hence inclusion of §§ 1—9 herein as [§ 21-42](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-42OBMAPE) was at the discretion of the editors.

Sec. 21-43. Promotion, delivery, possession with intent to promote or deliver torture materials, instruments or devices.

(A) *Definitions.* As used herein the following words shall be construed as defined:

(1) "Promote" means to manufacture, issue, sell, give, provide, lend, rent, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, produce, present, direct, exhibit or to offer or to agree to do the same.

(2) "Deliver" means the actual, constructive, or attempted transfer from one (1) person to another of torture materials, instruments or devices, whether or not there is an agency relationship.

(3) "Person" includes individuals, children, juveniles, firms, associations, joint ventures, partnerships, estates, trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

(4) "Juvenile" means any person under the age of seventeen (17).

(5) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of:

(a) The character or content of any material, instrument or device which is reasonably susceptible of examination by the defendant, and

(b) In the case of a juvenile, the age of the juvenile; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable, bona fide attempt to ascertain the true age of such juvenile.

(B) *Offenses and penalties.*

(1) It shall be unlawful for any person to promote, deliver or possess with the intent to promote or deliver materials, instruments or devices whose sole or primary purpose is for the torture of human beings or animals. By way of example, and not limitation, such materials, instruments or devices include: Dungeons, torture chambers, discipline helmets, fetters, gags, chastity torture or spanker belts, punishment bras, paddles, chain hanging cages, suspension harnesses, pillories or stocks, whipping posts or platforms, racks, impalers, thumb screws, iron maidens.

(2) It shall be unlawful to knowingly advertise to juveniles the promotion, delivery or possession of materials, instruments or devices whose sole or primary purpose is for the torture of human beings or animals.

(3) It is unlawful for any person or juvenile to falsely represent to an owner or advertiser or his agent, with regard to this subsection that such juvenile is seventeen (17) years of age or older, for the purpose of gaining entrance to any premises where such materials, instruments or devices prescribed in this subsection are promoted, delivered or possessed or for the promotion, delivery or possession of such materials, instruments or devices.

(4) Every act, thing or transaction forbidden by this section shall constitute a separate offense and be punishable as such.

(5) Whenever any person is convicted under this section, the County Court in awarding sentence may make an order confiscating the material, instrument or device or advertisement and authorize the executive officer of the court to destroy same.

(6) Proof that a defendant knowingly committed an act or engaged in any conduct referred to in this section may be made by showing that at the time such act was committed or conduct engaged in such person had actual knowledge of the contents or character of the material, instrument or device or thing promoted, delivered or possessed or by showing facts and circumstances from which it may fairly be inferred that such person had such knowledge, or by showing that such person had knowledge of such facts and circumstances as would put a person of ordinary intelligence and caution on inquiry as to such content or character.

(7) Any person violating the provisions of this section, upon conviction, shall be punished by a fine not exceeding five hundred dollars ($500.00) or imprisonment for a term not exceeding six (6) months, or both in the discretion of the court.

(C) *Legislative intent.*

(1) This section shall not pertain to the exposure of persons over seventeen (17) years of age to harmful motion pictures, exhibitions, shows, representations and presentations, in accordance with Section 847.09, Florida Statutes 1975.

(2) Nothing herein shall be construed to limit the free exercise of free speech or picketing by any person, organization or group for the purpose of upholding community standards.

(Ord. No. 76-63, § 1, 7-6-76)

Sec. 21-44. Manholes; safety requirements; penalty.

(a) No person, firm or corporation shall cause any person to enter a manhole being used for repairs, maintenance, installation or inspection of underground utilities unless the following requirements are fulfilled:

(1) A second person shall remain abovegrade at all times to provide surveillance of the manhole and the person(s) belowgrade until the manhole cover is in place and no person(s) remains belowgrade at or near the location of the manhole.

(2) The person required herein to remain abovegrade shall be trained and shall be capable of providing first aid and emergency rescue procedures and shall be furnished with communication equipment to summon additional aid in the event of an emergency.

(3) The person providing aboveground surveillance shall keep animals and unauthorized persons away from the open manhole.

(4) The person required herein to remain abovegrade may be assigned other duties provided such other duties do not interfere with the requirements of this section.

(b) Every violation of any provision of this section shall be punished by a fine not to exceed five hundred dollars ($500.00) or imprisonment in the County Jail for a period not to exceed sixty (60) days or both such fine and imprisonment, in the discretion of the court. Each day of continued violation shall be considered as a separate offense.

(Ord. No. 83-3, § 1, 2-1-83)

**Cross reference—** Excavations, § 33-16.

Sec. 21-45. Vehicles, painted to resemble law enforcement vehicles.

(a) *Vehicles.* It shall be unlawful for any person, firm, or corporation, other than a State, County, or municipal law enforcement agency or authorized agents thereof, to color, cause to be colored or to own or operate any motor vehicle or motorcycle, with any color combination which is the same or similar to that which is prescribed and utilized by the Miami-Dade Police Department, the Florida Highway Patrol, or any municipal law enforcement agency within this County.

(b) *Penalties.* Any person violating any of the provisions of this section shall be punished by a fine not to exceed five hundred dollars ($500.00), or by imprisonment in the County Jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment.

(Ord. No. 85-64, § 1, 9-18-85)

**Editor's note—**

Ord. No. 85-64, § 1, adopted Sept. 18, 1985, added a section to the Code, which the editor has designated as [§ 21-45](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-45VEPARELAENVE)

**Cross reference—** Unauthorized use of County emblem, § 21-29.2.

Sec. 21-46. Reserved.

**Editor's note—**

Ord. No. 05-168, § 1, adopted Sept. 8, 2005, repealed [section 21-46](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-46RE) in its entirety. Former [section 21-46](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-46RE) pertained to the Miami-Dade County Environmental Advisory Task Force, and derived from Ord. No. 90-79, § 1, adopted July 24, 1990; Ord. No. 97-55, § 1, adopted May 20, 1997.

Sec. 21-47. Sexual activity in bathhouses and health clubs.

(1) *Scope of regulation.* This regulation shall apply in both incorporated and unincorporated Miami-Dade County.

(2) *Definitions.*

(a) *Bathhouse and health club* as used in this section means any establishment that offers use of a swimming pool, spa, whirlpool, steamroom, sauna, or communal bath to its patrons and that charges an admission, assesses membership fees, or receives payment for the use of its facilities. These terms do not include hotels, motels, or medical organizations.

(b) *High risk sexual activity* as used in this section means oral, anal, or vaginal penetration by, or contact with, the sexual organ of another without the use of any prophylactic device such as a condom to prevent the exchange of body fluids.

(c) *Hotel and motel* as used in this section means a commercial establishment meeting all of the following requirements: (1) the establishment is primarily in the business of providing overnight accommodations; (2) the establishment is licensed by all controlling jurisdictions as a hotel or motel and is in compliance with all state and local laws governing hotels and motels.

(d) *Medical organization* means an organization such as a hospital, medical clinic, or physical therapy clinic that is operated by licensed medical professionals with the primary purpose of providing medical care.

(e) *Operator* means the persons with overall responsibilities to act as the manager and supervisor for the operation of the bathhouse and health club, including responsibility for overseeing the hiring and firing of employees, the issuing of checks and the payroll, and care and maintenance of the facilities. The term also includes the day or shift managers or supervisors who have responsibility to supervise or manage the other employees on the premises in the absence of the employer.

(f) *Owner* means the person or business entity that owns the bathhouse and health club. If the bathhouse and health club is owned by a partnership, the term also means the general partner, who is responsible to the other partners for the operation of the facility. If the bathhouse and health club is owned by a corporation, the term also includes the chief executive officer who is responsible to the Board of directors or shareholders for the operation of the facility. The expression "owner or operator" as used in this section means that both the owner and the operator are both individually and jointly responsible for fulfilling the requirements of this section.

(g) *Patron* means any person using the facilities of the bathhouse and health club including but not limited to members, guests, and employees who are off-duty.

(3) *High risk sexual activity prohibited in bathhouses and health clubs.*

(a) No person shall engage in high risk sexual activity in a bathhouse and health club.

(b) No owner or operator of a bathhouse and health club shall allow or permit any person to engage in high risk sexual activity on the premises of the bathhouse and health club. The occurrence of high risk sexual activity in a bathhouse and health club, whether or nor the owner or operator has knowledge of the occurrence, shall be a violation of this section. It is the responsibility of the owner or operator of the bathhouse and health club to take steps to ensure such activity does not occur on its premises.

(c) No owner or operator shall encourage, foster, or knowingly allow or permit any person to engage in high risk sexual activity on the premises of a bathhouse and health club.

(d) No person shall occupy a locked toilet stall in a bathhouse and health club with another except when one (1) of the persons, due to physical incapacity, requires the assistance of the other to use the facility. No owner or operator shall allow or permit any person to occupy a toilet stall with another in violation of this section.

(4) *Regulated facilities in bathhouses and health clubs.*

(a) *No private rooms.* The owner or operator shall ensure that all booths, cubicles, and rooms within a bathhouse and health club have an opening no less than five (5) feet nor more than six (6) feet above the floor through which the full interior of the enclosure is viewable from the exterior for the use of the owner, operator, employees, police officers, and health officials to ensure that no high risk sexual activity is taking place. This regulation shall not apply to (1) any steam room or sauna in which the temperatures is maintained at a minimum of 104 degrees when occupied, (2) toilet stalls, (3) any room in which no more than one (1) patron at a time is allowed to enter, except to assist someone otherwise physically incapacitated from using the facility in the room; (4) rooms to which patrons are never allowed access, (5) common rooms such as lobbies, locker rooms, or showers to which all patrons, or at least all patrons of the same sex, are freely allowed access and which are never locked while the facility is in operation.

(b) *Holes in walls.* The owner or operator shall not provide or knowingly allow to exist any holes in any walls of any booths, cubicles, toilet stalls, rooms or other areas at a bathhouse and health club which the owner or operator knew or should have known are used for the purposes of high risk sexual activity between persons occupying adjoining booths, cubicles, rooms, toilet stalls or other areas.

(c) *Lighting.* In all areas of the bathhouse and health club to which patrons or guests are allowed access, the owner or operator shall provide lighting to an intensity of not less than five (5) foot candles, measured at thirty (30) inches from the floor, during all hours of operation.

(5) *Posting the name of the owner and operator.* At all times that the bathhouse and health club is in operation, the name and address of the owner and the operators, including the day or shift supervisor or manager on duty, shall be prominently displayed at the entrance.

(6) *Penalties.*

(a) Each day the prohibited activity occurs shall be considered a separate violation. Each incident of a high risk sexual activity shall constitute a basis for a separate violation of this section.

(b) Criminal penalties. Any owner or operator that violates the following sections shall be subject to a criminal fine of not more than five hundred dollars ($500.00) for each violation or not more than sixty (60) days in jail for each violation, or both in the discretion of the court: [Section 21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)(3)(c) which concerns encouraging or knowingly permitting high risk sexual activity on the premises; and [Section 21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)(4)(b) which concerns providing or knowingly allowing to exist holes that are used for high risk sexual activity between persons in adjoining rooms.

(c) Civil penalties. The provisions of this section listed in [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County may be enforced pursuant to that chapter. As an alternative remedy, the civil penalties listed below may be enforced by a civil lawsuit brought by Miami-Dade County, or a state agency or local government with jurisdiction over the subject bathhouse and health club:

|  |  |  |
| --- | --- | --- |
| Code Section | Description of Violation | Penalty |
| [21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)(3)(a) | Persons engaging in high risk sexual activity at bathhouse and health club | $100.00 |
| [21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)(3)(b) | Allowing high risk sexual activity at bathhouse and health club | $500.00 |
| [21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)(3)(d) | Allowing two or more persons in toilet stall at bathhouse and health club | $500.00 |
| [21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)(4)(a) | Private rooms at bathhouse and health club | $500.00 |
| [21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)(4)(c) | Lighting at bathhouse and health club | $250.00 |
| [21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)(5) | Posting name and address of owner and operator of bathhouse and health club | $500.00 |

(7) *Injunctions closing bathhouses and health clubs for violations of Anti-AIDS ordinance.* Any bathhouse and health club where, within any six-month calendar period, there occurs three (3) or more violations of this section is hereby declared a public nuisance that is a danger to the health, safety, and welfare of the people of Miami-Dade County which shall be subject to an injunction closing the facility; provided, that the three (3) or more violations occur no less than seventy-two (72) hours after written notice of a violation of any provision of this section has been given to the owner or operator of the bathhouse and health club. The injunctive relief provided for herein shall be in addition to civil penalties, criminal penalties, and other remedies provided by law. Any State agency or local government having jurisdiction of the bathhouse and health club is authorized to bring a lawsuit to close such a public nuisance.

(Ord. No. 91-28, § 2, 3-5-91)

**Editor's note—**

Ord. No. 91-28, § 2, adopted March 5, 1991, amended the Code by the addition of provisions which have been designated at the discretion of the editor as [§ 21-47](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47SEACBAHECL)

Sec. 21-47.1. Sexual activity in adult bookstores and adult video stores.

(1) *Scope of regulation.* Notwithstanding the provisions of any other ordinance, this regulation shall apply in both incorporated and unincorporated Miami-Dade County.

(2) *Definitions.* For purposes of this section [Ordinance No. 96-13] the following definitions for terms used herein shall apply:

(a) *Adult bookstore* means a business engaged in displaying, distributing, bartering, renting or selling printed matter, pictures, films, graphic or other materials which activity requires the exclusion of minors pursuant to Chapter 847, Florida Statutes.

(b) *Adult video store* means a business engaged in displaying, renting or selling videotapes which activity requires the exclusion of minors pursuant to Chapter 847, Florida Statutes.

(c) *Operator* means the person with overall responsibilities to act as the manager and supervisor for the operation of the adult bookstore or adult video store, including responsibility for overseeing the hiring and firing of employees, the issuing of checks and the payroll, and care and maintenance of the facilities. The term also includes the day or shift managers or supervisors who have responsibility to supervise or manage the other employees on the premises in the absence of the employer. When no day or shift manager is present on the premises, the term includes the employee who is responsible for the operation of the premises.

(d) *Owner* means the person or business entity that owns the adult video store or adult bookstore. If the adult video store or adult bookstore is owned by a partnership, the term also means the general partner, who is responsible to the other partners for the operation of the facility. If the adult bookstore or adult video store is owned by a corporation, the term also includes the chief executive officer who is responsible to the board of directors or shareholders for the operation of the facility. The expression "owner or operator" as used in this section means that both the owner and the operator are both individually and jointly responsible for fulfilling the requirements of this section.

(e) *Patron* means any person using the facilities of the adult bookstore or adult video store, including but not limited to members, guests, and employees who are off-duty.

(f) *Sexual activity* as used in this section means oral, anal, or vaginal penetration by, or contact with, the sexual organ of another; the anal or vaginal penetration by, or contact with either the body part of another or an object held by another; or the handling or fondling of the sexual organ for the purposes of masturbation.

(g) *Viewing room* means any booth, cubicle, room, or other area where patrons are able to view videos, movies, or still or moving images.

(3) *Activities prohibited in adult bookstores and adult video stores.*

(a) No person shall engage in sexual activity in an adult bookstore or adult video store.

(b) No owner or operator of an adult bookstore or adult video store shall allow or permit any person to engage in sexual activity on the premises. The occurrence of sexual activity in an adult bookstore or adult video store, whether or not the owner or operator has knowledge of the occurrence, shall be a violation of this section. It is the responsibility of the owner or operator of the adult bookstore or adult video store to take steps to ensure such activity does not occur on the premises.

(4) *Regulated facilities in adult bookstores and adult video stores.*

(a) *Chairs only.* In any viewing room, the only type of seating provided for patrons will be single chairs of the type designed to accommodate only one (1) person.

(b) *Holes in walls.* The owner or operator shall not provide or knowingly allow to exist any holes in any walls of any booths, cubicles, toilet stalls, rooms or other areas at an adult bookstore or adult video store which the owner or operator knew or should have known are used for the purposes of sexual activity between persons occupying adjoining booths, cubicles, rooms, toilet stalls or other areas.

(c) *Lighting.* At all times that the adult bookstore or adult video store is open for business and in all areas of the adult bookstore or adult video store to which patrons or guests are allowed access, the owner or operator shall provide lighting to an intensity of not less than four (4) foot candles, as measured at a distance of three (3) feet above floor level, with the light measuring device held facing all directions other than facedown, with all video, movie, or other projection devices turned off.

(d) *Permanently open entranceway and into viewing room.*

(i) Each viewing room shall have a permanently open entranceway and view not less than two (2) feet eight (8) inches wide and not less than seven (7) feet high, which may not be closed by any door, curtain, or other partition which would be capable of wholly or partially obscuring any person in the viewing room. This entranceway and view shall open directly to an adjacent public room where the front counter is located or to a main aisle so that a person located in the front room or main aisle is able to view any person or persons located in any viewing rooms in order to monitor compliance with this ordinance.

(ii) The owner or operator of an adult bookstore or adult video store may equip a viewing room with a device which allows private viewing of a film or videotape by the occupant so long as such device does not obscure the clear view of the occupant required by this section.

(5) *Posting the name of the owner and operator.* At all times that the adult bookstore or adult video store is in operation, the name and address of the owner and the operators, including the day or shift supervisor or manager on duty, shall be prominently displayed at the entrance.

(6) *Penalties.*

(a) *[Generally.]* Each day the prohibited activity occurs shall be considered a separate violation. Each incident of a sexual activity shall constitute a basis for a separate violation of this section.

(b) *Criminal penalties.* Any owner or operator that violates [Section 21-47.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47.1SEACADBOADVIST)(4)(b) of this part by providing or knowingly allowing to exist holes in interior walls that are used for sexual activity between persons in adjoining rooms shall be subject to a criminal fine of not more than one thousand dollars ($1,000.00) for each violation or not more than sixty (60) days in jail for each violation, or both in the discretion of the court.

(c) *Civil penalties.* The provisions of this section listed in [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County may be enforced pursuant to that chapter. As an alternative remedy, the civil penalties listed below may be enforced by a civil lawsuit brought by Miami-Dade County, or a state agency or local government with jurisdiction over the subject adult bookstore or adult video store:

|  |  |  |
| --- | --- | --- |
| Code Section | Description of Violation | Penalty |
| [21-47.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47.1SEACADBOADVIST)(3)(a) | Person engaging in sexual activity at adult minimovie arcade | $100.00 |
| [21-47.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47.1SEACADBOADVIST)(3)(b) | Allowing sexual activity at adult minimovie arcade | $1,000.00 |
| [21-47.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47.1SEACADBOADVIST)(4)(a) | Failure to provide only single-seat chairs in viewing rooms | $500.00 |
| [21-47.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47.1SEACADBOADVIST)(4)(c) | Failure to provide minimum lighting at adult bookstore or adult video store | $500.00 |
| [21-47.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47.1SEACADBOADVIST)(4)(d) | Failure to provide permanently open entranceway to viewing rooms | $500.00 |
| [21-47.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47.1SEACADBOADVIST)(5) | Failure to post name and address of owner and operator of adult bookstore or adult video store | $500.00 |

(7) *Injunctions closing adult bookstores or adult video stores for violations of this section.* Any adult bookstore or adult video store where, within any six-month calendar period, there occurs three (3) or more violations of this section is hereby declared a public nuisance that is a danger to the health, safety, and welfare of the people of Miami-Dade County and shall be subject to an injunction closing the facility. The injunctive relief provided for herein shall be in addition to civil penalties, criminal penalties, and other remedies provided by law. Any state agency or local government having jurisdiction of the adult bookstore or adult video store is authorized to bring a lawsuit to close such a public nuisance.

(Ord. No. 96-13, § 2, 1-16-96)

**Editor's note—**

Ord. No. 96-13, § 2, adopted Jan. 16, 1996, amended the Code by the addition of provisions which have been designated at the discretion of the editor as [§ 21-47.1](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-47.1SEACADBOADVIST)

Sec. 21-48. Sale and installation of satellite dish antennas to residential customers.

(A) The following definition shall apply to this section:

*Satellite dish antenna (SDA)* shall be defined as set forth in [Section 33-63.1](../level3/PTIIICOOR_CH33ZO_ARTIVTOPOMA.docx#PTIIICOOR_CH33ZO_ARTIVTOPOMA_S33-63.1SADIAN)(a) of the Code of Miami-Dade County, Florida.

(B) It shall be unlawful for any person to sell or install any satellite dish antenna to any residential customer in Miami-Dade County, Florida, without providing prior written notice to the residential customer that: permits are usually required by the municipality or county to install a satellite dish antenna on residential property; and failure to obtain those permits may result in substantial penalties being imposed on the residential customer.

(Ord. No. 94-77, § 1, 5-5-94)

Sec. 21-49. Loitering for the purpose of obtaining temporary employment; prohibiting employment; penalty.

(a) It shall be unlawful and a violation of this section for any person to stand or remain in or about any public street, public park, public sidewalk, public overpass or public bridge for the purpose of soliciting or obtaining temporary employment for a period of less than one (1) month except in an area that is zoned IU-1, IU-2, IU-3, IU-C or AU by [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Code.

(b) It shall be unlawful and a violation of this section to pick up for purposes of temporary employment for a period of less than one (1) month any person while such person is engaged in the activity prohibited in [Section 21-49](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-49LOPUOBTEEMPREMPE)(a).

