

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2024-02

AN ORDINANCE OF THE CITY COMMISSION AMENDING SECTION 1-2 “DEFINITIONS AND RULES OF CONSTRUCTION”; SECTION 2-464 “SAME-AUTHORITY TO FIX SCHEDULE OF CHARGES; METHOD OF DETERMINATION”; SECTION 2-1091 “CITY-OWNED PROPERTY SALE OR LEASE GENERALLY; ADVERTISED PUBLIC BIDDING PROCESS; SECTION 18-2 “CANVAS OF RETURNS; DUTY OF COMMISSION; DECLARATION OF RESULTS”; SECTION 34-60 “STATEMENT OF COSTS; FILING; PUBLICATION OF WORK; COST AND LIEN”; SECTION 34-239 “FORFEITURE PROCEEDINGS”; SECTION 58-53 “STATEMENT OF COSTS; PUBLICATION”; SECTION 58-119 “NOTICE BY PUBLICATION”; SECTION 62-329 “PROCEDURES RELATING TO APPLICATIONS”; SECTION 62-331 “ADOPTION OF ORDINANCE”; SECTION 78-281 “REQUIREMENT FOR UNDERGROUND UTILITIES”; SECTION 101-109 “NOTICES”; SECTION 109-41 “PERMIT APPLICATION PROCEDURES- CLASS 1 PERMITS”; AND SECTION 109-42 “SAME- CLASS 2 PERMITS” OF THE CITY CODE IN ORDER TO PROVIDE A DEFINITION OF PUBLICATION AND REMOVE THE REQUIREMENT FOR NEWSPAPER PUBLICATION, PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, in 2022 the State Legislature adopted HB 7049- Legal Notices, amending the legal notice requirements in Chapter 50, Florida Statues; and

WHEREAS beginning January 1, 2023 Cities are now permitted to publish all required legal notices and advertisements on a publicly accessible website as specified in Florida Statue 50.0311; and

WHEREAS, the City has traditionally advertised and published required notices in newspapers of general circulation however, there have been recent cost increases and fewer options available for publication in newspapers; and

WHEREAS, as the number of newspaper subscribers continues to shrink and the City turns to more responsive and lower cost online notices, including e-news, social media, and the City’s revised website, the City wishes to take advantage of the option to publish legal notices on a publicly accessible website and amend the City Code accordingly; and

WHEREAS, Miami-Dade County will establish a County-wide website for legal notices, as required in Florida Statutes, and the City will be able to utilize that website for legal notices; and

WHEREAS, the City will proceed to publish annual notices in a newspaper of general circulation pointing residents to the City's online notices as required in Florida Statutes; and

WHEREAS, the City estimates that the move to online notifications will result in over fifty percent savings in annual publication costs; and

WHEREAS, in conjunction with this move to online legal advertising the City will conduct an education campaign so that City residents and interested parties are aware of the shift to online publication;

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

SECTION 1. That the foregoing "**WHEREAS**" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof

SECTION 2. That the City of Coral Gables City Code be amended as indicated in the attached Exhibit A¹:

SECTION 3. All Ordinances or parts of Ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made part of the City of Coral Gables City Code and that the sections of this "Ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. If the City of Coral Gables City Code Table of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This Ordinance shall become effective upon its passage and adoption herein.

¹ Deletions are indicated by ~~strikethrough~~. Insertions are indicated by underline.

PASSED AND ADOPTED THIS NINTH DAY OF JANUARY, A.D., 2024.

(Moved: Anderson / Seconded: Fernandez)

(Yea: Anderson, Castro, Fernandez, Menendez, Lago)

(Unanimous: 5-0 Vote)

(Agenda Item: E-2)

APPROVED:

DocuSigned by:

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VINCE LAGO
MAYOR

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

ATTEST:

DocuSigned by:

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BILLY Y. URQUIA
CITY CLERK

DocuSigned by:

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CRISTINA M. SUÁREZ
CITY ATTORNEY

EXHIBIT A

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances, unless the context requires otherwise:

Generally.

- (1) When provisions conflict, the specific shall prevail over the general and the more stringent provision shall always prevail.
- (2) All provisions shall be liberally construed so that the intent of the city commission can be effectuated.
- (3) Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.
- (4) Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.
- (5) Scrivener's errors shall be ignored and may be corrected by city attorney pursuant to city attorney section of the Code.

Publication. The term "publication" or "publish" means to publish a legal notice in accordance with Florida Statutes, Chapter 50. Publication may be achieved by one of the following: publication in a newspaper, on a publicly accessible website as detailed in Chapter 50 Florida Statutes, or in any other manner so authorized by Florida Statutes, Miami-Dade County, or any other relevant authority.

Sec. 2-464. - Same—Authority to fix schedule of charges; method of determination.

