

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2762.21

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA; OPPOSING THE COUNTY CODE AMENDMENT PROHIBITING MUNICIPALITIES FROM REQUIRING PERMITS FOR WORK ON CERTAIN RIGHTS-OF-WAY AND EASEMENTS LOCATED WITHIN MUNICIPALITIES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR INSTRUCTIONS TO TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 2, 2020, the Miami-Dade County Board of County Commissioners (the "BCC") heard the first reading of an ordinance amending Sections 2-103.1 and 2-103.4 of Miami-Dade County Code, prohibiting municipalities from charging any fees, imposing any requirements including but not limited to the maintenance of traffic requirements or requiring that any permit be obtained for any construction, maintenance, or improvements done by any person, corporation, partnership, association, governmental agency, or other legal entity on any County-owned or County-maintained rights of way or easements within the municipality; and

WHEREAS, on July 14, 2020, the Town of Golden Beach (the "Town") passed Resolution 20 – 1688, opposing said Ordinance; and

WHEREAS, in June 2021, the BCC adopted in first reading a similar Ordinance, prohibiting municipalities from regulating public works construction projects on municipal right of ways; and

WHEREAS, by investing the County with exclusive jurisdiction over the regulation of the Town's right of ways, the BCC abuses its Home Rule Powers by violating the Town's charter and legal right to protect its residents; and

WHEREAS, the Town Council finds that the proposed amendments to the Miami-Dade County Code are overly intrusive, encroach on the Town's home rule powers, and impinge on the Town's ability to carry out its municipal functions.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Opposition to Miami-Dade County Amendment to Article XIV, Chapter 2 of the Code of Miami-Dade County. The Town Council hereby opposes proposed amendments to Article XIV of Chapter 2 of the Code of Miami-Dade County as overly intrusive, encroach on the Town's home rule powers, and impinge on the Town's ability to carry out its municipal functions.

Section 3. Instructions to the Town Clerk The Town Council hereby authorizes the Town Clerk to provide a copy of said Resolution to all members of Miami-Dade County's Board of County Commissioners.

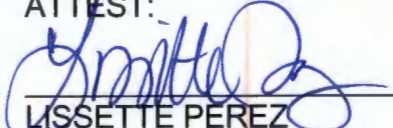
Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

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

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Judy Lusskin	<u>Aye</u>
Councilmember Kenneth Bernstein	<u>Absent</u>
Councilmember Jaime Mendal	<u>Aye</u>
Councilmember Bernard Einstein	<u>Aye</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 31st day August, 2021.

ATTEST:

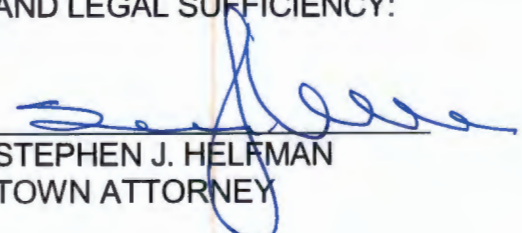


LISSETTE PEREZ
TOWN CLERK



MAYOR GLENN SINGER

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: August 31, 2021

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz,
Town Manager

Item Number:

14

Subject: Resolution No. 2762.21- Opposing the County Code
Amendment Prohibiting Municipalities from Requiring Permits
for work on Certain Rights-of-Way and Easements

Recommendation:

It is recommended that the Town Council adopt the attached Resolution No. 2762.21 as presented.

Background:

Miami-Dade County is looking to remove municipal oversight and control from permits in the Right-of-Way and Easements within municipal jurisdiction. The Board of County Commissioners is looking to pass an Ordinance that would make Miami-Dade County the exclusive issuer of these permits. The Administration believes that this infringes on the rights of cities and towns to control our Right-of-Ways and Easements.

We believe that this is something that adversely affects the Town of Golden Beach as well as all municipalities within Miami-Dade County. We ask for your favorable passage of this Resolution, in opposition of the Counties Ordinance.

Fiscal Impact:

None.