(c) Any person who violates [Section 21-49](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-49LOPUOBTEEMPREMPE)(b) of this section shall be punished by a fine not to exceed two hundred fifty dollars ($250.00) or by imprisonment in the county jail for a term not to exceed thirty (30) days.

(Ord. No. 93-105, §§ 1—3, 10-19-93)

**Editor's note—**

Ord. No. 93-105, adopted Oct. 19, 1993, amended the Code by the addition of provisions which have been included herein at the discretion of the editor as [§ 21-49](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-49LOPUOBTEEMPREMPE)

Sec. 21-50. Reserved.

**Editor's note—**

Ord. No. 96-3, § 6, adopted Jan. 9, 1996, provided that the provisions of [section 21-50](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-50RE) would stand repealed on January 19, 2001. Former [section 21-50](../level3/PTIIICOOR_CH21OFMIPR_ARTIVMI.docx#PTIIICOOR_CH21OFMIPR_ARTIVMI_S21-50RE) pertained to notice of penalties for removal of shopping carts, and derived from Ord. No. 96-3, §§ 1—3, 5, 6.

### ARTICLE V. USED MOTOR VEHICLE PARTS DEALERS, WRECKERS AND REBUILDERS [[3]](#BK_F13C229F59DE111D2B36A789D1AECE36)

[Sec. 21-51. License to engage in business—Required; definition.](#BK_F4801A99100C8567AA90739665480F68)

[Sec. 21-52. Same—Application; fee.](#BK_419D562D6744DF67A59B81CC52A284EB)

[Sec. 21-53. Same—Prerequisite for issuance.](#BK_A35B51FA43C615E06415EC6D328B78CE)

[Sec. 21-54. Same—Suspension and revocation.](#BK_FB612B948350CF3B4D196647B5BFFD57)

[Sec. 21-55. Same—Appeals from denied, suspended or revoked license.](#BK_2B07589FF0D1B9C152548EC5CB585CA8)

[Sec. 21-56. Records to be maintained.](#BK_414A60190B2A9889D462CC6B5B13AA21)

[Sec. 21-57. Title certificate or documentation required prior to dismantling, wrecking, or destroying motor vehicles.](#BK_909FC488BA2221AA244612AB3EAC45D9)

[Sec. 21-58. Failure to submit reports or permit inspection.](#BK_5651C63049CF8CD6437B7547648A32FA)

[Sec. 21-59. Penalty.](#BK_4387A00BEC8CA66E9011A776E5C42DFA)

[Secs. 21-60—21-63. Reserved.](#BK_A5CF8B8ADC5A9A4F3BFCB423B46E2AFA)

Sec. 21-51. License to engage in business—Required; definition.

No person shall, except as an incident to the sale or servicing of motor vehicles or unless licensed to do so by the Miami-Dade Police Director (hereinafter called the "Director") under the article, carry on or conduct within Miami-Dade County the business of:

(a) Selling used parts of or used accessories for motor vehicles;

(b) Wrecking or dismantling motor vehicles for resale of the parts thereof; or

(c) Rebuilding wrecked or dismantled motor vehicles; or

(d) Destroying motor vehicles by any means (including, but not limited to, such operations as crushing, shredding, flattening, bailing, compacting or melting).

The words used in this article shall be deemed and construed to include, embrace and apply to secondhand or used motor vehicles, parts, etc.

(Ord. No. 59-37, §§ 1, 9, 9-15-59; Ord. No. 60-1, 1-5-60; Ord. No. 77-34, § 1, 6-21-77)

Sec. 21-52. Same—Application; fee.

Application for the license shall be made on a form prescribed by the Director and shall contain the name of the applicant, the address where business is to be conducted, the kind or kinds of business, enumerated in [Section 21-51](../level3/PTIIICOOR_CH21OFMIPR_ARTVUSMOVEPADEWRRE.docx#PTIIICOOR_CH21OFMIPR_ARTVUSMOVEPADEWRRE_S21-51LIENBUEQDE) to be conducted, the residence address of the applicant if an individual, the names and residence addresses of the partners of the applicant if a partnership, the names and residence addresses of the principal officers of the applicant and the state of its incorporation as a corporation, the fingerprints and photographs of all persons whose names appear in the application, satisfactory evidence that an appropriate use and occupancy permit has been obtained from the Department of Planning and Zoning, and any other information required by the Director. The application shall be verified by the applicant and shall be accompanied by a fee established by the Manager by administrative order and approved by the Board of County Commissioners. The Director shall pay over for deposit in the general funds of the County all fees received under this article.

(Ord. No. 59-37, § 2, 9-15-59; Ord. No. 60-1, 1-5-60; Ord. No. 75-97, § 1, 11-4-75; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 14, 9-3-98)

Sec. 21-53. Same—Prerequisite for issuance.

The Director shall file each application received and, when satisfied that the applicant, if an individual, or each of the partners or principal officers of the applicant, if a partnership or corporation, is of good moral character and that the applicant, so far as can be ascertained, has complied and will comply with the provisions of this article, the zoning laws, and the laws of the State relating to registration of and certificates of title to motor vehicles, shall issue to the applicant a license to conduct the kind or kinds of business specified in the application at the address herein specified until October 1st next following the date on which the license is issued. In determining good moral character, for the purposes of this section, the Director's determinations shall be subject to the following provisions:

(a) Prior arrests of the applicant may not be considered unless they resulted in conviction; provided, however, allegations which are the basis for any pending criminal charges may be considered if the charges are pending when the application is considered.

(b) If the applicant has had his or her civil rights restored, the Director shall only consider acts or omissions on the part of the applicant subsequent to the restoration of civil rights.

(c) In the case of subsequent applications of the same applicant, the Director shall only consider acts or omissions on the part of the applicant which have occurred subsequent to the date of the issuance of prior permits to the applicant.

This license shall be considered by the Tax Collector to be a prerequisite to the issuance of any occupational license to conduct the business.

(Ord. No. 59-37, § 3, 9-15-59; Ord. No. 60-1, 1-5-60; Ord. No. 79-31, § 5, 4-17-79)

Sec. 21-54. Same—Suspension and revocation.

The Director may suspend or revoke a license, upon notice and reasonable opportunity to be heard, if it is found that:

(a) The license was fraudulently procured or erroneously issued;

(b) The licensee, or any partner or principal officer of the licensee, if a partnership or a corporation, has failed to comply with the provisions of this article or the laws of the State relating to registration of and certificates of title to motor vehicles; or

(c) The licensee, or any partner or principal officer of the licensee, if a partnership or a corporation, has been convicted of a felony or misdemeanor, involving any transaction in connection with a motor vehicle or any part or parts thereof.

(Ord. No. 59-37, § 6, 9-15-59; Ord. No. 60-1, 1-5-60)

Sec. 21-55. Same—Appeals from denied, suspended or revoked license.

Any person who is denied a license or whose license is suspended or revoked by the Director may appeal to the County Commission by filing a written petition for review setting forth the reasons why the license should have been granted or should not have been suspended or revoked, as the case may be, but the Commission shall have no jurisdiction to entertain any such appeal unless the petition for review is filed with the Clerk of the Commission within thirty (30) days after the date of the Director's action. If the Commission hears testimony regarding the denial, suspension, or revocation of the license, all witnesses shall be sworn and the laws of evidence applicable to quasi-judicial proceedings shall govern.

(Ord. No. 59-37, § 7, 9-15-59; Ord. No. 60-1, 1-5-60; Ord. No. 79-31, § 6, 4-17-79)

Sec. 21-56. Records to be maintained.

Every licensee shall maintain in its possession for the period of three (3) years, in such form as shall be prescribed by the Director, an accurate and complete record of:

(a) Each motor vehicle, and every part, accessory, body, chassis or engine purchased or acquired unattached from a motor vehicle which can be identified by serial number, including, but not limited to, such accessories as radios, heaters, air conditioners, wheels, mirrors and hubcaps. Such record shall set forth the description, identifying or serial number, date of acquisition, name and address of person from whom acquired.

(b) Every motor vehicle dismantled, wrecked or destroyed by the licensee, and the description, date of its dismantling, wrecking or destruction and the documentation required by [Section 21-57](../level3/PTIIICOOR_CH21OFMIPR_ARTVUSMOVEPADEWRRE.docx#PTIIICOOR_CH21OFMIPR_ARTVUSMOVEPADEWRRE_S21-57TICEDOREPRDIWRDEMOVE) of this article.

(c) Every licensee, upon purchase or acquisition of any motor vehicle or part(s) thereof, shall require the seller to produce written identification, such as his driver's license, and shall make and maintain a record of the identification of the seller and the particular items acquired. All such records shall be open and available to inspection during reasonable business hours by any representative of the Director or any peace officer of the State, any County or municipality.

(Ord. No. 59-37, § 5, 9-15-59; Ord. No. 60-1, 1-5-60; Ord. No. 77-34, § 2, 6-21-77; Ord. No. 90-4, § 1, 1-16-90)

Sec. 21-57. Title certificate or documentation required prior to dismantling, wrecking, or destroying motor vehicles.

It shall be unlawful for any person, firm, corporation or other legal entity to dismantle, wreck or destroy any motor vehicle without having in its possession a valid, properly endorsed and notarized title certificate to such motor vehicle. Any person undertaking to dismantle, wreck or destroy any motor vehicle shall, upon demand of any peace officer or law enforcement officer, produce for inspection an appropriate lawful title certificate, or other documentation to such motor vehicle required by this section. The foregoing notwithstanding:

(a) It shall not be unlawful for any person, firm, corporation or other legal entity to dismantle, wreck, or destroy any motor vehicle five (5) model years old or less for which an insurance company, prior to January 1, 1990, has paid money as compensation for a total loss provided that such person has in its possession prior to such dismantling, wrecking or destruction a copy of the notarized bill of sale for such motor vehicle from the registered owner to the insurance company together with a copy of the completed report of total loss settlement therefor filed by the insurance company with the Florida Department of Highway Safety and Motor Vehicles that has been certified by such Department.

(b) It shall not be unlawful for any person, firm, corporation or other legal entity to dismantle, wreck or destroy any motor vehicle which, on or after January 1, 1990, becomes salvage provided such person has in its possession prior to such dismantling, wrecking or destruction a valid, properly endorsed salvage certificate of title issued by the Florida Department of Highway Safety and Motor Vehicles for such vehicle.

(c) It shall not be unlawful for any person, firm, corporation or other legal entity to dismantle, wreck or destroy any motor vehicle for which an insurance company, on or after January 1, 1990, has paid money as compensation for a total loss provided that such person has in its possession prior to such dismantling, wrecking, or destruction a valid, properly endorsed salvage certificate of title issued by the Florida Department of Highway Safety and Motor Vehicles for such vehicle.

(d) It shall not be unlawful for any person, firm, corporation or other legal entity to dismantle, wreck or destroy any motor vehicle which a governmental body had determined to be abandoned property, as that term is defined in Chapter 705, Florida Statutes, or in Section 33-15.1 of the County Code, as these may be amended from time to time, without having therefor a valid, properly endorsed and notarized title certificate. The person, firm, corporation or other entity which dismantles, wrecks or destroys a motor vehicle pursuant to instructions from the government body which previously exercised control over the vehicle as abandoned property, shall have in its possession official documentation from the governmental body ordering the dismantling; wrecking or destruction. The official documentation from the governmental body under this subsection shall contain, at a minimum, the location where the motor vehicle was seized, a description of the motor vehicle by make, model, and year, the VIN number, where available, the name of the government enforcement officer who directed removal of the vehicle, and identification of the contract between the government and the legal entity charged with either the removal or the dismantling, wreckage or destruction of the motor vehicle. The person, firm, corporation or other legal entity who dismantles, wrecks or destroys a motor vehicle pursuant to governmental authority over abandoned property, shall after such dismantling, wreckage or destruction, return to the appropriate governmental body a copy of the documentation described herein, with the date and location that such dismantling, wreckage or destruction took place.

(e) It shall be unlawful for any person licensed to do business pursuant to this article to possess any vehicle or vehicle part or accessory owned by Miami-Dade County or any municipality within Miami-Dade County without proper documentation therefor as required by this article. Any person convicted of a violation of this provision shall be subject to a fine not to exceed one thousand dollars ($1,000.00) or imprisonment in the county jail for a term not to exceed one (1) year, or by both fine and imprisonment.

For purposes of subsections (a), (b) and (c) of this section the terms "salvage" and "total loss" shall be defined as provided in Section 319.30 Florida Statutes (1988), as the same may be amended from time to time.

(Ord. No. 59-37, § 4, 9-15-59; Ord. No. 60-1, 1-5-60; Ord. No. 77-34, § 3, 6-21-77; Ord. No. 90-4, § 1, 1-16-90; Ord. No. 94-27, § 2, 2-1-94)

Sec. 21-58. Failure to submit reports or permit inspection.

It shall be unlawful for any licensee to fail, refuse or neglect to submit any report in the form and manner required by this article or to fail, refuse or neglect to keep records in the form and manner required by this article, or to fail, refuse or neglect to permit inspection of records required hereunder, or of the vehicle or parts to which the records pertain, by any officer or other duly authorized person.

(Ord. No. 59-37, § 8, 9-15-59; Ord. No. 60-1, 1-5-60)

Sec. 21-59. Penalty.

Any person convicted of a violation of any of the provisions of this article shall be punished as provided in [Section 1-5](../level2/PTIIICOOR_CH1GEPR.docx#PTIIICOOR_CH1GEPR_S1-5GEPECOCILICRLIPE) of this Code.

(Ord. No. 59-37, § 10, 9-15-59; Ord. No. 60-1, 1-5-60)

Secs. 21-60—21-63. Reserved.

FOOTNOTE(S):

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**Editor's note—** This article is derived from Ord. No. 59-37, §§ 1—10, adopted September 15, 1959. Ord. No. 60-1 adopted January 5, 1960, declared Ord. No. 59-37 to be amendatory to this Code. [(Back)](#BK_579BF1B219474BD74C8D768CF247CBBE)

### ARTICLE VI. RESERVED

[Secs. 21-64—21-66. Reserved.](#BK_48DF653BDF79C15D71F8E0D867CAED96)

[Secs. 21-67—21-69. Reserved.](#BK_D51FE17015D5625832F7E4E2AF7FF6EC)

[Secs. 21-70—21-72. Reserved.](#BK_1BD29E5D12A21DDC7BB4005617F4CC8A)

[Secs. 21-73—21-75. Reserved.](#BK_AEBB2916047B89008A85F2CB49BD842F)

[Secs. 21-76—21-78. Reserved.](#BK_F70721FC3AC61A6B2B2223E916CE5DE5)

[Secs. 21-79—21-79.3. Reserved.](#BK_D1F72019E74DFDD5365FFF1F4E340CB4)

Secs. 21-64—21-66. Reserved.

**Editor's note—**

Sections 21-64—21-66, derived from Ord. No. 59-23, §§ 1—3, as amended by Ord. No. 61-23, § 1, adopting the penal code of the City of Homestead, and providing for trial of offenses and disposition of fines, etc., thereunder, were repealed by Ord. No. 62-44, § 1, enacted October 16, effective November 1, 1962. The sections have been reserved by the editors.

Secs. 21-67—21-69. Reserved.

**Editor's note—**

Ord. No. 59-23, §§ 1—3, from which §§ 21-67—21-69 were derived, adopting the penal code of Florida City and providing for trial of offenses and disposition of fines, etc., thereunder was repealed by Ord. No. 63-4, § 1, enacted Feb. 5, effective Feb. 15, 1963, pursuant to Res. No. 63-2, of the City of Florida City, enacted Jan. 8, 1963.

Secs. 21-70—21-72. Reserved.

**Editor's note—**

Sections 21-70—21-72, derived from Ord. No. 59-28, §§ 1—3, as amended by Ord. No. 64-38, §§ 1—3, Ord. No. 64-40, § 1; and Ord. No. 65-58, §§ 1, 4, adopting the penal code of Hialeah, and providing for trial of offenses, disposition of fines, etc., thereunder was repealed by Ord. No. 66-9, § 1, enacted March 15, 1966 and effective ten (10) days thereafter.

Secs. 21-73—21-75. Reserved.

**Editor's note—**

Sections 21-73—21-75, derived from Ord. No. 59-29, § 1, as amended by Ord. No. 60-27, § 1, adopting the penal code of the City of Opa-Locka, and providing for trial of offenses and disposition of fines, etc., thereunder, were repealed by Ord. No. 62-36, § 1, enacted as an emergency measure on August 24, 1962. The sections have been reserved by the editors.

Secs. 21-76—21-78. Reserved.

**Editor's note—**

Sections 21-76—21-78, pertaining to the adoption of the penal ordinances of the Village of Biscayne Park, have been deleted as obsolete. Such sections were derived from Ord. No. 59-34, §§ 1—3, adopted September 1, 1959; Ord. No. 66-51, § 4, adopted Sept. 20, 1966; Ord. No. 67-5, § 4, adopted February 7, 1967; Ord. No. 68-41, § 4, adopted June 18, 1968; Ord. No. 69-32, § 1, adopted May 14, 1969; Ord. No. 69-68, § 4, adopted October 1, 1969; Ord. No. 70-53, § 4, adopted July 7, 1970; Ord. No. 70-77, § 4, adopted Oct. 20, 1970; Ord. No. 71-50, § 4, adopted June 15, 1971.

Secs. 21-79—21-79.3. Reserved.

**Editor's note—**

Sections 21-79—21-79.3, pertaining to the adoption of the penal ordinances of the City of Miami, have been deleted as obsolete. The section was derived from Ord. No. 76-62, §§ 1—4, adopted September 21, 1972.

### ARTICLE VII. UNIFORM PENAL CODE [[4]](#BK_262F455BAA9FC66C0074967C21B15B48)

[Sec. 21-80. Title.](#BK_DE16523DEAFD963FAAD0D8DAD099F5C5)

[Sec. 21-81. Misdemeanor; adoption of State law; penalties.](#BK_CC482EF027162E969D8243AC97E5F594)

[Sec. 21-82. Parties to violations.](#BK_CFFDA1A31B4FC3E60C3C36CABD8DA44C)

[Sec. 21-83. Declaration of legislative intent.](#BK_6D414BC9E471C497A286EDCD6E0CCC37)

[Sec. 21-84. Applicability.](#BK_157D86CD0B57773F7D62722FFBD99BC3)

[Sec. 21-85. Enforcement of article.](#BK_27A4F77DAED4AC838A0734D54C02D6B4)

[Sec. 21-86. Court of appropriate jurisdiction vested with trial jurisdiction.](#BK_63C13109D691FF6A289DBCFB538EDF70)

[Sec. 21-87. Probation of defendants.](#BK_B7F22388AAFF39FED3D6BD1A9ABA6F0F)

[Secs. 21-88—21-100. Reserved.](#BK_1475F90F3149CEE41AD6D5037F7FDC30)

Sec. 21-80. Title.

This article shall be designated and cited as the Uniform Penal Ordinance of Miami-Dade County, Florida.

(Ord. No. 70-15, 2-25-70)

Sec. 21-81. Misdemeanor; adoption of State law; penalties.

(a) It shall be unlawful and a violation of this article for any person to commit within Miami-Dade County, Florida, any act which is recognized by the laws of the State of Florida as a misdemeanor.

(b) All statutes of the State of Florida defining and prohibiting criminal offenses against the State not punishable by death or by imprisonment in the state prison and defined by State law as misdemeanors are adopted and incorporated by reference as part of this article to the same extent and to the same effect as if the provisions of each such statute was set out in full herein defining and prohibiting each such offense against the State to be an act prohibited by or an offense in violation of this article.

(c) All acts defined as misdemeanors in said State statutes are hereby prohibited and declared to be violations of this article and any person or corporation shall, upon conviction in the court of appropriate jurisdiction for violation thereof, be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment, but in no case shall the fine or imprisonment imposed under this article be greater than the maximum fine or penalty for the same offense under the State statute.

(Ord. No. 70-15, § 1, 2-25-70)

Sec. 21-82. Parties to violations.

Every person who commits, attempts to commit, conspires to commit, or aids and abets in the commission of any act declared herein to be in violation of this article, whether individually or in connection with one (1) or more persons, or as a principal, agent or accessory, shall be guilty of such offense and every person who falsely, fraudulently, forcibly or wilfully induces, causes, coerces, requires, permits or directs another to violate any provisions of this article is likewise guilty of such offense.

(Ord. No. 70-15, § 8, 2-25-70)

Sec. 21-83. Declaration of legislative intent.

(a) The provisions and penalties of this article are not intended to and shall not be construed as changing, modifying, amending, repealing, superseding or conflicting with any provisions or sections of the Florida Statutes defining or penalizing misdemeanors, but shall be construed as supplemental and additional thereto and not as a substitute therefor; nor shall this article be construed as impairing the jurisdiction of the Criminal Court of Record of Miami-Dade County, Florida, impairing the jurisdiction of the Juvenile and Domestic Relations Court in and for Miami-Dade County, Florida, or impairing the jurisdiction of any municipal court within Miami-Dade County, Florida.

(b) This article does not supersede any municipal ordinances or codes, or any existing County ordinances but is in supplement of and additional to all municipal and County penal ordinances.

(Ord. No. 70-15, §§ 3, 6, 2-25-70)

Sec. 21-84. Applicability.

