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OFFICE OF THE CITY MANAGER

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CITY CLERK'S OFFICE

LETTER TO COMMISSION


TO: Mayor Matti H. Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: June 29, 2009

SUBJECT: **CITY OF SOUTH MIAMI RESOLUTION PROMOTING AMERICAN WITH
DISABILITY ACT AWARENESS.**

Attached is South Miami Resolution 113-09-12922 for your information.


JMG/REP

Cc: Hilda Fernandez, Assistant City Manager
Tim Hemstreet, Assistant City Manager
Robert Middaugh, Assistant City Manager

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RESOLUTION No. 113-09-12922

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, PROMOTING AMERICAN WITH DISABILITIES ACT ("ADA") AWARENESS; ENDORSING RELEVANT AND EFFECTIVE CRITERIA FOR RENEWAL OF ADA PARKING PERMITS, AND SUPPORTING STRICT SCRUTINY AND MONITORING OF HANDICAP ACCESSIBILITY PROGRAM IMPLEMENTATION; DECLARING THE THIRD WEEK OF JULY "ADA AWARENESS WEEK".

WHEREAS, the rights of handicapped and disabled persons to participate fully in the full range of activities enjoyed by other citizens is a priority for the City of South Miami; and

WHEREAS, as a City and as a nation, we must maintain vigilance in upgrading and enforcing programs designed to eliminate barriers and enhance mobility for handicapped citizens; and

WHEREAS, in order to prevent abuse and ensure that handicapped parking areas are available for those who need them, the state has tightened criteria for the renewal of ADA parking permits.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, THAT:

Section 1: The foregoing recitals are true and correct.

Section 2: The Mayor and City Commission of the City of South Miami, Florida, hereby endorse the enhanced statutory criteria for the issuance and renewal of ADA parking permits pursuant to Section 320.0848, Florida Statutes.

Section 3: The Mayor and City Commission of the City of South Miami, Florida, hereby urge all government entities with the responsibility to implement and enforce handicapped parking programs to strictly adhere to all program guidelines and requirements.

Section 4: The Mayor and City Commission of the City of South Miami, Florida, hereby déclassé the third week of July, 2009, as the first annual ADA Awareness Week, and urge the Miami-Dade County League of Cities, as well as all other local municipal and county governments to join forces with our City in promoting this effort to educate and sensitize our citizenry.

Section 5: The City Clerk is hereby directed to send an electronic copy of this Resolution to the Miami-Dade County League of Cities, Inc., the Miami-Dade County Board of Commissioners, and all municipalities in Miami-Dade County.

PASSED AND ADOPTED this 16th day of June, 2009.

ATTEST:


CITY CLERK

APPROVED:


MAYOR

READ AND APPROVED AS TO FORM:


CITY ATTORNEY

COMMISSION VOTE:	5-0
Mayor Feliu:	Yea
Vice Mayor Beasley:	Yea
Commissioner Palmer:	Yea
Commissioner Newman:	Yea
Commissioner Sellars:	Yea



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[Title XXIII](#)

[Chapter 320](#)

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Session: 2009

Bill #:

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320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.--

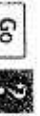
(1)(a) The Department of Highway Safety and Motor Vehicles or its authorized agents shall, upon application and receipt of the fee, issue a disabled parking permit for a period of up to 4 years, which period ends on the applicant's birthday, to any person who has long-term mobility impairment, or a temporary disabled parking permit not to exceed 6 months to any person who has a temporary mobility impairment. No person will be required to pay a fee for a parking permit for disabled persons more than once in a 12-month period from the date of the prior fee payment.

(b)1. The person must be currently certified as being legally blind or as having any of the following disabilities that render him or her unable to walk 200 feet without stopping to rest:

a. Inability to walk without the use of or assistance from a brace, cane, crutch, prosthetic device, or other assistive device, or without the assistance of another person. If the assistive device significantly restores the person's ability to walk to the extent that the person can walk without severe limitation, the person is not eligible for the exemption parking permit.

b. The need to permanently use a wheelchair.

c. Restriction by lung disease to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the person's arterial oxygen is less than 60 mm/hg on room air at rest.



