



To: Abigail Price-Williams, County Attorney for the City of Miami-Dade County

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables MSK

RE: Legal Opinion Regarding the Legality of the City of Coral Gables Traffic and Vehicles Ordinances

Date: October 19, 2018

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On May 8, 2018 the City of Coral Gables ("City") Commission adopted Ordinance Nos. 2018-16 and 2018-17 with the intent of assuming responsibility for the entire parking fine and collection process from Miami-Dade County ("County"). The intention is to allow for a higher standard for parking in the City and provide for the entire process (ticket issuance through consideration of any appeal and collection) to be performed by the City rather than in conjunction with the County.

It is important to address how the relationship between the City and the County currently works. Presently, the City of Coral Gables Parking Department enforces the County Code throughout the City. The City issues the citations, maintains the meters, sets parking rates for on and off street parking in the City, and has the discretion to void parking tickets independently from the County. Tickets and fines are paid through the County and a portion of the fine is then returned to the City. The City has multiple agreements with the Parking Violations Bureau and the County in order to accomplish this. Municipalities individually contract with the County for shared equipment and share scofflaw information with each other. As the October 17<sup>th</sup> memorandum correctly states, municipalities enter into inter-local agreements to implement the current arrangement, and the agreements provide for termination upon sufficient notice. Additionally, the City has agreements with the County as to ADA parking fine reimbursements and crossing guard funds. The City also designates residential permit zones independently from the County and erects signs setting time limits and prohibiting parking. The City waives on-street parking fees for special events, removes on-street parking spaces, and collects fees for lost spaces when developments require the use of those spots. The City has not only a regulatory, but a proprietary, interest in regulating it's on and off-street parking. The setting and collecting of fines for violating those regulations clearly sits with the City. While currently the County Parking Violations Bureau handles appeals of citations, and the distribution of fines, it is the City itself who is enforcing parking restrictions, and the City would continue to do so following the City's proposed assumption of full responsibility over parking in Coral Gables.

**Section 1.01(A)(1) of the County Charter and the County's Traffic Code**

The October 17<sup>th</sup> memorandum relies largely on Section 1.01(A)(1) of the Miami-Dade County Charter ("County Charter") to conclude that the City's proposed assumption over

parking is impermissible. In reaching its conclusion, the memorandum asserts that parking enforcement is preempted to the County under the Miami-Dade County Home Rule Charter, and the Miami-Dade County Code. However, the memorandum fails to address Section 6.02 of the Miami-Dade County Charter (“County Charter”) as well as binding case law that is more recent than *Miami Shores Village v. Cowart*, 108 So.2d 468 (Fla. 1959).

The County Charter grants the Board of County Commissioners (BCC) authority to regulate roads and “develop and enforce master plans for the control of traffic and parking.” Section 1.01(A)(1), County Charter. The County thereby has authority to plan for and control traffic. This was recognized in *Cowart*, although on a narrower question. Notably, however, *Cowart* was decided before relevant provisions of Florida Statutes Chapter 316, which granted municipalities significant authority over local roads, and the Municipal Home Rule Powers Act were adopted. Section 1.01(a)(1) does not grant the County exclusive jurisdiction over local roads. Even under the *Cowart* opinion, localities can exercise a higher degree of control over local roads based on the “federated system” that the County Charter established. In fact, the City has worked closely with the County multiple times on issues regarding the City’s local roads and the City has provided higher standards of zoning, service, and regulation than the County on the City’s local roads.<sup>[1]</sup>

The memorandum also states that the County Traffic Code, Chapter 30 of the Miami-Dade County Code, preempts the City from adopting its own parking code and enforcing the same. Section 30-203 of the County Code states that any municipal ordinances related to the regulation of “traffic and its enforcement” are superseded, but makes no reference to parking, a distinction which *is* made in the County Charter. In fact many portions of the Traffic Code, which does not appear to have been substantially updated in the past three decades, have been superseded and preempted by state law. Nothing in the County Traffic Code prohibits the City of Coral Gables from enforcing its own parking ordinances. Moreover, the County’s power over traffic and parking is read *in pari materia* with Section 6.02 of the Charter, which is both a *limit on County power and a grant of municipal power*.