(a)The commission shall, in the ordinance or resolution providing for the issuance of sewer revenue bonds, fix the initial schedule of rates, fees and other charges for the use of, and for the services and facilities furnished or to be furnished by, the sewage disposal system, to be paid by the owner, tenant or occupant of each lot or parcel of land which may be connected with or use any such sewage disposal system or systems by or through any part of the sewer system of the city. After the system shall have been in operation the commission may revise such schedule of rates, fees and charges from time to time. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times to:(1)Pay the cost of maintaining, repairing and operating the system or systems, including reserves for such purposes and for replacements and depreciation and necessary extensions, and, if the city shall enter into a contract with the City of Miami for the treatment and disposal of

sewage originating in the city, to pay the cost of such treatment and disposal;(2)Pay the principal of and the interest on the revenue bonds as the same shall become due and reserves therefor; and(3)Provide a margin of safety for making such payments.

(b)The city shall charge and collect the rates, fees and charges so fixed or revised, or may contract with the City of Miami to collect such rates, fees and charges shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the city or of the state or of any sanitary district or other political subdivision of the state.

(c)Such rates, fees and charges shall be just and equitable, and may be based or computed either upon the quantity of water consumed or upon the number and size of sewer connections or upon the number and kind of plumbing fixtures in use in the premises connected with the sewer system or upon the number or average number of persons residing or working in or otherwise connected with such premises or upon any other factor affecting the use of the facilities furnished or upon any combination of the foregoing factors.

(d)Charges for services to premises, including services to manufacturing and industrial plants, may be determined by gauging or metering or in any other manner approved by the commission.

(e)In cases where the character of the sewage from any manufacturing or industrial plant, building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the commission may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the commission before discharging such sewage into any sewer lines owned or maintained by the city.

(f)No rates, fees or charges shall be fixed under the foregoing provisions of this section until after a public hearing at which all of the users of the sewage disposal system or systems and owners, tenants or occupants of property served or to be served thereby and all others interested shall have an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the commission of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of such public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by one publication-in-a newspaper published in the city at least ten days before the date fixed in such notice for the hearing, which may be adjourned from time to time. After such hearing, such preliminary schedule, either as originally adopted or as modified or amended, shall be adopted and put into effect, and thereupon the ordinance or resolution providing for the issuance of sewer revenue bonds may be finally adopted. A copy of the schedule of such rates, fees and charges finally fixed in such ordinance or resolution shall be kept on file in the office of the city manager and shall be open to inspection by all parties interested. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or revision of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinbefore provided, but if such change or revision be made substantially pro rata as to all classes of service no hearing or notice shall be required.

Sec. 2-1091. - City-owned property sale or lease generally; advertised public bidding process.

Notwithstanding any provision to the contrary contained in this Code, and except as provided below, the city commission is prohibited from favorably considering any sale or lease of city-owned property unless (i) there shall have been, prior to the date of the city commission's consideration of such sale or lease, an advertisement soliciting proposals for said sale or lease published ~~in a daily newspaper of general paid circulation in the city, allowing not less than 60 days for the city's receipt of proposals from prospective purchasers or lessees, said advertisement to be no less than one fourth page and the headline in the advertisement to be in a type no smaller than 18 point and,~~ (ii) except as provided, there shall have been at least three written proposals received from prospective purchasers or lessees; except, if there are less than three such proposals received, the guaranteed return under the proposal whose acceptance is being considered is at least equal to market value, and the city commission determines that the contemplated sale or lease at that time will be in the city's best interest.

Sec. 18-2. - Canvass of returns; duty of commission; declaration of results.

(a)The city commission shall be the judge of the election and qualification of its own members. As soon after an election as may be, the commission shall canvass the returns and declare the results prior to 12:00 noon of the third day following such general election. The candidate receiving a majority of the votes in each group shall be considered elected. In any election for Groups One through Five, if a majority of the vote is not received by any one candidate of a group, a run-off between the two candidates receiving the most votes in the respective group shall be held two weeks after the general election, on a Tuesday. The candidate receiving the most votes in the run-off shall be considered elected. The mayor and commissioners shall take office at noon on the third Friday after the general election. No run-off election shall be required when a candidate receives a majority of the vote or if a candidate is unopposed in the run-off election.

(b)Any person seeking to run for the office of mayor or as a city commissioner who is unable to pay the qualification fee without imposing an undue burden on personal appearances or on resources otherwise available to him or her, shall, upon written notification of such inability given under oath to the city clerk, be exempt from paying the qualifying fee.

(c)The canvassing of absentee ballots shall be conducted by a canvassing board composed of three members, which shall include two members of the city commission who are not candidates with opposition in the election being canvassed, and the city clerk or his or her designee from the city clerk's office.

