

Article I. IN GENERAL

Sec. 78-1. Utility easements, utility facilities and equipment, and access to property.

(a) It shall be unlawful for any person to construct or maintain buildings or structures, or to plant or grow trees or shrubbery in any manner whatsoever which does or may interfere with, obstruct, impede or retard the free use of the easement strips for electric, telephone, gas, water or other utility purposes.

(b) No individual shall deny the right, or impede the ability of a utility company to enter private property for the purpose of entering a utility easement to remove or prune a plant/tree which is interfering with or impeding the utility company's ability to deliver safe and reliable utility service, nor shall an individual refuse to allow a utility company to remove or prune, when on private property, a plant/tree which is interfering with or impeding the utility company's ability to deliver safe and reliable utility service, when it is determined by the utility company that the condition caused by the offending plant/tree constitutes a hazardous condition.

(c) No individual shall obstruct or unreasonably refuse to cooperate with a utility company seeking an easement for the provision of electrical or communication infrastructure, including but not limited to the conversion of electric or communication infrastructure from overhead to underground.

(e) No individual shall obstruct, refuse to cooperate, or cause delay in a utility company seeking to place above-ground or underground facilities on the individual's or another's property.

(f) No individual shall deny reasonable access to the individual's or another's property in connection with the construction, maintenance, or repair of utility infrastructure equipment and facilities or to ensure the proper maintenance of any utility easement located on their or another's property.

(g) Any person violating any provision of this article or order of the city manager implementing this section, shall be subject to the penalties provided in section 1-7.

(h) Any utility company that performs work on a utility easement is responsible for any damage caused by said work whether the damage occurs on private property or within the easement area. It shall be the sole responsibility of the utility to restore any damage caused by their operations, regardless of location, and any costs associated with the restoration work will be assessed on the utility company responsible for the damage.

(i) All utility companies operating within the utility easements shall defend, indemnify, and hold harmless the city, its trustees, elected and appointed officers, agents, and employees against any claims for damages or injuries resulting in any manner from their actions or the action of their authorized agents.

Article VI. UNDERGROUND UTILITIES

Sec. 78-280 Definitions

As used in this Article VI, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) "Public utility" means every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within the city; but the term "public utility" does not include; any entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state; or a person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies electricity or manufactured or natural gas.

(b) "Electric utility" means any investor-owned electric utility, which owns, maintains, or operates an electric generation, transmission, or distribution system within the city.

(c) "Attaching entity" means a person that is a local exchange carrier, a public utility, a communications services provider, a broadband service provider, or a video service provider that owns or controls pole attachments.

(d) "Pole" means a pole used for electric distribution service, streetlights, communications services, local exchange services, or cable television services which is owned in whole or in part by a pole owner. The term does not include a pole used solely to support wireless communications service facilities or a pole with no electrical facilities attached.

(e) "Pole attachment" means any attachment (including but not limited to equipment, facilities, or co-located equipment or facilities) by a public utility, local exchange carrier, communications services provider, broadband provider, cable television operator, or other entity other than a pole owner to a pole, duct, conduit, or right-of-way owned or controlled by a pole owner.

(f) "Pole owner" means a local exchange carrier, a public utility, a communications services provider, or a cable television operator that owns a pole.

(g) "Public Rights-of-Way" means public right-of-way, public easement, highway, street, bridge, tunnel, waterway, dock, wharf, court, lane, path, or alley, or any other way for which the city is the authority that has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface. Public rights-of-way shall not include private property. Public rights-of-way shall not include any real or personal city property except as described above, and shall not include city parks, buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the public rights-of-way.

(h) "Redundant pole" means a pole owned or controlled by a pole owner which is:

(1) Near or adjacent to a new pole that is intended to replace the old pole from which some or all of the pole attachments have not been removed and transferred to the new pole;

(2) Left standing after the pole owner has relocated its facilities to underground but on which pole attachments of other attaching entities remain; or

(3) Left standing after a pole owner's attachments have been removed from that route or location to accommodate a new route or design for the delivery of service.

(i) "Undergrounding project" means the conversion of overhead utility lines to underground either in connection with a major hardening project as provided in Section 366.97, F.S.; at the request of the city; or where utility lines serving more than one property or parcel will be converted from overhead to underground.

(j) "Utility Easement" means the area on, below, or above privately owned property that has been designated for use as or is used for a specific utility purpose (such as for electric, cable or other utility purpose), and is evidenced by a recorded instrument in the public land records pursuant to a recorded plat, easement or right of way or is otherwise a legally enforceable easement, and does not include any portion of a Public Right of Way.

(k) "Utility line" means all active, deactivated or out of service electric transmission lines, telephone lines, cable television lines, or other communications service lines.

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 signal-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 Manual of Public Works Construction. 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 Sec. 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 ninety (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 Section 366.97, F.S., the procedures for redundant poles contained in Section 366.97, F.S., 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 Section 366.97, F.S. 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 Sec. 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.

(Ord. No. 2020-31, § 5(Exh. B), 11-10-2020)

Sec. 78-282. Utility poles and underground utilities in SFR, MF1, MF2, and MFSA districts.

The following provisions shall apply to utility poles and underground utilities on private property for all new construction and for existing construction. For the purpose of this section "service to the building" shall include electrical service, communications service, broadband service, telephone service and videotelevision service to the building.

- (1) In SFR, MF1, MF2, and MFSA districts, all utility poles and lines shall be placed in rear yard areas reserved for utility uses by easements granted for that purpose.
- (2) The service lines for all utilities for new buildings and or structures on private property from the public rights-of way or public easement to the demarcation or entry point for the building or structure shall be placed underground.
- (3) The lines for all utilities for existing buildings or structures on private property from the public rights-of way or public easement to the demarcation or entry point for the building or structure shall be placed underground when any of the following occur:
 - a. The service to the building or structure is replaced;
 - b. The service to the building or structure must be relocated due to an addition or alteration to the building or structure;
 - c. The service to the building or structure must be upgraded; or
 - d. An alteration to a building or structure is an alteration-level 3 pursuant to the Florida Building Code.

(Ord. No. 2020-31, § 5(Exh. B), 11-10-2020)