### **Section 6.02 of the County Charter and Municipal Police Powers**

Section 6.02 of the County Charter guarantees municipalities the ability to provide “higher standards of zoning, **service**, and **regulation** than those provided by the BCC in order that its individual character and standards may be preserved for its citizens.” (emphasis added). Thus, Section 6.02 allows the County to set minimum countywide standards while providing the City the option of setting higher standards within its boundaries. Section 6.02 of the County Charter was also interpreted broadly to prevent County preemption of municipalities in *Miami-Dade County v. The Village of Pinecrest*, 994 So. 2d 456 (Fla. 3d DCA 2008). This supports the City’s position that it should have greater authority over parking.

In *Pinecrest*, which dealt with a ballot question regarding the municipality’s desire to provide its own fire and rescue services, the County argued that Section 6.02 of the Charter merely allowed a municipality to contract with the Miami-Dade County Fire and Rescue District for delivery of additional fire and rescue services. In response to this contention, the court wrote, “This is not so. With regard to fire and rescue services, section 6.02 must-and-does mean municipalities have a right to provide service independently of those services provided by the County.” Additionally the opinion states, “**it is clear section 6.02 affords municipalities with the right to provide some alternative level of independent services.**” The memorandum also cites to *City of Coral Gables v. Dade County*, 189 So. 2d 530 (Fla. 1966) for the proposition that

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<sup>[1]</sup> Examples include the City’s play street ordinance, implementation of a 25 mph speed limit on local residential roads, and corresponding signage.

a Miami-Dade County countywide regulation can supersede municipal authority to enact similar regulations. The *Pinecrest* decision cites to *City of Coral Gables v. Burgin*, 143 So. 2d 859, 861 (Fla. 1962), which addressed the same regulations to those in *City of Coral Gables v. Dade County*. The court in *Burgin* stated that the regulation of the plumbing is not a matter so peculiar to the city as to justify purely local regulations in its ruling for the County. In contrast, parking is peculiarly local to the City of Coral Gables.

Additionally, independent from the County Charter, the City has the ability and authority to adopt remedial measures under the general police power to address specific public nuisances or other health, safety, and welfare concerns that may arise. *See generally Valdez v. State ex re. Farrior*, 142 Fla. 123, 120 (1940). Clearly, the regulation of parking is within the City's general police powers.

### **The City's adoption of Ordinances 2018-16 and 2018-17 is valid and appropriate**

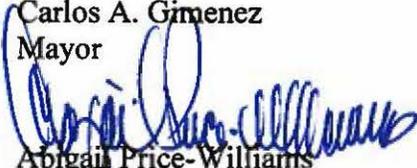
While the City acknowledges that traffic control within the City may, in some instances, affect the County as a whole, parking is, in fact, a separate issue. The City has a proprietary interest in its on and off-street parking. Independently from the County, the City builds public garages, determines the location and availability of on-street parking spaces, and sets its parking fees, which differ from those in other municipalities and in unincorporated Miami-Dade County. In fact, the City may remove all on-street parking within its boundaries at its discretion. It would not be consistent for a municipality to have the power to eliminate all on-street parking spots within its boundaries, set time limits for parking locations, or set the on-street parking rates, but be prohibited from setting and collecting the fines for violations of those same rates and regulations.

The City wishes to provide a higher standard of service and regulation for parking in the City. Currently, the City sets parking rates that differ from other municipalities, and wants to set fines unique to Coral Gables as well. The parking issues in the City are different from those in unincorporated Miami-Dade County and other municipalities. Rates for parking on Miracle Mile should, and do, differ from those on Ocean Drive in Miami Beach. The City also wants to make payment and appeal of parking citations easier for its residents and visitors. By assuming full responsibility for enforcement and collection the City will have the ability to set flexible dates and hours for administrative appeals, to alter parking fines as the City environment changes, and provide a higher level of service to its residents and customers while doing so. The County Charter itself grants the City the authority to have higher standards of zoning, service, and regulation than those provided by the BCC in order that its individual character and standards may be preserved for its citizens.

