

Chapter 62 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES¹

ARTICLE I. IN GENERAL

Sec. 62-1. Sidewalk advertising; using streets or sidewalks for advertising purposes.

- (a) Violations of this section shall be punished as provided in section 1-7.
- (b) It shall be unlawful to use any portion of any street or sidewalk in the city for advertising or display purposes and it shall be unlawful for any person to walk on the streets or sidewalks of the city carrying an advertising or display sign, commonly known as a sandwich sign.

(Code 1958, § 3-3; Code 1991, § 22-2; Code 2006, § 62-1; Ord. No. 1653, § 1, 1-23-1968)

Sec. 62-2. Property for public dedication.

- (a) *Joint conveyance of titleholder and lienholder.* The acceptance by the city of plats, replats and deeds or other instruments conveying or dedicating to the city or the public lands or waterways for use as streets, alleys, sidewalks, canals, waterways, or other public ways, shall be contingent upon the execution of such instruments jointly by the owner of title and by the owners of all mortgages or other liens upon the lands or water areas affected thereby; and the applicant for acceptance of such plat or replat or the person or agency tendering a conveyance or dedication of such lands shall furnish to the city clerk and the city attorney evidence, satisfactory to them, of the nature, amount and ownership of any and all liens affecting the title thereto.
- (b) *Evidence of paid taxes.* No plat or replat dedicating property to the public shall be accepted and approved, and no application therefor shall be entertained, unless or until all city taxes and tax sale certificates accrued and payable at the time of the application shall have been paid, and satisfactory evidence of such payment shall have been furnished to the city clerk.

(Code 1958, §§ 28-8, 28-9; Code 1991, § 22-3; Code 2006, § 62-2; Ord. No. 364, §§ 1, 2, 6-18-1940)

Sec. 62-3. Encroachments.

- (a) No encroachment exceeding nine inches, into, onto or under the right-of-way shall be erected in or on any right-of-way without the prior authorization of the city commission. All other encroachments must be approved by the public works director, in accordance with the established administrative procedures.
- (b) A legal notice of public hearing shall be sent to property owners within a 1,000-foot radius when the requested encroachment upon any public street closes the right-of-way to public use or alters the public access to the right-of-way.

¹State law reference(s)—Municipal Home Rule Powers Act, F.S. ch. 166; municipal street system designated, F.S. § 334.03(3).

(Code 2006, § 62-3; Ord. No. O-2003-30, § 1(22-7), 8-26-2003)

Sec. 62-4. Abandoned construction signage and barricades.

- (a) Any abandoned construction signage and barricades, including but not limited to traffic cones and modular signs, which are approved pursuant to this chapter, shall be removed immediately at the completion of any permitted work.
- (b) Any abandoned construction signage and barricades left on the right-of-way will be deemed abandoned 24 hours after the final inspection for the permitted work.
- (c) Additionally, any abandoned construction signage and barricades, on the right-of-way is subject to removal and destruction.
- (d) Violations of this section shall be punished as provided in section 1-7.

(Ord. No. 2023-09, § 2, 2-28-2023)

Secs. 62-5—62-23. Reserved.

ARTICLE II. STREET NAMES AND BUILDING NUMBERS

Sec. 62-24. Violations.

In addition to all other remedies, violations of this article are punishable as provided in section 1-7.

Sec. 62-25. Authority to assign; plan.

Development services department is hereby given the authority to assign street numbers to locations in the city according to the following plans:

- (1) Odd numbers shall be assigned to the north and east sides of all streets, avenues, places, etc., and even numbers to the south and west sides thereof.
- (2) A minimum of two numbers shall be assigned to each 25 feet of street frontage.
- (3) On the east and west streets the numbers shall begin at "one" at Douglas Road and increase westerly, allowing 100 numbers in each block, with the exception that on Southwest Eighth Street the numbers shall be a continuation of the existing numbers allocated by the City of Miami.
- (4) On north and south streets the numbers shall begin at "One Flagler Street" and increase southerly, allowing 100 numbers to the block, except in those instances where there are established numbers to the contrary, in which case the existing plan of numbering by hundreds shall be retained.
- (5) In case of diagonal streets, avenues or places, or in case of streets, avenues or places which do not lend themselves to the designation or description of north and south or east and west, development services department is hereby authorized and empowered to assign numbers which will be in keeping with the general plan set forth herein as applied to and contrasted with the numbers assigned in the vicinity.
- (6) Development services department shall maintain a property numbering map and property numbers assigned shall be in accordance with this map.

(Code 1958, § 28-3; Code 1991, § 22-86; Code 2006, § 62-25; Ord. No. 553, §§ 1, 2, 12-4-1947; Ord. No. 1112, § 1, 1-6-1959; Ord. No. 2456, § 1, 2-8-1983; Ord. No. 2515, § 1, 8-28-1984)

Cross reference(s)—False claims and presentations, § 38-41 et seq.

Sec. 62-26. Posting and maintenance of assigned street numbers.

It shall be the duty of the owner of any dwelling unit, building or place of business to which a number has been assigned, to display such number in numeral form in accordance with the following standards:

- (1) All street numbers assigned pursuant to this section shall be clearly legible and shall be visible from the streets, alleys, roadways, and waterways.
- (2) Street numbers shall be no less than three inches high in "Helvetica," "Franklin Gothic," "News Gothic," "Folio," "Grotesque" or "Microgramma" type styles (examples are on file in the city clerk's office), that are visible from any distance up to 100 feet from the centerline of the street, roadway, or alley fronting the property.
- (3) Numerals shall be placed on a sharply contrasting background if placed on a freestanding address display stand or shall be of a sharply contrasting color if placed on the building wall or other structure.
- (4) Street numbers shall be placed in such a location mounted on a permanent structure or freestanding address display stand so as to be visible from the centerline of the street, roadway or alley facing the numerals.
- (5) The maximum setback for street numbers mounted on a building or other permanent structure shall be 100 feet from the centerline of the street or roadway fronting the property.
- (6) Street numbers mounted on a fence, wall or freestanding address display stand shall be placed within 25 feet of the driveway, walkway or other obvious entry onto the premises from the fronting street or roadway.
- (7) Commercial structures with alley or waterfront frontage shall be subject to the following:
 - a. In addition to complying with the standards enumerated in subsections (b)(1) through (6) of this section, commercial structures with alley frontage shall display above, or next to the door, the street number and name of the business occupying the structure in such a manner so as to permit an unobstructed view of the street number from the centerline of the alley; provided, however, such displayed name shall be in accordance with the zoning code.
 - b. Commercial structures with waterfront frontage shall display above or next to the street number the name of the business occupying the structure for identification from the waterway. The location, type style of lettering, mounting standards and visibility requirements of the displayed business name and address number shall be the same as those established for residential waterfront addresses in this section; provided, however, such displayed name and address numbers shall be in accordance with the zoning code. Request for adjustments to the standards established in this section for waterfront structures shall be made in an acceptable application to the public works director and indicate the standards to be adjusted and the proposed adjustment.
- (8) In addition to complying with the standards enumerated in subsections (b)(1) through (6) of this section, residential structures with alley frontage shall display the street numbers in such a location and manner so as to permit an unobstructed view of the street number from the centerline of the alleyway.

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- (9) In addition to complying with the standards enumerated in subsections (b)(1) through (6) of this section, residential structures on waterfront properties shall have numerals facing the waterway that are reflective, no less than four inches high and placed on a contrasting background on the property no less than five feet and no more than 20 feet from the northerly or easterly side property line and within ten feet from the edge of the property waterfront. Numerals must be visible from the canal through a 120-degree angle, as measured horizontally about a point that is the center point of the numerals and is contained within a line that bisects said 120-degree angle and is perpendicular to the canal centerline. There shall be no obstructions between the numerals and the canal centerline within the visibility envelope. The numerals shall be fastened to a permanently secured post or mounting structure with numerals not less than three feet above the mean high water line and not more than five feet above the adjacent ground. As an exception, numerals may be fastened to a seawall cap, provided the cap is constructed of reinforced concrete materials not less than 24 inches in height. Properties adjacent to intersecting waterways shall display the assigned street numbers with street names at both waterfront frontages. Plan review, permitting, inspections and enforcement of the standards contained in this subsection are assigned to the public works department. Property owners and homeowner associations may submit a request for adjustment to the standards contained in this subsection to the public works director through an acceptable application. Requests must indicate pertinent existing conditions and the standards to be adjusted. Standards adjusted for a homeowners' association shall be applied to all properties encompassed by the association. Previously permitted numeral installations may be exempted from the requirements of this subsection, provided the owner submits to the public works director for review approved documentation for same and a recent photograph of the existing installation.
- (10) It shall be the duty of the owner to maintain the numbers of his or her buildings as herein provided in good condition.
- (11) The term "owner" as used in this section shall include owners of the fee, lessee and agent in charge.
- (12) It shall be unlawful for any person to tamper with, deface or take down numbers placed on any property in accordance with this section, except for repairs or replacement of such numbers.
- (13) The standards established for waterfront properties in this section shall apply to properties with frontage on both public and private canals.

(Code 1958, § 28-3.1; Code 1991, § 22-87; Code 2006, § 62-26; Ord. No. 2515, § 2, 8-28-1984; Ord. No. 3603, § 1, 10-29-2002)

Sec. 62-27. Only assigned numbers allowed; posting incorrect street name.

- (a) It shall be unlawful for any person to use any number other than that designated or assigned by development services department.
- (b) It shall be unlawful for any person to place any sign designating any street, avenue or other public place by a different name than by which it is generally and legally known.

(Code 1958, § 28-4; Code 1991, § 22-88; Code 2006, § 62-27; Code 2006, app. A; Ord. No. 553, § 3, 12-4-1947; Ord. No. 1112, § 2, 1-6-1959; Ord. No. 2515, § 1, 8-28-1984; Ord. No. 2015-17, § 2 (exh. I), 6-16-2015)

Secs. 62-28—62-57. Reserved.

ARTICLE III. EXCAVATIONS

PART II - CODE OF ORDINANCES
Chapter 62 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
ARTICLE III. - EXCAVATIONS
DIVISION 1. GENERALLY

DIVISION 1. GENERALLY

Sec. 62-58. Penalties.

Any person performing work on or making excavations in the streets, parks, parkways, sidewalks, alleys or easements in the city in violation of the provisions of this article shall be deemed guilty of an offense, and upon conviction thereof shall be punished as provided in section 1-7 for each offense.

(Code 1958, § 28-35; Code 1991, § 22-115; Code 2006, § 62-67; Ord. No. 2581, § 1, 9-10-1985)

Sec. 62-59. Violations.

Each day's violation of any of the terms of this article shall be deemed and considered to be a separate and distinct violation of the terms of this article and hereby is declared specially punishable as such.

(Code 1958, § 28-36; Code 1991, § 22-116; Code 2006, § 62-68; Ord. No. 2581, § 1, 9-10-1985)

Sec. 62-60. Replacements.