- d. Use of portable oxygen.
- e. Restriction by cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association.
- f. Severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.
- 2. The certification of disability which is required under subparagraph 1. must be provided by a physician licensed under chapter 458, chapter 459, or chapter 460, by a podiatric physician licensed under chapter 461, by an optometrist licensed under chapter 463, by an advanced registered nurse practitioner licensed under chapter 464 under the protocol of a licensed physician as stated in this subparagraph, by a physician assistant licensed under chapter 458 or chapter 459, or by a similarly licensed physician from another state if the application is accompanied by documentation of the physician's licensure in the other state and a form signed by the out-of-state physician verifying his or her knowledge of this state's eligibility guidelines.
- (c) The certificate of disability must include, but need not be limited to:
 - 1. The disability of the applicant; the certifying practitioner's name and address; the practitioner's certification number; the eligibility criteria for the permit; the penalty for falsification by either the certifying practitioner or the applicant; the duration of the condition that entitles the person to the permit; and justification for the additional placard pursuant to subsection (2).
 - 2. The statement, in bold letters: "A disabled parking permit may be issued only for a medical necessity that severely affects mobility."
 - 3. The signatures of:
 - a. The applicant's physician or other certifying practitioner.
 - b. The applicant or the applicant's parent or guardian.
 - c. The employee of the department's authorized agent which employee is processing the application.
 - (d) Beginning April 1, 1999, the Department of Highway Safety and Motor Vehicles shall renew the disabled parking permit of any person certified as permanently disabled on the application.

(e) The Department of Highway Safety and Motor Vehicles shall, in consultation with the Commission for the Transportation Disadvantaged, adopt rules, in accordance with chapter 120, for the issuance of a disabled parking permit to any organization that can adequately demonstrate a bona fide need for such a permit because the organization provides regular transportation services to persons who have disabilities and are certified as provided in this subsection.

(2) DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM MOBILITY PROBLEMS.--

(a) The disabled parking permit is a placard that can be placed in a motor vehicle so as to be visible from the front and rear of the vehicle. Each side of the placard must have the international symbol of accessibility in a contrasting color in the center so as to be visible. One side of the placard must display the applicant's driver's license number or state identification card number along with a warning that the applicant must have such identification at all times while using the parking permit. A validation sticker must also be issued with each disabled parking permit, showing the month and year of expiration on each side of the placard. Validation stickers must be of the size specified by the Department of Highway Safety and Motor Vehicles and must be affixed to the disabled parking permits. The disabled parking permits must use the same colors as license plate validations.

(b) License plates issued under ss. 320.084, 320.0842, 320.0843, and 320.0845 are valid for the same parking privileges and other privileges provided under ss. 316.1955, 316.1964, and 526.141(5) (a).

(c) The department shall not issue an additional disabled parking permit unless the applicant states that he or she is a frequent traveler or a quadriplegic. The department may not issue to any one eligible applicant more than two disabled parking permits except to an organization in accordance with paragraph (1)(e). Subsections (1), (5), (6), and (7) apply to this subsection.

(d) If an applicant who is a disabled veteran, is a resident of this state, has been honorably discharged, and either has been determined by the Department of Defense or the United States Department of Veterans Affairs or its predecessor to have a service-connected disability rating for compensation of 50 percent or greater or has been determined to have a service-connected disability rating of 50 percent or greater and is in receipt of both disability retirement pay from the United States Department of Veterans Affairs, he or she must still provide a signed physician's statement of qualification for the disabled parking permits.

(e) To obtain a replacement for a disabled parking permit that has been lost or stolen, a person must submit an application on a form prescribed by the department and must pay a replacement fee in the amount of \$1.00, to be retained by the issuing agency. If the person submits with the application a police report documenting that the permit was stolen, there is no replacement fee.

(f) A person who qualifies for a disabled parking permit under this section may be issued an international wheelchair user symbol license plate under s. 320.0843 in lieu of the disabled parking permit; or, if the person qualifies for a "DV" license plate under s. 320.084, such a license plate may be issued to him or her in lieu of a disabled parking permit.

(3) DISABLED PARKING PERMIT; TEMPORARY.--

(a) The temporary disabled parking permit is a placard of a different color from the color of the long-term disabled parking permit placard, and must clearly display the date of expiration in large print and with color coding, but is identical to the long-term disabled parking permit placard in all other respects, including, but not limited to, the inclusion of a state identification card number or driver's license number on one side of the temporary permit. The temporary disabled parking permit placard must be designed to conspicuously display the expiration date of the permit on the front and back of the placard.