For the reasons detailed above, the City disagrees with the County's reliance on Section 1.01(A)(1) of the County Charter and the County Code for the proposition that only the County may regulate the enforcement of parking in the City. As always, the City wishes to maintain a positive working relationship with the County and believes that any dispute between the City and County as to the City's assumption of responsibility over parking should be resolved through a cooperative approach incorporating a balancing of interests.

# Memorandum



**Date:** October 17, 2018  
**To:** Carlos A. Gimenez  
Mayor  
**From:**   
Abigail Price-Williams  
County Attorney  
**Subject:** Opinion Regarding City of Coral Gables Traffic and Vehicles Ordinances

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You have requested an opinion regarding the legality of the City of Coral Gables' legislation establishing a Coral Gables parking violation code system and proposing to terminate the City's existing interlocal agreement with the Miami-Dade Clerk of Courts. The interlocal agreement provides for the implementation and enforcement of the Miami-Dade County Traffic Code ("County Traffic Code").<sup>1</sup> As set forth below, the City of Coral Gables (the "City") must comply with the County Traffic Code and is without authority to adopt municipal regulation of parking within the City.

The Miami-Dade County Home Rule Charter empowers the Board of County Commissioners to "[p]rovide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities ... provide and regulate parking facilities; and develop and enforce master plans for the control of traffic and parking." See Miami-Dade County Home Rule Charter, §1.01(A)(1). Pursuant to this authority, the Board enacted the County Traffic Code which sets forth uniform, comprehensive, County-wide regulation of traffic and parking within both the incorporated and unincorporated areas of Miami-Dade County. By its express terms, the County Traffic Code "supersedes and nullifies any and all municipal ordinances or codes ... relative to the regulation of traffic and enforcement...." See Miami-Dade County Code, § 30-203. Under the County Traffic Code, parking violations occurring in both unincorporated and incorporated areas of the County are adjudicated within the Parking Violations Bureau of the Miami-Dade Clerk of Courts.

On May 18, 2018, the City adopted two ordinances, City Ordinance Nos. 2018-16 and 2018-17, amending the City Code to create independent municipal regulation and enforcement of parking ("Coral Gables Parking Ordinances"). Under the Coral Gables Parking Ordinances, the City purports to replace portions of the County Traffic Code with city parking regulations whereby violations within the City limits would be processed through a City administrative process rather than through the Miami-Dade Clerk of Courts' Parking Violations Bureau as required by the County Traffic Code. The Coral Gables Parking Ordinances provide that they become effective upon the termination or cancellation of the City's interlocal agreements with the Miami-Dade Clerk of Courts and the City's assumption of all administrative and enforcement duties related to parking under the Coral Gables Parking Ordinances.

Because the Coral Gables Parking Ordinances attempt to regulate parking, a subject reserved by the Miami-Dade County Charter to County-wide regulation, these City ordinances are in conflict with

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<sup>1</sup> The Miami-Dade County Traffic Code is set forth in Chapter 30 of the Code of Miami-Dade County.

and superseded by the County Traffic Code. Accordingly, the Coral Gables Parking Ordinances are preempted by the County Traffic Code and may not be legally enforced.<sup>2</sup> Should the City act to enforce the provisions of the Coral Gables Parking Ordinances, such enforcement may be challenged by the County, the Clerk or an individual or class of individuals cited with a violation issued pursuant to these City ordinances.

You have also asked whether the City may terminate its interlocal agreement with the Miami-Dade Clerk of Courts to implement and enforce the County Traffic Code. The interlocal agreement with the Clerk provides for such termination upon sufficient notice. Notwithstanding the termination of the interlocal agreement, the City may only enforce parking violations under the County Traffic Code and utilize the Miami-Dade Clerk of Courts' Parking Violations Bureau as set forth therein.

cc: Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners  
Geri Bonzon-Keenan, First Assistant County Attorney  
Christopher Agrippa, Director, Clerk of the Board Division  
Oren Rosenthal, Assistant County Attorney  
Monica Rizo Perez, Assistant County Attorney