MEMORANDUM

Agenda Item No. 5(A)


TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: (Public Hearing: 9-1-21)
July 8, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to public works construction and permitting in the incorporated and unincorporated areas; amending article XIV of chapter 2 of the Code; providing exclusive permitting jurisdiction to the County for certain public works construction projects; prohibiting municipalities from charging fees, imposing requirements, or requiring permits for work on certain rights-of-way or easements within municipalities; revising obsolete provisions regarding enforcement; making technical and conforming changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Jose "Pepe" Diaz.


Geri Bonzon-Keenan
County Attorney

GBK/smm



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: September 1, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(A)

Please note any items checked.

- ☒ "3-Day Rule" for committees applicable if raised
- ☒ 6 weeks required between first reading and public hearing
- ☒ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☒ Statement of fiscal impact required
- ☒ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(A)
9-1-21

ORDINANCE NO. _____

ORDINANCE RELATING TO PUBLIC WORKS
CONSTRUCTION AND PERMITTING IN THE
INCORPORATED AND UNINCORPORATED AREAS;
AMENDING ARTICLE XIV OF CHAPTER 2 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA; PROVIDING
EXCLUSIVE PERMITTING JURISDICTION TO THE COUNTY
FOR CERTAIN PUBLIC WORKS CONSTRUCTION
PROJECTS; PROHIBITING MUNICIPALITIES FROM
CHARGING FEES, IMPOSING REQUIREMENTS, OR
REQUIRING PERMITS FOR WORK ON CERTAIN RIGHTS-
OF-WAY OR EASEMENTS WITHIN MUNICIPALITIES;
REVISING OBSOLETE PROVISIONS REGARDING
ENFORCEMENT; MAKING TECHNICAL AND
CONFORMING CHANGES; PROVIDING SEVERABILITY,
INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, section 1.01(A)(1) of the Miami-Dade County Home Rule Charter vests this Board with the power to “carry on a central metropolitan government” by, among other powers, “provid[ing] and regulat[ing] arterial, toll, and other roads, bridges, tunnels, and related facilities; . . . and develop[ing] and enforce[ing] master plans for the control of traffic and parking”; and

WHEREAS, among other mechanisms, this Board has exercised this power through adoption of ordinances that have been codified in the Code of Miami-Dade County, Florida (the “Code”); and

WHEREAS, section 2-100(d) of the Code requires that the Department of Transportation and Public Works (DTPW) promulgate, establish, and enforce minimum standards for public works construction by publishing a public works manual, which shall be the official guide and standards for public works construction in both the unincorporated and incorporated areas of the County; and

WHEREAS, section 2-95.1 of the Code empowers and imposes the duty and responsibility on DTPW to provide, develop, maintain, improve, implement, and enforce a master plan for the control, regulation, and appropriate movement of traffic throughout the County, including both the incorporated and unincorporated areas thereof; and

WHEREAS, section 2-95.1 also grants DTPW exclusive jurisdiction over all matters of traffic engineering Countywide, subject only to the jurisdiction of the state road department with respect to state highways; and

WHEREAS, section 2-96.1 of the Code vests DTPW with the exclusive jurisdiction to address traffic movement, traffic engineering, and traffic control devices throughout the County; and

WHEREAS, proper planning, design, and construction of certain roadways is instrumental in maintaining adequate traffic movement throughout the County's roadway network; and

WHEREAS, section 2-100 of the Code vests DTPW with the authority to "[p]lan, design, construct and maintain all arterial and other roads, bridges, tunnels, canals and related facilities in the unincorporated area of the County, as well as such other arterial and other roads, bridges, tunnels, canals and related facilities situated partially or entirely within the incorporated areas of the County, which are from time to time designated by the Mayor as County arterial, or other roads, bridges, tunnels, canals or related facilities"; and

WHEREAS, section 2-103.1 of the Code currently requires that any person or entity doing construction work on County-owned or County-maintained rights-of-way within unincorporated and incorporated areas of the County acquire a permit from DTPW; and

WHEREAS, although a County permit is required for work on County-owned or County-maintained rights-of-way located within municipalities, many municipalities also require a municipal permit and the payment of certain fees for said construction work; and