(d)If sufficient members of the city commission are not eligible to serve on the canvassing board, the city commission shall appoint as a substitute member a qualified elector of the city who is not a candidate with opposition in the election being canvassed, and who is not an active

participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. City commission may appoint alternate members to the canvassing board by resolution and may delegate to an appropriate official, the appointment of a replacement in the event of an emergency where there is insufficient time for the city commission to appoint a replacement.

(e)The canvassing board shall meet at a time and place to be designated by the city clerk after 7:00 a.m. the day of the election to publicly canvass the absentee electors' ballots.

(f)A chairperson shall be selected by the canvassing board.

(g)Criteria for the selection of the valid absentee ballots shall be decided upon based on the recommendations made by the city attorney and a representative of the county supervisor of elections, who shall be required to be present to act in an advisory capacity to the canvassing board.

(h)Following a determination by the canvassing board regarding which ballots are invalid, by marking the invalid envelopes, "REJECTED AS ILLEGAL," the remaining valid ballots will then be opened and separated from their secrecy envelopes and will be ready to be counted. The number of valid and invalid ballots shall be entered on a certificate to be signed by the canvassing board.

(i)The counting of the absentee votes cast shall be done after 7:00 p.m. on the day of the election at the time and place that the returns of the clerks and inspectors for the various precincts are counted.

(j)The canvassing board shall certify the results of the election immediately following the counting of all of the ballots the night of the election. If a recount is required, certification shall be made within the two days following the election.(k)Public notice of the time and place at which the canvassing board will meet to canvass the absentee ballots shall be given at least 48 hours prior thereto by publication ~~in a newspaper of general circulation in the city.~~(l)The city commission will adopt a resolution accepting the results certified by the canvassing board at the first regular commission meeting following the run-off election.

Sec. 34-60. - Statement of costs; filing; publication of work; cost and lien.

As soon as practicable after completion of the work, if such work is done by the city, the city manager shall execute, or cause to be executed, and file with the city clerk, a statement of costs and completion of work, which shall certify the completion thereof. The city clerk shall thereafter cause to be published ~~in a newspaper of general circulation in the county or city,~~ a notice giving the description of the property, the amount of the cost of the work, the date of completion of the work and the fact that the cost thereof is a lien against the property.

Sec. 34-239. - Forfeiture proceedings.

(a)Forfeiture actions under this section shall be heard before a circuit court judge of the civil division. The Florida Rules of Civil Procedure shall govern forfeiture proceedings under this article.

(b)Any trial on the ultimate issue of forfeiture shall be decided by a jury, unless such right is waived by the claimant through a written waiver or on the record before the court conducting the forfeiture proceeding.

(c)The complaint shall be styled, "In RE: FORFEITURE OF" (followed by the name or description of the property). The complaint shall contain a brief jurisdictional statement, a description of the subject matter of the proceeding, and a statement of the facts sufficient to state a cause of action that would support a final judgment of forfeiture. The complaint must be accompanied by a verified supporting affidavit.

(d)The court shall require any claimant who desires to contest the forfeiture to file and serve upon the attorney representing the city any responsive pleadings and affirmative defenses within 20 days after receipt of the complaint and probable cause finding

.(e)If the property is required by law to be titled or registered, or if the owner of the property is known in fact to the city, or if the seized property is subject to a perfected security interest in accordance with the Uniform Commercial Code, F.S. ch. 679, the attorney for the city shall serve the forfeiture complaint as an original service of process under the Florida Rules of Civil Procedure and other applicable law to each person having an ownership or security interest in the property. The city shall also publish, in accordance with F.S. ch. 50, notice of the forfeiture complaint once each week for two consecutive weeks ~~in a newspaper of general circulation, as defined in F.S. § 165.031~~, in the county where the seizure occurred.

(f)The complaint must, as appropriate, describe the property; state the county, place, and date of seizure; state the name of the city; and state the name of the court in which the complaint will be filed.

(g)The city shall be obligated to make a diligent search and inquiry as to the owner of the subject property, and if, after such diligent search and inquiry, the city is unable to ascertain any person entitled to notice, the actual notice requirements by mail shall not be applicable.

(h)When the claimant and the city agree to settle the forfeiture action prior to the conclusion of the forfeiture proceeding, the settlement agreement shall be reviewed, unless such review is waived by the claimant in writing, by the court or a mediator or arbitrator agreed upon by the claimant and the city. If the claimant is unrepresented, the settlement agreement must include a provision that the claimant has freely and voluntarily agreed to enter into the settlement without benefit of counsel.

(i)Upon clear and convincing evidence that the subject property is forfeitable property as defined in this article, the court shall order the seized property forfeited to the city. The final order of

forfeiture by the court shall perfect in the City of Coral Gables right, title, and interest in and to such property, subject only to the rights and interests of bona fide lienholders, and shall relate back to the date of seizure.

