

TOWN OF GOLDEN BEACH, FLORIDA

ORDINANCE NO. 534.08

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA; AMENDING THE TOWN CODE BY AMENDING CHAPTER 42 "UTILITIES", BY AMENDING SECTION 42-1 AND CREATING SECTIONS 42-2 THROUGH 42-7 PROVIDING FOR NOTICE OF TERMINATION OF ABOVE GROUND UTILITIES SERVICE AND REQUIRED LATERAL CONVERSION AND CONNECTION, NOTICE OF FAILURE TO CONVERT; AND RELATED PROCEDURES AND PROVISIONS; ENFORCEMENT AND RIGHT TO ENTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town has developed and has begun the implementation of a comprehensive capital improvement project including the relocation of above ground pole line utilities to underground service, and

WHEREAS, the relocation of the utilities will protect the health, safety and welfare of all residents of the Town; and

WHEREAS, the success of the entire capital improvement project and in particular the relocation of electrical utilities is directly dependent upon the systematic and uniform connection of each developed property to the relocated underground system; and

WHEREAS, underground utilities are protected from wind-blown damage and may lead to no service interruption or earlier restoration of interrupted service; and

WHEREAS, the Town Council finds that underground utilities to be in the best interests of the citizens of this community;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:¹

Section 1. Recitals Adopted. That the recitals set forth above are hereby adopted and confirmed.

Section 2. Utilities. That Chapter 42 of the Town Code "Utilities" is hereby amended to read as follows:

Chapter 42 Utilities

Sec. 42-1. Conversion of overhead line to underground installation.

(c) Any customer of any utility in the Town to whom underground service is made available through conversion from overhead service by the utility company must convert his lateral service to his residence to underground within 60 days of the date of the underground utility service becomes available; notice set forth below in Section 42.3.

Sec. 42-2. Property owner obligation to convert to underground lateral service.

(a) Whenever overhead utility distribution facilities have been converted to underground facilities, the property owners of improved real property in the area to be served by the new facilities shall at their sole cost be required to arrange for and cause the conversion and reconnection of their existing service in accordance with all applicable ordinances, codes, statutes and utility company specifications. For electric service facilities such conversion shall include but shall not be limited to rearranging existing electric service entrance facilities to accommodate an underground service lateral. The property owner shall be solely responsible for all costs associated with the

¹ Additions to existing City Code text are shown by underline; deletions from existing City Code text are shown as
Page 2 of 7 Ordinance No. 534.08

modification of service facilities for the affected property to accommodate underground utility service.

(b) All necessary modifications and arrangements for use and immediate service of underground facilities shall be completed within sixty (60) days of the date of the notice set forth below in Section 42.3.

Sec. 42-3. Notification of termination of existing above ground service.

(a) The Town shall notify each property owner that the existing above ground service will be disconnected in ninety (90) days. The notice shall be served by certified mail, addressed to the owner or owners of the property described as they are known to the Town Manager or as their names and addresses are shown upon the records of the county tax assessor, or other public records of the Town of Golden Beach or of Miami-Dade County, Florida, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail.

Sec. 42.4. Notice of property owner's failure to convert facilities.

(a) If the Town Manager determines that after the 60 days, a property has not completed conversion to underground utility service facilities as required above, the Town Manager shall notify the owner of the building in writing and demand that the owner cause the conversion to be made within thirty (30) days of the date of the notice. The notice shall be by certified mail, addressed to the owner or owners of the property described as they are known to the Town Manager or as their names and addresses are shown upon the records of the county tax assessor, or other public records of the Town of Golden Beach or of Miami-Dade County, Florida, and shall be deemed

complete and sufficient when so addressed and deposited in the United States mail. In the event that such notice is returned by postal authorities, the Town 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.

(b) In the event that 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 said property.

Sec. 42-5. Conversion of facilities by town; lien; recording; other provisions.

(a) If within thirty (30) days after service of said notice or by physical posting of the notice on the property, the required conversion of the service facility has not been effected, the Town Manager shall cause the conversion to be made by the Town of Golden Beach at the expense of the property owner, if determined by the Town Manager that it is a necessary step to ensure the health, safety and welfare of the residents of the Town. 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 Town, the Town 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.

(b) After causing the conversion of service facilities to be done, the Town Manager shall certify to the finance officer the expenses as approved by the appropriate Town department, incurred in effecting the conversion and shall include a copy of the notice above described, whereupon such expense shall become payable within forty-five (45)

days, after which a special assessment lien and charge will be made upon the property which shall be payable in ten (10) equal installments together with costs of recordation of all documents required to be recorded hereby and with interest on the unpaid balance from the date of such certification until paid; provided, however, that 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 Town Clerk 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 of the amount of liens accruing during any year ending on June first, 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 said amount shall not be paid on or before April first of the following year, the entire lien and all annual installments thereof shall be delinquent, overdue, and in default.

(c) The entire amount of the lien may be foreclosed by the Town, 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 hereby or through foreclosure on tax sale certificates, the Town Clerk 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.

Sec. 42-6. Underground facilities to remain underground.

Wherever utility service facilities are located underground, such facilities must remain underground and may not thereafter be converted to overhead facilities.

Sec. 42-7. Enforcement; other action; right to enter.

This article may be enforced by any other means available to the Town. The Town Manager shall take any and all steps necessary to ensure the health, safety and welfare of all residents of the Town during this process, including the right to enter, either itself, its designee or contractor individual private property to arrange for the conversion in the case of exigent circumstances. Twenty-four (24) hours posted notice shall be given in order to enter.

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Golden Beach; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. That this Ordinance shall become effective upon adoption on second reading.

Sponsored by Town Administration.

The Motion to adopt the foregoing Ordinance was offered by Councilmember Lusskin, seconded by Vice Mayor Rojas, and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Amy Rojas	<u>Aye</u>
Councilmember Ken Bernstein	<u>Aye</u>
Councilmember Ben Einstein	<u>Aye</u>
Councilmember Judy Lusskin	<u>Aye</u>

PASSED AND ADOPTED on first reading this 21st day of October, 2008.

The Motion to adopt the foregoing Ordinance was offered by Vice Mayor Rojas, seconded by Councilmember Lusskin and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Amy Rojas	<u>Aye</u>
Councilmember Ken Bernstein	<u>Aye</u>
Councilmember Ben Einstein	<u>Aye</u>
Councilmember Judy Lusskin	<u>Aye</u>

PASSED AND ADOPTED on second reading this 18th day of November, 2008.

ATTEST:



MAYOR GLENN SINGER


ELIZABETH SEWELL
TOWN CLERK

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**


STEPHEN J. HELFMAN
TOWN ATTORNEY