WHEREAS, providing exclusive permitting jurisdiction to DTPW for construction work on certain roadways, except for state highways, is consistent with and in furtherance of the authority vested in Miami-Dade County and the duties and responsibilities assigned to DTPW in furtherance of that authority; and

WHEREAS, prohibiting municipalities from requiring municipal permits or the payment of fees for work on County-owned or County-maintained rights-of-way or other roadways deemed necessary by DTPW to address traffic movement in the County's roadway network would help streamline public works and other construction projects that affect County rights-of-way and other roadways that impact the appropriate movement of traffic throughout the County's roadway network; and

WHEREAS, it is in the best interest of the County to be the sole permitting agency for construction work on County-owned or County-maintained rights-of-way and certain other roadways within the unincorporated and incorporated areas of the County; and

WHEREAS, this Board also wishes to update the relevant Code sections to update department names and references to the County Mayor, revise obsolete provisions regarding enforcement, and reorganize and streamline the provisions to make them easier to read, including by adding definitions for commonly-repeated words or phrases, inserting additional subparts, and reorganizing subparts to avoid repetition,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. Article XIV of chapter 2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

ARTICLE XIV. - PUBLIC WORKS DEPARTMENT

**Sec. 2-99. - Established; Director as head; appointment; term
>>; definitions<<.**

>>(a)<< The Public Works Department is established.

>>(b)<< The head of the Department is the Director of Public Works
>>,<< who shall be appointed by the >>County Mayor in
accordance with section 2.02(C) of the Miami-Dade County
Home Rule Charter<< [[Manager]] and shall serve at the will
of the >>County Mayor<< [[Manager]].

>>(c) Definitions. For purposes of this article, the following
definitions shall apply unless a contrary intent is obvious:

- (1) “Construction work” means the installation, maintenance, repair, modification, or removal of any building, structure, pavement, drainage, or equipment, including the planning and design for any such work.
- (2) “County” means Miami-Dade County, Florida.
- (3) “County-owned” means (i) property in which the County has a property interest, such as fee simple ownership or an easement, and (ii) property that the County maintains regardless of ownership, such as rights-of-way that are in incorporated areas but are maintained by the County.
- (4) “Director” means the Director of the Public Works Department, or the Director’s designee.
- (5) “Direct control” means under the County’s complete jurisdiction, by virtue of ownership, dedication by plat, easement, reservation, or right-of-way, and access agreement or instrument.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (6) “Engineer” means a professional engineer registered by the State.
- (7) “Public Works Department” and “Department” means the Department of Transportation and Public Works or successor department responsible for administration of this article.
- (8) “Right-of-way” and “rights-of-way” mean land in which the County owns the fee or has an easement devoted to or required for use as a transportation facility, and includes, without limitation, (i) all existing or dedicated rights-of-way and (ii) all proposed dedications of public rights-of-way set forth on official grading and drainage plans approved pursuant to tentative plats.
- (9) “Work” means any activity or result of such activity as set forth in section 2-103.1, or the area or site of such activity.<<

Sec. 2-100. - Functions, powers>>,<< and duties.

The Public Works Department shall perform the following functions:

- (a) >>Consistent with and in furtherance of the duty and responsibility to develop, maintain, improve, and enforce a master plan for the control, regulation, and appropriate movement of traffic for the County in both the incorporated and unincorporated areas thereof, and notwithstanding any other provision of the Code to the contrary, and subject only to the jurisdiction of the state road department with respect to state highways, the Department shall:
 - (1)<< Plan, design, construct>>,<< and maintain all arterial and other roads, bridges, tunnels, canals and related facilities in the unincorporated area of the County; and[[, as well as such other arterial and other roads, bridges, tunnels, canals and related facilities situated partially or entirely within the incorporated areas of the County, which are from time to time designated by the Manager as County arterial, or other roads, bridges, tunnels, canals or related facilities.]]
 - >>(2) Have the authority, but not the obligation, to do any construction work, including but not limited to the planning, designing, paving, or maintenance, on any arterial, collector, section line or half-section line road, or other roads, bridges, tunnels, canals or related facilities situated partially or entirely within

the incorporated areas of the County, and shall have the exclusive permitting jurisdiction over any such construction work whether the work is performed by County employees or by a private firm or corporation under contract with the County.<<

* * *

- (c) With the cooperation of the Department of >>Regulatory and Economic Resources or successor department or departments responsible for zoning and subdivision regulations<< [[Planning and Zoning]], establish and enforce minimum standards for the approval of platting or replatting of any land in the County.