(j) If the claimant prevails at the conclusion of the forfeiture proceeding, and if the city decides not to appeal, the seized property shall be released immediately to the person entitled to possession of the property as determined by the court.

(k) The city shall periodically review seizures of assets made by the city, in addition to settlements and forfeiture proceedings initiated by the city, to determine whether such seizures, settlements, and forfeitures comply with this article and the guidelines adopted under this subsection. The determination of whether the city will file a civil forfeiture action may be made in accordance with either section 2-252(e)(3) or 34-205(b).

Sec. 58-53. - Statement of costs; publication.

As soon as practicable after completion of work performed under this article, if done by the city, the city manager shall file or cause to be filed with the city clerk a statement of costs and completion of the work, which shall certify the completion of work by the city, the date of completion and the costs thereof. The city clerk shall thereafter cause to be published ~~in a newspaper of general circulation in the county or the city~~, a notice giving a description of the property, the cost of the work, the date of its completion and a statement that the costs thereof are a lien against the property. Such publication may include one or more parcels and one or more sidewalks abutting the same.

Sec. 58-119. - Notice by publication.

(a) Upon completion of the initial assessment roll, the finance director shall publish, or direct the publication of, ~~once in a newspaper of general circulation within the city~~, a notice stating that at a meeting of the commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the commission will hear objections of all interested persons to the final assessment resolution which shall establish the rate of assessment and approve the aforementioned initial assessment roll.(b) The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include:(1)A geographic depiction of the property subject to the assessment;(2)A brief and general description of the local improvement and related services to be provided;(3)The rate of assessment, including a maximum assessment rate in the event one was adopted by the initial assessment resolution;(4)The procedure for objecting provided in section 58-121;(5)The method by which the assessment will be collected; and(6)A statement that the initial assessment roll is available for inspection at the office of the city clerk

and all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the office of the city clerk.

Sec. 62-329. - Procedures relating to applications.

Upon receipt of the application and fee pursuant to this article, the public works department shall:

(1)Review same for completeness and for compliance with the requirements of this article. The public works department may reject the application if a similar application has been considered at any time within one year of the date the application is submitted. Upon the application being properly submitted, it shall be accepted for filing with the public works department, which shall give a receipt to the applicant for the fee paid. Once the review procedures outlined above are complete, the public works department shall set a date for review by the development review committee.

(2)Forward the application, together with all comments and recommendations received from city departments, agency input, and utility company input, to the development review committee which shall review the application pursuant to the criteria set forth in section 62-328, and provide a recommendation to the city manager, who shall advise the city commission of any objections to the proposed vacation or abandonment, and to the planning and zoning board which shall consider the request as part of the site plan review and approval process, and whose recommendations shall be forwarded to the city commission.

(3)Transmit the entire record to the city manager and planning and zoning board. The planning and zoning board, at the conclusion of a duly advertised public hearing, shall review the entire record, in accordance with the procedures set forth in the zoning code and in sections 62-328 and 62-330 and provide a recommendation to the city commission.

(4)Provide courtesy notice by mail to the owners of real property bounding and abutting the right-of-way or easement or city property proposed to be abandoned and, in addition, if a street or alley is to be abandoned, all the owners within 1,000 feet in all directions from any point of the street or alley to be abandoned. The owner of property shall be deemed to be the person shown on the then-current tax assessment roll, and such notice shall be sent to the address given on such assessment roll for that purpose. Notice shall be mailed at least two weeks prior to the date of the meeting before the development review committee and the planning and zoning board at which the application shall be considered. The notice provided shall also advise property owners that they may provide comments in writing and/or verbally at the board meeting at which same is to be considered.

(5)Forward the planning and zoning board's recommendations for public hearing at the appropriate city commission meeting.

(6)Notify by certified mail the owners and occupants of real property, as identified above, of the public hearing to be held before the city commission.

(7)Notify the general public by causing to be published a notice ~~in a newspaper of general circulation in the city~~ of the public hearing to be held by the city commission on the application.

Sec. 62-331. - Adoption of ordinance.

If the city commission adopts an ordinance granting the application, notice thereof shall be published one time, within 30 days following the date of adoption of said ordinance, ~~in a newspaper of general circulation published in the city~~. The proof of publication of the notice of hearing and a proof of publication of the notice of the adoption of the ordinance and a copy of the ordinance shall be recorded in the public records of the county. Upon adoption of an ordinance approving an application, a certified copy of same shall be filed in the public records of the county. The costs of all notices required pursuant to the provisions of this section shall be borne by the applicant.

Sec. 78-281. - Requirement for underground utilities.