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<sup>2</sup> The Florida Supreme Court, in *Miami-Shores Village v. Cowart*, has addressed this very issue and has found that Miami-Dade County traffic regulation preempts and supersedes any municipal traffic regulation because a County "ordinance establishing uniformity of traffic control throughout the metropolitan area [ ] is specifically authorized by § 1.01A(1) of the Home Rule Charter and is in accordance with the intent and purpose of the constitutional authority granted by the Home Rule Amendment." 108 So. 2d 468 (Fla. 1957); *See also, City of Coral Gables v. Dade County*, 189 So. 2d 530 (Fla. 1966) (holding that constitutional authority of Miami-Dade County to enact county-wide regulation and supersede municipal authority is valid even when state laws of general application provide such authority to the municipality).

**From:** [Ramos, Miriam](#)  
**To:** [Paulk, Enga](#)  
**Cc:** [Suarez, Cristina](#); [Throckmorton, Stephanie](#); [Ceballos, Gustavo](#)  
**Subject:** FW: Opinion Regarding the Legality of the City of Coral Gables Traffic and Vehicles Ordinances  
**Date:** Saturday, October 20, 2018 12:16:27 PM  
**Attachments:** [Opinion Regarding City of Coral Gables Traffic and Vehicles Ordinances.pdf](#)  
[image002.png](#)  
[image004.png](#)

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Enga, please publish (including the attachment).

*Miriam Soler Ramos, Esq., B.C.S.*

*City Attorney*

*Board Certified by the Florida Bar in  
City, County, and Local Government Law  
City of Coral Gables*

405 Biltmore Way, 3<sup>rd</sup> Floor  
Coral Gables, FL 33134  
(305) 460-5218  
(305) 460-5084 direct dial



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**From:** Ramos, Miriam  
**Sent:** Friday, October 19, 2018 6:15 PM  
**To:** 'Rosenthal, Oren (CAO)' <Oren.Rosenthal@miamidade.gov>  
**Subject:** RE: Opinion Regarding the Legality of the City of Coral Gables Traffic and Vehicles Ordinances

Oren, I left you a voicemail a few minutes ago. Please find my response to Memorandum below.

Dear Madam County Attorney,

On May 8, 2018 the City of Coral Gables (“City”) Commission adopted Ordinance Nos. 2018-16 and 2018-17 with the intent of assuming responsibility for the entire parking fine and collection process from Miami-Dade County (“County”). The intention is to allow for a higher standard for parking in the City and provide for the entire process (ticket issuance through consideration of any appeal and collection) to be performed by the City rather than in conjunction with the County.

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[1] Examples include the City's play street ordinance, implementation of a 25 mph speed limit on local residential roads, and corresponding signage.

Sincerely,

*Miriam Soler Ramos, Esq., B.C.S.*

*City Attorney*

*Board Certified by the Florida Bar in  
City, County, and Local Government Law  
City of Coral Gables*

405 Biltmore Way, 3<sup>rd</sup> Floor  
Coral Gables, FL 33134  
(305) 460-5218  
(305) 460-5084 direct dial



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**From:** Rosenthal, Oren (CAO) <[Oren.Rosenthal@miamidade.gov](mailto:Oren.Rosenthal@miamidade.gov)>  
**Sent:** Wednesday, October 17, 2018 5:38 PM  
**To:** Ramos, Miriam <[mrmos@coralgables.com](mailto:mrmos@coralgables.com)>  
**Subject:** Fwd: Opinion Regarding the Legality of the City of Coral Gables Traffic and Vehicles Ordinances

Miriam,

As discussed below is a copy of the opinion issued today by the Miami-Dade County Attorney at the request of the County Mayor. If you would like to discuss, please feel free to give me a call.