* * *

- (j) Perform any other functions reasonably necessary to, or reasonably related to, the performance of the functions hereafter designated by administrative order of the [[Manager]] >>Mayor<<.
- (k) Review plans, issue permits and inspection >>for any construction work<< [[of paving and drainage]] on public right-of-way and private property in the unincorporated areas of Miami-Dade County >>and for any construction work done subject to the provisions of paragraph (a)(2) of this section<<.

Sec. 2-100.1. – >>Enforcement<< ~~[[Team Metro; delegation of enforcement power and duties.~~

~~Unless otherwise provided by ordinance, the Director of Public Works Department shall delegate his enforcement powers and duties to the Director of Team Metro for the expressed purpose of enforcing the regulations of this chapter as specified in Section 2-969 or in an administrative order of the County Manager.]]~~

- >>(a) This article may be enforced in accordance with section 1-5 and chapter 8CC.
- (b) The Director is hereby authorized to institute actions on behalf of the County in any court of competent jurisdiction in this State to seek enforcement of this article and all remedies for violation thereof.

- (c) The Director may, in the Director's discretion, terminate an investigation or an action commenced under the provisions of this article upon execution of a written consent agreement between the Department and the persons who are the subject of the investigation or action.
- (1) The consent agreement shall provide written assurance of voluntary compliance with all the applicable provisions of this article by such persons.
 - (2) The consent agreement may in addition provide for the following: mitigation of injuries accruing on account of the violation investigated or sued upon; compensatory damages; punitive damages; civil penalties; costs and expenses of enforcement; attorneys' fees; and remedial or corrective action.
 - (3) Except as expressly and specifically provided in the executed written consent agreement, an executed written consent agreement shall neither be evidence of a prior violation of this article, nor shall such agreement be deemed to impose any limitation or action by the Director or the County in enforcing any of the provisions of this article, nor shall the agreement constitute a waiver of or limitation upon the enforcement of any federal, state or local law or ordinance.
 - (4) Each violation of any of the terms of an executed written consent agreement shall constitute a separate violation under this article by the persons who executed the agreement and by their respective officers, directors, agents, servants, employees, attorneys, heirs, successors, and assigns, and by any persons in active concert or participation with any of the foregoing persons and who have received actual notice of the consent agreement.
 - (5) Each day during any portion of which each such violation occurs constitutes a separate offense under this chapter.<<

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Sec. 2-103. - Organization and operating procedures; appointment of personnel.

>>(a)<< The organization and operating procedures of the Department shall be >>as directed by the County Mayor or by implementing order approved by the Board of County

Commissioners.<< ~~[[prescribed in administrative orders and regulations of the Manager. The Manager, with the advice of the Director,]]~~

- >>(b) The County Mayor<< shall appoint such employees as may be necessary to perform the functions of this Department. The salaries for all departmental officers and employees shall be fixed by the County Commission. The >>County Mayor<< ~~[[Manager or the Director]]~~ may assign one ~~[[4]]~~ person to perform, without additional compensation, the duties of other offices or positions created by or made necessary by the provisions of this article.
- >>(c) The County Mayor<< ~~[[a) The Manager or the Director]]~~ may designate toll enforcement officers, who will be authorized to issue uniform traffic citations for violations pursuant to >>section<< ~~[[Section]]~~ 316.1001, Florida Statutes.