All replacements of streets, parks, parkways, sidewalks, alleys, or easements made as the result of excavations under this article shall comply with the following regulations with regard to resurfacing:

- (1) Asphaltic concrete surface joints shall be saw-cut. All saw cuts shall be made parallel to or at right angles to the centerline of the road. Exposed edges shall be tack-coated before resurfacing.
- (2) Base shall be primed.
- (3) Asphalt shall be saw-cut prior to excavation.
- (4) Street cuts shall be resurfaced with one inch minimum of F.D.O.T. type S-1 asphaltic concrete by paving machine with tamping bars and screed, unless otherwise authorized by the public works director. The design mix shall be approved by the public works director prior to paving.
- (5) Daily extraction tests are required unless otherwise authorized by the public works director.
- (6) The entire pavement in a block shall be milled and resurfaced if the:
 - a. Length of the excavation is more than 60 feet or ten percent of the length of the block measured centerline to intersection to centerline of intersection, whichever is less;
 - b. Excavation extends in whole or in part into more than one lane of traffic or parking.
- (7) Resurfacing will not be required if an excavation is made at right angles to the centerline of a street and the width of excavations is less than five feet.
- (8) The width of asphalt surface required to patch the excavation shall be ten feet minimum but in no case shall it extend less than one full lane in width and five feet beyond the excavation in each direction.

(Code 1958, § 28-30; Code 1991, § 22-110; Code 2006, § 62-62; Ord. No. 2581, § 1, 9-10-1985; Ord. No. O-2003-15, § 1, 5-20-2003)

Sec. 62-61. Protective devices.

- (a) A certified maintenance of traffic plan in compliance with the Roadway and Traffic Design Standards (RTDS 600 Series), and with the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTC Part 6) must be submitted to and approved by the public works department prior to the issuance of any permit to work on the right-of-way that might affect vehicular or pedestrian traffic.
- (b) All excavations made in the streets, parks, parkways, sidewalks, alleys or easements shall be properly protected by guardrails, ropes or barricades, and after sundown, red lights, flashers, lanterns, or flambeaus should be placed around such excavations in a manner properly protecting the public from the dangers incident to such excavations.
- (c) Violations of this section shall be punishable as provided in section 1-7.

(Code 1958, § 28-31; Code 1991, § 22-111; Code 2006, § 62-63; Ord. No. 2581, § 1, 9-10-1985; Ord. No. 3598, § 1, 10-8-2002)

Sec. 62-62. Tests required; reports.

Any and all tests that shall be required by the director of public works for the purposes of this article shall be made at either the contractor or owner's expense by a recognized testing laboratory. Copies of all test reports shall be furnished to the department of public works. In addition, telephonic reports shall be made to the department of public works of any previous day's tests.

(Code 1958, § 28-34; Code 1991, § 22-114; Code 2006, § 62-666; Ord. No. 2581, § 1, 9-10-1985)

Sec. 62-63. 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.

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- (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.

(Ord. No. 2017-32, § 2, 9-14-2017)

Secs. 62-64—62-82. Reserved.

DIVISION 2. PERMIT

Sec. 62-83. Required.

- (a) Violations of this section shall be punishable as provided in section 1-7.
- (b) It shall be unlawful for any person to do work on or cut into, dig up, or excavate for the purpose of laying sewers, water mains, underground wires, or gas pipes, or for setting poles, or any other purpose whatsoever, any of the streets, parks, parkways, sidewalks, alleys, or easements in the city without first securing from the director of public works a permit to do such work, and make such excavations.

(Code 1958, § 28-26; Code 1991, § 22-106; Code 2006, § 62-58; Ord. No. 2581, § 1, 9-10-1985)

Sec. 62-84. Authority to issue permit; miscellaneous standards.

- (a) Violations of this section shall be punishable as provided in section 1-7.
- (b) The director of public works shall be authorized, upon completed application being made, to issue to any person a permit to work on, to cut into, dig, or make excavations in any of the streets, parks, parkways, sidewalks, alleys or easements in the city for the purpose of laying sewers, water mains, underground wires, gas pipes, or setting poles, or for any other purpose, provided that the applicant complies with the public works department standard specifications and in no case less than the following regulations:
 - (1) All utilities must be installed a minimum of 30 inches below the existing or proposed surface, whichever applies.
 - (2) Inspection of installation is required before backfilling can begin.
 - (3) Backfill shall be a maximum of nine inches of loose layers compacted to 90 percent of maximum density (AASHTOT-180-74, Method D) from six inches above utility to 12 inches below the surface.
 - (4) The top six inches of subgrade and lime rock base of the road shall be compacted to 95 percent of maximum density (AASHTOT-180-74, Method D). Base shall be composed of new pit lime rock.

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- (5) Density tests will be required for each layer and for every 200 linear feet or less of trench. The costs of such tests shall be borne by the excavator.
 - (6) New base and asphalt concrete surface shall extend one foot on both sides of trench excavation.

(Code 1958, § 28-27; Code 1991, § 22-107; Code 2006, § 62-59; Ord. No. 2581, § 1, 9-10-1985; Ord. No. O-2003-15, § 1, 5-20-2003)

Sec. 62-85. Contents of permits; contractor registration.

- (a) A permit, when issued by the director of public works under this division, shall provide and specify the purpose for which the performance of work or excavations in the streets, parks, parkways, sidewalks, alleys, or easements are made, the period of time during which the streets, parks, parkways, sidewalks, alleys, or easements remain dug up or cut into, and the period of time allowed for the completion of the work for which the excavations are made.
- (b) Permits shall be issued for a period of 30 days. Permits granted to utility companies could be extended to a maximum of one year, provided that extensions are granted on a monthly basis.
- (c) Any contractor applying for a permit to perform any work on the city's right-of-way must first pay a contractor registration fee to be registered with the public works department and must provide copies of their certifications, licenses and insurance, as required by the department.

(Code 1958, § 28-28; Code 1991, § 22-108; Code 2006, § 62-60; Ord. No. 2581, § 1, 9-10-1985; Ord. No. O-2003-15, § 1, 5-20-2003)

Sec. 62-86. Completion of work by city; assessment for permittee.

At the expiration of the time granted in a permit issued for the completion of the work, or any extension thereof, the city shall have the right to complete such work and restore and repair such parks, parkways, streets, sidewalks, alleys, or easements which may be damaged and to charge the person to whom the permit is granted with the cost of the repair and/or completion of the work, plus 25 percent thereof to cover overhead and administration expenses.

(Code 1958, § 28-29; Code 1991, § 22-109; Code 2006, § 62-61; Ord. No. 2581, § 1, 9-10-1985)

Sec. 62-87. Permit fees.

- (a) Any person desiring to do work on or to make excavations in the streets, parks, parkways, sidewalks, alleys, or easements shall secure a permit therefor from the director of public works. The fee for permits under this division shall be as established in section 1-8.
- (b) A fee in the amount established by the city commission shall be charged for each re-inspection made due to condemnation of work, or due to the fact that work was not ready at the time inspection was called for, or failure to call for an inspection where required.
- (c) If it is necessary for a utility company to excavate for emergency repair work, a permit shall be secured by telephoning the public works department as soon as possible and the permit obtained within five working days with presentation of plans to this department.
- (d) No fee will be charged for fire hydrant installation and fire protection sprinkler systems that comply with the state building and fire prevention codes.

(e) An additional fee in the amount established in section 1-8 shall be charged for resubmittal of previously rejected plans.

(Code 1958, § 28-32; Code 1991, § 22-112; Code 2006, § 62-64; Ord. No. 2581, § 1, 9-10-1985; Ord. No. 2810, § 1, 9-27-1988; Ord. No. 2981, § 1, 3-31-1992; Ord. No. 3485, § 1, 8-29-2000; Ord. No. O-2003-15, § 1, 5-20-2003)

Sec. 62-88. Bond or liability insurance by permittee.

Before any permit shall be issued under this division, the applicant shall furnish to the city evidence that the applicant is carrying public liability insurance, with the city named as an additional insured, with bodily injury liability limits of \$500,000.00 for each person, \$500,000.00 for each occurrence, and property damage liability limits of \$250,000.00 for each occurrence, or bodily injury liability and/or property damage liability, single limit of \$500,000.00 for each occurrence. No permit shall be issued to any applicant to perform work on, or cut into, the public right-of-way until a deposit has been made in a sufficient amount to the city to insure the repairs requested by the applicant, and such amount shall be determined by the director of public works; but in any event, the minimum amount of such bond shall be \$150.00, and maximum amount of such bond shall be 125 percent of the cost of proper restoration of the public right-of-way, 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.

(Code 1958, § 28-33; Code 1991, § 22-113; Code 2006, § 62-65)

Secs. 62-89—62-119. Reserved.

DIVISION 3. PROTECTION OF UNDERGROUND UTILITIES

Sec. 62-120. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

As-builts means drawings after facilities have been installed, showing the location, elevation, and type of facility as installed, as defined in F.A.C. 5J-17.050.

Business days means Monday through Friday, excluding those holidays as established by section 1-2.

Conflict means a situation that exists when the installation of a new underground facility will result in the facility being installed within 24 inches horizontally or vertically of another underground facility as measured from the closest point between the utilities.

Construction ticket means the notification from the state one-call notification system to a member operator that construction activities associated with an excavation or demolition project require underground facility information to be provided by the requesting party.

Demolition means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any tool, equipment, or discharge or explosives, or any disturbance of the earth in any manner on public or private lands which would damage any underground facility.

Design ticket means the notification from the state one-call notification system to a member operator that design or survey activities associated with an excavation or demolition project require underground facility information to be provided to the requesting party.

Directional boring means any process of installing a product underground without open trench excavation and with the capacity to directionally control the bore path. The term "directional boring" shall be used interchangeably with the term "horizontal boring techniques."

Emergency means any condition constituting a clear and present danger to life or property; a situation caused by the escape of any substance transported by means of an underground facility; any interruption of vital public service or communication caused by any break or defect in an underground facility; or any condition impairing use of public streets or roads which requires immediate repair.

Excavation means any manmade cut, cavity, trench, or depression in the earth's surface, formed by removal of earth, intended to change the grade or level of land, or intended to penetrate or disturb the surface of the earth, including land beneath the waters of the state, as defined in F.S. § 373.019(22), and the term "excavation" includes pipe bursting and directional drilling or boring from one point to another point beneath the surface of the earth, or other trenchless technologies.

Excavator means any person performing excavation, boring or demolition operations.

Exploratory digging means a controlled excavation made to the bottom depth of a proposed excavation in order to, where the existing facility is alleged to be in conflict with the proposed facility, determine and verify the actual vertical or horizontal location of the existing underground facilities. Exploratory digging shall be accomplished by any method of excavation that affords substantial protection to existing underground facilities. Notwithstanding the foregoing, excavators may use any means for removal of pavement or masonry, but only to the depth of such pavement or masonry.

Member operator means any person who furnishes or transports materials or services by means of an underground facility and who participates in the one-call notification system established in F.S. ch. 556.

Planning ticket means the notification from the state one-call notification system to a member operator that planning activities associated with an excavation or demolition project requires that underground facility information be provided to the requesting party.

Reimbursable expense means the expense incurred by a member operator furnishing information for a planning or design ticket, which are to be reimbursed to the member operator by the requesting party as specified herein. Reimbursement shall be in accordance with provisions of F.S. ch. 556.

Restoration deficiency includes, but is not limited to, any settlement, swelling, breaking or cracking of the surface, separation from abutting surfaces, potholes or the use improper of construction methods including compaction, adhesion, finish, color, jointing and materials.

Underground facility means any public or private personal property which is buried, placed below-ground, or submerged on any member operator's right-of-way, easement, or permitted use which is being used or will be used in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communication, electric energy, oil, petroleum products, natural gas, optical signals, or other substances, and includes, but is not limited to, pipelines, pipes, sanitary sewers, storm sewers, conduits, cables, valves, and lines.

(Code 2006, § 62-95; Ord. No. 3534, § 1(22-117), 10-9-2001; Ord. No. 2007-12, § 2, 3-27-2007)

Sec. 62-121. Mandatory pre-excavation procedures.