(a)Purpose. The purpose of this [article] is to promote the conversion of existing overhead utility and communications service to underground and to require the installation of utility and communication service facilities underground, individually and collectively to promote general reliability of utility and communications service, public safety, foster tree and vegetation canopy preservation, business and lifestyle continuity through continued utility and communication service after major weather events, and improve and protect the aesthetic character of the city

.(b)Applicability. Except as expressly provided hereinafter, all utility lines, including, but not limited to, those required for electrical power distribution, and those such lines, cables, and conduits for telephone, and communication, street lighting, and video service shall be installed underground. This section shall apply to all cables, conduits or wires forming part of an electrical distribution system including service lines to individual properties and main feeder and lateral distribution electric lines delivering power to local distribution systems, provided that it shall not apply to wires, conductors or associated apparatus and supporting structures whose exclusive function is in transmission of electrical energy between generating stations, substations, and transmission lines of other utility systems. City installed utility lines and poles shall not be subject to the provisions of this article, including, but not limited to, city-owned network infrastructure. Appurtenances to support underground utility lines, cables, conduits, and other equipment such as transformers, pedestal and pad-mounted terminal boxes, and meter cabinets, may be located above ground in appropriate utility easements and in conformance with the requirements of the public works department. This section 78-281 shall be applicable to the following uses:(1)Except for rehabilitation of structures of less than 50 percent of value, all new

construction and utility and communications installations shall be required to be underground.(2)When a structure undergoes a rehabilitation wherein the cost of the rehabilitation is 50 percent or more of the replacement value of the existing structure as determined by the Miami-Dade County Property Appraiser, utility and communications service facilities for that structure shall be converted from overhead to underground.

(c)Conversion of overhead to underground facilities. Whenever overhead utility lines or distribution facilities have been converted to underground facilities, the following shall be required:(1)The property owners in the area to be served by the new facilities shall be required to arrange for the conversion of their existing service facilities in accordance with these regulations and, where applicable, utility company specifications for underground service. For electric service facilities, such conversion shall include but shall not be limited to rearranging existing electric drop and service entrance facilities and necessary facilities within buildings and structures to accommodate the undergrounding of utilities. The property owner shall be responsible for all costs associated with the modification of service facilities for the affected property to accommodate underground utility service to the extent not inconsistent with applicable law and if not otherwise paid by the utility company.(2)When a pole owner engages in undergrounding its facilities and equipment that will result in a redundant pole, the pole owner shall be required to provide notice to attaching entities and to the city. Attaching entities shall be required to underground their facilities and equipment or remove all attachments from a redundant pole in coordination with the pole owner. The city may, at its discretion but without obligation of any kind, provide a courtesy notice to the attaching entity of the planned or intended overhead to underground conversion project being performed or affecting any area of the city rendering the pole unused for electrical distribution purposes. Failure by any attaching entity to remove pole attachments shall constitute a code enforcement violation under section 101-137 of this Code. Fines shall accrue on a per pole basis, and shall continue to accrue, as applicable, for each day the violation continues past the date set for compliance. Failure by an attaching entity to comply with this section shall constitute grounds for the city to deny issuance of future permits pursuant to this Article until compliance is obtained.(3)Redundant poles serving any area or property must be removed by the pole owner within 90 days of the conversion of overhead facilities to underground serving said area or property. Failure to remove redundant poles shall constitute a code enforcement violation under this Code. Civil penalties shall accrue on a per pole basis, and shall continue to accrue, as applicable, for each day the violation continues past the date set for compliance. Failure by a pole owner to comply with this section shall constitute grounds for the city to deny issuance of future permits pursuant to this article until compliance is obtained.(4)In the event a pole owner or electric utility, as defined in this section, conveys, sells, or transfers a pole located in a private easement granted by the city or property belonging to the city to an attaching entity, to the extent not inconsistent with applicable law or ordinances or resolutions of the city, the attaching entity shall be responsible for payments to the city for continued use of the private easement or property.(5)In the event a pole owner is engaging in a major hardening project as provided in F.S. § 366.97, the procedures for redundant poles contained in F.S. § 366.97, as it may be amended, and orders of the Florida Public Service Commission shall apply and shall control in the event of a conflict with the procedures contained in this section. To the extent not inconsistent with applicable law, the pole owner shall provide

the city with copies of notices issued to attaching entities. The city may, in its discretion, issue orders consistent with such procedures contained in F.S. § 366.97, and orders of the Florida Public Service Commission to address the removal of redundant poles. Failure to comply with such city orders shall constitute a code enforcement violation under section 101-137 of this Code. Civil penalties may accrue on a per pole basis, and shall continue to accrue, as applicable, for each day the violation continues past the date set for compliance. In addition to other remedies provided in this section or available to the city pursuant to applicable law, failure by an attaching entity or pole owner to comply with this section shall constitute grounds for the city to deny issuance of permits pursuant to this article until compliance is obtained.(6)Notwithstanding any requirements set forth in this Code or the Coral Gables Zoning Code, the installation of above ground appurtenances and facilities in connection with an undergrounding project may be subject solely to administrative review if all of the following criteria are satisfied

- :a.The location of the proposed facilities are within appropriate utility easements;
- b.The proposed facilities will not interfere with any utility, communications, water or sewer service or with the reasonable ingress, egress or use of the property;
- c.No more than two facilities are installed on any particular property or parcel, provided that the city manager or designee is authorized to reject the placement of multiple facilities and to grant reasonable exceptions to these limits.

