

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, CREATING SECTION 62-101, CHAPTER 62, ARTICLE III OF THE CITY OF CORAL GABLES CODE TO PROHIBIT EXCAVATIONS ON MIRACLE MILE AND GIRALDA AVENUE IN THE STREETSCAPE AREA; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 62, Article III of the City Code regulates excavations for any purpose, including “laying sewers, water mains, underground wires, or gas pipes, or for setting poles,” of any of the streets, parks, parkways, sidewalks, alleys, or easements of the City; and

WHEREAS, the Miracle Mile and Giralda Avenue Streetscape Project (“Streetscape Project”) is transforming the City’s main street and a one-block stretch of Giralda Avenue known as “Restaurant Row” by widening sidewalks, installing pavers, installing landscaping, incorporating public art, improving drainage, providing decorative street lighting, furniture, and wayfinding signs; and

WHEREAS, the Streetscape Project is estimated to cost \$21.6 million funded by the City and assessments from the properties directly on Miracle Mile and Giralda Avenue, as well as the adjacent properties that are within one-half block of the directly fronting properties; and

WHEREAS, in order to protect the City and property owners’ investment in the Streetscape Project and to maximize the public benefit provided by the Streetscape Project, it is necessary to prohibit excavations on Miracle Mile and Giralda Avenue; and

WHEREAS, the City Commission wishes to amend Chapter 62, Article III of the City Code to create section 62-101 to prohibit excavations without an excavation waiver granted by the City Commission, except for emergency situations, on the areas of Miracle Mile and Giralda Avenue improved as part of the Streetscape Project; and

WHEREAS, the City Commission finds that this Ordinance is in the best interests of the City.

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

SECTION 1. 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. Chapter 62, Article III of the City Code is amended to create Section 62-

101 as follows (changes in ~~strike-through~~ / underline format):

Sec. 62-101 –Excavations on Miracle Mile and Giralda Avenue Prohibited.

- (a) Notwithstanding anything to the contrary in Chapter 62, Article III and any other provision of this Code, due to the City and property owners’ significant investment in the Miracle Mile and Giralda Avenue Streetscape Project (“Streetscape Project”) and to maximize the public benefit provided by the Streetscape Project, except for excavations by the City for public purposes, all excavations in any of the streets, parks, parkways, sidewalks, alleys or easements on those areas of Miracle Mile (from Douglas Avenue to Le Jeune Road) and Giralda Avenue (from Galiano Street to Ponce de Leon Boulevard) that have been improved as part of the Streetscape Project shall be prohibited without an excavation waiver granted by the City Commission.

- (b) Upon written request for an excavation waiver submitted to the public works director, the City Commission may grant an excavation waiver and may place additional conditions beyond the standard restoration requirements, including remediation and mitigation requirements, on a permit issued subject to an excavation waiver. The City Commission may consider the following factors to approve, conditionally approve, or deny an excavation waiver:
 - (1) the proposed facilities to be installed;
 - (2) the location and extent of the proposed excavation;
 - (3) the reason for the proposed excavation;
 - (4) the extent to which the proposed service can be provided from another location or through other means; and
 - (5) the proposed timeframe for the restoration of the public right-of-way and all improvements thereon.

- (c) Notwithstanding this prohibition on excavations on Miracle Mile and Giralda Avenue without an excavation waiver granted by the City Commission, if it becomes necessary for a utility company to excavate for emergency repair work, the utility company must immediately contact the police department who will contact the public works director or his or her designee. Before the excavation can proceed on an emergency basis, the public works director or his or her designee must approve the request in writing (via electronic communication shall be acceptable) and the permit shall be secured pursuant to section 62-64(c). The excavator must comply with all other provisions of Chapter 62, Article III as applicable.

- (d) Any person, including the City, that is injured, aggrieved, or damaged as a result of a violation of this section, may bring a civil action in any court of competent jurisdiction against any person, except the City, performing work on or making excavations in violation of the provisions of this section for damages in an amount equal to three times the amount of damages caused by any such excavation, plus all costs and fees (including without limitation, reasonable legal, expert, and consulting fees) incurred in pursuing such action.

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 City Commission that the provisions of this Ordinance shall become and be made a part of the City Code, which provisions may be renumbered or re-lettered and the word ordinance be changed to “section”, “article”, or other appropriate word to accomplish such intention.

SECTION 6. If the City Code’s Tables of Contents, Supplemental History Table, or other reference portions are affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This Ordinance shall become effective upon the date of its adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, A.D., 2017.

(Moved: / Seconded:)

(Yeas:)

(; Vote)

APPROVED:

RAÚL VALDÉS-FAULI
MAYOR

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

WALTER J. FOEMAN
CITY CLERK

CRAIG E. LEEN
CITY ATTORNEY