It is hereby provided that this article shall constitute a penal code applicable in all the unincorporated and incorporated areas of Miami-Dade County, Florida.

(Ord. No. 70-15, § 2, 2-25-70)

Sec. 21-85. Enforcement of article.

(a) It shall be the duty of all peace and police officers of Miami-Dade County, including municipal police officers within their boundaries, to enforce the provisions of this article, to make arrests for violations hereof, to assist in the prosecution of persons charged with such violations, to investigate violations of this article, and to carry out the duties specifically imposed by this article, provided, however, that where an act is also a violation of a municipal ordinance, a municipal police officer may, in his discretion, make an arrest for a violation of the municipal ordinance instead of for a violation of this article.

(b) Any municipal police officer observing the violation of this article within his jurisdiction shall have authority to follow said violator into any of the incorporated or unincorporated areas for the purposes of making arrests.

(Ord. No. 70-15, § 7, 2-25-70)

Sec. 21-86. Court of appropriate jurisdiction vested with trial jurisdiction.

(a) *Exclusive jurisdiction; exception.* All violations of this article shall be prosecuted only in the court of appropriate jurisdiction which shall have original, exclusive jurisdiction to try all cases arising hereunder. Provided, however, that where an act is recognized by State law as a misdemeanor and by this article as an offense, complaints against persons charged with such unlawful acts may be filed and prosecuted in either the court of appropriate jurisdiction or the Criminal Court of Record of Miami-Dade County, Florida, as the prosecuting attorney shall direct. Provided, further, that where an act is recognized as an offense, both by this article and a municipal ordinance, complaints against persons charged with such unlawful acts may be filed and prosecuted in either the court of appropriate jurisdiction or the appropriate municipal court.

(b) *Trial in Juvenile and Domestic Relations Court.* Where offenses set forth involve violations by juveniles, the same shall be tried in the Miami-Dade County Juvenile and Domestic Relations Court when required by the laws of the State of Florida; however, such offenses involving traffic violations shall be tried in accordance with Section 11-1.1 of the Code of Miami-Dade County, Florida.

(c) [*Chapter 30*](../level2/PTIIICOOR_CH30TRMOVE.docx#PTIIICOOR_CH30TRMOVE)Nothing in this article is intended to nor shall it have the effect of superseding, nullifying or amending any provision of [Chapter 30](../level2/PTIIICOOR_CH30TRMOVE.docx#PTIIICOOR_CH30TRMOVE) of the Code of Miami-Dade County, Florida. All laws pertaining to traffic violations shall continue to be prosecuted under and pursuant to the provisions of [Chapter 30](../level2/PTIIICOOR_CH30TRMOVE.docx#PTIIICOOR_CH30TRMOVE) of the Code of Miami-Dade County from and after the effective date of this article.

(d) *Prosecution by State agency officers.* When and if any officer of a State agency deems it desirable and in the public interest to prosecute in the court of appropriate jurisdiction violators of State laws, rules and regulations adopted by reference herein, he shall do so with the permission of the prosecuting attorney, and may issue summons or have warrants issued as he deems appropriate.

(Ord. No. 70-15, § 4, 2-25-70)

Sec. 21-87. Probation of defendants.

(1) The court of appropriate jurisdiction, where the defendant has been found guilty or has entered a plea of guilty or a plea of nolo contendere, may at a time to be determined by the court, either with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of such defendant.

(2) Prior to such hearing the court may refer the case to the Probation and Parole Commission for investigation and recommendation. The court, upon such reference, shall direct the commission to make an investigation and report in writing at a specified time to the court upon the circumstances of the offense, the criminal record, the social history, and the present condition of the defendant together with its recommendation.

(3) If it appears to the court upon a hearing of the matter that the defendant is not likely again to engage in an unlawful course of conduct and that the ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law, the court, in its discretion, may either adjudge the defendant to be guilty or stay and withhold the adjudication of guilt and in either case stay and withhold the imposition of sentence upon such defendant, and shall place him upon probation under the supervision and control of the Probation and Parole Commission for the duration of such probation. And the said Commission shall thereupon and thereafter, during the continuance of such probation, have the supervision and control of the defendant.

(4) Whenever punishment by imprisonment in the County Jail is prescribed, the court, in its discretion, may at the time of sentencing direct the defendant to be placed on probation upon completion of any specified period of such sentence. In such case, the court shall stay and withhold the imposition of the remainder of sentence imposed upon the defendant, and direct that the defendant be placed upon probation after serving such period as may be imposed by the court.

(5) In no case shall the imposition of sentence be suspended and the defendant thereupon placed on probation unless such defendant be placed under the custody of said Probation and Parole Commission.

(Ord. No. 70-15, § 5, 2-25-70)

Secs. 21-88—21-100. Reserved.

FOOTNOTE(S):

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**Editor's note—** Article VII, §§ 21-80—21-137, derived from Ord. No. 65-1, adopted January 12, 1965, as amended by Ord. No. 65-31, adopted April 20, 1965, was repealed by Ord. No. 65-57, § 1, enacted September 14, effective September 24, 1965. Article VII was previously designated "Miami-Dade County Penal Code," however, it was never officially in effect, as the original ordinance, Ord. No. 65-1, was not to become effective until May 1, 1965, and prior to that time Ord. No. 65-31 postponed the effective date to October 1, 1965. Article VII, §§ 21-80—21-87 is now derived from Ord. No. 70-15, §§ 1—8, enacted Feb. 25, 1970, and was codified in this manner at the discretion of the editors, pursuant to authority in § 10 of this ordinance. [(Back)](#BK_C271F2F0E4C8C62391F25F525CB74BD6)

### ARTICLE VIII. ADDITIONAL GAIN TIME ALLOWANCES FOR COUNTY PRISONERS [[5]](#BK_A642C44779A9FF33DB6021F17B46C5F7)

[Sec. 21-101. Adoption of policy.](#BK_CFF77C8803E6ACFEB57D3F6E10110B30)

[Sec. 21-102. Qualifications for awards of additional gain time.](#BK_737497A3B1C343A84B8BA0E54EEFD462)

[Sec. 21-103. Procedure.](#BK_3395189997276901619FD4EE21F2CF3C)

[Sec. 21-104. Multiple sentences.](#BK_3B426D7FE332CAD7F82CB69C5A7FF6E4)

[Sec. 21-105. Method of forfeiting.](#BK_1858D53064766FB0A6092E64E35FD965)

[Sec. 21-106. Restoration.](#BK_5B099DB609CB62BE286598BD4F6ED4BF)

[Secs. 21-107—21-110. Reserved.](#BK_25D1DC5D51F89C7C95A14FD749E808C9)

Sec. 21-101. Adoption of policy.

It is hereby declared to be the policy of the Board of County Commissioners of Miami-Dade County, Florida to allow for County prisoners, in addition to time credits, additional gain time allowances in accordance with the provisions of State law.

(Ord. No. 71-73, § 1, 9-22-71; Ord. No. 85-90, § 2, 10-15-85)

Sec. 21-102. Qualifications for awards of additional gain time.

Qualifications for awards of additional gain time allowances for County prisoners shall be as stated in the following rules, as amended from time to time:

(1) 33-11.065 through 33-11.085 of the Florida Administrative Code.

(2) 33-11.09 of the Florida Administrative Code.

(Ord. No. 71-73, § 2, 9-22-71; Ord. No. 85-90, § 3, 10-15-85)

Sec. 21-103. Procedure.

The Director of the Corrections and Rehabilitation Department shall determine and declare the award. Upon declaration of the award by the Director, deduction shall be made from the term of an inmate's sentence.

(Ord. No. 71-73, § 3, 9-22-71; Ord. No. 72-15, § 1, 2-29-72; Ord. No. 91-59, § 1, 5-21-91)

Sec. 21-104. Multiple sentences.

An inmate serving two (2) or more cumulative sentences shall be allowed deductions as though the sentence were all one (1) sentence, and such deductions shall be subject to forfeiture as though the sentences were all one (1) sentence.

(Ord. No. 71-73, § 4, 9-22-71)

Sec. 21-105. Method of forfeiting.

Any or all of an inmate's additional gain time allowance may be forfeited for violation of any rule or regulation of the Department by such inmate. The method of forfeiture shall be as follows: A written charge shall be prepared, which shall specify the Department rule or regulation the inmate is accused of violating and the approximate date of such violation. A copy of such charge shall be delivered to the prisoner and he shall be given notice of hearing before a disciplinary committee created by the Department. He shall be present at such hearing. If at such hearing the prisoner pleads guilty to the charge or such committee determines from the proof presented that he is guilty thereof, it shall find him guilty; and if it considers that all or a part of the prisoner's additional gain time should be forfeited, it shall so recommend in its written report, which shall be presented to the Director of the Department. The Director may thereupon, at his discretion, declare the forfeiture approved or any part thereof.

(Ord. No. 71-73, § 5, 9-22-71; Ord. No. 85-90, § 4, 10-15-85)

Sec. 21-106. Restoration.

The Director, at his discretion, may restore all or any additional gain time forfeited.

(Ord. No. 71-73, § 6, 9-22-71; Ord. No. 85-90, § 5, 10-15-85)

Secs. 21-107—21-110. Reserved.

FOOTNOTE(S):

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**Editor's note—** Ord. No. 71-73, adopted Sept. 22, 1971 amended this Code, but did not specify the manner thereof; hence, inclusion of §§ 1—6 herein as Art. VIII, §§ 21-101—21-106, was at the discretion of the editors. [(Back)](#BK_AA6FC494366A7BF7BEDFF60B595B0B18)

**State Law reference—** Adoption of policy granting extra gain time for County prisoners, F.S. § 951.21(3). [(Back)](#BK_AA6FC494366A7BF7BEDFF60B595B0B18)

### ARTICLE IX. WELLS (OPEN IRRIGATION HOLES) IN AGRICULTURAL FIELDS OPEN TO PUBLIC [[6]](#BK_45AA0A5C60DBCF3DD3E7219DD28FF750)

[Sec. 21-111. Definitions.](#BK_EA2839F04B12A6EF3E57A161878DA434)

[Sec. 21-112. Abandoned wells.](#BK_7E553A003333B150F49C9F1F18A8A245)

[Sec. 21-113. Functional wells.](#BK_A9161569F82C9EB253F16073B9678638)

[Sec. 21-114. Permit required to open self-harvest agricultural field; requirements and conditions prerequisite to issuance of permit.](#BK_74B360C829523D114A1218E34D3F2BB8)

[Sec. 21-115. Children under ten years of age prohibited from entering fields.](#BK_562CA54F5EFBF9429D862A2A85AFB796)

[Sec. 21-116. Posting of fields.](#BK_BB38D4F403F10C1D3E4640D5C545AC07)

[Sec. 21-117. Violations and penalty.](#BK_19F65CDD9F8F74B94448780887DABA77)

[Sec. 21-118. Thefts of plants and fruits and trespass.](#BK_0B54F3A4114C3C4129292F3281BD3C4A)

[Secs. 21-119, 21-120. Reserved.](#BK_21133A950E9B1D0C8361F2FFCF3AC5C5)

Sec. 21-111. Definitions.

In construing the provisions hereof, each and every word, term, phrase or part of the definitions provided in Chapter 72-299 (see Section 373.303, Florida Statutes) Laws of Florida, as amended, and the following definitions shall apply:

(a) *Well (irrigation hole)* means an excavation that is drilled or otherwise constructed when the intended use of such excavation is for irrigation purposes. The irrigation hole is generally drilled nine (9) inches in diameter and twenty (20) to twenty-five (25) feet in depth.

(b) *Abandoned well (irrigation hole)* means a well (irrigation hole) whose use has been permanently discontinued.

(Ord. No. 74-9, § 1, 2-25-74)

Sec. 21-112. Abandoned wells.

Any well not expected to be in continued use must be filled permanently with like materials that originally came out of the hole.

(Ord. No. 74-9, § 2, 2-25-74)

Sec. 21-113. Functional wells.

Any well in a field open to the public must be covered with a cap sufficient to withstand three hundred (300) pounds in weight. Each cap shall be painted bright red. Any such well shall also be marked by a small, triangular, colored flag.

(Ord. No. 74-9, § 3, 2-25-74)

Sec. 21-114. Permit required to open self-harvest agricultural field; requirements and conditions prerequisite to issuance of permit.

It shall be unlawful to open a self-harvest agricultural field to the public unless and until the owner or lessee of such field obtains a permit for such an enterprise. The County Manager or his designated agent is hereby empowered and directed to issue such permits upon proof of compliance with the following requirements and conditions:

(a) That the applicant for such a permit is the owner or lessee of agricultural fields for which a permit is sought;

(b) That a survey or map of said field is presented showing the boundaries of the field and the location of all known "wells (irrigation holes)" located within the boundaries of said field;

(c) That an affidavit is presented and filed wherein the owner or lessee states under oath that all known wells (irrigation holes) have been marked and covered in compliance with the provisions of this article;

(d) That written permission is granted by said owner or lessee for the entrance to and for inspection of the permitted field by the County Manager or his designees to determine whether there is compliance with the requirements of this section; and

(e) That payment of a one dollar ($1.00) fee to cover the cost of processing the permit is tendered. This permit shall be valid for six (6) months.

(Ord. No. 75-6, § 1, 1-7-75)

Sec. 21-115. Children under ten years of age prohibited from entering fields.

It shall be unlawful for any parent or other person acting in loco parentis, or the owner or lessee of a self-harvest field open to the public to permit a child under ten (10) years of age to enter upon such field, unless said owner or lessee has a designed area specifically approved for children under ten (10) years of age, and unless said parent or other person acting in loco parentis accompanies said child. Said designated area shall be inspected annually by the County Manager or his designated agent and must at all times be roped off in a manner that would prevent a child from leaving said designated area. Upon payment of an annual twenty-five-dollar-fee, the County Manager or his designated agent shall conduct the inspection and if the designated area is properly and securely roped off, issue the permit. Notwithstanding any of the foregoing, the County shall not be liable for any injury caused by the owner or lessee failing to maintain the designated area properly.

(Ord. No. 75-6, § 2, 1-7-75; Ord. No. 91-35, § 1, 3-19-91; Ord. No. 91-80, § 1, 7-23-91)

Sec. 21-116. Posting of fields.

It shall be unlawful to open a self-harvest agricultural field to the public unless and until the field is posted with at least four (4) red-lettered signs stating in a clear and conspicuous manner the following warning:

"Self-harvesting is very dangerous—Watch for hidden holes. Children under 10 years of age not permitted by law".

Areas covered by the permit that are closed to the public must be marked by at least four (4) red-lettered signs stating:

"This area closed to public—Keep out"

and marked with the well known danger symbol of a skull and cross-bones.

(Ord. No. 75-6, § 3, 1-7-75)

Sec. 21-117. Violations and penalty.

Each known or plainly visible well (irrigation hole) left uncovered in violation of this article shall constitute a separate violation. Failure to post any warning sign required hereby shall constitute a separate violation for each sign not properly posted. All violations of this article shall be punished as provided by [Section 1-5](../level2/PTIIICOOR_CH1GEPR.docx#PTIIICOOR_CH1GEPR_S1-5GEPECOCILICRLIPE) of the Code of Miami-Dade County.

(Ord. No. 75-6, § 4, 1-7-75)

Sec. 21-118. Thefts of plants and fruits and trespass.

(a) It is unlawful for any person, with the intent to injure or defraud, to take, carry away, or damage any plants, fruits, plant products, or nursery stock contained within any nursery or private or public property without the consent of the owner of the property or his agent.

(b) It is unlawful for any person to enter upon the premises of any nursery or upon private or public property with the intent to injure, damage, take or carry away any plant, fruit, plant product or nursery stock, without the written or oral consent of the owner of the property or his agent.

(c) It is unlawful for any person to enter the premises of any plant or fruit nursery, whenever the nursery is not open for business, without the written or oral consent of the owner of the nursery or his agent.

(d) All violations of this section shall be punished as provided by [Section 1-5](../level2/PTIIICOOR_CH1GEPR.docx#PTIIICOOR_CH1GEPR_S1-5GEPECOCILICRLIPE) of the Code of Miami-Dade County.

(Ord. No. 76-66, § 1, 7-20-76)

Secs. 21-119, 21-120. Reserved.

FOOTNOTE(S):

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**Editor's note—** Section 6 of Ord. No. 74-9, enacted Feb. 25, 1974, provided that said ordinance be included in this Code, but did not specify the manner of inclusion. Codification of §§ 1—3 of said Ord. No. 74-9 as Art. IX, §§ 21-111—21-113, was at the discretion of the editors. [(Back)](#BK_CA56133FEFF32F862D665CD50F989FC9)

**Cross reference—** Potable water wells, § 24-12.1. [(Back)](#BK_CA56133FEFF32F862D665CD50F989FC9)

### ARTICLE X. TRUTH IN LIVE ENTERTAINMENT

[Sec. 21-121. "Live entertainment per- formance" defined.](#BK_F4A6DC23A3FBC859A832D0110A2DAE2A)

[Sec. 21-122. False or deceptive advertising or promotion prohibited; information required in advertisement or promotion; responsibility of producer to advise public when tickets unavailable.](#BK_5B7A6C3D98B6B9FA5867F4D3C967E861)

[Sec. 21-123. Certain information to be made available to public upon request.](#BK_EF0DE5A0855B5C22432187382B196F23)

[Sec. 21-124. Right to full refund of admission price when lead performer does not appear or perform as advertised; exemption.](#BK_7F1528C228B3EF3C58D6F1C48B0C8087)

[Sec. 21-125. Penalty for article violation.](#BK_20D6EDB85BBDDCF91D3F8514DFF0823D)

[Secs. 21-126—21-130. Reserved.](#BK_11D46333A632C66549296DE81ABF2DB2)

Sec. 21-121. "Live entertainment per- formance" defined.

The following definition shall apply to the provisions of this article: "Live entertainment performance" as used herein shall mean any mercantile, on stage entertainment performance by living persons indoors or outdoors, including but not limited to, rock music festivals, concerts, night club shows, plays, dramatic presentations, recitals, dinner club shows, and musical entertainment of any type, but shall not include any athletic event.

(Ord. No. 74-93, § 1, 11-5-74)

Sec. 21-122. False or deceptive advertising or promotion prohibited; information required in advertisement or promotion; responsibility of producer to advise public when tickets unavailable.

(a) It shall be unlawful for any person to falsely or deceptively advertise or to promote to the public, in any manner with the intent to mislead or misrepresent, the sale of admission to live entertainment performances to be conducted within Miami-Dade County, Florida, unless such advertisement or promotion discloses the following information:

(1) The name(s), title(s), description of the performance or act to be presented to the public;

(2) Where a lead artist, musician or performer is advertised, the minimum length of time that said lead artist, musician or performer will actually be on stage and performing or, in a dramatic performance, the role to be played by said lead performer, artist or musician.

(b) It shall be the responsibility of the producer of a live entertainment performance who has publicly advertised the sale of tickets for admission to such a performance to advise the public at the earliest possible time when such tickets are no longer available for purchase.

(Ord. No. 74-93, § 2, 11-5-74)

Sec. 21-123. Certain information to be made available to public upon request.

It shall be unlawful for any person to advertise or to promote in any manner the sale of admission to live entertainment performances to be conducted within Miami-Dade County, Florida, unless such person makes available to the public by telephone or other method reasonably calculated to inform upon request the following information:

(a) The name(s) of the person(s), agency, partnership or corporation responsible for producing the performance;

(b) The total cost of admission to the performance and the place where tickets may be purchased;

(c) The date(s) on which the performance will be held;

(d) The time the performance will begin and end;

(e) The time that seating will be open and available to the public prior to the time that the performance will begin;

(f) The number of intermissions during the performance and the length of each such intermission.

(Ord. No. 74-93, § 3, 11-5-74)

Sec. 21-124. Right to full refund of admission price when lead performer does not appear or perform as advertised; exemption.

It shall be unlawful for any person, agency, partnership or corporation to refuse to refund to any member of the public who purchased an admission to any live entertainment performance the full admission price in the event that the person(s) who are advertised and promoted as the lead or main performer(s) fail to appear or to perform as advertised pursuant to the requirements of [Section 21-122](../level3/PTIIICOOR_CH21OFMIPR_ARTXTRLIEN.docx#PTIIICOOR_CH21OFMIPR_ARTXTRLIEN_S21-122FADEADPRPRINREADPRREPRADPUWHTIUN) of this article. Patrons shall be permitted to elect either to accept the offered refund or to decline the refund and remain if the live entertainment performance is to continue in the absence of the lead or main performer(s). This section shall not pertain to operatic, theatrical, musical or symphonic performances by companies consisting of seven (7) or more performers when it has been advertised in advance that the producing company reserves the right to make changes or substitutions in the cast of performers.

(Ord. No. 74-93, § 4, 11-5-74; Ord. No. 75-58, § 1, 7-16-75)

Sec. 21-125. Penalty for article violation.

Any person, agency, partnership or corporation who violates, fails to comply with, or refuses to obey any of the provisions of this article shall be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or both, in the discretion of the court. Each violation of the specific requirements of this article shall be considered as a separate offense.

(Ord. No. 74-93, § 5, 11-5-74)

Secs. 21-126—21-130. Reserved.