(a) *Construction permit.*

- (1) *Single permit.* A single construction permit shall be issued for each job.
- (2) *One thousand feet of excavation allowed at one time; exception.* No more than 1,000 feet of excavation or boring will be allowed at any one time; provided, however, that the public works director may approve construction in increments greater than 1,000 feet upon showing of good cause.

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- (3) *Additional construction prior to completion of outstanding work.* No additional construction will be allowed until all outstanding work on prior sections of the job is completed and approved by the public works department.
- (b) *Time limit for restoration; extensions.* Restoration for a 1,000-foot section of work must be completed within 20 days of completion of installation or such longer period of time as approved in advance by the public works director after determining that such extension is warranted and reasonable. Any excavator in violation of any portion of this article shall not be issued any new permits until all violations have been cleared to the satisfaction of the public works department.
- (c) *Permit requirements.*
- (1) *As-built drawings.* Except in the case of maintenance work and jobs where total length of construction is less than 1,000 feet, no excavator shall apply for or receive a permit for a proposed excavation unless the excavator has first either requested copies of as-built drawings from any party whom the excavator knows may have underground facilities along the path of the proposed excavation, or if such party accepts planning or design location tickets, that the excavator submitted a planning or design location ticket request to the state one-call notification system. No excavator who has requested as-builts or submitted a planning or design location ticket shall be denied a permit irrespective of whether such as-builts or location ticket information was in fact received by the excavator.
- (2) *Requests for planning and design locations.* The city shall accept requests for planning and design locations of city underground facilities within the right-of-way. The fee for each request shall be as established in section 1-8.
- (3) *State one-call notification system.* Notification of the state one-call notification system for planning or design tickets shall not be mandatory. When requesting parties choose to request planning or design tickets through the system, the information specified in F.S. ch. 556 shall be provided.
- a. *Request for planning or design tickets.* Requesting parties of planning or design tickets shall only submit such request for bona fide excavation or demolition projects for which the requesting party has an active role. Requests for planning or design tickets shall not be made during the bidding or selection process for such projects.
- b. *Information exchanged.* Information exchanged via planning, design or construction tickets shall be considered valid for only the subject excavation or demolition project, and only for the duration specified in F.S. § 556.105(1)(c).
- c. *Planning tickets.* If the city determines that it has underground facilities within the limits of the proposed excavation or demolition project defined by the planning ticket, the city shall, upon request, provide copies of available information directly to the requesting party within 14 days of the receipt of the request and receipt of reimbursement of reproduction charges by the requesting party. Alternatively, the city may mark its utility locations on the site plan of the project defined by the planning ticket within 14 days of receipt of such site plan from the requesting party, or such longer period as provided by F.S. ch. 556.
- d. *Design tickets.*
1. If the city determines that it has underground facilities in proximity to or in conflict with the proposed excavation or demolition project defined by the design ticket, the city shall identify the horizontal route to within 24 inches from the other edge of either side of the underground facility by the use of stakes, paint, flags, or other suitable means within five days excluding days other than business days, after the time the notification is received or such longer period as provided by F.S. ch. 556. If the city is unable to respond within such time, the city shall communicate with the person making the request and negotiate a new schedule and time that is agreeable to, and should not unreasonably delay, the excavator.

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2. As an alternative to providing field location information, the city, at its option, may provide written documentation of underground facilities within the project limits defined by the design ticket.
- (d) *Marking site.* No excavator shall engage in any excavation or demolition in a public easement or right-of-way without first marking the location of such proposed excavation with white paint, white flags, or white buoys, as appropriate; such markings shall conform to the recommended guidelines for uniform temporary markings of underground facilities as established by the American Public Works Association or the state, and shall occur before the person or entity provides the state one-call notification system, and any information as required by either subsection (c) of this section or F.S. ch. 556.
- (e) *Renotification before excavation.* Renotification is required for each 20-day period until excavation in the area is complete, or at any time when markings are not visible. In the event that the work has not commenced within 20 days of the initial location, a re-marking fee as established in section 1-8 shall be required for re-marking of city underground facilities.
- (f) *Exploratory digging by excavators engaged in directional boring.*
- (1) Any excavator engaged in directional boring, where markings cross or overlap the directional bore path or where markings show a conflict exists, shall engage in exploratory digging. Where the conflict is created by installation of a new facility parallel to an existing facility, the excavator shall be required to engage in exploratory digging only at those points where the existing facility deflects from the plane along which it is laid by more than 22 degrees in any direction, as determined by reference to existing markings or reference to as-built drawings, if such as-built drawings are provided to the excavator before excavation.
 - (2) A separate permit shall be secured from the public works department for any exploratory digging, unless the exploratory work is done concurrently with the installation work. Restoration of all dig locations must comply with public works department standards.
- (g) *Indemnification.* Prior to any excavation or demolition in any public right-of-way or easement, an excavator shall either confirm that they have previously registered with the city or shall register with the city. The excavator shall, at its sole cost and expense, indemnify, hold harmless and defend the city, its officials, boards, members, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the city arising out of work performed in the public right-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this division. This provision includes, but is not limited to, the city's reasonable attorney's fees incurred in defending against any such claim, suit or proceedings. The city agrees to notify the excavator in writing, within a reasonable time, of the city receiving notice of any issue it determines may require indemnification. Nothing in this section shall prohibit the city from participating in the defense of any litigation by its own counsel and at its own cost, if, in the city's reasonable belief, there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be construed or interpreted as:
- (1) Denying to either party any remedy or defense available to such party under the laws of the state;
 - (2) Consent by the city to be sued;
 - (3) A waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28.
- (h) *Construction bonds.* Except in the event of an emergency, prior to issuing a permit where the work under the permit will require restoration of public right-of-way, the city may require a construction bond to secure the restoration of the public right-of-way in the amount of the estimated cost of restoration or such lesser amount as the public works director may determine appropriate. Such bond shall not be required where the city determines it is not necessary to secure restoration considering by way of example and not limitation, the amount of restoration for the subject work or the ability of the excavator to cover any claims without the

need for additional security. The city may allow an excavator to provide a blanket bond for such purposes, in which case a construction bond may only be required for any work of the excavator to the extent that the cost of the restoration exceeds the amount of the blanket bond.

- (i) *Materials to be used for marking.* Any markings made by an excavator or member operator pursuant to either this section or F.S. ch. 556 shall be made using chalk-based paint, except as permitted below. Any excavator or member operator who fails to comply with the requirements enumerated herein shall be required to remove all markings and fully restore any damage, by methods approved by the public works department. Markings shall be made with chalk-based paint on sidewalk, brick pavers and any other surface other than asphalt, earth or vegetation surfaces. Where markings are made on asphalt paving, earth or vegetation surfaces, acrylic paint can be used. In areas where chalk-based paint is required, off-set marks can be made with acrylic paint provided that such marks are made on asphalt paving, earth or vegetation surfaces.
- (j) *Penalty.* Violations of this section shall be punishable as provided in section 1-7.
(Code 2006, § 62-96; Ord. No. 3534, § 1(22-118), 10-9-2001)

Sec. 62-122. Exemptions.

- (a) Under no circumstances shall the hold harmless agreement and insurance requirements be waived.
- (b) Exceptions from the mandatory pre-excavation procedure requirements of section 62-121 shall include only the following:
 - (1) Emergencies, provided that the state one-call notification system or the member operator was notified at the earliest opportunity and all reasonable precautions had been taken by the excavator to protect any underground facilities.
 - (2) Any excavation or demolition performed by the owner of single-family residential property; or for such owner by a member operator or an agent of a member operator, when such excavation or demolition is made entirely on such land, and only up to a depth of ten inches; provided due care is used and there is no encroachment on any member operator's rights-of-way, easements or permitted uses.
 - (3) Any excavation or demolition associated with normal agricultural or railroad activities, provided such activities are not performed on any member operator's marked rights-of-way, easements or permitted uses.
 - (4) Any excavation or demolition that occurs as the result of normal industrial activities, provided such activities are confined to the immediate secured property of the facility and the activities are not performed on any member operator's marked rights-of-way, easements or permitted uses, and subject to any further restrictions set forth in state law.
 - (5) Any excavation of 18 inches or less for:
 - a. Surveying public or private property by surveyors or mappers as defined in F.S. ch. 472, excluding marked rights-of-way, marked easements, or permitted uses where marked, provided mechanized equipment is not used and the surveying is performed in accordance with the practice rule, established under F.S. § 472.027.
 - b. Maintenance activities performed by a state, county or city agency and its employees when such activities are within the rights-of-way of a public road, provided, if a member operator has permanently marked facilities on such rights-of-way, no mechanized equipment may be used without first providing notification.
 - (6) Any excavation with hand tools by a member operator or its agent:

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- a. For locating, repairing, connecting, protecting, or routine maintenance of the member operator's underground facilities; or
 - b. For the extension of a member operator's underground facilities onto the property of a person to be served by such facilities.

The exemptions provided in subsections (b)(6)a and b of this section are limited to excavations in depth of 30 inches if the right-of-way has permanently marked facilities of a company other than the member operator or its agents performing the excavation.

(Code 2006, § 62-97; Ord. No. 3534, § 1(22-119), 10-9-2001)

Sec. 62-123. Excavation in the absence of underground facilities markings by member operators.

Excavators who have complied with the requirements of section 62-121 may proceed without first having a member operator mark underground facilities only in the following situations:

- (1) If a member operator has not located and marked its underground facilities, nor notified the excavator that the area is clear, nor negotiated a new schedule for marking its facilities within 48 hours, excluding days other than business days, after the excavator's notification to the state one-call notification system, then the excavator may proceed with excavation (but not with demolition), provided the excavator does so with reasonable care, using detection equipment, exploratory digging, or other acceptable means to locate underground facilities. Except as provided in subsection (2) of this section, no demolitions shall proceed until all underground facilities have been marked and either safeguarded or removed.
- (2) If a member operator certifies that it does not have accurate information concerning the exact location of its underground facilities and provides the best information available, an excavator may proceed, provided that the excavation or demolition is performed with reasonable care and detection equipment, and exploratory digging or other acceptable means to locate underground facilities are used.

(Code 2006, § 62-98; Ord. No. 3534, § 1(22-120), 10-9-2001)

Sec. 62-124. Excavation procedures and installation of facilities.

- (a) Excavators are prohibited from removing or destroying any markings used by a member operator to mark the horizontal route of an underground facility. If markings are no longer visible, the excavator shall stop activities in that vicinity and notify the state one-call notification system to have the route marked.
- (b) No excavator may excavate or engage in demolition where such excavation or demolition is substantially certain to result in damage to any underground facility. This section shall not preclude an excavator from engaging in exploratory digging. If an excavation or demolition causes damage to any existing underground facility, the excavator must cease excavation or demolition at that depth and immediately notify the affected owner of the existing facility.
- (c) No new underground facility shall be installed in such a way that creates a conflict with an existing underground facility unless the excavator submits a permit drawing showing the existence of the conflict and this permit drawing is approved by the permitting agency, or, when the excavator discovers a conflict, the existence of which the excavator was unaware of when the excavator applied for a permit, that excavator shall cease excavation and immediately notify the owner of the existing facility, and:

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- (1) Take such measures as are reasonable in the determination of the owner of the existing facility to prevent interference with the operation or maintenance of the existing facility, where the existing facility is owned, operated, or maintained by the city; or
 - (2) Consult with the owner of the existing facility to determine where measures to prevent interference with the operation, or maintenance of the existing facility, are reasonably necessary; if the existing facility is not owned, operated, or maintained by the city, in the event that the excavator and the owner of the existing facility are not able to determine whether such measures are reasonably necessary, the permitting agency shall determine what measures are reasonably necessary to allow installation of the new facility. If the owner of the existing facility does not respond to notification provided by an excavator under this section within 24 hours of such notification, the excavator shall be allowed to continue installation. All conflicts of which the excavator is aware of when applying for a permit shall be disclosed on the permit drawings;

for the purposes of this subsection (c), a conflict which does not involve a water or sewer facility shall refer to 12 and not 24 inches. Nothing in this section shall empower any agency or person to approve any installation in violation of any state or federal statutes, rules or codes.