Oren Rosenthal  
Assistant County Attorney  
305 375-2828

Begin forwarded message:

**From:** "Price-Williams, Abigail (CAO)" <[Abigail.Price-Williams@miamidade.gov](mailto:Abigail.Price-Williams@miamidade.gov)>  
**Date:** October 17, 2018 at 3:47:12 PM EDT  
**To:** "Gimenez, Carlos A. (Office of the Mayor)" <[Carlos.Gimenez@miamidade.gov](mailto:Carlos.Gimenez@miamidade.gov)>  
**Cc:** "Bovo Jr., Esteban (Office of the Chair)" <[Esteban.BovoJr@miamidade.gov](mailto:Esteban.BovoJr@miamidade.gov)>, "Bonzon-Keenan, Geri (CAO)" <[Geri.Bonzon-Keenan@miamidade.gov](mailto:Geri.Bonzon-Keenan@miamidade.gov)>, "Rosenthal, Oren (CAO)" <[Oren.Rosenthal@miamidade.gov](mailto:Oren.Rosenthal@miamidade.gov)>, "Rizo, Monica (CAO)" <[Monica.Rizo@miamidade.gov](mailto:Monica.Rizo@miamidade.gov)>, "Agrippa, Christopher (COC)" <[Christopher.Agrippa@miamidade.gov](mailto:Christopher.Agrippa@miamidade.gov)>, "Cave, Linda (COC)" <[Linda.Cave@miamidade.gov](mailto:Linda.Cave@miamidade.gov)>, "Cava, Daniella Levine (DIST8)" <[Daniella.Cava@miamidade.gov](mailto:Daniella.Cava@miamidade.gov)>, "Diaz, Jose \"Pepe\" (DIST12)" <[JPDIAZ@miamidade.gov](mailto:JPDIAZ@miamidade.gov)>, "Edmonson, Audrey M. (DIST3)" <[Audrey.Edmonson@miamidade.gov](mailto:Audrey.Edmonson@miamidade.gov)>, "Heyman, Sally A. (DIST4)" <[Sally.Heyman@miamidade.gov](mailto:Sally.Heyman@miamidade.gov)>, "Higgins, Eileen (DIST5)" <[Eileen.Higgins@miamidade.gov](mailto:Eileen.Higgins@miamidade.gov)>, "Jordan, Barbara (DIST1)" <[Barbara.Jordan@miamidade.gov](mailto:Barbara.Jordan@miamidade.gov)>, "Martinez, Joe A. (DIST11)" <[Joe.Martinez@miamidade.gov](mailto:Joe.Martinez@miamidade.gov)>, "Monestime, Jean (DIST2)" <[Jean.Monestime2@miamidade.gov](mailto:Jean.Monestime2@miamidade.gov)>, "Moss, Dennis C. (DIST9)" <[Dennis.Moss@miamidade.gov](mailto:Dennis.Moss@miamidade.gov)>, "Sosa, Rebeca (DIST6)"