### ARTICLE XI. BINGO [[7]](#BK_7A222D1C7BB9A6ACCCD9DFAE69626817)

[Sec. 21-131. Definitions.](#BK_C20666E07EEF0838C50646F7CAF7CF10)

[Sec. 21-132. Operator's permit.](#BK_3DC6089A113AB6F7A8662CDB454C9301)

[Sec. 21-133. Owner's and/or lessor's permit.](#BK_6714E9AC3EB0B55FA948B3F2E05A78EF)

[Sec. 21-134. Maintenance of records; subject to inspection by law enforcement officers.](#BK_2986DCA1A4197D0ABC70A3851C46BDF9)

[Sec. 21-135. Information relative to each game to be posted.](#BK_CD1032180494FEEB082E66A8F46C1FE1)

[Sec. 21-136. Operators and assistants to wear tags evidencing name and charity.](#BK_3CA4CFE14FBD88C6B0BC78FA05F59716)

[Sec. 21-137. Identification of bingo cards; equipment and supplies to be purchased from bona fide distributor; display of placard containing manufacturer's name and address.](#BK_4D046FA043D92812C45D0DCCC5C73F23)

[Sec. 21-138. Issuance and expiration date of permit.](#BK_24F11186D18FAC94D4E52488B44DFC66)

[Sec. 21-139. Penalties.](#BK_F254408D74FF6AA33F0AE8900DC4CC25)

[Secs. 21-140—21-150. Reserved.](#BK_A0A9DD9E02375484D5AD241AC43A8EE4)

Sec. 21-131. Definitions.

The following terms and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Bingo games* shall mean and refer to the activity commonly known as bingo wherein participants pay a sum of money for the use of one (1) or more cards. When the game commences, numbers are drawn by chance, one (1) by one (1), and announced, the players covering or marking those numbers on cards which they have purchased until the player who gets given numbers in the same preannounced sequence for that particular game calls out "bingo" and is declared the winner of a predetermined prize.

(b) *Bingo card* shall mean and refer to the flat, usually rectangular, piece of paper or thin pasteboard normally employed by players engaged in the game of bingo. More than one (1) set of bingo numbers may be printed on any single piece of paper.

(c) *Charity* shall mean a nonprofit or veterans' organization having been in existence for three (3) years or more, and engaged in charitable, civic, community, benevolent, religious or scholastic works and/or similar activities.

(d) *Lessor* shall mean and refer to the person or persons, partnership or corporation that rents to or provides space to an operator (as further defined in this section).

(e) *Operator* shall mean and refer to the person or persons, partnership or corporation that performs, conducts and/or supervises a bingo game or a series of bingo games. The following described activities are not exclusive, but they shall constitute performing, conducting and/or supervising of a bingo game or of a series of bingo games:

(1) Supply, distribution and collection of bingo cards.

(2) Acceptance or collection of money from players for the purpose of participating in a bingo game or a series of bingo games.

(3) Distribution of prizes to players.

(4) Selecting and/or announcing numbers or other characters involved in playing the game of bingo.

(f) *Owner* shall mean and refer to the person or persons, partnership or corporation that holds legal title to the physical premises in which a bingo game or a series of bingo games are played.

(g) *Player* shall mean any person who has paid some amount of money to the operator for one (1) or more bingo cards, and who has some expectation of receiving a prize if one (1) or more of his bingo cards contains a sufficient number of numbers which are the same as those announced by the operator during a bingo game.

(h) *Prizes* shall mean and refer to any cash or other thing of value awarded to a player of a bingo game or players in a series of bingo games.

(Ord. No. 75-50, § 1, 7-2-75)

Sec. 21-132. Operator's permit.

It shall be unlawful for any operator to perform, conduct and/or supervise a bingo game or a series of bingo games without having first obtained a valid annual permit. Every operator shall obtain an annual permit from the Miami-Dade County Tax Collector. In order to receive said permit, the operator shall tender to the Tax Collector the sum of two hundred dollars ($200.00) and in addition shall provide the following information under oath:

(1) (a)  
If the operator is a corporation, the names and addresses of its officers and directors and a true and correct copy of its articles of incorporation and bylaws;

(b) If the operator is a partnership, the names and addresses of all the partners and a copy of the partnership agreement;

(c) If the operator is not a corporation or partnership, the names and addresses of all persons who constitute the operator, and any agreement or document under which the operator exists or conducts itself;

(2) A detailed description of the charitable, civic, community, benevolent, religious or scholastic works and/or other similar activities in which the operator is involved and the endeavors to which the proceeds from the bingo games shall be donated;

(3) The address of the premises in which the operator performs, conducts and/or supervises bingo games, and the days of the week on which the operator performs, conducts and/or supervises bingo games. If the days are changed, a supplemental statement must be filed with the Miami-Dade County Tax Collector prior to such change;

(4) The names and addresses of all persons, firms, corporations or business entities owning directly or indirectly ten (10) percent or more of the operator; and

(5) A financial statement of the operator, evidencing the amount and sources of its previous year's gross bingo revenue and the distributees with the amount of the previous year's distributions. This statement must be certified as correct by the officers of the corporation, one (1) of the partners, or one (1) who controls the operator but need not be audited. The information supplied shall cover the period of the operator's most recently concluded fiscal year.

(Ord. No. 75-50, § 2, 7-2-75; Ord. No. 01-118, § 16, 7-12-01)

Sec. 21-133. Owner's and/or lessor's permit.

It shall be unlawful for any owner or lessor to rent or provide space to or permit its premises to be utilized by an operator without having first obtained a valid annual permit from the Miami-Dade County Tax Collector. In order to receive said permit, the lessor and/or owner shall tender to the Tax Collector the sum of one hundred dollars ($100.00) and in addition shall provide the following information under oath:

(1) Complete information as to the rentals and other financial benefits received from any operators using the premises during the preceding twelve (12) months.

(2) (a)  
If the owner or lessor is a corporation, the names and addresses of its officers and directors and a true copy of its articles of incorporation and bylaws;

(b) If the owner or lessor is a partnership, the names and addresses of all the partners and a copy of the partnership agreement;

(c) If the owner or lessor is not a corporation or partnership, the names and addresses of all persons who constitute the owner or lessor, and any agreement or document under which the owner or lessor exists or conducts itself;

(3) The address of all premises held by the owner or lessor in which the operator or any operator performs, conducts and/or supervises bingo games and days of the week in which any and all operators perform, conduct and/or supervise bingo games;

(4) The names and addresses of all persons, firms, corporations or business entities owning directly or indirectly ten (10) percent or more of the owner or lessor; and

(5) A financial statement of the said owner or lessor, evidencing the amount and sources of its previous year's gross revenue. This statement must be certified as correct by the officers of the corporation, one (1) of the partners, or one who controls the owner or lessor but need not be audited.

If the operator is the owner and/or lessor, it shall not be required to pay the one hundred dollar ($100.00) owner or lessor fee or supply the other information required of owners and/or lessors under this section.

(Ord. No. 75-50, § 3, 7-2-75; Ord. No. 01-118, § 17, 7-12-01)

Sec. 21-134. Maintenance of records; subject to inspection by law enforcement officers.

Each operator shall maintain adequate records for a minimum of two (2) years of the daily bingo activity on a per-game basis which shall include:

(1) Gross game receipts and all income from any source, including but not limited to, admission charges;

(2) All payout for prizes whether in cash or merchandise;

(3) Any and all operating expenses; and

(4) Net proceeds.

These records shall be made available on demand for immediate inspection by any law enforcement officer at reasonable times during normal business hours and whenever bingo games are in progress, but law enforcement officers shall not interrupt an actual bingo game in progress or interfere with the operation of the premises where bingo is played unless necessary in order to make an inspection.

Each lessor or owner shall maintain records for a minimum of two (2) years of all income from such leases or rentals and they shall require their lessees to furnish the information to them as enumerated in the above paragraph on a monthly basis for all bingo activity on their premises. All such records shall be made available on demand for immediate inspection by any law enforcement officer at reasonable times.

(Ord. No. 75-50, § 4, 7-2-75)

Sec. 21-135. Information relative to each game to be posted.

During the course of any and all bingo games, the operator shall post in a conspicuous place, in letters and numbers no smaller than three (3) inches in height, the following information:

(a) Names of all persons operating and/or assisting in the operation of the bingo game, together with the name of the charity with which they are associated;

(b) The total gross receipts collected per each bingo game;

(c) The total value of all prizes, whether in money or merchandise to be awarded per each bingo game;

(d) The net receipts collected but not awarded as prizes.

The information in subsections (b), (c) and (d) shall be posted after each game is completed and indicate separate entries for each game. All such figures shall remain posted until the last bingo game is played for that day. Operators of bingo games on premises owned by a charity or leased from a charity as defined in [Section 21-131](../level3/PTIIICOOR_CH21OFMIPR_ARTXIBI.docx#PTIIICOOR_CH21OFMIPR_ARTXIBI_S21-131DE)(c), which owns said premises shall be exempt from the provisions of subsections (b), (c) and (d) of this section but must make such information available to any player within forty-eight (48) hours upon demand.

(Ord. No. 75-50, § 5, 7-2-75)

Sec. 21-136. Operators and assistants to wear tags evidencing name and charity.

All persons operating and/or assisting in the operation of any bingo game shall wear legible tags evidencing their name and the charity with which they are associated.

(Ord. No. 75-50, § 6, 7-2-75)

Sec. 21-137. Identification of bingo cards; equipment and supplies to be purchased from bona fide distributor; display of placard containing manufacturer's name and address.

(a) No individual bingo card shall be used for more than one (1) bingo game and it shall be identified by a unique combination of numbers consisting of card number and the number of the particular series or lot. These numbers shall be imprinted on one (1) side of the card, along with the trade name or logo of the manufacturer. No prizes shall be awarded unless the player surrenders his signed bingo card to the operator, who shall indicate thereon the amount, character and value of the prize awarded. Operators shall retain surrendered bingo cards for a period of at least ninety (90) days.

(b) Operators of bingo games on premises owned by a charity or leased from a charity as defined in [Section 21-131](../level3/PTIIICOOR_CH21OFMIPR_ARTXIBI.docx#PTIIICOOR_CH21OFMIPR_ARTXIBI_S21-131DE)(c), which owns said premises shall be exempt from the provisions of subsection (a) of this section to the extent that they may reuse cardboard bingo cards and the winner will not have to surrender the winning card. In such cases the winner must sign a receipt for the prize that is won. To qualify for this exemption the premises may not be used for bingo activities more often than three (3) days per week.

(c) It shall be unlawful for any operator to employ, to distribute or to sell bingo cards other than the type described in subsection (a) above. The operator is further required to maintain adequate records of its purchase of bingo cards from whatever source acquired showing the serial numbers system as described in subsection (a) above of all such cards. These records will be subject to the same inspection provisions as stated in [Section 21-134](../level3/PTIIICOOR_CH21OFMIPR_ARTXIBI.docx#PTIIICOOR_CH21OFMIPR_ARTXIBI_S21-134MARESUINLAENOF). All cards shall be sold to players at a flat price throughout any bingo session, and no quantity discounts will be allowed to players except that operators of bingo games on premises owned by a charity or leased from a charity, as defined in [Section 21-131](../level3/PTIIICOOR_CH21OFMIPR_ARTXIBI.docx#PTIIICOOR_CH21OFMIPR_ARTXIBI_S21-131DE)(c), which owns said premises may sell cards to players in accordance with a published sale price schedule and subject to the following conditions: At the time of the sale each player is issued a numbered, color-coded admission ticket which will indicate the number of cards he is authorized to play during the session and the price paid. Receipts records will be maintained by the operator to report sales by color categories. The admission ticket must be a bingo card as defined in [Section 21-131](../level3/PTIIICOOR_CH21OFMIPR_ARTXIBI.docx#PTIIICOOR_CH21OFMIPR_ARTXIBI_S21-131DE)(b) and subsection (a) of this section.

(d) Supplies and equipment bought by operators for all games shall be purchased from a bona fide distributor authorized to do business in the State of Florida and maintaining an office therein.

(e) A distributor of bingo equipment and supplies, who shall sell said equipment or supplies to an operator of a game to be held in Miami-Dade County, Florida, shall provide said operator with a card having dimensions of not less than twenty-four (24) inches by thirty-six (36) inches stating thereon the name and address of the manufacturer of the bingo cards supplied by the distributor. The operator shall affix and permanently display said card or placard on a wall during each game said supplied cards are used.

(Ord. No. 75-50, § 7, 7-2-75)

Sec. 21-138. Issuance and expiration date of permit.

All permits required by this article shall be issued by the Tax Collector beginning September first of each year and must be secured by October first of each year and shall expire on September thirtieth of the succeeding year.

(Ord. No. 75-50, § 8, 7-2-75)

Sec. 21-139. Penalties.

(a) Any person, firm, corporation or business entity violating any of the provisions of this article, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars ($500.00), or by imprisonment for a term not to exceed sixty (60) days, or both such fine and imprisonment.

(b) Upon conviction of the above violation, any operator, lessor or owner shall automatically have its permit revoked.

(Ord. No. 75-50, § 9, 7-2-75)

Secs. 21-140—21-150. Reserved.

FOOTNOTE(S):

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**Editor's note—** Section 12 of Ord. No. 75-50, enacted July 2, 1975, provided that said ordinance be included in this Code, but did not specify the manner of inclusion, hence codification of §§ 1—9, as Art. XI, §§ 21-131—21-139, was at the discretion of the editors. Sections 10 and 11 of said ordinance, applicability and severability provisions, have been omitted; § 13, effective date, provided that the provisions of said ordinance shall become effective ten (10) days after the date of enactment thereof, except that anyone required to obtain said permit and any permits issued prior to Oct. 1, 1975, shall expire on Sept. 30, 1976. For the information of the user of this Code, the "whereas" clauses of Ord. No. 75-50 read as follows: [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

WHEREAS, Section 849.093(1), Florida Statutes, recites: [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

"(1) None of the provisions of this chapter shall be construed to prohibit or prevent nonprofit or veterans' organizations engaged in charitable, civic, community, benevolent, religious or scholastic works and/or other similar activities, which organizations have been in existence for a period of three (3) years or more from conducting bingo games or guest games, provided that the entire proceeds derived from the conduct of such games shall be donated by such organizations to the endeavors mentioned above. In no case shall the proceeds from the conduct of such games be used for any other purpose whatsoever"; and [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

"WHEREAS, Section 849.093(2), Florida Statutes, recites in part: [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

"(2) If an organization is not engaged in efforts of the type set out above, its right to conduct bingo or guest games hereunder shall be conditioned upon the return of all the proceeds from such games to the players in the form of prizes…"; and [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

WHEREAS, Section 849.093(6), Florida Statutes, recites: [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

"(6) All persons involved in the conduct of any bingo or guest game must be a resident of the community where the organization is located and a bona fide member of the organization sponsoring such games and shall not be compensated in any way for operation of said bingo or guest game."; and [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

WHEREAS, Section 849.093(2), Florida Statutes, recites: [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

"(8) Bingo or guest games shall be held only on property owned by the nonprofit organization or by the charity or organization that will benefit by the proceeds, on property leased full time by such organization for a period of not less than one (1) year, or on property owned by and leased from another nonprofit organization qualified under this section."; and [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

WHEREAS, present laws governing the operation of bingo games as provided for in Section 849.093, Florida Statutes, are inadequate to ensure that the various charitable, civic, community, benevolent, religious and scholastic organizations receive all the proceeds to which they are entitled under State law; and [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

WHEREAS, since monies from bingo games are frequently retained illegally or taken out for noncharitable purposes through such ruses as abnormally high rentals and salaries; and [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

WHEREAS, the Board of County Commissioners wishes to ensure effective enforcement of the above-quoted State laws regarding "bingo games" and to see that the proceeds from such games pass into the hands of legitimate charitable organizations to be used for legitimate charitable purposes. [(Back)](#BK_C0988A09502B05B87152A0BAB98F3C10)

### ARTICLE XII. PUBLIC AND BUS PASSENGER BENCHES AND SHELTERS [[8]](#BK_E47641A05C030824E053551274DE8BBF)

[Sec. 21-151. Definitions.](#BK_2F6ED33984563D47D5D2E0D16DA01696)

[Sec. 21-152. Miami-Dade Transit Agency duties.](#BK_87293FCE6977F431666A1F45819A7762)

[Sec. 21-153. Location on public property.](#BK_DD9BA51B1CAD0A80FAB8914E91A82F57)

[Sec. 21-154. Permits—Bid procedure.](#BK_0176832B5F8DA4BE1E5FC7004D2C6EB6)

[Sec. 21-155. Same—Award of contract; term of contract; exclusivity and restriction on transfer.](#BK_632BF969284513C6C134C726AC2FC696)

[Sec. 21-156. Sale—Compliance with State and federal regulations.](#BK_DA2ACA07EC0A9DDDB8817CBCFB6F96BB)

[Sec. 21-157. Same—Application and fee.](#BK_65CE50AA62A81C75CD50C060188E3C3B)

[Sec. 21-158. Location of bus passenger benches.](#BK_9E902AE829F5A6EA0C60C015D9D562A4)

[Sec. 21-159. Construction and maintenance.](#BK_8C2D88B7113039A505C7E34B0EB7F094)

[Sec. 21-160. Number of bus benches.](#BK_034E22B6E5F1646A4E4B4E3A2ED70C58)

[Sec. 21-161. Identification.](#BK_6377B0FD1BFD05B422EB869A45BF126B)

[Sec. 21-162. Benches without advertising.](#BK_493F88EBBC38172A7BD4923806A024C4)

[Sec. 21-163. Insurance.](#BK_C4022C03AEA0FA7DDE0142804952BAFE)

[Sec. 21-164. Change of authorized bus stops.](#BK_263FBDD845B72CE1DEB9808BA50848D3)

[Sec. 21-165. Compliance with article required; removal of benches.](#BK_4C7F8599A2707F6A64DFDFBBB399030E)

[Sec. 21-166. Bus shelter location and extension onto private property.](#BK_FD88AECBF10BC8F2DD4BC08FBCCDE0C4)

[Sec. 21-167. Bus passenger bench location and extension onto private property.](#BK_E28AC54D3B032F54F909B72FB6D4B0F8)

[Sec. 21-168. Enforcement.](#BK_D36F170A9F03A50F00CF150C6B2C01E3)

[Sec. 21-169. Exemption of signs from zoning requirements.](#BK_D2B945443447FE40CE2997A3FC1A4C21)

[Secs. 21-170—21-200. Reserved.](#BK_90F20F21FF87146D04EA7B45C5A7E2A7)

Sec. 21-151. Definitions.

(a) *Director* means the Director of Miami-Dade Transit Agency.

(b) *Department* means the Miami-Dade Transit Agency.

(c) *MDTA* means Miami-Dade Transit Agency.

(d) *Permittee* means an individual, firm, partnership, or corporation, or combination thereof who has entered into a contract with the County to provide bus benches at authorized MDTA bus stops.

(e) *Bus stop* means a location designated by MDTA for buses to stop for the purpose of loading and unloading passengers.

(f) *Right-of-way* means any right, title or interest in or to real property, or the use thereof acquired by the County or the State of Florida or the public and utilized for passage or travel including MDTA authorized bus stops.

(Ord. No. 85-32, § 1(1), 5-7-85)

Sec. 21-152. Miami-Dade Transit Agency duties.

MDTA shall be charged with the following duties and responsibilities:

(a) Provide permittee with a complete and accurate list of all MDTA authorized bus stops.

(b) Advise permittee of any changes in the list of MDTA authorized bus stops.

(c) Enforce the provisions of this article.

(d) Forward requests, complaints, etc. to permittee and attempt to resolve same.

(e) Assign an exclusive identification number to be displayed on each bench.

(f) Issue permits for bus passenger benches pursuant to the provisions of this article and maintain appropriate files regarding same.

(g) Investigate and prepare reports on alleged violations of this article.

(h) Perform any other duties assigned by the County Manager.

(Ord. No. 85-32, § 1(2), 5-7-85)

Sec. 21-153. Location on public property.

No benches for use of the public shall be located in any public right-of-way in the unincorporated area of the County except in compliance with the provisions of this article.

(Ord. No. 85-32, § 1(3), 5-7-85)

Sec. 21-154. Permits—Bid procedure.

Permits for bus passenger benches shall be issued pursuant to contract based upon the following procedure:

(a) Unincorporated Miami-Dade County shall be divided into two (2) territories, hereinafter referred to as the "South Territory" and the "North Territory". Each territory shall be subdivided into three (3) geographic districts. The South Territory shall be comprised of Districts 1, 2, 3, and the North Territory shall be comprised of Districts 4, 5, and 6.

(b) The territories shall be bounded as follows:

*"South Territory" (Districts 1, 2, and 3)*

*District 1:* North boundary, between U.S. 1 and Biscayne Bay, the boundary is Coral Reef Drive which is not included in District 1. Between U.S. 1 and the County line to the west, the boundary is North Kendall Drive which is not included in District 1; south boundary, County line; east boundary, between Kendall Drive and Coral Reef Drive, the boundary is U.S. 1 which is included in District 1. Between Coral Reef Drive and the County line to the south, the boundary is Biscayne Bay; west boundary, County line.

*District 2:* North boundary, Tamiami Trail which is not included in District 2; south boundary, North Kendall Drive which is included in District 2; east boundary, S.W. 87 Avenue which is not included in district 2; west boundary, County line.