- (d) An excavator shall not engage in directional boring unless the equipment used for such directional boring allows the excavator to monitor the location of the excavator's bore-head, or equivalent equipment.
- (e) The excavator shall keep accurate records of new construction in excess of 500 linear feet that deviates from the permit drawings. As-built plans signed and sealed by a state-registered surveyor shall be submitted to the city as part of the permit close-out process for such new construction. As-built plans may also be submitted by persons exempt from registration requirements as defined in F.S. § 471.003 or 472.003.
- (f) Violations of this section shall be punishable as provided in section 1-7.

(Code 2006, § 62-99; Ord. No. 3534, § 1(22-121), 10-9-2001)

Sec. 62-125. Restoration of public rights-of-way.

- (a) The public works director is hereby directed to condition new right-of-way construction permits issued by the public works department to private companies, telecommunication, cable providers and all other utility companies, with the requirement that public rights-of-way will be restored to their original condition or better, within the time stipulated on the permits. The public works department may grant an additional extension upon showing of good cause. Any excavator who fails to comply with this section shall not be issued any new permits until all violations have been satisfied.
- (b) Any work performed in the right-of-way, including restoration, shall be completed by the completion date specified in the permit or as otherwise specified or provided by the city. Upon completion of the work (or at such time as may be specified by the city if construction is not completed by the completion date or is terminated for any reason, including revocation of the permit), the public right-of-way shall be restored to a condition that is at least as good as its condition prior to commencement of work. Restoration of the public right-of-way shall be performed in accordance with specifications or standards regarding materials or any other matter specified by the city. The city may establish generally applicable restoration standards, which apply unless the city specifies other standards in a particular situation, or may establish restoration standards on a case-by-case basis.
- (c) If an excavator fails to restore the public right-of-way, including any paved surface, curbs, or fixtures, to a condition at least as good as its condition prior to commencement of construction or to complete such restoration work by the completion date specified in the permit or as otherwise specified or provided by the city, the city may perform any work or undertake any other activity which it deems necessary to complete such work and/or restore the public rights-of-way. The excavator shall reimburse the city for any such costs

in an amount equal to the sum of the actual cost of any work or other activity undertaken by the city and 25 percent of such cost as compensation to the city for general overhead and administrative expenses associated with such work, and shall pay costs as directed by the city no later than 20 calendar days after receipt of a bill.

- (d) An excavator shall guarantee and maintain any public rights-of-way which the city determines have been affected or altered by any excavation in the public rights-of-way or any break or cut in any surface of the public rights-of-way made by such excavator, for the 60 months following the date of completion of restoration of the affected or altered public rights-of-way either by the excavator or by the city. Such excavator shall take such action where the city deems it necessary to correct any deficiencies in such restoration work within such 60-month period, and shall commence such action not later than five calendar days after receipt of notice from the city or such other date as may be specified by the city, and complete such action promptly but not later than said date, or any other deadline, established by the city. The city may elect to perform any such work itself or undertake any other activity it deems necessary to correct any such deficiency during said 60-month period. Such excavator shall be liable to the city for any costs incurred in connection with any such corrective action in an amount equal to the sum of the actual cost of any work or other activity undertaken by the city plus 25 percent of such cost as compensation to the city for general overhead and administrative expenses associated with such work, and shall pay such costs as directed by the city no later than 20 calendar days after receipt of a bill.
- (e) The permittee shall ensure that all monuments, section corners and property markers shall be protected.
(Code 2006, § 62-100; Ord. No. 3535, § 1(22-122), 10-9-2001)

Secs. 62-126—62-148. Reserved.

ARTICLE IV. MAINTENANCE OF SIDEWALKS AND SWALE AREAS

Sec. 62-149. Definitions.

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:

Swale area means that area between the property line and the back of the street curb or the edge of the paved roadway.

(Code 1958, § 28-37(a); Code 1991, § 22-131; Code 2006, § 62-129; Ord. No. 2581, § 1, 9-10-1985; Ord. No. 2608, § 1, 11-26-1985; Ord. No. 2736, § 1, 10-27-1987; Ord. No. 2782, § 1, 5-24-1988)

Sec. 62-150. Persons liable.

In the case of rental property, the occupant shall be held jointly and severally liable for compliance with the duties and obligations imposed by this article upon the owner of such property.

(Code 1958, § 28-37(b); Code 1991, § 22-132; Code 2006, § 62-130; Ord. No. 2581, § 1, 9-10-1985; Ord. No. 2608, § 1, 11-26-1985; Ord. No. 2736, § 1, 10-27-1987; Ord. No. 2782, § 1, 5-24-1988)

Sec. 62-151. Alleys, swale areas and rights-of-way to be kept clean and mowed.

- (a) Violations of this section shall be punishable as provided in section 1-7.

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- (b) All owners and occupants of property, whether improved or unimproved, shall maintain their property in a clean, litter-free and mowed condition, including abutting sidewalks, grass strips, alleys up to and including the median point of the alley, curbs, swale areas, parking lanes where they exist, or rights-of-way up to the edge of pavement of any public street. Landscape maintenance shall include, but not be limited to, mowing the grass and performing general edging, trimming, weed removal, and cleanup activities. General maintenance shall include, but not be limited to, removing debris, gum, and litter.
 - (c) Additionally, in commercial areas of the city, properties and their surrounding areas including abutting sidewalks, alleys up to and including the median point of the alley, curbs, parking lanes where they exist, or rights-of-way up to the edge of pavement of any public street, must be deep cleaned at least every six months or more frequently as conditions may necessitate. Deep cleaning consists of pressure washing, scrub-brushing, or an alternative method of cleaning that effectively removes stains, grease, spray paint, motor oil and like substances. Specialty pavers and pavement treatments must be deep-cleaned consistent with city-approved cleaning protocols. Should a property in a commercial area of the city fail to remedy a violation of the deep cleaning requirements of this section within five business days after service of notice, pursuant to section 34-56, to do so, then the city shall proceed to have such condition remedied by contract or direct labor, or both, and the cost thereof shall be and become a lien against such property 30 days after notice of completion of work by the city. The cost chargeable to the owner shall not exceed the cost of completion, as set forth in the notice served to the property owner required herein, plus a fee equal to the code enforcement board administrative fee, as provided in section 1-8. A person may appeal the imposition of the lien for the cost of completion of work to the special master within 30 days of the date of the notice of completion of work.
 - (d) Property owners or their designees are prohibited from trimming trees and performing other activities within the city rights-of-way except in accordance with the provisions outlined in section 82-1 and as may otherwise be regulated by this Code. The city may, upon the approval of the city manager, mow selected areas of rights-of-way when doing so is found to serve a public interest

(Code 1958, § 28-37(c); Code 1991, § 22-133; Code 2006, § 62-131; Ord. No. 2581, § 1, 9-10-1985; Ord. No. 2608, § 1, 11-26-1985; Ord. No. 2736, § 1, 10-27-1987; Ord. No. 2782, § 1, 5-24-1988; Ord. No. O-2004-38, § 2, 9-28-2004; Ord. No. 2007-25, § 2, 8-28-2007; Ord. No. 2022-34, § 2, 6-28-2022; Ord. No. 2023-18, § 2, 5-9-2023)

Sec. 62-152. Maintenance of area next to sidewalk.

- (a) Violations of this section shall be punishable as provided in section 1-7.
- (b) Whenever there is an unpaved area between the sidewalk and the curb, or between the sidewalk and the property line, it shall be the responsibility of the owner and/or occupant of the property to make sure that there are no holes or hidden dangers in the unpaved areas.
- (c) Whenever the city shall discover that unpaved areas are not kept in good condition, it shall be the duty of such employees of the city as the city manager shall designate to enforce this section, to notify the owner and/or occupant of the existing condition. The person so notified shall have ten days in which to rectify the condition. If the owner and/or occupant fails to comply with such notice, the city shall then perform the necessary work and shall assess the cost of such work against the property. Such assessment, if not paid, shall become a lien against the property.

(Code 1958, § 28-37(d); Code 1991, § 22-134; Code 2006, § 62-132; Ord. No. 2581, § 1, 9-10-1985; Ord. No. 2608, § 1, 11-26-1985; Ord. No. 2736, § 1, 10-27-1987; Ord. No. 2782, § 1, 5-24-1988; Ord. No. 2007-25, § 2, 8-28-2007)

Sec. 62-153. Obstructions prohibited.

- (a) It shall be prohibited to place, maintain, or allow any tree, shrub, or other obstruction upon any street, sidewalk, or swale area within the city. For purposes of this section, "obstruction" shall not include any tree, shrub, swale treatment, or encroachment approved in writing by the city commission or city manager or as otherwise permitted by the city code. Violations of this section shall be punishable as provided in section 1-7.
- (b) Written notice shall be given to the owner of the abutting property to remove any tree, shrub, or other obstruction upon any street, sidewalk, or swale area within the city. If the owner of the abutting property fails to remove the tree, shrub, or other obstruction within ten days of receipt of the written notice, the city shall then perform the necessary removal operations and shall assess the cost of said removal against the property. Such assessment, if not paid, shall become a lien against the property, pursuant to the procedure set forth in article III of chapter 34.
- (c) If any tree, shrub, or other obstruction upon any street, sidewalk, or swale area within the city creates an emergency situation involving potential danger to the health, safety, and welfare of the community, the city shall perform removal operations immediately, thus eliminating the emergency, and shall assess the cost of such removal against the property. Such assessment, if not paid, shall become a lien against the property, pursuant to the procedure set forth in Article III of chapter 34.

(Ord. No. 2022-51, § 2, 9-13-2022)

Editor's note(s)—Ord. No. 2022-51, § 2, adopted Sept. 13, 2022, amended § 62-153 in its entirety, in effect repealing and reenacting said § 62-153 to read as set out herein. The former § 62-153, pertained to removal of obstructions and derived from Code 1958, § 28-37(e); Code 1991, § 22-135; Code 2006, § 62-133; Ord. No. 2581, § 1, adopted Sept. 10, 1985; Ord. No. 2608, § 1, adopted Nov. 26, 1985; Ord. No. 2736, § 1, adopted Oct. 27, 1987; and Ord. No. 2782, § 1, adopted May 24, 1988.

Sec. 62-154. Issuance of notices restricted.

The notices sent to property owners, as set forth above, shall provide that only one notice will be sent for a period of one year from the date sent. Any and all other violations occurring under this article shall be remedied by the city without further notice.

(Code 1958, § 28-37(f); Code 1991, § 22-136; Code 2006, § 62-134; Ord. No. 2581, § 1, 9-10-1985; Ord. No. 2608, § 1, 11-26-1985; Ord. No. 2736, § 1, 10-27-1987; Ord. No. 2782, § 1, 5-24-1988)

Sec. 62-155. Private right of action.