(d)Notice of conversion requirement. The city shall notify each property owner when conversion from overhead to underground utility distribution service is complete. The notice shall be served by registered mail, addressed to the owner or owners of the property described as they are known to the city manager or as their names and addresses are shown upon the records of the county tax assessor, or other public records of the city or county, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. All necessary modifications and arrangements for use of underground facilities shall be completed within 90 days of receipt of such notification.

(e)Notice of property owner's failure to convert facilities.(1)If the city manager determines that a building has not completed conversion to underground utility service facilities, he or she shall notify the owner of that building in writing and demand that the owner cause the conversion to be made within 60 days of the date of service of the notice. The notice shall be by registered mail and in the form set forth in subsection (2) of this section. If such notice is returned by postal authorities, the city manager shall cause a copy of the notice to be served by a law enforcement officer upon the occupant of the land or upon any agent of the owner thereof.(2)If personal service upon the occupant of the land or upon any agent of the owner thereof cannot be performed after reasonable search by a law enforcement officer, the notice shall be served by physical posting on the property, and by publication ~~in a newspaper of general circulation~~ at least twice, seven days between publications, and 30 days before the date the conversion is required. The notice shall be in substantially the following form:

"NOTICE REQUIRING CONVERSION OF UTILITY SERVICE FACILITIES

Name of Owner _____

Address of Owner _____

Our records indicate that you are the owner(s) of the following land in the City of Coral Gables, Florida: (describe property).

An inspection of this land discloses, and I have found and determined, that a building is located thereon which has not converted its (state type of utility) service facilities from overhead to underground service.

You are hereby notified that unless this building converts its (state type of utility) service facility from overhead to underground service within thirty (30) days of personal service upon you of this notice, or of the second publication hereof, the City will proceed to cause the conversion of these facilities and the cost of the work, including advertising costs and all other expenses necessary to complete the conversion will be imposed as a lien on the land if not otherwise paid within ninety (90) days after the conversion has been completed and the cost thereof ascertained by the City of Coral Gables."

(f) Conversion of facilities by city; lien; recording; redemption.(1) If within 60 days after service of the notice as set forth in subsection (e) above, or by physical posting of the notice on the property, or within 30 days of notice by publication ~~in a newspaper~~ the required conversion of service of facility has not been affected, the city manager shall cause the conversion to be made by the city at the expense of the property owner. The cost of the conversion shall constitute a lien upon the real estate served thereby. Upon ordering a conversion of service facilities to be made by the city, the city manager shall cause to be recorded in the public records a notice of utility service conversion lien pending, which shall include a description of the property and a statement that a conversion has been ordered, the cost of which shall under this section constitute a lien. The notice of pending lien shall, eight months after the date thereof, be null and void and constitute no record notice of a pending lien.(2) After causing the conversion of service facilities to be done, the city manager shall certify to the finance director the expenses as may have been approved by the appropriate city department incurred in effecting the conversion and shall include a copy of the notice set forth in subsection (e) above, whereupon such expense shall become payable within 90 days, after which a special assessment lien and charge will be made upon the property, which shall be payable in ten equal annual installments together with costs of recordation of all documents required to be recorded hereby and with interest to be determined by the city finance director on the unpaid balance from the date of such certification until paid; however, the lien may be satisfied at any time by the payment of the entire sum due plus accrued interest, recordation costs, and such expenses and penalties as may result from the advertisement

and sale of certificates for delinquent liens as hereinafter set out. The finance director shall file for record a notice of such lien in the office of the clerk of the circuit court and shall keep complete records relating to the amount payable thereon. One-tenth (0.1) of the amount of liens accruing during any year ending on June 1 shall be billed and mailed in the fall of the same year to the owners of land subject to such liens at the same time as tax statements for ad valorem taxes are mailed; and if the amount shall not be paid on or before April 1 of the following year, the entire lien and all annual installments thereof shall be delinquent, overdue and in default.(3)The entire amount of the lien may be foreclosed by the city, or in the alternative may be collected by any other legal means, including the advertisement and sale of certificates. Upon full payments of liens provided by this section or through foreclosure on tax sale certificates, the director of finance shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the public records. The cost of recordation of the notice of lien pending, the notice of lien, and the satisfaction of lien shall be secured by the lien hereby provided.(g)Underground facilities to remain underground. Wherever utility, communication, broadband, or video service facilities are located underground, such facilities must remain underground unless they are removed, and may not thereafter be converted to overhead facilities.