*District 3:* North boundary, Flagler Street which is included in District 3; south boundary, between U.S. 1 and Biscayne Bay, the boundary is Coral Reef Drive [sic] loway Road, the boundary is North Kendall Drive which is included in District 3; east boundary, Biscayne Bay. Key Biscayne, Virginia Key and the Rickenbacker Causeway are included in District 3; west boundary, between Kendall Drive and Coral Reef Drive, the boundary is U.S. 1 which is not included in District 3. Between Flagler Street and Kendall Drive, the boundary is S.W. 87 Avenue which is included in District 3.

*"North Territory" (Districts 4, 5, and 6)*

*District 4:* North boundary, between Biscayne Bay and the County line to the west, the boundary is N.W./N.E. 103 Street which is included in District 4. Between Biscayne Bay and the Atlantic Ocean, the boundary is 87 Street which is included in the district; south boundary, between S.W. 87 Avenue and the County line to the west, the boundary is the Tamiami Trail which is included in District 4. Between S.W. 87 Avenue and Biscayne Bay, the boundary is Flagler Street which is not included in the District; east boundary, between Tamiami Trail and Flagler Street, the boundary is S.W. 87 Avenue which is not included in the District. Between N.W./N.E. 103 Street and Flagler Street, the boundary is the Atlantic Ocean; west boundary, County line.

*District 5:* North boundary, between the intercoastal waterway and the Atlantic Ocean, the boundary is the County line. Between the intercoastal waterway and the County line to the west, the boundary is N.W./N.E. 167 Street, N.E. 163 Street, and Sunny Isles Boulevard which are included in District 5; south boundary, between Biscayne Bay and the County line to the west, the boundary is N.W./N.E. 103 Street which is not included in the district. Between Biscayne Bay and the Atlantic Ocean, the boundary is 87 Street which is not included in District 5; east boundary, between N.E. 103 Street and 163 Street, the boundary is Biscayne Bay or the intracoastal waterway. Between N.E. 163 Street and the County line to the north, the boundary is the Atlantic Ocean; west boundary, County line.

*District 6:* North boundary, County line; south boundary, between the intercoastal waterway and the County line, the boundary is N.W./N.E. 167 Street, N.E. 163 Street, and Sunny Isles Boulevard which are not included in the district; east boundary, intercoastal waterway; west boundary, County line.

(c) A contract(s) for placement of bus passenger benches in the public right-of-way in unincorporated Miami-Dade County shall be awarded by territory based upon competitive bids or request for proposals. The bid specifications or requests for proposals shall contain a complete listing of all official bus stops of the Metro Miami-Dade Transportation Administration within the applicable territory. Such contracts may be extended beyond their term without the need for further competitive process upon compliance with the requirements for bid waivers contained in Section 4.03D of the Miami-Dade County Home Rule Charter and [Section 2-8.1](../level3/PTIIICOOR_CH2AD_ARTIINGE.docx#PTIIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)(b) of this Code.

(Ord. No. 85-32, § 1(4), 5-7-85; Ord. No. 91-58, § 1, 5-21-91)

Sec. 21-155. Same—Award of contract; term of contract; exclusivity and restriction on transfer.

No permit for a bus passenger bench shall be issued by MDTA in a geographic territory (as defined in [Section 21-154](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIPUBUPABESH.docx#PTIIICOOR_CH21OFMIPR_ARTXIIPUBUPABESH_S21-154PEIDPR)) except to a permittee. The permittee shall have the exclusive right to place bus passenger benches in the geographical territory specified in the contract subject to compliance with other provisions of this article. The permittee may not transfer any permit or contractual rights to any individual, partnership, corporation or other legal entity without the express written consent of the Director. No transfer of more than fifty (50) percent financial interest in the partnership, corporation or legal entity shall be permitted without the express written consent of the Director.

(Ord. No. 85-32, § 1(5), 5-7-85)

Sec. 21-156. Sale—Compliance with State and federal regulations.

The permittee shall be responsible for compliance with applicable State and federal regulations.

(Ord. No. 85-32, § 1(6), 5-7-85)

Sec. 21-157. Same—Application and fee.

(a) Each bus passenger bench shall require an application, permit, and fee and shall be issued a separate and distinct identification number by MDTA. The permits shall be renewable each year that the contract is in force and fees shall be paid annually.

(b) No bench shall be installed at a bus stop prior to obtaining a permit.

(c) When a bench is installed at a bus stop prior to obtaining a permit, the permittee shall be required by MDTA to pay a double permit fee.

(Ord. No. 85-32, § 1(7), 5-7-85)

Sec. 21-158. Location of bus passenger benches.

(a) *Bus stops.* No bus passenger bench shall be permitted at any location except an established transit stop authorized by MDTA where regularly scheduled, periodic stops are made. The Department shall have the right and duty to refuse approval of any location, or to require the removal of a bus bench from any location, when it appears that a traffic hazard may be created or that the public safety may be endangered, or when MDTA determines that the bus bench is improperly placed or is not compatible with the surrounding community. The decision of the Department in respect to the installation or maintenance of bus benches at any location in the unincorporated areas shall be final. If the permittee fails to remove a bus passenger bench after being ordered to do so by MDTA, the Department may have the bench removed in accordance with the provisions of [Section 21-15](../level4/PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE.docx#PTIIICOOR_CH21OFMIPR_ARTIIIWE_DIV1INGE_S21-15RE) of this article.

(b) *Distance requirements.* No bus passenger bench shall be placed or maintained within five (5) feet of the outer edge of the pavement of any road, except at approved locations where sidewalks and curbs exist. Where no sidewalks and curbs exist, MDTA shall require bus benches to be located such distance in excess of five (5) feet as may be deemed necessary or desirable for the public safety and welfare. At approved locations where curbs and sidewalks exist, bus passenger benches may be placed and maintained at such locations as the Department shall designate, in order to ensure the safety and convenience of the public. The location of each bus passenger bench shall be approved by the Department prior to the issuance of a permit. Benches placed on State-maintained rights-of-way shall conform to applicable regulations of the State of Florida, Department of Transportation.

(c) *At passenger shelter sites.* Provided that bus benches comply with applicable setback requirements, they may be located at a bus stop where a bus passenger shelter has been installed, unless MDTA determines that the placement of said benches would interfere with the free flow of vehicular or pedestrian traffic or would impede handicapped persons. Unless MDTA, in its sole discretion, determines that there exists a need for additional bus benches, bus benches will be permitted at up to fifty (50) percent of the bus stops where a bus passenger shelter is located.

(d) *Advertising panel.* Each bench shall be placed with the advertising panel at an angle of no greater than twenty (20) degrees to the adjacent roadway.

(Ord. No. 85-32, § 1(8), 5-7-85)

Sec. 21-159. Construction and maintenance.

Benches shall conform to the approved standards and specifications on file with the Product Control Branch of the Code Compliance Department. A permittee shall maintain each bus passenger bench in a good state of repair and appearance, and shall keep the area surrounding each bench free of debris, high grass, weeds, and other rubbish for a radius of seven (7) feet from the center of the bench. Failure to properly maintain the bench or the surrounding area shall constitute cause for cancellation of the permit and removal of the bench as provided in [Section 21-165](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIPUBUPABESH.docx#PTIIICOOR_CH21OFMIPR_ARTXIIPUBUPABESH_S21-165COARREREBE).

(Ord. No. 85-32, § 1(9), 5-7-85; Ord. No. 95-215, § 1, 12-5-95)

Sec. 21-160. Number of bus benches.

Only one (1) bench shall be permitted at each approved designated bus stop except as otherwise designated by MDTA. The Director is authorized to revoke at any time the right of the permittee to place more than one (1) bus bench at a bus stop if the Director deems that it is in the best interest of MDTA.

(Ord. No. 85-32, § 1(10), 5-7-85)

Sec. 21-161. Identification.

Each bus passenger bench shall display the name and business telephone number of the permittee.

(Ord. No. 85-32, § 1(11), 5-7-85; Ord. No. 88-74, § 1, 7-19-88)

Sec. 21-162. Benches without advertising.

Each permittee shall agree to locate and maintain one (1) bench containing no advertising for every ten (10) approved benches that are placed that carry advertising. Such benches carrying no advertising shall be placed at locations designated by MDTA. No fee shall be charged for such benches, but permits will be required and an identification number shall be issued.

(Ord. No. 85-32, § 1(12), 5-7-85)

Sec. 21-163. Insurance.

All permittees, before placing any benches on public rights-of-way in the unincorporated area of the County subject to this article, shall carry such insurance and submit evidence of such insurance to MDTA as may be required by the County. No permits shall be issued until the permittee has complied with this requirement. A permittee shall not cancel the required insurance coverage at any time without the express written consent of the MDTA Executive Director.

(Ord. No. 85-32, § 1(13), 5-7-85)

Sec. 21-164. Change of authorized bus stops.

Whenever an authorized bus stop is changed or created by MDTA, the permittee shall be so notified. In the case of a deletion of an authorized bus stop, the permittee shall have fourteen (14) days to remove the public bench or benches. The permittee may request permission to move said bench or benches to other authorized bus stops within its designated area.

(Ord. No. 85-32, § 1(14), 5-7-85)

Sec. 21-165. Compliance with article required; removal of benches.

(a) Failure to comply with any of the terms, conditions or requirements of this article shall constitute cause for cancellation of the permit for, and/or removal of the bench to which the violation pertains.

(b) All benches in the public right-of-way in the unincorporated area of the County shall be subject to this article and shall comply with all provisions hereof. Any bench found in violation may be removed without prior notice by MDTA immediately.

(c) In addition to the provisions of subsection (b) of this section, the Department may, at its discretion, require a permittee to remove a bus bench and deliver such bench to a County-owned or leased facility for storage and disposal if MDTA or the permittee finds a bench that:

(1) Displays a bus passenger bench company name different than the company name of the existing bus bench permittee.

(2) Lacks a bus passenger bench company name, or any of the identification required by [Section 21-161](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIPUBUPABESH.docx#PTIIICOOR_CH21OFMIPR_ARTXIIPUBUPABESH_S21-161ID) of this article.

(3) Is not located at an MDTA authorized bus stop.

(4) Is in violation of any of the terms, conditions and requirements of this article.

(d) Permittee shall be responsible for removal of all its bus passenger benches from the public right-of-way upon termination of its right to operate in Miami-Dade County for any reason including, but not limited to, expiration of the contract, default, or voluntary termination on the part of the permittee. Nothing contained in this subsection or in any other section of this article shall relieve the permittee of this obligation.

(Ord. No. 85-32, § 1(15), 5-7-85)

Sec. 21-166. Bus shelter location and extension onto private property.

Bus shelters shall be placed only at MDTA authorized bus stops. The shelter structure shall be permitted to extend onto private property, subject to private consent, provided all of the following prohibitions and requirements are met and only to the extent necessary to conform with setback requirements specified in subsection (c) of this section:

(a) Bus shelters shall be prohibited on private property in the RU-1, RU-2, EU-1, EU-1C, EU-2, EU-S, EU-M and AU zoning districts.

(b) Bus shelters shall not exceed one hundred fifty-two (152) square feet in size.

(c) Bus shelters placed on Miami-Dade County or State of Florida maintained rights-of-way shall conform to Miami-Dade County Public Works Department's bus shelter setback requirements or State of Florida, Department of Transportation regulations, whichever is applicable.

(Ord. No. 85-32, § 1(16), 5-7-85; Ord. No. 88-74, § 2, 7-19-88)

Sec. 21-167. Bus passenger bench location and extension onto private property.

Bus passenger benches for the use of the public shall only be permitted to extend onto private property, subject to private consent, provided all the following requirements are met:

(a) *Location.* Bus passenger benches shall be permitted to be placed only at MDTA authorized bus stops, and to extend onto private property only to the extent necessary to conform with the setback requirements specified in subsection (b) of this section.

(b) *Setbacks.* Bus passenger benches placed partially on a Miami-Dade County or State of Florida maintained right-of-way shall conform with [Section 21-158](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIPUBUPABESH.docx#PTIIICOOR_CH21OFMIPR_ARTXIIPUBUPABESH_S21-158LOBUPABE) of this article.

(Ord. No. 85-32, § 1(17), 5-7-85)

Sec. 21-168. Enforcement.

The enforcement of the provisions in this article and other chapters of the Code pertaining to the placement of bus passenger benches and bus shelters for use of the public whether on private property or public right-of-way shall be the responsibility of the Director of the Miami-Dade Transportation Administration or successor departments.

(Ord. No. 85-32, § 1(18), 5-7-85)

Sec. 21-169. Exemption of signs from zoning requirements.

Signs affixed to bus shelters and bus passenger benches placed at MDTA authorized bus stops and extending onto private property are exempt from the provisions of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Code of Miami-Dade County.

(Ord. No. 85-32, § 1(19), 5-7-85)

Secs. 21-170—21-200. Reserved.

FOOTNOTE(S):

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**Editor's note—** Ord. No. 85-32, § 1, adopted May 7, 1985, amended the Code but did not specify section numbers to be assigned; therefore, codification of § 1(1)—(19) as Art. XII of Ch. 21, §§ 21-151—21-169, has been at the editor's discretion. [(Back)](#BK_FAB3448FDA895B71518F4BA9E6712EB3)

**Cross reference—** Miami-Dade Transit Agency, § 2-145 et seq.; Citizens' Transportation Advisory Committee, § 2-336 et seq.; vehicles for hire, Ch. 31. [(Back)](#BK_FAB3448FDA895B71518F4BA9E6712EB3)

### ARTICLE XIII. JUVENILE CURFEW PROGRAM [[9]](#BK_C8AECDC2628A9DBCD9A710DB2916F65A)

[Sec. 21-201. Short title and applicability.](#BK_259F373C711A683781F8B3826AEF9DF9)

[Sec. 21-202. Legislative intent, findings and purposes.](#BK_4F3ECA6D8849906007952BC218ECEDC7)

[Sec. 21-203. Definitions.](#BK_9D768845CF73A4F5C9A0AA66D017EEBA)

[Sec. 21-204. Curfew of juveniles.](#BK_FD4E5FE75A3662B2447569DAD76E0E8E)

[Sec. 21-205. Exceptions.](#BK_BCECF1A69E7F4E6AE666D96BE846A2E0)

[Sec. 21-206. Procedures.](#BK_F3DA440B071942050472E23D4A778B38)

[Sec. 21-207. Responsibility of parents.](#BK_9321711F3753B518723FA5EF557CA075)

[Sec. 21-208. Responsibility of operators.](#BK_FF14C7B68F03D03A38CE59DC8212142C)

[Sec. 21-209. Notice.](#BK_651049B6D1E25DC668833C7A678B2E44)

[Sec. 21-210. Penalty or remedy for violations.](#BK_3BCB1A3C2FBB962612E06B57A131BA4D)

[Sec. 21-211. Enforcement.](#BK_D56CB9818A5A1A612D017F8BE698E286)

[Sec. 21-212. Severability.](#BK_0365E57A3B5EB172A6027D123AA8C525)

[Sec. 21-213. Effective date.](#BK_0AC23260A236EC3E548C1B6F14263F3E)

[Sec. 21-214. Sunset provision.](#BK_EB11240CD65EF168167C27E245FD82B2)

[Secs. 21-215—21-219. Reserved.](#BK_1ECE69F8CC478DBCB94A93CA90232E0C)

Sec. 21-201. Short title and applicability.

(a) This article may be cited as the "Miami-Dade County Juvenile Curfew Ordinance."

(b) The provisions of this article are hereby declared to have county-wide effect.

(Ord. No. 94-1, § 1, 1-18-94; Ord. No. 95-208, § 1, 11-21-95)

Sec. 21-202. Legislative intent, findings and purposes.

(a) This commission hereby finds and determines as a matter of fact that Miami-Dade County is facing a mounting crisis caused by increasing crime, including juvenile crime and delinquency which threatens peaceful citizens, residents, and visitors. This commission further determines that this criminal activity, both individually and collectively, presents a clear and present danger to the citizenry and to the public order and safety. The economic cost of crime in Miami-Dade County continues to drain existing resources. Additionally, the effect on victims, both economic and psychological, is traumatic and tragic.

(b) This commission finds that fighting crime effectively requires a multipronged effort, with one (1) aspect focusing on those age groups particularly vulnerable to and injured by crime, and susceptible to being induced into committing crime. Consequently, it is the intent of the Commission to create and implement a juvenile curfew program aimed at protecting juveniles from crime and reducing juvenile crime and the direct and indirect consequences thereof.

(c) Juveniles in Miami-Dade County have themselves become victims of crime and violence in steadily increasing numbers. Violent crimes against juveniles in Miami-Dade County are dramatically high in number, and the psychological effect of crime committed upon juveniles is particularly tragic and traumatic. A juvenile curfew program would have the additional benefit of reducing juvenile victimization.

(d) It is the intent of this Commission to substantially reduce, if not eradicate, acts of crime and delinquency committed by juveniles and to provide for the care, safety and protection of law abiding juveniles and other citizens, residents and visitors.

(e) This article is enacted in recognition of the peculiar vulnerability of juveniles, their frequent inability to make critical decisions in an informed, mature manner, and the importance of the parental role in child-rearing.

(f) The purposes of this article are:

(1) To protect juveniles themselves and other citizens, residents and visitors of Miami-Dade County from the dangers of crimes which occur on sidewalks, streets, and in public, and semi-public places during late night and early morning hours.

(2) To decrease the amount of criminal activity engaged in by juveniles.

(3) To promote and enhance parental control over juveniles.

(Ord. No. 94-1, § 2, 1-18-94; Ord. No. 95-208, § 2, 11-21-95)

Sec. 21-203. Definitions.

For the purpose of this article, the following definitions shall apply:

(a) *Emergency* shall mean an unforseen combination of circumstances or the resulting state or any situation requiring immediate action to care for or prevent serious bodily injury or loss of life. This term includes, but is not limited to, a fire, natural disaster, or an automobile accident.

(b) *Juvenile* shall mean a person under seventeen (17) years of age whose disabilities have not been removed by marriage or a court of competent jurisdiction or otherwise.

(c) *Legal guardian* shall mean a person or agency appointed by a court to act in the role of a parent.

(d) *Operator* shall mean any individual, firm, association, partnership or corporation operating, managing, or conducting any business or other establishment. The term includes the members or partners of an association, or partnership and the officers of a corporation.

(e) *Parent* shall mean the natural parent, adoptive parent, or step-parent of a juvenile.

(f) *Public place* shall mean any property owned or controlled by the County, any municipality, the School Board, the State or other governmental entity to which the general public has access and a right to resort for business, recreation, entertainment, or other lawful purpose, including streets and highways.

(g) *Semi-public place* shall mean any privately-owned or privately-operated real property (including any structure thereon) to which the general public is invited or has the legal right of access and right to resort for business, recreation, entertainment, or other lawful purpose such as, but not limited to, any store, shop, restaurant, tavern, theater, parking lot, alley, road, shopping center, bowling alley, pool hall, any vacant lot, or any vacant or abandoned building.

(h) *Law enforcement officer* shall mean a certified law enforcement officer of any rank who is a duly sworn officer of the Miami-Dade Police Department, a municipal police department in Miami-Dade County, the Florida Highway Patrol or other state or federal law enforcement agency.

(i) *Curfew hours* shall mean the hours of 11:00 p.m. until 6:00 a.m. the following day from Sunday to Thursday, and the hours of 12:00 midnight until 6:00 a.m. the following day from Friday evening to Sunday morning.

(Ord. No. 94-1, § 3, 1-18-94; Ord. No. 95-208, § 3, 11-21-95)

Sec. 21-204. Curfew of juveniles.

It shall be unlawful and a violation of this article for any person under the age of seventeen (17) years to linger, stay, congregate, move about, wander, or stroll in any public or semi-public place in Miami-Dade County, either on foot or in or upon any conveyance or vehicle being driven or parked thereon, during curfew hours.

(Ord. No. 94-1, § 4, 1-18-94; Ord. No. 95-208, § 4, 11-21-95)

Sec. 21-205. Exceptions.

The provisions of this article shall not apply if the juvenile is:

(a) Accompanied by a parent or legal guardian or another adult person at least twenty-one (21) years of age given permission by the parent or legal guardian to have the care, custody or control of the juvenile.

(b) Engaged in a lawful employment activity or traveling to or returning home from a lawful employment activity without any detour.

(c) Engaged in interstate travel.

(d) On an errand at the written approval and direction of the juvenile's parent or legal guardian, without any detour.

(e) Involved in or attempting to remedy, alleviate or respond to an emergency.

(f) Attending an official school, religious, or recreational activity supervised by adults at least twenty-one (21) years of age and sponsored by the County of Miami-Dade, the Miami-Dade County School Board, municipality, a civic organization or other similar entity, which organizations take responsibility for the juvenile as an invitee, or going to or returning home from, any such activity without any detour.

(g) On the swale or sidewalk abutting the juvenile's residence or abutting the residence of a next door neighbor if the neighbor has not complained to the police department about the juvenile's presence.

(h) Exercising First Amendment rights protected by the United States Constitution (or those similar rights protected by Article 1, Sections 3, 4 and 5 of the Florida Constitution), such as free exercise of religion, freedom of speech, and the right of assembly.