The section applies only to sidewalks abutting commercial properties. Any person, including the city, that is injured, aggrieved or against whom a civil action for damage, injunction or other relief is brought, to recover for injuries or damages arising out of a violation of this article, or to correct a condition in violation of this article, may bring a civil action in any court of competent jurisdiction against the adjacent or abutting property owner, occupant or agent of such property, or third party, who contributed to the violation of this article, for damages according to the percentage that the property owner, occupant, agent or third party's violation, negligence or wrongful acts or omissions contributed to any alleged injuries or damages. The city may assert as a defense to any action that a violation of this article caused or allowed to be caused by an adjacent or abutting property owner, occupant or agent of such property, or third party, reduces the city's liability in whole or in part by such property owner, occupant or agent of such property, or third party's violation, negligence or wrongful acts or omissions.

(Code 2006, § 62-135; Ord. No. 2007-25, § 2, 8-28-2007)

Sec. 62-156. Buttons and other encroachments prohibited.

- (a) Buttons, pyramids, reflectors and other encroachments are prohibited in the public rights-of-way without written approval from the city commission or city manager. This prohibition does not apply to the city, if it determines that the installation or allowance of these items is in the best interest of the city.
- (b) Buttons, pyramids, reflectors and other encroachments shall be removed within 90 days of the passage of the ordinance from which this article is derived. Any and all ceramic buttons, pyramids, reflectors and/or encroachments that remain after the 90-day period, will be removed by the city. The city is authorized to bill the cost of removing these items to the property owner, through a special assessment pursuant to the procedure set forth in article III of chapter 34. The city reserves the right to remove any encroachment in the public rights-of-way for life-safety issues at any time.
- (c) Property owners who obtained permits from the city for installation of ceramic buttons, pyramids, reflectors and/or other encroachments, and who remove the items within the 90-day period, may request a refund of the permit fee from the city. Said refund shall be requested within 30 days of the removal of the items and shall be granted as a matter of course.
- (d) Installing or re-installing ceramic buttons, pyramids, reflectors or other encroachments in the public rights-of-way, after their removal and without prior written approval, shall constitute a code enforcement violation with a prescribed fine as provided in section 1-7.

(Code 2006, § 62-136; Ord. No. 2016-25, § 2, 4-12-2016; Ord. No. 2022-51, § 2, 9-13-2022)

Secs. 62-157—62-180. Reserved.

ARTICLE V. NEWS RACKS ON PUBLIC RIGHTS-OF-WAY

Sec. 62-181. Definitions.

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:

Equivalent news rack means any news rack of the same size, dimensions and style of the specified news rack.

If demand warrants or warranted demand means that the measured newspaper stack height needed to meet the newspaper publisher's or distributor's peak annual distribution at the requested news rack location, as proven by the newspaper publisher or distributor, exceeds 14 inches.

News racks means any type of unmanned device for the vending or free distribution of newspapers or news periodicals.

Public right-of-way means any public street, sidewalk, parkway or alley.

(Code 1958, § 28-39; Code 1991, § 22-156; Code 2006, § 62-152; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992)

Sec. 62-182. Purpose and criteria.

The purpose of this article is to promote the public health, safety and welfare through the regulation of placement, type, appearance, servicing, and insuring of news racks on public rights-of-way so as to:

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- (1) Provide for pedestrian and driving safety and convenience.
 - (2) Restrict unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles.
 - (3) Provide for public and property safety during hurricane conditions.
 - (4) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, mailboxes and access to locations used for public transportation purposes.
 - (5) Relocate and/or replace news racks which result in a visual blight and/or excessive space allocation on the public rights-of-way or which unreasonably detract from the aesthetics of store window displays, adjacent landscaping and other improvements, as well as to have abandoned news racks removed.
 - (6) Maintain and protect the values of surrounding properties.
 - (7) Reduce unnecessary exposure of the public to personal injury or property damage.
 - (8) Treat all newspapers equally regardless of their size, content, circulation, or frequency of publication.
 - (9) Maintain and preserve freedom of the press.
 - (10) Cooperate to the maximum extent with newspaper distributors.

(Code 1958, § 28-38; Code 1991, § 22-157; Code 2006, § 62-153; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990)

Sec. 62-183. Certificate of compliance required.

- (a) Violations of this section shall be punishable as provided in section 1-7.
- (b) No person shall place, affix, erect, construct or maintain a news rack without first obtaining a one-time only certificate of compliance for each news rack in accordance with the provisions of this article.

(Code 1958, § 28-40; Code 1991, § 22-158; Code 2006, § 62-154; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990)

Sec. 62-184. Application and issuance of certificate of compliance.

- (a) *Issuing authority.* The issuing authority and coordinator shall be the public works director. The public works director is responsible for fairly coordinating and administering the physical placement of news racks of the type and location herein specified, and upon compliance herewith is responsible for issuing the certificates of compliance.
- (b) *Approving authorities.* The approving authorities shall be the public service director, the parking director and the public works director. The public service director shall provide review and approval only as to compliance with section 62-191(8). The parking director shall provide review and approval only as to compliance with section 62-191(10). The public works director shall provide review and approval coordination with the public service director and the parking director, as well as review and approval only as to comply with subsections (c) and (e) through (g) of this section, sections 62-185 through 62-190, and 62-191(1) through (7) and (9).
- (c) *Applications.* The applicant shall file with the public works director a written application for an installation certificate of compliance that shall contain the following information:
 - (1) The name, address and telephone number of the applicant who is the owner and/or principal in responsible charge of the news rack.

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- (2) The name, address and telephone number of a responsible person whom the city may notify or contact at any time concerning the applicant's news racks.
 - (3) The number of news racks and the proposed location of each shown on a drawing provided by public works as in subsection (d) of this section.
 - (4) Names of newspapers or periodicals to be contained in each news rack.
 - (5) Type or brand of news racks, including an illustration and description of the news rack and mount if other than a single pedestal, TK-80PM or K-80PM SHORACK or FN-80SP (with or without equivalent coinbox attachment) with special pedestal mount and 14-inch square base plate (mandated) or TK-80 or K-80 SHORACK or FN80LB (with or without equivalent coinbox attachment) with special pedestal mount and 14-inch square base plate (allowed only if demand warrants at the installation location), or equivalent, as per section 62-189.
- (d) *Procedure.* The public works department shall:
- (1) Develop a map of a large enough scale to show general citywide locations of news racks by each publisher or distributor.
 - (2) Request a list of proposed news rack locations, marked on the above-mentioned map, from each distributor.
 - (3) Prepare a scale drawing or aerial photograph of each news rack location showing the position and name of each news rack at that location.
 - (4) Obtain approvals of the above-mentioned news rack drawings from the parking director and the public service director.
 - (5) Obtain confirmation approvals of the above-mentioned approved news rack drawings from each distributor.
 - (6) Have the public works survey crew, following certificate of compliance issuance, mark placement locations with a template so that installation crews will have no problem.
- (e) *Issuance of certificate of compliance.* Upon a finding by the public works director that the applicant is in compliance with the provisions of this article and having received the required approvals from the parking director and public service director, the public works director shall cause to be issued a certificate of compliance for installation by the newspaper publishing company. Such issuance shall be made within five working days of the city's receipt of the completed application.
- (f) *Denial of certificate of compliance.* If a certificate of compliance for some news rack location applied for shall be denied, the applicant shall be notified within five working days of the city's receipt of the completed application. The applicant shall be advised of the specific cause of such denial by the public works director, who will suggest alternative locations therefor. The applicant may re-apply for substitute alternative locations at no additional certificate of compliance fee.
- (g) *Additional certificate of compliance.* If at any time during initial application for an installation certificate of compliance a publisher wishes to install additional news racks, then subsections (c) and (d) of this section are to be repeated in accordance with the provisions of this article. Under section 62-185, any additional returnable bond deposit required will credit any amount still on account. Additional certificate of compliance fees shall be in accordance with section 62-186, except that the publisher's fee is waived if previously paid.

(Code 1958, § 28-44; Code 1991, § 22-159; Code 2006, § 62-155; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2780, § 1, 5-9-1988; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992; Ord. No. 3184, § 1, 6-11-1996)

Sec. 62-185. Insurance.

- (a) Prior to the issuance of a certificate of compliance by the public works director, the applicant shall furnish to the public works director a certificate of insurance and a one-time only returnable bond deposit, both in specific accordance with the terms of section 62-88, except that returnable bonding amounts for news rack installations shall be:

| Total Proposed News Racks | Total Returnable Bond |
|---------------------------|-----------------------|
| 1 to 4 | \$150.00 |
| 5 to 10 | \$300.00 |
| 11 to 20 | \$500.00 |
| 21 and up | \$700.00 |

- (b) Reasonable evidence of equivalent self-insurance coverage may be substituted by the applicant for the above certificate of insurance. Insurance under this section shall run continuously with the presence of the applicant's news rack in city rights-of-way, and any termination or lapse of such insurance shall be a violation of this article, subject to appropriate remedy by the code enforcement division.

(Code 1958, § 28-45; Code 1991, § 22-160; Code 2006, § 62-156; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992)

Sec. 62-186. Fees.

There shall be a one-time only certificate of compliance fee for each newspaper publisher. Failed inspections are subject to a re-inspection fee. All of the above fees will be used to defray administrative expenses relating to this article only, and any revenues over expenses remaining after the implementation of this article will be returned to the newspaper publishers in proportion to their respective contributions. All fees referenced in this section shall be as established in section 1-8.

(Code 1958, § 28-46; Code 1991, § 22-161; Code 2006, § 62-157; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992)

Sec. 62-187. Appeals.

Any applicant who has been denied a certificate of compliance pursuant to the provisions of this article may file an appeal with the city commission by requesting in writing to the city manager appearance before the commission to review such denial. The appeal shall be heard by the commission within 30 days of the filing of the appeal or at the next regularly scheduled agenda, whichever occurs first. The decision of the commission on appeal is subject to judicial review as provided by the laws of the state.

(Code 1958, § 28-46; Code 1991, § 22-162; Code 2006, § 62-158; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992)

Sec. 62-188. Placement generally.

Subject to the prohibitions set forth in section 62-191, news racks shall be placed parallel to and not less than 18 inches nor more than 24 inches from the edge of the curb. News racks placed near the wall of a building must be placed parallel to and not more than six inches from the wall.

(Code 1958, § 28-41(a); Code 1991, § 22-163; Code 2006, § 62-159; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992)

Sec. 62-189. Installation and maintenance.

- (a) News racks shall be single pedestal TK-80PM or K-80PM SHORACK or FN-80SP (with or without equivalent coinbox attachment) with special pedestal mount and 14-inch square base plate (mandated) or TK-80 or K-80 SHORACK or FN-80LB (with or without equivalent coinbox attachment) with special pedestal and 14-inch square base plate (allowed only if demand warrants at the installation location) or equivalent.
- (b) News racks shall have gloss brown pedestals, gloss beige sides and door and gloss brown coinbox. The height of the cabinet top of all news racks shall be 39 inches above the finished grade level.
- (c) News racks shall carry no cardholders or advertising, but may display the name, with lettering and background of any colors, of the newspaper being dispensed, in spaces in the locations and sizes set forth below.
 - (1) On the front of the news rack, the lettering size shall not exceed 1¾ inches in height. The lettering shall be placed within a colored-band space not exceeding 2½ inches in height above the door hinge.
 - (2) On the sides and back of the news rack, the lettering size shall not exceed 2½ inches in height. The lettering shall be placed within a colored-band space not exceeding 4½ inches in height and beginning one inch from the top of the news rack.
- (d) News racks for free newspapers may omit the coinbox and may have the pull bar welded to the door to produce an "honor rack."
- (e) News racks shall be maintained in good working order at all times, freshly painted and with unbroken hoods.
- (f) Mounts shall be bolted in place through four standard holes in the base plate in accordance with standards provided in section 62-190. News rack cabinet tops shall be installed and checked for level; a water-soluble, paintable, ten-year caulk of gloss brown color shall be applied and wiped to seal around the base plate and the mounting surface.