Sec. 101-109. - Notices.

(a)All notices of violation and summonses for hearing shall be provided to the alleged violator by:(1)Certified mail to the address listed in the tax collector's office for tax notices; to the address listed in the county property appraiser's database; or to any other address provided by the alleged violator in writing to the city for the purpose of receiving notices. The city may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. It is the responsibility of the alleged violator to keep the address information current.(2)Hand delivery by the code enforcement officer, the police, or any other person designated by the city manager; or(3)Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or(4)In the case of commercial premises, leaving the notice with the manager or other person in charge.

(b)In addition to providing notice as set forth in subsection (a), notice may also be served by publication or posting, as follows:(1)a. Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) ~~in a newspaper of general circulation in Miami-Dade County. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50, for legal and official advertisements.~~ b. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.(2)a. In lieu of publication as described in paragraph (1), such notice may be posted at least ten days prior to the hearing or prior to the expiration of any deadline contained in the notice. The notice shall be posted on the property where the violation is alleged to have occurred and at city hall. b. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its

posting.(3)Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a).

(c)Evidence that an attempt has been made to hand deliver the notice or that the notice was sent by mail as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

Sec. 109-41. - Permit application procedures—Class 1 permits.

(a)Application for city approval. The upland owner will first submit to the public works department an application on forms prepared by the city, such forms being supplemented by:(1)Evidence of ownership of the upland and tidal or submerged lands to be filled and a title to the land from which the fill is to be taken or permission from the owner of the land to remove the fill.(2)A written statement by the owner as to the proposed use of the property to be filled.(3)Four copies of a plan or sketch of the proposed work in sufficient detail to relate the proposed dredging and filling to mean high water, mean low water, and the official bulkhead line, designation of soundings and elevations in the proposed borrow and fill areas, and names and addresses from the latest city tax rolls of owners of all riparian property within 1,000 feet of the proposed work.(4)A written statement by the owner certifying that if approval of the application by the city commission is granted, complete and detailed plans and specifications of the proposed work will be prepared by an engineer registered in the state, in accordance with the minimum requirements of the public works department.(5)Certification from a registered engineer experienced in coastal construction that: a.To the best of his or her knowledge the filling and dredging work does not violate any statute, zoning law, ordinance or other restriction which may be applicable to such area or construction work; and the engineer must submit a substantiating letter to this effect from the appropriate governmental authority as part of this certification. b.Harmful obstruction to, or alteration of, the natural flow of the navigable water within the area will not arise from the proposed work .c.Harmful or increased erosion, shoaling of channels or stagnant areas of water will not be created thereby. d.Material injury or monetary damage to adjoining land will not accrue therefrom. e. Dredging and filling shall not be conducted on weekends and holidays. Dredging and filling shall be conducted only during regular business hours on weekdays except with the written consent of the city manager, which may be amended or rescinded by him or her with notice to the applicant.(6)The city commission, before approving the application, and in addition to the certified statements in subsection (a)(5) of this section, shall require the applicant to submit a biological survey and an ecological study, the results of such study to become a part of the application.

(b)Approval from the city commission. The director of the public works department will investigate the proposed plan and make his or her recommendation to the city commission prior to the public hearing, which shall be held by the city commission before the application is approved or disapproved. Prior to the public hearing at least 15 days' notice of the time and place of such hearing shall be published ~~in a newspaper of general circulation in the city, which~~

publication shall also include a brief description of the proposed work to be done and the location thereof. A courtesy notice containing substantially the same information set forth in the published notice may be mailed to those parties whose names appear upon the city's tax rolls as the owners of riparian property within 1,000 feet of the proposed work. After the public hearing, unless the city commission finds good cause for denying the application, it will approve the same subject to the approval of the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned.

(c)Permits from the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned. Following approval by the city commission, the applicant must then obtain approval of the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned.

(d)Permit to dredge or fill. A permit must be obtained from the public works department prior to beginning any work previously authorized by the city commission, the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned. The proposed work must be completed prior to the stated expiration date, which must be less than three years from the date of issuance of the permit, although extension may be granted for good cause, subject to approval of the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned, and subject further to receipt of written request for extension of time by the public works department prior to the original expiration date. The permit may be issued to a contractor holding an applicable certificate of competency, provided:(1)Construction plans and specifications are submitted which have been prepared to comply with the requirements of the public works department.(2)The permit fee established by section 109-44 has been paid.(3)A performance bond is posted in an amount determined by the director of public works department to be essential to protect the interest of the public and of landowners in the vicinity of the work; provided however, that the minimum amount of such bond shall be \$1,000.00 or 25 percent of the estimated cost of the work, whichever is lesser, and the maximum amount of such bond shall be 100 percent of the estimated cost of the work, the bond being to guarantee compliance with the terms of the permit and to be in force for at least six months after the approved completion date of the work.(4)Certification is provided by a registered engineer that he/she has been retained to provide engineering supervision throughout the construction period.