(i) Attending or returning to current residence from a specific activity at a public or semi-public place which is open to the general public and supervised by adults at least twenty-one (21) years of age; provided further, that any such activity begins no later than 10:00 p.m.; provided further, that the juvenile possesses written permission from his or her parent or legal guardian authorizing the juvenile to attend or engage in that specific activity.

(j) Married in accordance with law or had disability of nonage removed by a court of competent jurisdiction.

(k) Homeless or uses a public or semi-public place as his or her usual place or abode.

(l) When the County Commission pursuant to an application by a sponsor of an event not provided for in this subsection, or any other person, authorizes juvenile(s) to be in a public or semi-public place during curfew hours.

(Ord. No. 94-1, § 5, 1-18-94; Ord. No. 95-208, § 5, 11-21-95)

Sec. 21-206. Procedures.

Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer, upon finding a person suspected to be in violation of this chapter, shall ask the apparent offender's age and reason for being in a public or semi-public place during curfew hours. The law enforcement officer shall immediately attempt to verify statements or other information provided by the juvenile through contact with the parent, legal guardian or others. The officer shall not issue a written warning to appear or take into custody any person pursuant to this article unless the officer reasonably believes that an offense has occurred and that, based on any response or circumstance, no defense in [Section 21-205](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR.docx#PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR_S21-205EX) is present.

(Ord. No. 94-1, § 6, 1-18-94; Ord. No. 95-208, § 6, 11-21-95)

Sec. 21-207. Responsibility of parents.

It shall be unlawful for the parent, legal guardian or other adult person at least twenty-one (21) years of age having the care, custody or control of a juvenile to permit or by insufficient control to permit such juvenile to linger, stay, congregate, move about, wander, or stroll on or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or any public places in Miami-Dade County during curfew hours, unless the juvenile is accompanied by his or her parent, legal guardian or other adult person at least twenty-one (21) years of age having his or her care, custody or control. Any parent, legal guardian or other adult person at least twenty-one (21) years of age having the care, custody or control of a juvenile who shall have made a missing person notification or informs the police department that the juvenile left or remained away from his or her residence during curfew hours over the objection of the parent, legal guardian or other adult person at least twenty-one (21) years of age having the care, custody or control of the juvenile shall not be considered to have permitted any person to be in violation of this section. It shall also constitute a defense hereto that such parent, legal guardian or other adult person at least twenty-one (21) years of age having the care, custody or control of such juvenile, did not have knowledge of the presence of such juvenile in, or about or upon any place in the county away from the current residence or usual place of abode of said juvenile during curfew hours, if said parent, legal guardian or other person having care, custody or control of such juvenile, in the exercise of reasonable care and diligence, should not have known of the unlawful acts of such juvenile.

(Ord. No. 94-1, § 7, 1-18-94; Ord. No. 95-208, § 7, 11-21-95)

Sec. 21-208. Responsibility of operators.

It shall be unlawful for any operator, owner or any employee managing or conducting any business or other establishment to knowingly permit a juvenile to linger, stay, congregate, move about, wander or stroll upon the premises of the establishment during curfew hours. It is a defense to prosecution under [Section 21-210](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR.docx#PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR_S21-210PEREVI) of this article that the owner, operator, or employee notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave after being asked to leave the premises.

(Ord. No. 94-1, § 8, 1-18-94; Ord. No. 95-208, § 8, 11-21-95)

Sec. 21-209. Notice.

Operators are encouraged but not required to conspicuously display in or about the premises of an establishment, a legibly printed notice in English, Spanish and Creole in substantially the following form: "IT IS UNLAWFUL FOR A PERSON UNDER THE AGE OF SEVENTEEN (17) TO REMAIN ON THESE PREMISES BETWEEN THE HOURS OF 11:00 P.M. TO 6:00 A.M. THE FOLLOWING DAY FROM SUNDAY TO THURSDAY AND THE HOURS OF 12:00 MIDNIGHT TO 6:00 A.M. THE FOLLOWING DAY FROM FRIDAY EVENING TO SUNDAY MORNING UNLESS SPECIFICALLY ALLOWED BY LAW."

(Ord. No. 94-1, § 9, 1-18-94; Ord. No. 95-208, § 9, 11-21-95)

Sec. 21-210. Penalty or remedy for violations.

(a) Any parent, legal guardian or other adult person at least twenty-one (21) years of age having the legal care, custody or control of a juvenile, or operator, owner or any employee managing or conducting any establishment who shall violate the provisions of this article shall receive a written warning on a form to be established by the Miami-Dade Police Department. The third and any subsequent violation of [Section 21-207](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR.docx#PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR_S21-207REPA) or [Section 21-208](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR.docx#PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR_S21-208REOP) shall result in the issuance of a notice to appear and shall be punished by a fine not to exceed five hundred dollars ($500.00).

(b) Any juvenile violating the provision of [Section 21-204](../level3/PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR.docx#PTIIICOOR_CH21OFMIPR_ARTXIIIJUCUPR_S21-204CUJU) shall be taken into custody and transported immediately to the police station, substation, or other appropriate holding facility in accordance with Chapter 39, Florida Statutes, or to the juvenile's home. Miami-Dade County and the municipalities may enter into the contracts with the community based organizations, including churches, to operate such holding facilities. After recording pertinent information about the juvenile, the law enforcement agency or holding facility shall, in the event the juvenile is not taken immediately to his or her home, attempt to contact the parent or legal guardian of the juvenile and, if successful, shall request the parent or legal guardian to immediately come to the facility where the juvenile is being held, and upon presenting documents identifying the juvenile and the parent or legal guardian shall release the juvenile to the parent or legal guardian. If after two (2) hours of reaching the holding facility the law enforcement agency or holding facility is unsuccessful in contacting the parent or legal guardian, or if the parent or legal guardian fails or refuses to come to obtain custody of the juvenile, the law enforcement agency or holding facility shall transport the juvenile to his or her current residence. The procedures established for the first violation shall be repeated for the second and any subsequent violation except that commencing with the third and any subsequent violation, a juvenile civil citation may be issued in accordance with the provisions of Section 985.301, Florida Statutes.

(c) When a juvenile is taken into custody as provided in this section the law enforcement agency taking the juvenile into custody shall attempt to telephone a role model from a list supplied by the Miami-Dade County School Board Role Model Program to inform that role model of the name, address and telephone number of the juvenile. A copy of the citation or notice to appear shall be mailed to the role model.

(Ord. No. 94-1, § 10, 1-18-94; Ord. No. 94-39, § 1, 3-17-94; Ord. No. 94-61, § 1, 4-19-94; Ord. No. 95-208, § 10, 11-21-95; Ord. No. 96-1, § 1, 1-9-96; Ord. No. 07-02, § 1, 1-25-07)

Sec. 21-211. Enforcement.

Law enforcement officers shall have the right to enforce the provisions of this article against any person found violating the same within their jurisdiction.

(Ord. No. 94-1, § 11, 1-18-94; Ord. No. 95-208, § 11, 11-21-95)

Sec. 21-212. Severability.

If any section, subsection, sentence, clause or provision of this article is held invalid, the remainder of this article shall not be affected by such invalidity.

(Ord. No. 94-1, § 12, 1-18-94; Ord. No. 95-208, § 12, 11-21-95)

Sec. 21-213. Effective date.

The provisions of this article shall become effective January 1, 1996 at 11:00 p.m.

(Ord. No. 94-1, § 14, 1-18-94; Ord. No. 95-208, § 14, 11-21-95)

Sec. 21-214. Sunset provision.

This article shall not contain a sunset provision.

(Ord. No. 94-1, § 15, 1-18-94; Ord. No. 95-208, § 15, 11-21-95; Ord. No. 97-87, § 1, 6-17-97; Ord. No. 98-195, § 1, 12-15-98; Ord. No. 01-226, § 1, 12-18-01)

Secs. 21-215—21-219. Reserved.

FOOTNOTE(S):

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**Editor's note—** Ord. No. 94-1, adopted Jan. 18, 1994, amended the Code by the addition of provisions which have been included herein at the discretion of the editor as Art. XIII, §§ 21-201—21-214. Subsequently, Ord. No. 95-208, adopted Nov. 21, 1995, enacted juvenile curfew provisions, which have been included herein as superseding the provisions of Ord. No. 94-1, adopted Jan. 18, 1994. History notation to said Ord. No. 94-1 has been retained within this article for reference purposes. [(Back)](#BK_75EA15E05D58C5B4C9023C0BEE82B057)

### ARTICLE XIII.5 PROTECTION OF UNDERGROUND UTILITIES

[Sec. 21-220. Enforcement of protection of underground utilities.](#BK_6FFD77C73721072204675D3236D66DFD)

[Sec. 21-221. Definitions.](#BK_5DC0CC1365C2BD1978E4EA980FE5B828)

[Sec. 21-222. Mandatory pre-excavation procedures.](#BK_A20542FF420782534F3B24D795008FE6)

[Sec. 21-223. Exemptions.](#BK_4D075FD5B0C0B0FC76AC2B57BE36BF47)

[Sec. 21-224. Excavation in the absence of underground facilities markings by member operators.](#BK_3066708936359CCC1B5C24A4B29D6A37)

[Sec. 21-225. Excavation procedures and installation of facilities.](#BK_DCD203CFF4D1B3F21BC5BEC291B26AD6)

[Sec. 21-226. Notification upon contact.](#BK_8BE9E56A0E4A099C79A349315564ED92)

[Sec. 21-227. Enforcement by civil violation process.](#BK_F559E9B46E5DE9DA6DE502E3E81A0BFD)

[Secs. 21-228—21-250. Reserved.](#BK_592CE6AEAF7815B002A4830D0B7F6BE6)

Sec. 21-220. Enforcement of protection of underground utilities.

The intent of this ordinance is to enforce by civil penalties the provisions of Chapter 556, Florida Statutes, protecting underground facilities and thereby preventing personal injuries and interruption of vital services. Sections 556.105, and 556.107 through 556.109 Florida Statutes, inclusive, as the same may be amended from time to time, are adopted hereby and incorporated herein by reference, and each violation of said statutes is a violation of this ordinance.

(Ord. No. 98-137, § 1, 9-15-98)

Sec. 21-221. Definitions.

The following words and phrases when used in this Ordinance shall have the following meanings:

(a) *As-Builts* shall mean drawings made by an excavator after facilities have been installed, showing the location, grade, and type of the facility as installed.

(b) *Business days* shall mean Monday through Friday, excluding those holidays established by State law which are listed in Section 556.102 (1), Florida Statutes.

(c) *Conflict* shall mean a situation that exists when installation of a new underground facility will result in that facility being installed within twenty-four (24) inches horizontally or vertically of another underground facility as measured from the closest point between the utilities, except as otherwise specified in [Section 21-225](../level3/PTIIICOOR_CH21OFMIPR_ARTXIII.5PRUNUT.docx#PTIIICOOR_CH21OFMIPR_ARTXIII.5PRUNUT_S21-225EXPRINFA)(c).

(d) *Demolition* shall mean any operation by which a structure or mass or material is wrecked, razed, rended, moved, or removed by means of any tool, equipment, or discharge of explosives, or any disturbance of the earth in any manner on public or private lands which could damage any underground facility.

(e) *Directional Boring* shall mean any process of installing a product underground without open trench excavation and with the capacity to directionally control the bore path. The term directional boring shall be used interchangeably with the term horizontal boring technique.

(f) *Emergency* shall mean any condition constituting a clear and present danger to life or property; a situation caused by the escape of any substance transported by means of an underground facility; any interruption of vital public service or communication caused by any break or defect in an underground facility; or any condition impairing use of public streets or roads which requires immediate repair.

(g) *Excavation* shall mean any manmade cut, cavity, trench, or depression in the earth's surface, formed by removal of earth, intended to change the grade or level of land, or intended to penetrate or disturb the surface of the earth.

(h) *Excavator* shall mean any person performing excavation or demolition operations.

(i) *Exploratory Digging* shall mean a controlled excavation made to the bottom depth of a proposed excavation in order to, where the existing facility is in conflict with the proposed facility, determine and verify the actual vertical or horizontal location of existing underground facilities; exploratory digging shall be accomplished by any method of excavation that affords substantial protection to existing underground facilities; notwithstanding the foregoing, excavators may use any means for removal of pavement or masonry, but only to the depth of such pavement or masonry.

(j) *Member operator* shall mean any person who furnishes or transports materials or services by means of an underground facility and who participates in the one-call notification system established in Chapter 556, Florida Statutes.

(k) *Underground facility* shall mean any public or private personal property which is buried, placed below ground, or submerged on any member operator's right-of-way, easement, or permitted use which is being used or will be used in connection with the storage or conveyance of water; sewage; electronic, telephonic or telegraphic communication; electric energy; oil; petroleum products; natural gas; optical signals; or other substances, and includes, but is not limited to, pipelines, pipes, sewers, conduits, cables, valves, and lines. Storm drainage systems are not considered underground facilities, nor are petroleum storage systems subject to regulation pursuant to Chapter 376 Florida Statutes, unless a petroleum storage system is located on a member operator's right-of-way.

(Ord. No. 98-137, § 1, 9-15-98; Ord. No. 00-97, § 1, 7-25-00)

Sec. 21-222. Mandatory pre-excavation procedures.

(a) No excavator shall apply for or receive a permit for a proposed excavation with a total length of one thousand (1,000) linear feet or more unless the excavator has first either requested copies of as-built drawings from any party whom the excavator knows may have underground facilities along the path of the proposed excavation, or if such party accepts design tickets, that the excavator submitted a design ticket to Sunshine State One-Call of Florida. No excavator who has requested as-builts or submitted a design ticket shall be denied a permit irrespective of whether such as-builts or design ticket information was in fact received by the excavator.

(b) No excavator shall engage in any excavation or demolition in a public easement or right-of-way with a length of less than one thousand (1,000) linear feet without first marking the location of such proposed excavation with white paint, white flags, or white buoys, as appropriate; such marking shall conform to the recommended guidelines for the uniform temporary markings of underground facilities as approved by the Utilities Location and Coordinating Council of the American Public Works Association, and shall occur before that person or entity provides Sunshine State One-Call of Florida with any information as required by either Section 21-222(c) or Section 556, Florida Statutes.

(c) Notification before excavation. Not less than two (2) nor more than five (5) business days before beginning any excavation or demolition work, all excavators must provide the information listed at Section 556.105 (1), Florida Statutes to the State one-call notification system, "Sunshine State One-Call of Florida, Inc." The system will notify and provide the names of all member operators with underground facilities in the work area. No excavation or demolition may be undertaken until all of the named entities have either notified the excavator that no conflict exists or marked their underground facilities in the manner required by Section 556.105 Florida Statutes. If unable to respond within 48 hours, the member operator shall negotiate a new schedule with the person making the request. Renotification is required for each 20 day period until excavation in the area is completed, or at any time when markings are not visible.

(d) Exploratory digging by excavators engaged in directional boring. Any excavator engaged in directional boring shall, where markings cross or overlap the directional bore path or where markings show a conflict exists, engage in exploratory digging. Where the conflict is created by installation of a new facility parallel to an existing facility, the excavator shall be required to engage in exploratory digging only at those points where the existing facility deflects from the plane along which it is laid by more than twenty-two (22) degrees in any direction, as determined by reference to existing markings or reference to as-built drawings, if such as-built drawings are provided to the excavator before excavation.

(e) Markings to be made with water-based paint. Any marking made by an excavator or member operator pursuant to either this section or Section 556, Florida Statutes, shall be made using water-based paint.

(Ord. No. 98-137, § 1, 9-15-98; Ord. No. 00-97, § 1, 7-25-00)

Sec. 21-223. Exemptions.

Exemptions from the mandatory pre-excavation procedures requirements of [Section 21-222](../level3/PTIIICOOR_CH21OFMIPR_ARTXIII.5PRUNUT.docx#PTIIICOOR_CH21OFMIPR_ARTXIII.5PRUNUT_S21-222MAPCAPR) are only the following:

(a) Emergencies, provided that the one-call system or the member operator was notified at the earliest opportunity and all reasonable precautions had been taken by the excavator to protect any underground facilities.

(b) Any excavation or demolition performed by the owner of single-family residential property; or for such owner by a member operator or an agent of a member operator when such excavation or demolition is made entirely on such land, and only up to a depth of ten (10) inches; provided due care is used and there is no encroachment on any member operator's right-of-way, easement, or permitted use.

(c) Any excavation or demolition associated with normal agricultural or railroad activities, provided such activities are not performed on any member operator's marked right-of-way, easement, or permitted use.

(d) Any excavation or demolition that occurs as the result of normal industrial activities, provided such activities are confined to the immediate secured property of the facility and the activities are not performed on any operator's marked right-of-way, easement, or permitted use, and subject to any further restrictions set forth in State law.

(e) Any excavation of 18 inches or less for:

(1) Surveying public or private property by surveyors or mappers as defined in Chapter 472 Florida Statutes, excluding marked rights-of-way, marked easements, or permitted uses where marked, provided mechanized equipment is not used and the surveying is performed in accordance with the practice rules established under Section 472.027 Florida Statutes.

(2) Maintenance activities performed by a State or County agency and its employees when such activities are within the right-of-way of a public road, provided, if a member operator has permanently marked facilities on such right-of-way, no mechanized equipment may be used without first providing notification.

(f) Any excavation with hand tools by a member operator or its agent:

(1) For locating, repairing, connecting, or protecting, or routine maintenance of, the member operator's underground facilities; or

(2) For the extension of a member operator's underground facilities onto the property of a person to be served by such facilities.

(3) The exemption provided in sub-paragraphs (1) and (2) is limited to excavations to a depth of 30 inches if the right-of-way has permanently marked facilities of a company other than the member operator or its agents performing the excavation.

(Ord. No. 98-137, § 1, 9-15-98; Ord. No. 00-97, § 1, 7-25-00)

Sec. 21-224. Excavation in the absence of underground facilities markings by member operators.

Excavators who have complied with the requirements of [Section 21-222](../level3/PTIIICOOR_CH21OFMIPR_ARTXIII.5PRUNUT.docx#PTIIICOOR_CH21OFMIPR_ARTXIII.5PRUNUT_S21-222MAPCAPR) may proceed without first having a member operator mark underground facilities only in the following situations:

(a) If a member operator has not located and marked its underground facilities, nor notified the excavator that the area is clear, nor negotiated a new schedule for marking its facilities, within 48 hours, excluding days other than business days, after the excavator's notification to the State one-call notification system; then the excavator may proceed with excavation (but not with demolition), provided the excavator does so with reasonable care, using detection equipment, exploratory digging, or other acceptable means to locate underground facilities. Except as provided below, no demolition shall proceed until all underground facilities have been marked and either safeguarded or removed.

(b) If a member operator certifies that it does not have accurate information concerning the exact location of its underground facilities and provides the best information available, an excavator may proceed, provided that the excavation or demolition is performed with reasonable care and detection equipment, exploratory digging, or other acceptable means to locate underground facilities are used.

(Ord. No. 98-137, § 1, 9-15-98; Ord. No. 00-97, § 1, 7-25-00)

Sec. 21-225. Excavation procedures and installation of facilities.

(a) Excavators are prohibited from removing or destroying any markings used by a member operator to mark the horizontal route of an underground facility. If markings are no longer visible, the excavator shall stop activities in that vicinity and notify the State one-call notification system to have the route remarked.

(b) No excavator may excavate or engage in demolition where such excavation or demolition is substantially certain to result in damage to any underground facility; this section shall not preclude an excavator from engaging in exploratory digging. If an excavation or demolition causes damage to any existing underground facility, the excavator must cease excavation or demolition at that depth and immediately notify the affected utility.

(c) No new underground facility shall be installed in such a way that creates a conflict with an existing underground facility unless the excavator submits a permit drawing showing the existence of the conflict and this permit drawing is approved by the permitting agency, or, when the excavator discovers a conflict the existence of which the excavator was unaware of when the excavator applied for a permit, that excavator ceases excavation, immediately notifies the owner of the existing facility, and:

1. Takes such measures as are reasonable in the determination of the owner of the existing facility to prevent interference with the operation or maintenance of the existing facility, where the existing facility is a water or sewer facility owned, operated, or maintained by the County or a municipality; or

2. Consults with the owner of the existing facility to determine whether measures to prevent interference with the operation, or maintenance of the existing facility are reasonably necessary, if the existing facility is not a water or sewer facility owned, operated, or maintained by the County or a municipality; in the event that the excavator and the owner of the existing facility are not able to determine whether such measures are reasonably necessary, the permitting agency shall determine what measures are reasonably necessary to allow installation of the new facility.

If the owner of the existing facility does not respond to notification provided by an excavator under this section within twenty-four hours of such notification, the excavator shall be allowed to continue installation. All conflicts of which the excavator is aware of when applying for a permit shall be disclosed on the permit drawings; for the purposes of this subpart (c), a conflict which does not involve a water and sewer facility shall refer to twelve (12) and not twenty-four (24) inches. Nothing in this section shall empower any agency or person to approve any installation in violation of any state or federal statute, rule, or code.

(d) An excavator shall not engage in directional boring unless the equipment used for such directional boring allows the excavator to monitor the location of the excavator's bore-head, or equivalent equipment.

(Ord. No. 98-137, § 1, 9-15-98; Ord. No. 00-97, § 1, 7-25-00)

Sec. 21-226. Notification upon contact.