(Code 1958, § 28-41(b); Code 1991, § 22-164; Code 2006, § 62-160; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992; Ord. No. 3184, § 1, 6-11-1996)

Sec. 62-190. News rack mounting standards.

The following standards shall be applicable to the mounting of news racks in this city:

- (1) Foundation four-inch minimum concrete, 2,500 psi (28-day strength), class I.
- (2) Two-inch minimum concrete edge distance for bolts.
- (3) One-half-inch chamfer on all concrete edges.
- (4) Three-eighths-inch diameter hot-dipped galvanized hex bolt mounts, three-inch minimum imbedding, threads down, through four corners of the pedestal base.

(Code 1958, § 28-47; Code 1991, § 22-165; Code 2006, § 62-161; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992)

Sec. 62-191. Specific prohibitions.

No news rack shall be placed, installed, used or maintained:

- (1) Within five feet of any marked crosswalk.
- (2) Within ten feet of any unmarked crosswalk.
- (3) Within ten feet of any fire hydrant, fire callbox, police callbox or other emergency facility.
- (4) Within five feet of any driveway.
- (5) Within five feet ahead of, and 15 feet to the rear of, any sign marking a designated bus stop, measured along the edge of pavement.
- (6) Within two feet of any bus bench, or plaza bench.
- (7) At any location whereby the clear space for passageway of pedestrians is reduced to less than six feet.
- (8) Where a vertically protruding member of the news racks is on or within 12 inches of any area improved with lawn or hedges or within three feet of flowers or trees.
- (9) Within three feet of any display window of any building abutting the sidewalk or parkway or in such a manner as to impede or interfere with the reasonable use of such window display purpose, or within five feet of a building entrance.
- (10) On or within two feet of signs, parking meters, street lights or utility poles.

(Code 1958, § 28-42; Code 1991, § 22-166; Code 2006, § 62-162; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990; Ord. No. 2984, § 1, 3-31-1992)

Sec. 62-192. Enforcement procedures—Nonconforming news racks.

- (a) Violations of this section shall be punishable as provided in section 1-7.
- (b) Within 150 days of the effective date of the ordinance from which this article is derived and at any time thereafter, any news rack in violation of any provision of this article shall be subject to remedy and due process under the code enforcement board.

(Code 1958, § 28-43(a); Code 1991, § 22-167; Code 2006, § 62-163; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990)

Sec. 62-193. Same—Abandoned news racks.

- (a) Violations of this section shall be punishable as provided in section 1-7.
- (b) If any news rack installed pursuant to this article does not contain the publication specified therefor within a period of 48 hours after release of the current issue, the code enforcement division may deem the news rack abandoned and take appropriate action for an ordinance violation. In addition, a news rack shall be deemed abandoned when no publication is in the news rack for a period of more than seven consecutive days.
- (c) In the event a newspaper publishing company or its distributor desires to voluntarily abandon a news rack location, the distributor shall notify the public works director, completely remove the news rack and mount, and restore the public right-of-way to a safe condition, leaving no holes or projections in the mounting surface.

(Code 1958, § 28-43(b); Code 1991, § 22-168; Code 2006, § 62-164; Ord. No. 2729, § 2, 9-29-1987; Ord. No. 2911, § 2, 5-15-1990)

Secs. 62-194—62-224. Reserved.

ARTICLE VI. PUBLIC ASSEMBLIES AND PICKETING

Sec. 62-225. Definitions.

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:

Chief of police means the chief of police of the City of Coral Gables or his/her designee.

Director of public safety means the assistant city manager/director of public safety appointed by the city manager to provide executive level leadership for public safety matters in the City of Coral Gables or his/her designee.

Fire chief means the chief of fire rescue of the City of Coral Gables or his/her designee.

Public assembly means any meeting, demonstration, picket line, rally, or gathering of:

- (1) Thirty or more persons, for any common purpose, as a result of prior planning, which occupies any public place open to the general public; or
- (2) Any person or group, for any common purpose, as a result of prior planning, which occupies any public place open to the general public and is reasonably anticipated to interfere with the normal flow or regulation of pedestrian or vehicular traffic.

Public place or public places means streets, sidewalks, parkways, boulevards, avenues, alleys, plazas, medians, entrances and any and all spaces dedicated to the public use or used in any way by the city for the benefit of the public, including, but not limited to, buildings, parks and all public areas.

Sidewalk means any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.

Street means any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip thereof not including sidewalks.

(Code 2006, § 62-182; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-226. No permit required; notification; restrictions.

- (a) No permit shall be required to hold or engage in a public assembly, as defined herein, provided the public assembly does not also qualify as a special event or parade under article VII of this chapter.
- (b) At least 24-hours prior to the commencement of any public assembly, any individual or organization seeking to hold a public assembly shall notify the city manager's office in writing of the date, time, location, duration, and expected size of the event, so that arrangements can be made to provide police, fire, and other city services at the event, as necessary. No individual or organization shall hold a public assembly in the city without first providing the city manager's office with proper notice of the public assembly.
- (c) Upon being provided notice of a planned public assembly, the city manager shall notify the following officials of the date, time, location, duration, and expected size of the public assembly:

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(Supp. No. 21, Update 2)

-
- (1) City attorney;
 - (2) Director of public safety;
 - (3) Chief of police;
 - (4) Fire chief;
 - (5) Director of community recreation;
 - (6) Director of the public works department;
 - (7) Director of code enforcement; and
 - (8) Responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route or location of the proposed public assembly.

(Code 2006, § 62-183; Ord. No. 2016-38, § 2, 7-26-2016; Ord. No. CAO 2021-006, 5-25-2021)

Sec. 62-227. Carrying of signs and weapons.

The following prohibitions shall apply to all public assemblies:

- (1) It shall be unlawful for any person to carry or possess any dirk, knife (except a common pocketknife, plastic knife, or blunt-bladed table knife), metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or dart-firing stun gun, each as defined in F.S. § 790.001, unless expressly authorized pursuant to F.S. ch. 790 or other applicable local, state, or federal law. As used in this subsection, the term "tear gas gun" or "chemical weapon or device" means any weapon of such nature, except a device known as a "self-defense chemical spray." The term "self-defense chemical spray" means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.
- (2) It shall be unlawful for any person to carry or possess any sign, poster, plaque or notice unless such sign, poster, plaque, or notice is constructed solely of a cloth, paper, flexible or cardboard material no greater than one-quarter inch in thickness.
- (3) Nothing in this section is intended to authorize the possession or use of materials, weapons or devices that are otherwise prohibited by any other local, state or federal ordinance, statute or regulation. The purpose of this section is to prohibit the carrying or possession of items and materials that have the potential to be used as weapons to cause physical or personal damage, and whose possession might not otherwise be prohibited by local, state or federal law.

(Code 2006, § 62-184; Ord. No. 2016-38, § 2, 7-26-2016)

State law reference(s)—Field of regulation of firearms and ammunition pre-empted, F.S. § 790.33.

Sec. 62-228. Dispersal of noncomplying public assemblies; penalties.

- (a) The chief of police, or his or her designee, and the director of code enforcement, or his or her designee, is empowered to enforce the requirements of this article.
- (b) Any public assembly violating the provisions of any section of this article shall be ordered to immediately disperse. Any person violating the provisions of any section of this article shall, upon conviction, be punished by a fine not to exceed \$500.00 or imprisonment of not more than 60 days, or both.
- (c) No person shall be arrested or imprisoned for failing to provide the city with sufficient advance notice of a public assembly, as required by section 62-226.

(Code 2006, § 62-185; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-229. Prohibition against public assemblies in residential districts at night.

No public assembly may be held in the SFR, MF1, MF2 or MFSA zoning districts between the hours of 11:00 p.m. and 7:30 a.m. the following day on Sunday, Monday, Tuesday, Wednesday or Thursday, or between the hours of 12:00 midnight and 9:00 a.m. the following day on Friday or Saturday.

(Code 2006, § 62-186; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-230. Prohibition against picketing before or about a dwelling unit.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Buffer area means that area of public property, including any park, public street, public right-of-way, or sidewalk, located within an area that extends 50 linear feet in any direction measured from the property line of a dwelling unit. Privately-owned property shall not be considered to be included in the buffer area, although the laws of trespass shall apply.

Dwelling unit means a building or portion thereof that is designed for residential occupancy, and shall include single-family homes, zero lot line residences, townhomes or connected homes, duplexes, and other single-family and multifamily dwelling units located in the SFR, MF1, MF2, and MFSA zoning districts. Where a single-family residence is grandfathered in, in another zoning district, and is still used for single-family residential purposes, it shall be included in this definition. Excluded from this definition are apartment buildings and condominiums located in a zoning district other than the SFR, MF1, MF2, and MFSA districts.

Picket, picketing, and protest mean any assembly of one or more persons, who, through conduct, speech, or other form of expression, criticize, protest, or complain about any matter in which a particular person, group of persons, or type of person is specifically targeted for protest, complaint, or criticism, and where such assembly stands, loiters, congregates, or mills before or about a dwelling unit in which a person who is a target or subject of such protest resides or is perceived to reside. One or more persons may be considered picketing or protesting within the meaning of this section even if the message being communicated is intended to be heard or seen by persons in addition to the resident inside a dwelling unit.

- (b) *Prohibition against protest and picketing before or about a dwelling unit.* It shall be unlawful for any person to picket, protest, or conduct any picketing or protesting activity, within a buffer area of 50 linear feet in any direction from the property line of any dwelling unit in the city.
- (c) *Enforcement and penalty for violation.* A person violating the provisions of this section shall be guilty of an offense punishable as provided in section 1-7.
- (d) *Supplement to other provisions of law.* The provisions of this section supplement other provisions of law that protect the public order and safety, including, but not limited to, provisions of the city code and other laws governing noise limitations; provisions of the city code and other laws prohibiting obstruction or interference with passage on a public right-of-way, sidewalk, or street; and provisions of the city code and other laws that prohibit trespass, assault, battery, destruction of property or other injury to persons or property.
- (e) *Alternative means.* The city manager or designee shall, on application, make reasonable efforts to make available city-owned land reasonably near or abutting a residential zoning district for any protest or picket, for a reasonable period of time during daylight hours, subject to all laws applying to the conduct of persons engaged in the protest or picket. Furthermore, nothing in this section shall be read to prohibit a protest or

picketing in a zoning district that is not listed in the definition of "dwelling unit" in subsection (a) of this section, so long as the conduct of such protest or picket is otherwise lawful.

(Code 2006, § 62-187; Ord. No. 2016-38, § 2, 7-26-2016)

Secs. 62-231—62-253. Reserved.

ARTICLE VII. SPECIAL EVENTS AND PARADES

DIVISION 1. GENERALLY

Sec. 62-254. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief of police means the chief of police of the City of Coral Gables or his/her designee.

Director of public safety means the assistant city manager/director of public safety appointed by the city manager to provide executive level leadership for public safety matters in the City of Coral Gables, or his/her designee.

Events committee means the committee designated under this article to receive, process, review and approve or deny applications to hold special events and parades in accordance with the provisions of this article.

Fire chief means the chief of fire rescue of the City of Coral Gables or his/her designee.