Sec. 109-42. - Same—Class 2 permits.

(a)Authority. The city public works department is hereby authorized to require all persons to obtain a permit for the construction of bulkheads, seawalls, groins, breakwaters, wharves, docks, piers, structures and shore activities such as beach nourishment in, upon or contiguous to submerged or tidal lands within the municipal limits of the city.

(b)Application for city approval. Approval of the city commission shall be obtained for all applications. The owner shall first submit to the public works department an application on forms prepared by the city and such application must be supplemented by:(1)Evidence of

ownership of the upland property abutting the proposed structure.(2)A written statement by the owner as to the proposed use of the structure to be built.(3)A plan or sketch (four copies) of the proposed structure or work in sufficient detail to relate it to mean high water, mean low water, the property lines of the upland owner, the official bulkhead lines, soundings made in the surrounding water area, and names and addresses from the latest city's tax rolls of owners of all riparian property within 1,000 feet of the proposed work.(4)A written statement by the owner that if approval from the city commission is granted, complete and detailed plans and specifications of the proposed work will be prepared by an engineer registered by the state in accordance with the minimum requirements of the city public works department.(5)Certification from a registered engineer experienced in coastal construction that: a. To the best of his or her knowledge the proposed work does not violate any statute, zoning law, ordinance or other restriction that may be applicable to such area or construction work; and such engineer must submit a substantiating letter to this effect from the appropriate governmental authority as part of this certification. b. Harmful obstruction to or alteration of the natural flow of navigable water within the area will not arise from the proposed work. c. Harmful or increased erosion, shoaling of channels or stagnant areas of water will not be created thereby. d. Material injury or monetary damage to adjoining property will not accrue there from. e. The city commission before approving the application, and in addition to the certified statements in subsection (b)(5) of this section, shall require the applicant to submit a biological survey and ecological study, the results of such study to become a part of the application.

(c)Approval from the city commission. The director of the public works department will investigate the proposed plan and make his or her recommendation to the city commission prior to the public hearing, which shall be held by the city commission before the application is approved or disapproved. Prior to the public hearing at least 15 days' notice of the time and place of such hearing shall be published ~~in a newspaper of general circulation in the city~~, which publication shall also include a brief description of the proposed work to be done and the location thereof. A courtesy notice containing substantially the same information set forth in the published notice may be mailed to those parties whose names appear upon the city's tax rolls as the owners of riparian property within 1,000 feet of the proposed work. After the public hearing, unless the city commission finds good cause for denying the application, it will approve the same subject to the approval of the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned.

(d)Permits from the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned. Following approval by the city commission of the application, the applicant must obtain permits from the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned

.(e)City construction permit. A construction permit for the proposed structures or shore activity involved must be obtained from the city public works department prior to beginning any work previously authorized by the city commission or state agencies concerned. The proposed work must be completed prior to the stated expiration date, which must be less than one year from the

date of issuance of the permit, although extension may be granted for good cause, subject to approval of the trustees of the internal improvement fund, the U.S. Army Corps of Engineers and such other state and federal agencies concerned, and subject further to receipt of written request for extension of time by the city public works department prior to the original expiration date. The construction permit may be issued to a certified contractor provided:(1)Construction plans and specifications are submitted which have been prepared to comply with the city public works standards.(2)The permit fee established by section 109-44 for construction work has been paid.(3)A performance bond is posted in an amount determined by the director of public works department to be essential to protect the interests of the public and of landowners in the vicinity of the work; provided however, that the minimum amount of such bond shall be \$1,000.00 or 25 percent of the estimated cost of the work, whichever is lesser, and the maximum amount of such bond shall be 100 percent of the estimated cost of the work, the bond being to guarantee compliance with terms of the permit and to be in force for at least six months after the approved completion date of the work.(4)Certification is provided by a registered engineer that he/she has been retained to provide engineering supervision throughout the construction period.

(f)Exceptions. Those requirements of subsection (c) of this section pertaining to a public hearing and approval by the city commission shall not apply to installation of mooring piles; construction of docks adjacent to residential lots if the proposed mooring piles and docks are to be located in accordance with the city zoning code; nor to repair or restoration of docks (limited to original dimension only) for which state construction permits have been issued.