**Sec. 2-103.1. - Construction of public utilities or works in public rights-of-way~~[[;—construction—of]]~~ >>and<< paving and drainage on private property—
~~[[Permit]]~~>>permit<< required; >>permit requirements; limitation on municipal permits for certain construction work; authority to withhold, revoke, or enforce requirements of permit; limitations on cutting pavement;<< effect of installation of County facility; exemption.**

- (a) >>Definitions. The following additional definitions shall apply throughout this article unless context dictates otherwise.
- (1) “Permittee” includes both the person or entity applying for a permit required by this article and the owner of the property that is installed pursuant to a permit.
- (2) “Public works manual” means the public works manual establishing minimum standards for public works construction, as may be amended from time to time and as promulgated pursuant to section 2-100.
- (b) Permits required for construction.
- (1)<< It shall be unlawful for any person, corporation, partnership, association>>, governmental agency,<< or other legal entity to ~~[[construct utilities]]~~>>do any construction work related to any of the following, on any County-owned rights-of-way, without first obtaining a permit from the Department:

- (i) Utilities << or other public works, except ~~[[for the construction or installation of]]~~ mailboxes ~~[[in road and street right of way and easements in the unincorporated area of this County; and in rights of way of roads and streets located within municipalities that are maintained by Miami Dade County, without first having obtained a permit from the Public Works Department]]~~.
- >>(ii) Paving or drainage on private property in the areas used for vehicle driveways or parking.
- (2) Except as provided for herein, it shall be unlawful for any person, corporation, partnership, association, governmental agency, or other legal entity, without first obtaining a permit from the Department, to do any construction work related to any utilities or public works on any arterial, collector, section line, or half-section line road, or on any other road, bridge, tunnel, canal, or related facility that is situated partially or entirely within the incorporated areas of the County, regardless of ownership, that the Department deems necessary for appropriate traffic movement on the County's roadway network.
 - (i) The following are exempt from this permit requirement:
 - a. installation of mailboxes on private property;
 - b. paving or drainage on private property in areas used for vehicle driveways or parking; and
 - c. Maintenance, repair, or drainage work by a municipality on any roads that the municipality owns or maintains, whether this work is performed by employees of the municipality or by a private firm or corporation under contract with the municipality.
 - (ii) The Department shall prepare, update as it deems necessary, and make readily available to the public, a list of the roadways that are subject to the permitting requirements of this paragraph.

(c) Minimum requirements for permits.<< All >>permits for<< ~~[[said]]~~ construction work >>issued pursuant to this section<< ~~[[in said right-of-way]]~~ shall conform to uniform standards established by the ~~[[official manual of]]~~ public works >>manual.<< ~~[[construction. It shall also be unlawful for any person, corporation, partnership, association or other legal entity to construct paving or drainage on private property for areas used for vehicle driveways or parking in the unincorporated area of this County, without first having obtained a permit from the Public Works Department.]]~~

>>(d) Municipal permits, requirements, and fees prohibited.

(1) Municipalities are prohibited from charging any fees, imposing any requirements, including, but not limited to, maintenance of traffic requirements, or requiring that any permit be obtained for any construction work, including any public works, on:

- (i) any County-owned rights-of-way or easements within the municipality; and
- (ii) any road that is subject to paragraph (b)(2) above.

(2) Except as to the County, municipalities may impose permitting requirements for paving or drainage on private property in the areas used for vehicle driveways or for parking adjacent to any roads that the municipality owns or maintains.

(e) Authority to suspend permits.

(1)<< If the Director ~~[[of the Public Works Department]]~~ determines that the permittee is not performing the construction in accordance with the conditions of the permit or the approved plans upon which the permit was issued or in conformance with the >>minimum requirements of this section<< ~~[[uniform standards established by the official manual of public works construction]]~~, ~~[[he]]~~ >>the Director<< may order suspension of the permit or the stopping of work until such time as the permittee has complied with the permit, plans or >>requirements<< ~~[[standards]]~~.

>>(2)<< In such case, the permittee shall take all necessary precautions to leave the work area in a safe and secure condition.

>>(f) Authority to withhold issuance of permit.<< The Director ~~[[of the Public Works Department]]~~ may withhold the issuance of public works permits to a contractor >>or permittee to the extent required by section 8CC-7<< if that contractor >>or permittee<< has previously been issued a citation >>pursuant to chapter 8CC<< regarding work that requires a public works permit ~~[[as listed in Chapter 8CC of the Code of Miami Dade County]]~~, and the citation is still outstanding ~~[[forty five (45)]]~~ days after the date the citation was issued.