Fireworks means any composition or device for the purpose of producing a visible or an audible effect for indoor or outdoor entertainment purposes by combustion, deflagration, or detonation that meets the definition of "consumer fireworks or display fireworks" as set forth in the state fire prevention code.

Nonprofit means any bona fide charitable, benevolent, eleemosynary, educational, cultural, or governmental institution or organization, or any event held for nonprofit purposes regardless of whether the sponsor is a for-profit or nonprofit organization.

Obstruct orobstruction means:

- (1) To walk, stand, sit, lie, or place an object in such a manner as to block passage by a person or a vehicle or to require a person or a driver of a vehicle to take unreasonable evasive action to avoid physical contact; or
- (2) To make use of a city street, sidewalk, or other public place, so as to prevent the use of such city street, sidewalk, or other public place by persons not participating in the parade or special event.

Parade means any organized moving march, ceremony, show, exhibition, pageant, demonstration, motorcade or procession of any kind, whether for profit or not for profit, consisting of persons, animals, or vehicles, or a combination thereof, that requires the closure, exclusive use, or obstruction of one or more city streets.

Permit means a special event or parade permit as required by this article.

Public place or public places means streets, sidewalks, parkways, boulevards, avenues, alleys, plazas, medians, entrances and any and all spaces dedicated to the public use or used in any way by the city for the benefit of the public, including, but not limited to, buildings, parks and all public areas.

Sidewalk means any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.

Special event means an organized activity, event, celebration, or other gathering, whether for profit or not for profit, which:

- (1) Involves the temporary use of any city street, sidewalk, or other public place open to the general public;
- (2) Requires the provision and coordination of municipal services to a degree significantly over and above that which the city routinely provides under ordinary everyday circumstances; and
- (3) Either:
 - a. Seeks the exclusive use or closure of a city street, sidewalk, or other public place;
 - b. Involves the erection of stages, utility poles, booths, tents, stands, or other temporary structures in a public place; or
 - c. Substantially and necessarily affects or interferes with the use of a city street, sidewalk, or other public place by persons not participating in the special event.

Specified area means the public place or places wherein the special event or parade is held. In addition, the term "specified area" shall include any parade route, two blocks on either side of any parade route, a four-block radius from any park, plaza or square, and any area mutually agreed upon by the permit applicant and the events committee during a pre-permit coordination meeting.

Street means any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip thereof, not including sidewalks.

(Code 2006, § 62-221; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-255. Penalties.

Any person violating the provisions of any section of this article shall, upon conviction, be punished as provided in section 1-7.

(Code 2006, § 62-244; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-256. Exceptions.

This article shall not apply to the following:

- (1) A governmental agency, including the City of Coral Gables, acting within the scope of its functions or conducting an event that would otherwise qualify as a special event or parade;
- (2) Funeral processions; or
- (3) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities.

(Code 2006, § 62-222; Ord. No. 2016-38, § 2(62-222), 7-26-2016)

Sec. 62-257. Special events and parades committee.

- (a) *Authorization of committee.* A special events and parades staff committee (the "events committee") shall perform the functions identified in this article.
- (b) *Committee composition.* The events committee shall be composed of the following: the director of public safety, the chief of police, the fire chief, the director of community recreation, the director of code enforcement, and any other designees of the city manager.
- (c) *Approval or denial of permit applications.* The events committee shall be charged with the duties of reviewing and deciding whether an application for a permit to hold a special event or parade should be approved or denied under the criteria set forth in this article.
- (d) *Applicant's appearance before events committee.* An applicant for a permit to hold a special event or parade shall be required to appear before the events committee at a pre-permit coordination meeting. Upon receipt of a permit application, the events committee shall select a date and time for the meeting to occur and provide reasonable notice to the applicant of such meeting.

(Code 2006, § 62-224; Ord. No. 2016-38, § 2, 7-26-2016; Ord. No. CAO 2021-006, 5-25-2021)

Sec. 62-258. Prohibitions; carrying of signs and weapons; sound level limitations.

In addition to other prohibitions provided in this article, the following conditions and prohibitions shall apply to all special events and parades:

- (1) It shall be unlawful for any person to participate in a special event or parade for which the person knows a permit has not been granted.
- (2) It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly licensed special event or parade to knowingly fail to comply with any condition of the permit.
- (3) It shall be unlawful for any person to ride or drive, or cause to be ridden or driven, any animal or any animal-drawn vehicle upon any public street, unless specifically authorized by the permit.
- (4) It shall be unlawful for any person to carry or possess at any special event or parade:
 - a. Any dirk, knife (except a common pocketknife, plastic knife, or blunt-bladed table knife), metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or dart-firing stun gun, each as defined in F.S. § 790.001, unless expressly authorized pursuant to F.S. ch. 790 or other applicable local, state, or federal law. As used in this subsection, the term "tear gas gun" or "chemical weapon or device" means any weapon of such nature, except a device known as a "self-defense chemical spray." The term "self-defense chemical spray" means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.
 - b. Any sign, poster, plaque or notice unless such sign, poster, plaque, or notice is constructed solely of a cloth, paper, flexible or cardboard material no greater than one-quarter inch in thickness.
 - c. Nothing in this subsection (4) is intended to authorize the possession or use of materials, weapons or devices that are otherwise prohibited by any other local, state or federal ordinance, statute or regulation. The purpose of this section is to prohibit the carrying or possession of items and materials that have the potential to be used as weapons to cause physical or personal damage, and whose possession might not otherwise be prohibited by local, state or federal law.
- (5) Amplified sound levels.

- a. Unless otherwise agreed upon in advance with the events committee and incorporated into the permit, no amplified sound generated by the organizers of a special event or parade shall exceed 75 dBA for special events and parades adjacent to residential areas or 85 dBA for special events and parades not adjacent to residential areas. The term "amplified sound" is defined for purposes of this section as sound resulting from any loudspeaker, public address system, amplifier, or any other device which electronically or mechanically augments the volume of sound, including, by way of example, a radio, television set, bullhorn, or musical instrument.
- b. To comply with the sound level limitations set forth in subsection (5)a of this section, the source under investigation must not exceed the applicable sound level limitation as measured both from:
 1. A distance of 100 feet from the source of the amplified noise; and
 2. The real property line of any sound affected site or unit. The term "real property line" is defined for purposes of this section as either:
 - (i) The boundary line of a parcel;
 - (ii) The vertical and horizontal boundaries of a dwelling unit that is part of a multifamily dwelling; or
 - (iii) On a mixed-use property, the interface between the two portions of the property on which different categories of activity are being performed.
- c. The sound levels shall be measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute. Three measurements of the sound source under investigation shall be taken. The metric that shall be applied is the maximum sound level measured during the sound measurement period. Each of the three measurements shall be no less than 30 seconds in duration, and all three measurements shall be taken within a one-hour period. If the sound source under investigation is of a total duration of less than 90 seconds, one 30-second measurement shall be sufficient.
- d. Correction for ambient sound level shall be made as specified in Table 1, of this subsection. If the measured difference between the applicable ambient sound level and the alleged violating sound level is five dBA, each alleged violating sound level shall be reduced by two dBA. If the measured difference is six to eight dBA, the alleged violating sound level readings shall be reduced by one dBA. If such measured difference is nine or more dBA, the alleged violating sound level shall not be adjusted based upon the difference. Fractional decibels shall be rounded to the nearest whole decibel.

TABLE 1

| Difference Between Alleged Violating Sound Level and Ambient Sound Level (in dBA) | Correction (To be Subtracted from the Measured Alleged Violating Sound Level) |
|---|---|
| 9 and higher | 0 |
| 6-8 | 1 |
| 5 | 2 |

The term "ambient noise" is defined for purposes of this section as the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds and those from the source under investigation. The ambient sound level is synonymous with background sound level. Ambient sounds are differentiated from extraneous sounds by the fact that the former are of a more steady state, although they may not be continuous. For purposes of this definition, the term

"extraneous sound" means a sound of high intensity and relatively short duration which is neither part of the ambient sound, nor comes from the sound source under investigation.

(Code 2006, § 62-239; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-259. Public conduct during special events and parades; closing of streets; parking prohibited.

- (a) No person shall unreasonably hamper, obstruct or impede, or interfere with any special event or parade or with any person, vehicle, or animal participating or used in a special event or parade.
- (b) No driver of a vehicle shall drive between the vehicles, persons, or animals comprising a special event or parade when such vehicles, persons, or animals are in motion and are conspicuously designated as part of a special event or parade.
- (c) The chief of police shall have the authority, when reasonably necessary, to:
 - (1) Temporarily close streets, sidewalks, and public places constituting a part of the route or location of a special event or parade; and
 - (2) Temporarily prohibit or restrict the parking of vehicles along a street constituting a part of the route or location of a special event or parade. The chief of police shall post signs to that effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this article.

(Code 2006, § 62-240; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-260. Determination of time specified area will be used; maximum length of events; location and time of events.

- (a) *Determination of time specified area will be used.* The maximum amount of time that the specified area will be utilized for the purpose of holding the special event or parade will be determined by the events committee based upon the information contained in the application and the criteria set forth in this article.
- (b) *Maximum length of events.* No single special event or parade shall be conducted for more than four consecutive days. No single special event or parade shall be conducted on any consecutive days of the week other than Thursday, Friday, Saturday, or Sunday.
- (c) *Undue burden on specific locations.* The events committee is empowered to limit the number of special events and parades to be held in any specific neighborhood, area or location in the city within a single calendar year in order to prevent an undue burden from being placed on specific neighborhoods, areas or locations in the city.

(Code 2006, § 62-241; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-261. Admissions charge.

The events committee may grant permission to the sponsor of a special event or parade to charge an admission fee for attendance at the special event or parade. Consideration and granting of such permission shall be based upon the location and duration of the event, its impact upon traffic circulation, provisions for emergency access and crowd safety and control, the frequency of events at the location, and other appropriate factors.

(Code 2006, § 62-242; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-262. Prohibition on use of expanded polystyrene.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

City facility includes, but is not limited to, any building, structure, park, or golf course owned, operated or managed by the city.

Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead foam), infection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).

Expanded polystyrene containers means plates, bowls, cups, containers, lids, trays, coolers, ice chests, food containers and all similar articles that consist of expanded polystyrene.

Special event permittee means any person or entity, and their subcontractor, issued a special events permit by the city for a special event on city property, in a city facility or in the city's right-of-way.

- (b) *Prohibited use of expanded polystyrene; penalties.*

- (1) Special event permittees and their subcontractors shall not sell, use, provide food or drink in, or offer the use of, expanded polystyrene articles in city facilities.
- (2) Upon warning, the special event permittee must stop use of the polystyrene items and replace them with a non-polystyrene alternative as soon as practicable. If the special events permittee does not do so within a reasonable amount of time, he/she may be forced to discontinue the service, sale or participation in the event.
- (3) A violation of this section shall constitute a city code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.

(Code 2006, § 62-243; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-263. Prohibition on use of single-use carry out plastic bags.

- (a) *Definitions.* For purposes of this section only, the following definitions should apply:

City facility includes, but is not limited to, any building, structure, park, or golf course owned, operated or managed by the city.

Compostable carry out bag means a bag that:

- (1) Conforms to the current ASTM D6400;
- (2) Is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and
- (3) Must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.

Single-use carry out plastic bag means a bag provided by a company or individual to a customer, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from petroleum or a biologically-based source. This definition includes bags, as defined above, provided to an individual to transport items provided free of charge, including but not limited to, samples and informational materials.