If any contact with or damage to any underground facility occurs, the excavator causing the contact or damage shall immediately notify the member operator and shall cease all activities that may cause further damage until such time as the contact or damage has been repaired.

(Ord. No. 98-137, § 1, 9-15-98)

Sec. 21-227. Enforcement by civil violation process.

Code inspectors are empowered to issue civil violation notices pursuant to [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of this Code for any violation of this ordinance, including the incorporated provisions of Chapter 556 Florida Statutes, and to order any excavator to stop work or to not start until there has been compliance with the notification, marking, and repair provisions of this ordinance. This authority exists in addition to that given law enforcement officers pursuant to Section 556.107, Florida Statutes.

(Ord. No. 98-137, § 1, 9-15-98)

Secs. 21-228—21-250. Reserved.

### ARTICLE XIV. ADULT GROUP HOMES [[10]](#BK_10419E3601E999B1EA9462594B224031)

[Sec. 21-251. Definitions.](#BK_97DF78A28EEF1073A331BD7D263B2C3E)

[Sec. 21-252. Legislative intent, findings and purposes.](#BK_BD9A6F9020758125CDDE26C989C1B45B)

[Sec. 21-253. Identification requirements.](#BK_1BCF652B6F13F62A933011A11B617E9D)

[Sec. 21-254. Signage requirements.](#BK_726763334680A82F7C8B1F8E800BCD4D)

Sec. 21-251. Definitions.

When used in this article:

(1) *Adult group home* shall mean a nursing home facility, adult congregate living facility or adult family-care home facility licensed pursuant to Chapter 400 of the Florida Statutes, Parts II, III and VII, respectively.

(2) *Incapacitated person* shall mean a person who has been judicially determined under Chapter 744 of the Florida Statutes to lack the "capacity to travel," "determine his (or her) residence" or "to make decisions about his (or her) social environment or other social aspects of his (or her) life."

(Ord. No. 94-211, § 1, 11-15-94)

Sec. 21-252. Legislative intent, findings and purposes.

(1) Adult group homes provide elderly persons and adults with disabilities alternative living arrangements to meet their special needs; and the Florida legislature in Chapter 400 of the Florida Statutes encourages group homes to provide for elderly persons and adults with disabilities "the least restrictive and most homelike environment to encourage the dignity, individuality, privacy, and decision-making ability of such persons;" and certain residents of adult group homes are mentally incapacitated such that they are unable to identify themselves or accurately communicate their place of residence; and these individuals pose a threat to themselves when they become lost and unable to find their way back to their residence; and an additional burden is placed on law enforcement and other county agencies in attempting to locate, care for and return these individuals to their residence; and this burden on the county is exacerbated by law enforcement or other county agencies' inability to readily locate the adult group home in the absence of an exact address; and the county desires to provide additional means for safeguarding the health, safety and welfare of these individuals while preserving their ability to function in a least restrictive environment; and for the benefit of these individuals, the county intends this ordinance to facilitate and encourage the use of a nonintrusive method of identification.

(2) The statements aforesaid made are declared to be the legislative intent, findings and purposes of the Board of County Commissioners and are hereby adopted and made a part hereof.

(Ord. No. 94-211, § 2, 11-15-94)

Sec. 21-253. Identification requirements.

(1) Each adult group home, within the incorporated and unincorporated areas of Miami-Dade County, shall provide to its incapacitated residents, who are not permanently bedridden, a form of identification which is easily observable, capable of being securely fastened to the incapacitated resident's person or clothing and capable of withstanding daily wear and tear for extended periods of time, including, but not limited to, an identification bracelet.

(2) The form of identification shall contain the name of the incapacitated person and the phone number and address of the adult group home in which the incapacitated person resides.

(3) The adult group home shall regularly ascertain whether the incapacitated resident continues to possess a form of identification in suitable condition and promptly replace lost or worn forms of identification as necessary.

(Ord. No. 94-211, § 3, 11-15-94)

Sec. 21-254. Signage requirements.

In addition to Health and Rehabilitative Services ("HRS") requirements and notwithstanding any other provisions of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Code of Miami-Dade County, Florida ("Code"), all adult group homes shall have at a minimum the term "Adult Congregate Living Facility" or "ACLF"; "Adult Family Care Home" or "AFC Home"; or "Nursing Home," as applicable, located on and oriented to the frontage on the street which provides actual and direct access to the front or principal entrance of the place of residence or facility in letters of no less than six (6) inches high and no more than what [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Code permits for the district in which the adult group home is located. All signs are required to comply with [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Code as otherwise stated.

(Ord. No. 94-211, § 4, 11-15-94)

FOOTNOTE(S):

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**Editor's note—** Ord. No. 94-211, adopted Nov. 15, 1994, amended the Code by the addition of provisions which have been included herein at the discretion of the editor as Art. XIV, §§ 21-251—21-254. [(Back)](#BK_130D4E3F84BF7F5ADCE98C2A9722E251)

**Cross reference—** Public welfare department, § 2-87 et seq.; County home for aged and infirm, § 2-89. [(Back)](#BK_130D4E3F84BF7F5ADCE98C2A9722E251)

### ARTICLE XV. FALSE CLAIMS ORDINANCE

[Sec. 21-255. Short title; purpose.](#BK_0872DA7B1CEFC525C682DC1E9A946DDE)

[Sec. 21-256. Definitions.](#BK_024CA768726CFEDE765D2DF45A42479D)

[Sec. 21-257. Certification of claims.](#BK_70AFAA8F6BB9C311A1342393CCE949EA)

[Sec. 21-258. Liability for false claims; penalties.](#BK_3E58C4A20718E298ECCF192A4163F349)

[Sec. 21-259. Civil actions for false claims.](#BK_E5678DE0B0DAD464E0E5AEE934247A33)

[Sec. 21-260. Rights of the parties in civil actions.](#BK_A5AF4F78391D5A24B7882EE72E2C04D5)

[Sec. 21-261. Awards to plaintiffs bringing action.](#BK_850D6C3CEBAF2D3A41F869CA612622CC)

[Sec. 21-262. Expenses; attorney's fees and costs.](#BK_73928718B041E227CA890941ADAC983D)

[Sec. 21-263. Exemptions to civil actions.](#BK_890B5745F9338A9DFCBA58DBB380C09C)

[Sec. 21-264. Protection for participating employees.](#BK_ABA43AD9D4599B5445CB26EE422CD167)

[Sec. 21-265. Burden of proof; presumption of false claim.](#BK_F7ACC34BE541476AFDF7E8ED21ED1019)

[Sec. 21-266. Innocent claimant affirmative defense.](#BK_8D453DFF3703804F53A75F63785FB679)

[Secs. 21-267—21-275. Reserved.](#BK_54866DDEFCA6BC732E086DCE339488B6)

Sec. 21-255. Short title; purpose.

(1) This article shall be known and may be cited as the Miami-Dade County False Claims Ordinance.

(2) The purpose of the Miami-Dade County False Claims Ordinance is to deter persons from knowingly causing or assisting in causing the County to pay claims that are false, fraudulent, or inflated, and to provide remedies for obtaining damages and civil penalties for the County when money is sought or obtained from the County by reason of a false claim.

(3) The provisions of this article are not exclusive, and the remedies provided for in this article shall be in addition to any other remedies provided for in any other law, or available under common law, or otherwise.

(4) This article shall be liberally construed and applied to promote the public interest.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-256. Definitions.

The following terms and phrases when used in this article shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(1) *Bid takeoff* means the final estimate, tabulation, or worksheet prepared by the contractor in anticipation of the bid submitted, and which shall reflect the final bid price.

(2) *Claim* means any invoice, statement, request, demand, lawsuit, or action under contract or otherwise, for money, property, or services made to any employee, officer, or agent of the County, or to any contractor, grantee, or other recipient if any portion of the money, property, or services requested or demanded was issued from, or was provided by, the County (hereinafter "County funds").

(3) *Claimant* means any person who brings, submits, files, maintains, or pursues a claim.

(4) *County* means the government of Miami-Dade County or any department, division, bureau, section, commission, planning agency, board, district, authority, agency, or instrumentality of the County, including the Miami-Dade County Public Health Trust.

(5) *Extended overhead* means the amount of a claim relating to an increase in overhead costs resulting from a delay in contract performance that is not compensated by a markup of direct costs.

(6) *Knowing* or *knowingly* means that a person, with respect to information:

(a) Has actual knowledge of the information;

(b) Acts in deliberate ignorance of the truth or falsity of the information; or

(c) Acts in reckless disregard of the truth or falsity of the information.

(7) *Overhead per diem* means the amount calculated by dividing the total overhead costs set forth in the final bid takeoff by the number of days for substantial completion of the work set forth in the contract.

(8) *Person* means any natural person, corporation, firm, association, organization, partnership, agency, limited liability company, business, or trust.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-257. Certification of claims.

(1) Upon the request of the County, the person submitting a claim shall, within thirty (30) days, including Saturdays, Sundays, and legal holidays, submit a certified claim as defined by this section. A "certified claim" shall be made under oath by a person duly authorized by the claimant, and shall contain a statement that:

(a) The claim is made in good faith;

(b) The claim's supporting data are accurate and complete to the best of the person's knowledge and belief;

(c) The amount of the claim accurately reflects the amount that the claimant believes is due from the County; and

(d) The certifying person is duly authorized by the claimant to certify the claim.

(2) Failure to provide the requested certification within the prescribed thirty (30) day period shall constitute a forfeiture of the entire claim.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-258. Liability for false claims; penalties.

(1) The following action(s) shall constitute a violation of this article:

(a) Any person who knowingly presents or causes to be presented to the County, or to any officer, employee, agent, or consultant of the County, a false or fraudulent claim for payment or approval;

(b) Any person who knowingly makes, uses, or causes to be made or used, a false record or statement to get a false, fraudulent, or inflated claim paid or approved by the County;

(c) Any person who conspires to defraud the County by facilitating the payment of a false, fraudulent, or inflated claim allowed or paid by the County;

(d) Any person who delivers, with the intent to defraud the County, goods or services of different quality or quantity than that specified in the applicable contract or specification;

(e) Any person who is authorized to make or deliver a document certifying receipt of property used, or to be used, by the County and, intending to defraud the County, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(f) Any person who knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer, employee, or agent of the County who lawfully may not sell or pledge the property; or

(g) Any person who knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the County.

(2) Any beneficiary of an inadvertent submission of a false claim to the County, who subsequently discovers the falsity of the claim, and who fails to disclose the falsity of the claim to the County within thirty (30) days of discovering the error, shall also be found to have submitted a false claim to the County.

(3) Any person found to have submitted a false claim to the County shall:

(a) Be liable to the County for an amount equal to three (3) times that part of the claim which is false, fraudulent, or inflated;

(b) Immediately, fully, and irrevocably forfeit the entire amount of the claim;

(c) Be liable to the County for all costs and fees (including, without limitation, reasonable legal, expert, and consulting fees) incurred by the County to review, defend, and evaluate the claim; and

(d) Be subject to debarment from County contracting for a period not to exceed five (5) years. Additionally, any person who certified a claim later found to be false shall be subject to debarment from County contracting for a period not to exceed five (5) years.

(4) Liability under this section shall be joint and several for any act committed by two (2) or more persons.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-259. Civil actions for false claims.

(1) The County Manager may investigate a violation under [Section 21-258](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-258LIFACLPE). If the County Manager finds that a person has violated or is violating [Section 21-258](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-258LIFACLPE), he or she may bring a civil action against the person on behalf of the County.

(2) A person may bring a civil action for a violation of [Section 21-258](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-258LIFACLPE) for the person and for the County. Civil actions instituted under this article shall be governed by the Florida Rules of Civil Procedure and shall be brought in the name of the County.

(a) The complaint shall be identified on its face as a qui tam action and shall be filed under seal in the circuit court of the Eleventh Judicial Circuit, in and for Miami-Dade County. Immediately upon filing of a complaint by a person, a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the County Manager by registered mail, return receipt requested. The County Manager may elect to proceed with the action, in lieu of the qui tam plaintiff, on behalf of the County, within one hundred eighty (180) days after he or she receives both the complaint and the material evidence and information.

(b) The County Manager, for good cause shown, may petition the court to extend the time during which the complaint remains under seal under subsection (a). Any such motion may be supported by affidavits or other submissions in camera. The defendant is not required to respond to any complaint filed under this section until twenty (20) days after the complaint is unsealed and served upon the defendant in accordance with law.

(c) Before the expiration of the one hundred eighty (180) day period or any extensions obtained under subsection (b), the County Manager shall:

i. Proceed with the action, in which case the action is conducted by the County Attorney on behalf of the County; or

ii. Notify the court that the County declines to take over the action, in which case the person bringing the action has the right to conduct the action.

(d) When a person files an action under this section, no person other than the County Manager on behalf of the County may intervene or bring an action under this article based on the facts underlying the pending action.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-260. Rights of the parties in civil actions.

(1) If the County Manager, on behalf of the County, elects to proceed with the action, he or she has the primary responsibility for prosecuting the action, and is not bound by any prior or subsequent act(s) of the person bringing the action. The County may also voluntarily dismiss the action notwithstanding the objections of the person bringing the action.

(2) If the County Manager elects not to proceed with the action, the person bringing the action has the right to conduct the action. If the County Manager so requests, he or she shall be served with copies of all pleadings and motions filed in the action and copies of all deposition transcripts. When the person bringing the action proceeds with the claim, the court may permit the County to take over the action on behalf of the County at a later date upon a showing of good cause.

(3) Nothing in this article shall be construed to limit the authority of the County or the qui tam plaintiff, proceeding pursuant to [Section 21-259](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-259CIACFACL)(2), to compromise a claim brought in a complaint filed under this article if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-261. Awards to plaintiffs bringing action.

(1) If the County proceeds with and prevails in an action brought by a person under this article, except as provided in subsection (2), the court shall order the distribution to the person of ten (10) percent of the proceeds recovered under any judgment obtained by the County in an action under [Section 21-258](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-258LIFACLPE) or of the proceeds of any settlement of the claim.

(2) If the County proceeds with an action which the court finds to be based primarily on disclosures of specific information, other than that provided by the person initiating the action, relating to allegations or transactions in a criminal, civil, or administration hearing; a legislative, administrative, or inspector general report, hearing, audit, or investigation; or from the news media, the court may award such sums as it considers appropriate, but in no case more than five (5) percent of the proceeds recovered under a judgment or received in settlement of a claim under this article, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(3) If the County does not proceed with an action under this article, the person bringing the action or settling the claim shall receive twenty-five (25) percent of the proceeds recovered under a judgment rendered in an action under this article or in settlement of a claim under this article.

(4) Any payment under this section to the person bringing the action shall be paid only out of the proceeds recovered from the defendant.

(5) Whether or not the County proceeds with the action, if the court finds that the action was brought by a person who planned, initiated, or furthered the violation of [Section 21-258](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-258LIFACLPE) upon which the action was brought, the person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the County to continue the action.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-262. Expenses; attorney's fees and costs.

(1) If the County initiates an action under this article or assumes control of an action brought by a person under this article, and the County prevails in such action, the County shall be awarded its reasonable attorney's fees, expenses, and costs.

(2) If the court awards the person bringing the action proceeds under this article, the person shall also be awarded an amount for reasonable attorney's fees and costs. Payment for reasonable attorney's fees and costs shall be made from the recovered proceeds before the distribution of any award.

(3) If the County does not proceed with an action under this article and the defendant is the prevailing party, the court shall award the defendant reasonable attorney's fees and costs against the person bringing the action.

(4) No liability shall be incurred by the County for any expenses, attorney's fees, or other costs incurred by any person in bringing or defending an action under this article, except as otherwise specifically provided by law.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-263. Exemptions to civil actions.

(1) In no event may a person bring an action under [Section 21-258](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-258LIFACLPE) based upon allegations or transactions that are the subject of a civil action or an administrative proceeding in which the County is already a party.

(2) No court shall have jurisdiction over an action brought under this article based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing; in a legislative, administrative, or inspector general report, hearing, audit, or investigation; or from the news media, unless the action is brought by the County, or unless the person bringing the action is an original source of the information. For purposes of this subsection, the term "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the County Manager before filing an action under this article based on the information.

(3) No court shall have jurisdiction over an action where the person bringing the action under [Section 21-258](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-258LIFACLPE) is:

(a) Acting as an attorney for the County; or

(b) An employee or former employee of the County,

and the action is based, in whole or in part, upon information obtained in the course or scope of County employment.

(4) No court shall have jurisdiction over an action where the person bringing the action under [Section 21-258](../level3/PTIIICOOR_CH21OFMIPR_ARTXVFACLOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVFACLOR_S21-258LIFACLPE) obtained the information from an employee or former employee of the County.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-264. Protection for participating employees.

Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms or conditions of employment by his or her employer because of lawful acts done by the employee in furtherance of an action under this article, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this article, shall have a cause of action under Florida Statutes, Section 112.3187.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-265. Burden of proof; presumption of false claim.

(1) Whenever practicable, bid specifications for County contracts shall contain a requirement that the successful bidder maintain, as a condition precedent to submitting a claim against the County, a final bid takeoff. The final bid takeoff shall contain a line item for allocation of overhead costs.

(2) Upon request from the County, a contractor making a claim against the County for delay or other damages shall submit, within twenty (20) days, a copy of the final bid takeoff, certified pursuant to this subsection. Failure to provide the requested certification shall constitute a forfeiture of the claim for delay or other damages. The certification shall be submitted under oath by a person duly authorized by the claimant and shall contain a statement that:

(a) The final bid takeoff was prepared contemporaneously with the bid and in anticipation of the bid for the project;

(b) The contractor relied on the final bid takeoff to prepare the bid and the original schedule of values; and

(c) The final bid takeoff has not been altered in any way.

(3) Any claim for extended overhead costs that exceeds, on a per diem basis, more than ten (10) percent of the overhead per diem contained in the final bid takeoff shall be presumed to be a false claim, and the contractor shall have the burden of proving that any such claim for extended overhead is not false.

(Ord. No. 99-152, § 1, 11-2-99)

Sec. 21-266. Innocent claimant affirmative defense.

The provisions of this article shall not apply if the claimant can demonstrate by a preponderance of the evidence each of the following facts:

(1) The claimant submitted or caused to have submitted the claim to or against the County reasonably believing that such claim was free of any material misstatements, or any exaggerated, inflated, or unsubstantiated assertions or damages;

(2) The claimant had no reasonable basis to doubt the truth, veracity, or accuracy of such claim at the time it was submitted;

(3) Prior to submitting the claim, the claimant diligently investigated the facts underlying such claim and prepared the claim in a reasonable manner given all the relevant information available; and

(4) When information indicating that any element, statement, or allegation in the claim was false or misleading first became available, such claimant, within five (5) business days of discovering the falsity of the claim, took immediate steps to modify, correct, or withdraw such claim and provided the County with immediate notice thereof.

(Ord. No. 99-152, § 1, 11-2-99)

Secs. 21-267—21-275. Reserved.

### ARTICLE XVI. BURGLAR ALARMS [[11]](#BK_855B3A7497ED334FDDE9A9C8942A249B)

[Sec. 21-276. Burglar alarms.](#BK_097760DD06A7622D35098CE42B5C4FE3)

Sec. 21-276. Burglar alarms.

(1) *Purpose of regulations.* The purpose of this section is to place responsibility on the alarm user to prevent, by use of appropriate mechanical, electrical, or other means, false burglar alarms.

(2) *Scope of regulations.* This section will apply to unincorporated Miami-Dade County.

(3) *Definitions.*

(a) *Alarm company* means any person engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring any alarm system or causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed in, or on, any building, structure or facility. An alarm company and/or alarm monitoring company shall be properly licensed in accordance with Chapter 489, Florida Statutes. An alarm company shall have an appropriate occupational license pursuant to state statute, Chapter 489, Part II.

(b) *Alarm user* means any person or other entity that owns, possesses, controls, occupies, or manages any premises as defined below.

(c) *Burglar alarm system* means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which the Police Department may reasonably be expected to respond, but does not include fire alarms or alarms installed in motor vehicles. If a fire alarm system is connected to a burglar alarm system, this section shall not apply to false alarms that the alarm user proves were generated by the fire alarm portion of the system.

(d) *False burglar alarm* means a signal from a burglar alarm system that elicits a response by the Police when no emergency or actual or threatened criminal activity requiring immediately response exists. This definition includes signals activated by negligence, accident, mechanical failure, and electrical failure; signals activated intentionally in nonemergency situations; and signals for which the actual cause of activation is unknown. It is a rebuttable presumption that a burglar alarm is false if personnel responding from the Police Department do not discover any evidence of unauthorized entry, criminal activity, or other emergency after following normal Police procedures in investigating the incident. An alarm is not false if the alarm user proves that (1) an individual activated the alarm based upon a reasonable belief that an emergency or actual or threatened criminal activity requiring immediate response existed; or (2) the alarm system was activated by lightning or an electrical surge that caused physical damage to the system, as evidenced by the testimony of a licensed alarm system contractor who conducted an on-site inspection and personally observed the damage to the system; or (3) if the user experienced a power outage of four or more hours, causing the alarm to activate upon restoration of power, as evidenced by written documentation provided by Florida Power and Light Company or other applicable provider.

(e) *Premises* means the building or structure or portion of a building or structure upon which is installed or maintained a burglar alarm system.