<[Rebeca.Sosa@miamidade.gov](mailto:Rebeca.Sosa@miamidade.gov)>, "Souto, Javier D. (DIST10)"  
<[Javier.Souto@miamidade.gov](mailto:Javier.Souto@miamidade.gov)>, "Suarez, Xavier (DIST7)"  
<[Xavier.Suarez@miamidade.gov](mailto:Xavier.Suarez@miamidade.gov)>, "Ferro, Alex (Office of the Mayor)"  
<[Alex.Ferro@miamidade.gov](mailto:Alex.Ferro@miamidade.gov)>, "Hudak, Alina T. (Office of the Mayor)"  
<[Alina.Hudak@miamidade.gov](mailto:Alina.Hudak@miamidade.gov)>, "Kemp, Maurice L. (Office of the Mayor)"  
<[Maurice.Kemp@miamidade.gov](mailto:Maurice.Kemp@miamidade.gov)>, "Marquez, Edward (Office of the Mayor)"  
<[Edward.Marquez@miamidade.gov](mailto:Edward.Marquez@miamidade.gov)>, "Marquez, Myriam (Office of the Mayor)"  
<[Myriam.Marquez@miamidade.gov](mailto:Myriam.Marquez@miamidade.gov)>, "Osterholt, Jack (Office of the Mayor)"  
<[josterholt@miamidade.gov](mailto:josterholt@miamidade.gov)>, "Spring, Michael (Office of the Mayor)"  
<[Michael.Spring@miamidade.gov](mailto:Michael.Spring@miamidade.gov)>, "Tallman, Nicole (Office of the Mayor)"  
<[nicole.tallman@miamidade.gov](mailto:nicole.tallman@miamidade.gov)>, "Aguirre, Betty (DIST6)"  
<[Betty.Aguirre@miamidade.gov](mailto:Betty.Aguirre@miamidade.gov)>, "Bannerman, Wayman G. (DIST9)"  
<[Wayman.Bannerman@miamidade.gov](mailto:Wayman.Bannerman@miamidade.gov)>, "Barahona-Alea, Nusly (DIST12)"  
<[Nusly.Barahona-Alea@miamidade.gov](mailto:Nusly.Barahona-Alea@miamidade.gov)>, "Brown, Misty X. (DIST3)"  
<[Misty.Brown@miamidade.gov](mailto:Misty.Brown@miamidade.gov)>, "Bustamante, Ana (DIST11)"  
<[Ana.Bustamante@miamidade.gov](mailto:Ana.Bustamante@miamidade.gov)>, "Castro, Vivian (DIST6)"  
<[Vivian.Castro@miamidade.gov](mailto:Vivian.Castro@miamidade.gov)>, "Dynan, Melissa (DIST7)"  
<[Melissa.Dynan@miamidade.gov](mailto:Melissa.Dynan@miamidade.gov)>, "Fernandez, Maggie M. (DIST5)"  
<[Maggie.Fernandez@miamidade.gov](mailto:Maggie.Fernandez@miamidade.gov)>, "Ferreira, Christopher (Office of the Chair)"  
<[Christopher.Ferreira@miamidade.gov](mailto:Christopher.Ferreira@miamidade.gov)>, "Ferreiro, Mary (DIST4)"  
<[Mary.Ferreiro@miamidade.gov](mailto:Mary.Ferreiro@miamidade.gov)>, "Gonzalez, Aldo (DIST10)"  
<[Aldo.Gonzalez@miamidade.gov](mailto:Aldo.Gonzalez@miamidade.gov)>, "Lauriston, Mac-Kinley (DIST2)" <[Mac-Kinley.Lauriston@miamidade.gov](mailto:Mac-Kinley.Lauriston@miamidade.gov)>, "McCrackine, Sean (DIST8)"  
<[Sean.McCrackine@miamidade.gov](mailto:Sean.McCrackine@miamidade.gov)>, "Michaels, Bonnie S. (DIST4)"  
<[Bonnie.Michaels@miamidade.gov](mailto:Bonnie.Michaels@miamidade.gov)>, "Owens, Elizabeth (DIST2)"  
<[Elizabeth.Owens@miamidade.gov](mailto:Elizabeth.Owens@miamidade.gov)>, "Padron, Joanne (DIST7)"  
<[Joanne.Padron@miamidade.gov](mailto:Joanne.Padron@miamidade.gov)>, "Palmer, S. Donna (WASD)"  
<[Donna.Palmer@miamidade.gov](mailto:Donna.Palmer@miamidade.gov)>, "Ragin, Andre T. (DIST1)"  
<[Andre.Ragin@miamidade.gov](mailto:Andre.Ragin@miamidade.gov)>, "Wilson, William (Office of the Chair)"  
<[Bill.Wilson@miamidade.gov](mailto:Bill.Wilson@miamidade.gov)>

**Subject: Opinion Regarding the Legality of the City of Coral Gables Traffic and Vehicles Ordinances**

Attached please find my opinion regarding the above subject matter.

Abi

**Abigail Price-Williams**  
**County Attorney**  
111 N.W. 1st Street, Suite 2810  
Miami, FL 33128  
(305) 375-1319 (Direct Line)  
[APW1@miamidade.gov](mailto:APW1@miamidade.gov)

**Jenelle L. Snyder**  
**CAO Director Agenda Coordination**  
(305) 375-2342 (Direct Line)

(305) 679-7929 (Fax)  
[JSNYDER@miamidade.gov](mailto:JSNYDER@miamidade.gov)

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<sup>[1]</sup> Examples include the City's play street ordinance, implementation of a 25 mph speed limit on local residential roads, and corresponding signage.