>>(g) Removal or relocation of utility.
 (1)<< In the event of any future widening, repairs, installation, construction, or reconstruction, by or for Miami-Dade County, of any road, bridge, canal, culvert, traffic signal, streetlight, water distribution system, sewage collection system, storm drainage system, or any other County facility within the public right-of-way in which the permittee ~~[[or owner]]~~ has constructed any utility, said permittee ~~[[or owner]]~~ shall move or remove such utility as may be required for the public convenience as and whenever specified by the Director ~~[[of the Public Works Department and at his]]~~>>.
 (2) Said removal or relocation shall be at the permittee's<< own expense.

>>(h) Liquefied petroleum gas installation.<< Permits for the installation of liquefied petroleum gas in easements will be issued by the Miami-Dade County Fire Safety Bureau rather than the ~~[[Public Works]]~~ Department.

~~[[The term "right of way" or "rights of way" shall be construed throughout this article to include, but not be limited to, all proposed dedications of public rights of way set forth on official grading and drainage plans required to accompany approved and valid tentative plats, as well as all existing or dedicated rights of way.]]~~

>>(i) Exemptions. The<< ~~[[Provided, however, the]]~~ United States, federal agencies and their contractors, in the execution of federal projects authorized by Congress, are exempted from the provisions of >>sections<< ~~[[Sections]]~~ 2-103.1 through 2-103.7 ~~[[and 2-103.10 through 2-103.13]].~~

- [[~~(b)~~]] >>(j) Restoration of right-of-way after completion of work.
- (1)<< Whenever any person, corporation, partnership, association, County Department or other legal entity performs any construction or public work within an existing >>County-owned<< right-of-way >>or on any road that is the subject of paragraph (b)(2) above<< ~~[[located within unincorporated Miami-Dade County, or in right of ways of roads or streets located within municipalities that are maintained by the County]]~~, the right-of-way, including sidewalks, curbs and gutters, and landscaping must be restored to their legally permissible preexisting condition, including any aesthetic enhancements thereto and any adjacent private property damaged during construction, within:
- >>(i)<< ~~[[~~(a)~~]]~~ 30 days of completion of the construction or public work in that >>County-owned<< right-of-way >>or other roadway<< or within 30 days of damage to the affected property or area, whichever occurs first; or
- >>(ii)<< ~~[[~~(b)~~]]~~ within 15 days of completion of the construction or public work in the >>County-owned<< right-of-way >>or other roadway<< or within 15 days of damage to the affected property, whichever occurs first, if such >>County-owned<< right-of-way >>or other roadway<< is located within the Rapid Transit Zone as identified in chapter 33C or within an urban center or urban area district as identified in chapter 33.
- >>(2)<< Prior to the time such construction work begins, the contractor, by posting the construction site, shall inform the local community of the requirement to restore the >>County-owned<< right-of-way >>or other roadway<< within the applicable time period as well as any affected adjacent private property and the fines that could be imposed for each failure to do so.
- >>(3)<< In restoring the roads, sidewalks, curbs and gutters in the >>County-owned<< right-of-way >>or other roadway<< as required by this section, the person, corporation, partnership, association, County Department or other legal entity that performed the construction or public work shall replace the removed, destroyed, or damaged roads, sidewalks,

curbs and gutters in the >>County-owned<< right-of-way >>or other roadway<< with the same material as that which existed before the construction or public work was started. Nothing herein prohibits the use of improved or upgraded materials for the restoration of roads, sidewalks, curbs and gutters within >>County-owned rights-of-way<< ~~[[an existing right of way located within unincorporated Miami Dade County, or in right of ways located within municipalities that are maintained by the County]]~~.

>>(4)<< All work to be done pursuant to this >>requirement<< ~~[[Section]]~~ shall be performed in compliance with the Public Works Manual.