(4) *Registration of alarm system and fee.*

(a) *Registration of burglar alarm systems.* All burglar alarm systems which operate at locations within the unincorporated area of Miami-Dade County shall be registered with the Miami-Dade Police Department by the user. The user shall complete and submit to the MDPD an initial registration or an annual registration renewal with the appropriate fee. Initial registration shall be necessary to register any system which is not currently registered with the Department or upon a change in the user of an alarm.

(b) *Annual registration fee.* Effective with registrations for registration periods beginning on or after January 1, 2002, there shall be an annual registration fee of twenty-five dollars ($25.00) for all alarm registrations. Separate alarm systems require separate registrations. The registration period will be for one year. Upon renewal for registration periods beginning on or after January 1, 2003, the fee will be waived if the burglar alarm system has had no false burglar alarms requiring police dispatch during the prior registration period.

(c) *Change in registration information.* In the event of a change in any of the information required as part of the initial or annual registration, the user shall notify the Miami-Dade Police Department of the change. An updated registration shall be filed within ten (10) days of any change.

(d) *Application of funds.* Funds collected under this section shall be applied to the operational costs and enforcement of this ordinance, to reduce the number of false alarms received by Miami-Dade County, and to reduce the time spent by Miami-Dade Police handling false alarm calls.

(5) *Required equipment in a burglar alarm.* A burglar alarm user shall not use a burglar alarm system unless that burglar alarm system is equipped with:

(a) A backup power supply that will become effective in the event of power failure or outage; and

(b) A device that automatically silences the alarm within fifteen (15) minutes after activation.

(6) *Alarm Companies Responsibilities.*

(a) It shall be the responsibility of any licensed person selling and/or monitoring any alarm system to provide the user with the registration form and the Miami-Dade County Burglar Alarm Ordinance Information form. The registration form provided to the user shall include the said person's name, address, and State of Florida burglar alarm contractor's license number as required on the registration form. An alarm company may not charge a customer a fee, other than the required registration fee, to register any alarm system with Miami-Dade County. A copy of the current/valid contractor's license must be on file with the Miami-Dade County Police Department.

(b) Any person within the unincorporated area of Miami-Dade County which sells burglar alarm systems to a potential user must include a copy of the Miami-Dade Burglar Alarm Ordinance Information form and registration form and with each system sold.

(c) Any person testing and/or working on an alarm system shall promptly cancel any activation so that police will not be dispatched.

(7) *Alarm verification calls required.* All residential or commercial intrusion/burglar alarms, that have central monitoring, must have a central monitoring verification call made to the premises generating the alarm signal, prior to alarm monitor personnel contacting the Miami-Dade Police Department for dispatch. This does not apply to panic or holdup type alarms. Alarm monitoring companies will make available to the Miami-Dade Police Department upon request, records providing proof that the monitoring company made the verification calls.

(8) *Cancelling false burglar alarm calls.* Alarm monitoring companies shall notify the Metro-Dade Police Department to cancel dispatches to alarm calls the company initiated within ten (10) minutes of being notified that the alarm is false by the alarm user or his authorized representative. However, Police will not cite the company for failure to meet the ten-minute criterion if notification of a false alarm is received before an Officer arrives on the scene. Alarm monitoring companies will make available to the Miami-Dade Police Department records providing proof that the police department was contacted within the ten-minute criterion. An emergency line has been provided by the Miami-Dade Police Department to call in and/or cancel panic or holdup type alarms. Use of this line for non-emergency alarm calls is prohibited.

(9) *False burglar alarms prohibited.* No burglar alarm user shall cause, allow, or permit the burglar alarm system to give four (4) or more false alarms in any registration period.

(10) *Penalties.*

(a) Each violation of this section shall be punished as follows:

1. For a first violation of Sections [21-276](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIBUAL.docx#PTIIICOOR_CH21OFMIPR_ARTXVIBUAL_S21-276BUAL)(4) or (5), by a fine of fifty dollars ($50.00).

2. For a second and each additional violation of Sections [21-276](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIBUAL.docx#PTIIICOOR_CH21OFMIPR_ARTXVIBUAL_S21-276BUAL)(4) or (5), by a fine of one hundred dollars ($100.00).

3. For the fourth false burglar alarm in the user's registration period, by a fine of fifty dollars ($50.00).

4. For the fifth false burglar alarm in the user's registration period, by a fine of one hundred dollars ($100.00).

5. For the sixth and each additional false burglar alarm in the user's registration period, by a fine of two hundred dollars ($200.00).

6. For each violation of [Section 21-276](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIBUAL.docx#PTIIICOOR_CH21OFMIPR_ARTXVIBUAL_S21-276BUAL)(6), (7) or (8), by a fine of one hundred dollars ($100.00).

All citations for violations set forth in this section shall be issued, and may be appealed, in accordance with, and shall be governed by the procedures set forth in [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Miami-Dade County Code.

(b) An alarm user shall not be fined more than two hundred dollars ($200.00) for false alarms that occur at the same premises in any twenty-four-hour period.

(c) No penalty specified hereunder shall be imposed or assessed against any entity that qualifies as tax exempt under the provisions of Section 501(c)(3) of the Internal Revenue Code provided that the premises is used exclusively by said entity for such tax exempt purposes.

(11) *Notification of false alarms.* It is the responsibility of each alarm user to monitor the occurrences of false alarms on its premises. The Metro-Dade Police Department shall notify the alarm user of each false alarm. Such notice shall be provided by posting a notice on the premises; or by mailing notice to the alarm user.

(12) *Limitations to Police response.*

(a) Police are not required to respond:

1. To burglar alarms at locations where six (6) or more false alarms occurred in the user's registration period. After sustaining the first Police response termination in a registration period for accruing six (6) false alarms, the alarm user will sustain subsequent response terminations for every three (3) additional false alarms occurring in the same registration period;

2. To burglar alarms at locations where a burglar alarm fine was not paid within sixty (60) days of a civil violation notice; or

3. To locations where required alarm registration information was not filed within thirty (30) days of a civil violation notice for failure to file alarm information.

(b) Nothing herein shall:

1. Preclude the Police Department from responding to panic or am-bush alarm signals, calls describing emergencies or crimes in progress, or routine calls for service;

2. Limit the Police Department from issuing civil violation notices for alarms in violation of this ordinance; or

3. Be construed to create a duty to respond in any circumstances where such a duty does not exist pursuant to the statutory or common law of Florida.

(c) A notice that Police response will be discontinued, for any of the above reasons, will accompany a civil violation notice, be posted at the affected location, or be sent to the user by certified mail at least thirty (30) days prior to discontinuing service.

(d) Police response will continue while an appeal is pending under [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County, for a civil violation notice issued for violation of [Section 21-276](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIBUAL.docx#PTIIICOOR_CH21OFMIPR_ARTXVIBUAL_S21-276BUAL)

(13) *Restoring Police response to terminated locations.* To regain Police response to burglar alarms at terminated locations, the alarm user must:

(a) When Police response has been discontinued pursuant to [Section 21-276](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIBUAL.docx#PTIIICOOR_CH21OFMIPR_ARTXVIBUAL_S21-276BUAL)(10)(a)1., submit a written report from a licensed burglar alarm company certifying that the system has been inspected, repaired if required, and that it is functioning properly. In addition, the alarm user must pay all outstanding burglar alarm ordinance fines;

(b) When Police response has been discontinued pursuant to [Section 21-276](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIBUAL.docx#PTIIICOOR_CH21OFMIPR_ARTXVIBUAL_S21-276BUAL)(12)a.2., submit burglar alarm registration information and pay all outstanding burglar alarm ordinance fines.

(14) *Enforcement.* In addition to all remedies otherwise available, this section shall be enforced by the code enforcement provisions of [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County.

(Ord. No. 88-45, § 1, 5-17-88; Ord. No. 91-122, § 1, 10-1-91; Ord. No. 00-175, § 2, 12-19-00)

**Cross reference—** False alarms and reports, § 21-24; obstructing or interfering with fire and police alarm systems, § 21-25.34

FOOTNOTE(S):

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**Editor's note—** The provisions of Ord. No. 88-45, § 1, adopted May 17, 1988, did not specifically amend this Code. Hence, inclusion of the provisions of said ordinance as article XVI, section 21-276 was at the discretion of the editor. [(Back)](#BK_90D0F5D88ED844FF44CAC69B9BE15110)

### ARTICLE XVII. THE LAUREN BOOK CHILD SAFETY ORDINANCE [[12]](#BK_41E2F047BF246036AE6D09516436C100)

[Sec. 21-277. Title.](#BK_29ED17F4B2A8B9662DB9DBA07F28B9BE)

[Sec. 21-278. Findings and Intent.](#BK_1FDE7CED24AE6C23F388322F1DCE5887)

[Sec. 21-279. Applicability.](#BK_5852C76D5AF5900ED7C18A8C7D2AF7F1)

[Sec. 21-280. Definitions.](#BK_60795B8326FAF0CB4BD27BF5D94F31DF)

[Sec. 21-281. Sexual Offender and Sexual Predator Residence Prohibition; Penalties.](#BK_0AB7E060B3FA98AB3C55413F47274B18)

[Sec. 21-282. Exceptions.](#BK_EC22B87FAF1BE656D79F14F495007026)

[Sec. 21-283. Property Owners or Lessors Prohibited from Renting Real Property to Certain Sexual Offenders or Sexual Predators; Penalties.](#BK_5AD2EEAA215B71109F7BA208C3CB3003)

[Sec. 21-284. Sexual Offender and Sexual Predator Access to Parks and Child Care Facilities Restricted; Penalties.](#BK_609AFD53BCC7D8BF2FC2A73D941B7173)

[Sec. 21-285. Loitering or prowling in child safety zone; penalties.](#BK_B27B6BBB25E021CE434ADD6F32678F63)

Sec. 21-277. Title.

Article XVII shall be known and may be cited as "The Lauren Book Child Safety Ordinance."

(Ord. No. 05-206, § 2, 11-15-05; Ord. No. 10-67, § 2, 10-5-10)

Sec. 21-278. Findings and Intent.

(a) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses. Most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The intent of this article is to serve the County's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the County, particularly children, by prohibiting sexual offenders and sexual predators from establishing temporary or permanent residence in certain areas where children are known to regularly congregate, to prohibit renting or leasing certain property to sexual offenders or sexual predators if such property is located where children are known to regularly congregate and to restrict sexual offenders' and sexual predators' access to parks and child care facilities.

(Ord. No. 05-206, § 2, 11-15-05)

Sec. 21-279. Applicability.

(a) This article shall be applicable to the incorporated and unincorporated areas of Miami-Dade County.

(b) This article shall be applicable in all municipalities in Miami-Dade County on the effective date of this ordinance. All municipal ordinances in Miami-Dade County establishing sexual offender or predator residency restrictions are hereby preempted and shall stand repealed.

(Ord. No. 05-206, § 2, 11-15-05; Ord. No. 10-01, § 2, 1-21-10)

Sec. 21-280. Definitions.

The following terms and phrases when used in this article shall have the meanings ascribed to them in this section unless the context otherwise requires:

(1) "Child" or "children" means any person(s) less than sixteen (16) years of age.

(2) "Child care facility" means day nurseries, and family day care homes, licensed by the Department of Children and Families, and as defined in [Section 33-151.11](../level3/PTIIICOOR_CH33ZO_ARTXAEDCHCAFANO.docx#PTIIICOOR_CH33ZO_ARTXAEDCHCAFANO_S33-151.11APDE) of the Code.

(3) "Child safety zone" means an area three hundred (300) feet extending from schools, child care facilities, parks, and school bus stops measured in a manner similar to the measurement of the residency restriction area provided in this ordinance.

(4) "Convicted" or "conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to: a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(5) "Legal guardian" or "guardian" shall mean biological or adoptive parent of a child registered at a child care facility or a person who is responsible for the care and maintenance of said child pursuant to Florida Statutes or similar laws of another jurisdiction.

(6) "Park" means a County or municipal park excluding a park that includes a shooting range.

(7) "Permanent residence" means a place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.

(8) "Reside" or "residence" means to have a place of permanent residence or temporary residence.

(9) "School" means a public or private kindergarten, elementary, middle or secondary (high) school.

(10) "Sexual offender" shall have the meaning ascribed to such term in Section 943.0435, Florida Statutes.

(11) "Sexual offense" means a conviction under Section 794.011, 800.04, 827.071, 847.0135(5) or 847.0145, Florida Statutes, or a similar law of another jurisdiction in which the victim or apparent victim of the sexual offense was less than sixteen (16) years of age, excluding Section 794.011(10), Florida Statutes.

(12) "Sexual predator" shall have the meaning ascribed to such term in Section 775.21, Florida Statutes.

(13) "Temporary residence" means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

(Ord. No. 05-206, § 2, 11-15-05; Ord. No. 10-01, § 2, 1-21-10)

Sec. 21-281. Sexual Offender and Sexual Predator Residence Prohibition; Penalties.

(a) It is unlawful for any person who has been convicted of a violation of Section 794.011 (sexual battery), 800.04 (lewd and lascivious acts on/in presence of persons under age 16), 827.071 (sexual performance by a child), 847.0135(5) (sexual acts transmitted over computer) or 847.0145 (selling or buying of minors for portrayal in sexually explicit conduct), Florida Statutes, or a similar law of another jurisdiction, in which the victim or apparent victim of the offense was less than sixteen (16) years of age, to reside within 2,500 feet of any school.

(b) The 2,500-foot distance shall be measured in a straight line from the outer boundary of the real property that comprises a sexual offender's or sexual predator's residence to the nearest boundary line of the real property that comprises a school. The distance may not be measured by a pedestrian route or automobile route, but instead as the shortest straight line distance between the two points.

(c) *Penalties.* A person who violates [section 21-281](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-281SEOFSEPRREPRPE)(a) herein shall be punished by a fine not to exceed $1,000.00 or imprisonment in the County jail for not more than 364 days or by both such fine and imprisonment.

(Ord. No. 05-206, § 2, 11-15-05; Ord. No. 10-01, § 2, 1-21-10)

Sec. 21-282. Exceptions.

(1) A sexual offender or sexual predator residing within 2,500 feet of any school does not commit a violation of this section if any of the following apply:

(a) The sexual offender or sexual predator established a residence prior to the effective date of this ordinance. The sexual offender or sexual predator shall not be deemed to have established a residence or registered said residence for purposes of this section, if the residence is an illegal multifamily apartment unit within a neighborhood zoned for single-family residential use.

(b) The sexual offender or sexual predator was a minor when he or she committed the sexual offense and was not convicted as an adult.

(c) The school was opened after the sexual offender or sexual predator established the residence.

(2) [Section 21-282](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-282EX)(1)(a) and (1)(c) herein shall not apply to a sexual offender or sexual predator who is convicted of a subsequent sexual offense as an adult after residing at a registered residence within 2,500 feet of a school.

(Ord. No. 05-206, § 2, 11-15-05; Ord. No. 10-01, § 2, 1-21-10)

Sec. 21-283. Property Owners or Lessors Prohibited from Renting Real Property to Certain Sexual Offenders or Sexual Predators; Penalties.

(a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this Article of the Code, if such place, structure, or part thereof, trailer or other conveyance, is located within 2,500 feet of a school. Knowingly renting to a sexual offender or predator shall include, but shall not be limited to, renting or leasing a residence after being notified that the prospective renter, lessee or adult resident is a sexual offender or predator as defined in this ordinance.

(b) Prior to letting, renting or leasing any place, structure, or part thereof, trailer or other conveyance for use as a permanent or temporary residence that is located within 2,500 feet of a school, and annually thereafter if a rental agreement is entered into, the owner or lessor shall obtain confirmation of a nationwide search from the Miami-Dade County Police Department or other law enforcement agency that the prospective renter, lessee or adult resident is not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense as defined in [section 21-280](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-280DE) herein. A person may call the Miami-Dade County Answer Center (311) to obtain assistance or referrals to determine whether a prospective renter, lessee or adult resident is a sexual offender or predator and to determine whether a residence is 2,500 feet, from a particular school.

(c) *Penalties.*

(1) A person who violates [section 21-283](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-283PROWLEPRREREPRCESEOFSEPRPE)(a) herein shall be punished by a fine not to exceed $500.00 or imprisonment in the County jail for not more than 60 days, or both such fine and imprisonment. A person who is convicted of a second or subsequent violation of [section 21-283](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-283PROWLEPRREREPRCESEOFSEPRPE)(a) herein shall be punished by a fine not to exceed $1,000.00 or imprisonment in the County jail for not more than 364 days, or by both such fine and imprisonment.

(2) A person who violates [section 21-283](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-283PROWLEPRREREPRCESEOFSEPRPE)(b) herein shall be punished by a civil penalty of five hundred dollars ($500.00) in the manner established by [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of this Code. Each day of violation or noncompliance shall constitute a separate offense.

(Ord. No. 05-206, § 2, 11-15-05; Ord. No. 10-67, § 2, 10-5-10)

Sec. 21-284. Sexual Offender and Sexual Predator Access to Parks and Child Care Facilities Restricted; Penalties.

(a) It is unlawful for a sexual offender or sexual predator convicted of a sexual offense, as defined in [section 21-280](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-280DE), to knowingly be present in a County or municipal park, when a child under the age of sixteen (16) years is present, unless the sexual offender or sexual predator is the parent or legal guardian of a child present in the park.

(b) Signage at the entrance of County and municipal parks shall include notification that a person convicted of a sexual offense, as defined in [section 21-280](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-280DE) herein, shall not be present in a park when a child under the age of sixteen (16) years is present, unless the sexual offender or sexual predator is the parent or guardian of a child present in the park.

(c) It is unlawful for a sexual offender or sexual predator convicted of a sexual offense, as defined in [section 21-280](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-280DE), to knowingly enter or remain in a child care facility ("facility") or on its premises unless the sexual offender or sexual predator:

(1) Is dropping off or picking up a child registered at the facility and is the parent or legal guardian of said child; and

(2) Remains under the supervision of a facility supervisor or his or her designee while on the facility premises.

(d) *Penalties.* A person who violates [section 21-284](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-284SEOFSEPRACPACHCAFAREPE)(a) or (c) herein shall be punished by a fine not to exceed $500.00 or imprisonment in the County jail for not more than 60 days, or by both such fine and imprisonment. A person who is convicted of a second or subsequent violation of [section 21-284](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-284SEOFSEPRACPACHCAFAREPE)(a) or (c) herein shall be punished by a fine not to exceed $1,000.00 or imprisonment in the County jail for not more than 364 days, or by both such fine and imprisonment.

(Ord. No. 05-206, § 2, 11-15-05; Ord. No. 10-67, § 2, 10-5-10)

Sec. 21-285. Loitering or prowling in child safety zone; penalties.

(a) It is unlawful for any sexual offender or sexual predator:

(1) To loiter or prowl with the intent to commit a sexual offense as listed in [Section 21-280](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-280DE) of this article;

(2) While knowingly within a child safety zone when children are present; and

(3) To engage in overt conduct that, under the circumstances, manifests an intent to commit a sexual offense as listed in [Section 21-280](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-280DE) of this article.

(b) Conduct which may, under the circumstances, be deemed adequate to manifest an intent to commit a sexual offense as listed in [Section 21-280](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-280DE) of this article includes, but is not limited to, conduct such as the following:

(1) Making sexual conversation or sexual remarks to a child;

(2) Making lewd or sexual gestures to a child, or exposing sexual organs to a child;

(3) Giving gifts of candy, money, music, or other items to a child to which he or she is not related or acquainted.

(c) Unless flight by the sexual offender or sexual predator or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the sexual offender or predator an opportunity to explain his or her presence and conduct. No sexual offender or predator shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it is proven at trial that the explanation given by the sexual offender or predator is true, and that the sexual offender or predator had no intent to commit a sexual offense.

(d) As used in this section a sexual offender or predator is related to a child if he or she is the father, mother, step-father, step-mother, grandparent, sibling, cousin, aunt, uncle or resides with the child. As used in this section a sexual offender or predator is acquainted with a child if he or she has been introduced to the child in the presence of an adult with legal authority to supervise the child.

(e) Penalties. A person who violates [Section 21-285](../level3/PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR.docx#PTIIICOOR_CH21OFMIPR_ARTXVIITHLABOCHSAOR_S21-285LOPRCHSAZOPE)(a) herein shall be punished by a fine not to exceed $500.00 or imprisonment in the County jail for not more than 60 days or by both fine and such imprisonment.

(f) This provision is not intended to limit or affect the applicability of any general loitering and prowling statutes to sexual offenders or predators, including, but not limited to, F.S. § 856.021.

(Ord. No. 10-01, § 3, 1-21-10; Ord. No. 10-67, § 2, 10-5-10)

FOOTNOTE(S):

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**Editor's note—** Section 2 of Ord. No. 10-67, adopted Oct. 5, 2010, retitled Art. XVII, The Miami-Dade County Sexual Offender and Sexual Predator Ordinance, to read as herein set out. [(Back)](#BK_5551FCFCAB85BF04EFB59F815D8B7CA0)

### ARTICLE XVIII. PROHIBITION ON OVERNIGHT CAMPING

[Sec. 21-286. Prohibition on overnight camping.](#BK_8EF6ADDC7F8B7D16297B34ED8D0984B0)

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 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.

(Ord. No. 12-114, § 1, 12-18-12)