(b) The department shall issue the temporary disabled parking permit for the period of the disability as stated by the certifying physician, but not to exceed 6 months.

(c) The fee for a temporary disabled parking permit is \$15.

(4) From the proceeds of the temporary disabled parking permit fees:

(a) The Department of Highway Safety and Motor Vehicles must receive \$3.50 for each temporary permit, to be deposited into the Highway Safety Operating Trust Fund and used for implementing the real-time disabled parking permit database and for administering the disabled parking permit program.

(b) The tax collector, for processing, must receive \$2.50 for each temporary permit.

(c) The remainder must be distributed monthly as follows:

1. To the Florida Governor's Alliance for the Employment of Disabled Citizens for the purpose of improving employment and training opportunities for persons who have disabilities, with special emphasis on removing transportation barriers, \$4. These fees must be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor's Alliance for Employment of Disabled Citizens.

2. To the Transportation Disadvantaged Trust Fund to be used for funding matching grants to counties for the purpose of improving transportation of persons who have disabilities, \$5.

(5) The applications for disabled parking permits and temporary disabled parking permits are

official state documents. The following statement must appear on each application form immediately below the physician's signature and immediately below the applicant's signature: "Knowingly providing false information on this application is a misdemeanor of the first degree, punishable as provided in s. 775.082, Florida Statutes, or s. 775.083, Florida Statutes. The penalty is up to 1 year in jail or a fine of \$1,000, or both."

- (6) Any person who knowingly makes a false or misleading statement in an application or certification under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (7) Any person who fraudulently obtains or unlawfully displays a disabled parking permit that belongs to another person while occupying a disabled parking space or an access aisle as defined in s. 553.5041 while the owner of the permit is not being transported in the vehicle or who uses an unauthorized replica of such a disabled parking permit with the intent to deceive is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (8) A law enforcement officer may confiscate the disabled parking permit from any person who fraudulently obtains or unlawfully uses such a permit. A law enforcement officer may confiscate any disabled parking permit that is expired, reported as lost or stolen, or defaced, or that does not display a personal identification number.
- (a) Beginning April 1, 1999, the permit number of each confiscated permit must be submitted to the Department of Highway Safety and Motor Vehicles, and the fact that the permit has been confiscated must be noted on the permit holder's record. If two permits issued to the same person have been confiscated, the Department of Highway Safety and Motor Vehicles shall refer the information to the central abuse hotline of the Department of Children and Family Services for an investigation of potential abuse, neglect, or exploitation of the permit owner.
- (b) A confiscated permit must be held as evidence until a judicial decision about the violation has been made. After a finding of guilt has been made or a plea of nolo contendere has been entered, the charging agency shall destroy the confiscated permit. A confiscated permit may not, under any circumstances, be returned to its registered owner after a finding of guilt has been made or a plea of nolo contendere has been entered in court. The permit number of each destroyed permit must be reported to the department, and the department must record in the real-time disabled parking permit database that the permit has been invalidated.
- (9) A violation of this section is grounds for disciplinary action under s. 458.331, s. 459.015, s. 460.413, s. 461.013, s. 463.016, or s. 464.018, as applicable.
- (10) The Department of Highway Safety and Motor Vehicles shall adopt rules to administer this section.

History...s. 7, ch. 79-82; s. 3, ch. 80-196; s. 32, ch. 83-318; s. 4, ch. 84-108; s. 7, ch. 85-227; s. 1, ch. 86-237; s. 1, ch. 87-220; s. 1, ch. 90-28; s. 18, ch. 90-330; s. 66, ch. 93-120; s. 1, ch. 93-127; s. 12, ch. 93-268; s. 356, ch. 95-148; s. 7, ch. 95-327; s. 12, ch. 96-200; s. 8, ch. 96-296; s. 52, ch. 96-350; s. 51, ch. 97-100; s. 69, ch. 97-264; s. 12, ch. 97-300; s. 177, ch. 98-166; s. 7, ch. 98-202; s. 102, ch. 99-13; s. 271, ch. 99-248; s. 57, ch. 2000-349; s. 67, ch. 2001-61; s. 1, ch. 2002-6; s. 121, ch. 2002-20; s. 1, ch. 2002-243; s. 1, ch. 2005-225; s. 3, ch. 2007-103.

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