>>(5)<< Any entity failing to restore the >>County-owned<< right-of-way >>or other roadway<< to its preexisting condition or better within the time permitted shall be subject to >>enforcement as provided in this article per violation per day until the<< ~~[[a civil fine of five hundred dollars (\$500.00) per violation per day until such time as the]]~~ right-of-way >>or other roadway<< ~~[[is restored, as well as five hundred dollars (\$500.00) per day for each]]~~ >>and<< affected adjacent private property >>are<< ~~[[until it is]]~~ restored.

>>(k) Limitations on cutting pavement.<< ~~[[(&)]]~~ No permit shall be issued for a County department, utility company, or any other person or public or private entity, to cut into pavement on any County-owned roadway that is located within the unincorporated area or a municipality and that was paved or repaved within the last three years, except as provided in this subsection.

* * *

(2) The >>Director<< ~~[[director of the Department of Transportation and Public Works, or its successor department with jurisdiction over county roadways,]]~~ may grant a variance with respect to this prohibition in accordance with the following:

* * *

Sec. 2-103.2. – ~~[[Same—]]~~ Permit fees—Schedule.

The ~~[[Miami-Dade County Public Works]]~~ Department shall charge and collect permit fees at the rates established by ~~>>implementing order<< [[separate administrative order which shall not become effective until]]~~ approved by the Board of County Commissioners.

* * *

Sec. 2-103.4. – ~~[[Same—Same—]]~~ Waiver.

- >>(a)<< The ~~[[Public Works]]~~ Department shall waive the permit fee for all work performed by a governmental agency, except for utility construction, whether this work is performed by employees of the governmental agency or by a private firm or corporation under contract with the governmental agency.
- >>(b) It is provided, however<< ~~[[However]]~~, such governmental agency or private firm or corporation under contract therewith shall not be relieved of the responsibility for obtaining a permit for work covered in >>section<< ~~[[Section]]~~ 2-103.1 unless otherwise provided. ~~[[In addition to the above, the Public Works Department will waive the permit fee for any work in the rights of way of roads or streets located within municipalities that are maintained by Miami-Dade County, providing a municipal permit fee has been or will be imposed for the same work. However, a Public Works Department permit must be obtained for this work.]]~~

Sec. 2-103.5. – ~~[[Same—]]~~ Time of completion.

The time allotted to complete the work for which a permit was issued under ~~[[Section]]~~ >>section<< 2-103.1 shall be limited to the period stipulated on the permit unless the person, firm or corporation to whom the permit was issued requests the ~~[[Public Works]]~~ Department for an extension of time, and provided the request is received prior to the time of expiration. If a time extension is needed but not requested until after the expiration of the time originally allotted, a new permit will be required for the uncompleted work. The fee amount for the new permit shall be based upon the uncompleted work.

~~[[Sec. 2-103.6. -- Same Penalties for violations of Sections 2-103.1 through 2-103.5.~~

~~Any person convicted of a violation of any of the provisions contained in Sections 2-103.1 through 2-103.5 shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or imprisonment not to exceed sixty (60) days in the County Jail, or both, at the discretion of the judge of the court of appropriate jurisdiction.~~

~~Sec. 2-103.7. -- Definitions.~~

~~The definitions as set forth in the South Florida Building Code, the Miami Dade County Public Works Manual and the following definitions shall apply to this article unless a contrary intent is obvious:~~

- ~~(a) County: Miami Dade County, Florida.~~
- ~~(b) Direct control: Under the complete jurisdiction of Miami Dade County, Florida, by virtue of ownership, dedication by plat, easement, reservation or right of way and access agreement or instrument.~~
- ~~(c) Engineer: A professional engineer registered by the State of Florida.~~
- ~~(d) Work: Activity or result of such activity as set forth in Section 2-103.1 of the Code of Miami Dade County, Florida, or area or site of such activity.]]~~

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

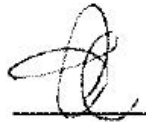
Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

GKS for GBK

Prepared by:

A handwritten signature in black ink, appearing to be 'AP', written over a horizontal line.

Annery Pulgar Alfonso
Dennis A. Kerbel

Prime Sponsor: Chairman Jose "Pepe" Diaz