Special event permittee means any entity or individual, and their subcontractor(s), who has been issued a special events permit by the city for a special event on city property, in a city facility or in the city's right-of-way, for the promotion or sale of their product(s) and/or business(es).

(b) *Prohibited use of plastic bags; penalties; exceptions.*

- (1) Special event permittees shall not provide items in single-use carry out plastic bags during special events as a condition of approval.
- (2) Upon warning, the special event permittee must cease providing the single-use carry out plastic bags immediately. If the special events permittee does not do so he or she may be forced to discontinue the service, sale or participation in the special event.
- (3) A violation of this section shall constitute a city code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.
- (4) Exceptions. This prohibition shall not apply to exempt bags in section 34-285(e) or other types of single-use plastic bags used, provided or given out by individuals who are special events permittees for the purpose of hosting a small private event (100 people or less) (e.g. birthday party, family reunion).

(Ord. No. 2017-13, § 2(62-245), 5-9-2017)

Sec. 62-264. Prohibition on use of single-use plastic beverage straws and single-use plastic stirrers.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

City facility includes, but is not limited to, any building, structure, park, or golf course owned, operated or managed by the city.

Single-use plastic beverage straw means a tube, intended for only one-time use, that is made predominantly of plastic derived from either petroleum or a biologically based polymer, including polymers derived from corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. Single-use plastic beverage straw includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.

Single-use plastic stirrer means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, including polymers derived from corn or other plant sources. Single-use plastic stirrer includes compostable and biodegradable petroleum or biologically based polymer stirrers and lid plugs (splash sticks), but does not include stirrers that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.

Special event permittee means any person or entity, and their subcontractor, issued a special events permit by the city for a special event on city property, in a city facility or in the city's right-of-way.

(b) *Prohibited use of single-use plastic beverage straws and single-use plastic stirrers; penalties.*

- (1) Special event permittees shall not sell, use, or provide a beverage with a single-use plastic beverage straws or single-use plastic stirrers in city facilities.
- (2) Upon warning, the special event permittee must stop use of single-use plastic beverage straws or single-use plastic stirrers or replace them with a non-single-use plastic alternative as soon as

practicable. If the special events permittee does not do so within a reasonable amount of time, he/she may be forced to discontinue the service, sale or participation in the event.

- (3) A violation of this section shall constitute a city code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.

(c) *Exceptions:*

- (1) The requirements of this section shall not restrict a special event permittee from providing a beverage with, or offering the use of, a single-use plastic beverage straw or single-use plastic stirrer upon request by or for an individual with a disability or medical condition that necessitates the use of a single-use plastic beverage straw or single use plastic stirrer. Such request does not require disclosure of the individual's disability.
- (2) This prohibition shall not apply to single-use plastic beverage straws or single-use plastic stirrers used, provided, or given out by individuals who are special events permittees for the purpose of hosting a small private event (100 people or less) (e.g. birthday party, family reunion).
- (3) This prohibition shall not apply to pre-packaged drinks where plastic straws have been attached to or sealed with a beverage container or packaging prior to receipt by a special event permittee.

(Ord. No. 2019-01, § 3, 1-8-2019)

Secs. 62-265—62-287. Reserved.

DIVISION 2. PERMIT

Sec. 62-288. Permit required.

Except as provided in section 62-256, no person shall hold or engage in any special event or parade, as defined herein, unless a permit is first issued by the events committee or by the city commission.

(Code 2006, § 62-223; Ord. No. 2016-38, § 2(62-223), 7-26-2016)

Sec. 62-289. Application; contents.

The provisions contained herein are for the review and approval required for purposes of conducting a special event or parade, as provided herein.

- (1) *Permit application.* A person seeking a special event or parade permit shall file an application with the events committee, with copies to the chief of police and fire chief, on forms provided by the city, and the application shall be signed by the applicant under oath.
- (2) *Contents of application.* The application for a special event or parade permit shall set forth the following information:
 - a. The name and address of the individual, organization, or group organizing the special event or parade.
 - b. The name, address and telephone number of the person who will act as chair-person of the special event or parade and be responsible for the conduct thereof.

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- c. The name, address, and telephone number of the headquarters of the organization or group for which the special event or parade is to be conducted, if any, and the authorized and responsible heads of the organization.
 - d. If the special event or parade is designed to be held by or on behalf of any person or entity other than the applicant, the applicant for such permit shall file a letter from that person or entity with the events committee authorizing the applicant to apply for the permit on his, her, or its behalf.
 - e. The type of special event or parade, including a description of activities planned during the event.
 - f. The purpose of the special event or parade and the number and types of vehicles and animals (if any) to participate.
 - g. The approximate number of participants (spectators are by definition not participants).
 - h. The approximate number of spectators.
 - i. A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the special event or parade, including:
 - 1. Whether any music will be provided, either live or recorded; and
 - 2. The number, types and locations of all loudspeakers and amplifying devices to be used.
 - j. The number of monitors to be provided and the identifying marks, badges or symbols to be worn or used by the monitors.
 - k. The method of notifying participants of the terms and conditions of the special event or parade.
 - l. The date the event is to be conducted and the hours it will commence and terminate.
 - m. The route to be traveled, if any, including the starting point and the termination point.
 - n. A statement as to whether the special event or parade will occupy all or only a portion of the width of the streets or sidewalks proposed to be traversed or public place proposed to be used.
 - o. The specific assembly and dispersal locations, the specific route and the plans, if any, for disassembly and dispersal.
 - p. The time and location at which units of the special event or parade will begin to assemble.
 - q. A site plan and/or a traffic plan, if required by the events committee.
 - r. Assurance that the applicant will make provision for adequate police presence and that the applicant will conform to necessary fire prevention rules, regulations and guidelines, including those set forth in section 62-295.
 - s. Assurance that the applicant will make provision for garbage and litter cleanup associated with the special event or parade during and after the special event or parade in the specified area.
 - t. Assurance that the applicant will not begin to set-up any stages, tents, utility poles, booths, stands, signs or any other movable fixtures more than 24 hours prior to the time at which the special event or parade is scheduled to commence.
 - u. Assurance that the applicant will cause all stages, tents, utility poles, booths, stands, signs, and all other movable fixtures pertaining to the special event or parade to be removed immediately after the special event or parade.
 - v. Such other information as the events committee may deem necessary in order to make arrangements to protect the health, safety and welfare of the general public and participants in

the special event or parade, to protect municipal and private property located in the city, to minimize the obstruction of vehicular and pedestrian traffic in the city, to minimize the disruption of city services and business activities in the city, and to protect residents' right to the quiet and peaceful enjoyment of their homes and neighborhood.

- (3) *False claims and presentations.* An applicant submitting an application for permit shall be subject to the requirements of chapter 38 (False Claims and Presentations Ordinance) of this Code.

(Code 2006, § 62-225; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-290. Time limitation for application.

- (a) *Timing of application for single special event or parade.* For single special events or nonrecurring parades, an application for a permit shall be filed with the events committee, with copies to the chief of police and fire chief, at least 30 and not more than 180 days before the special event or parade is proposed to commence. The events committee may waive the minimum 30-day filing period and accept an application filed within a shorter period if, after due consideration of the date, time, place, and nature of the special event or parade, the anticipated number of participants, and the city services required in connection with the event, the events committee determines that the waiver will not present a hazard to public safety. Where the events committee authorizes a single special event or nonrecurring parade to be held less than 30 days following the submission of the permit application, the applicant shall be required to pay two times the standard application fee and all actual costs incurred by the city in expediting said request, including overtime costs. Said costs are in addition to any and all other costs and charges contained in this division.
- (b) *Timing of application for re-occurring special events or parades.* For special events or parades held on a regular or recurring basis at the same location, an application for a permit covering all such special events or parades during that calendar year may be filed with the events committee, with copies to the chief of police and fire chief, at least 60 and not more than 180 days before the date and time at which the first such special event or parade is proposed to commence. The events committee may waive the minimum 60-day period after due consideration of the factors specified in subsection (a) of this section. Where the events committee authorizes a reoccurring special event or parade to be held less than 60 days following the submission of the permit application, the applicant shall be required to pay two times the standard application fee and all actual costs incurred by the city in expediting said request, including overtime costs. Said costs are in addition to any and all other costs and charges contained in this division.

(Code 2006, § 62-226; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-291. Standards and criteria for approval of application.

The events committee shall approve a permit application as provided for herein when, based on consideration of the application and on such other information as may otherwise be obtained, it is determined that:

- (1) The conduct of the special event or parade will not obstruct the safe and orderly movement of pedestrian or vehicular traffic contiguous to its route or location.
- (2) The conduct of the special event or parade will not unduly disrupt or interfere with city services, business activities or residents' right to the quiet and peaceful enjoyment of their homes and neighborhoods.
- (3) The special event or parade is scheduled to move (if applicable) from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

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- (4) The applicant has secured the necessary police and fire protection services.
 - (5) The conduct of the special event or parade will not require the diversion of so great a number of city police officers to properly police the location of the event, the line of movement, and the areas contiguous thereto as to prevent the normal police protection of the city.
 - (6) No special event or parade is scheduled elsewhere in the city where the police, fire, or other city resources required for that special event or parade are so great that the deployment of police, fire, or other city services for the proposed special event or parade would have an immediate and adverse effect upon the welfare and safety of persons and property.
 - (7) The concentration of persons, animals, and vehicles at the specified area of the special event or parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the specified area or elsewhere in the city.
 - (8) The special event or parade does not present an unreasonable danger to the health and safety of the applicant, participants, spectators, city employees or agents or the general public or to municipal or private property.
 - (9) Adequate sanitation and other required health facilities are or will be made available in or adjacent to the specified area.
 - (10) There are sufficient parking places near the specified area of the special event or parade to accommodate the number of vehicles reasonably expected.
 - (11) The special event or parade is not for the primary purpose of advertising any product, goods or event that is primarily for private profit, and the special event or parade itself is not primarily for profit. The prohibition against advertising any product, goods or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits and/or structures used in the special event or parade.
 - (12) No permit application to hold a conflicting special event or parade at the same time and location has already been granted or has been received previously and will be granted.
 - (13) The special event or parade will not conflict with previously planned programs or events organized by the city that were previously scheduled to occur at or in close proximity to the proposed location for the special event or parade.
 - (14) The application for permit does not contain any material falsehood or misrepresentation and the applicant has not failed to comply with the requirements of chapter 38 (False Claims and Presentations Ordinance) of this Code.
 - (15) The applicant, or person on whose behalf the application for permit was made, has not previously made any material misrepresentation regarding the nature or scope of an event or activity previously permitted or otherwise previously materially violated the provisions of this division.
 - (16) The applicant, or person on whose behalf the application for permit was made, has never damaged or failed to pay for damage to city property.
 - (17) The application for permit is fully complete and executed.
 - (18) The applicant, or person on whose behalf the application for permit was made, is legally competent to contract and to sue and be sued.
 - (19) The special event or parade is not prohibited by or incompatible with the traditionally accepted uses of the public place where the applicant proposes to hold the special event or parade.
 - (20) The special event or parade does not create a conflict with regard to any federal, state or local law.

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- (21) The special event or parade is not otherwise contrary to or inconsistent with the best interests of the city.

(Code 2006, § 62-227; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-292. Indemnification of city; liability insurance.

- (a) *Indemnification.* All applicants for a permit to hold a special event or parade shall agree to indemnify and hold harmless the city, its servants, agents and employees, for any and all claims caused by or arising out of the activities permitted and any work associated therewith. Indemnification provisions shall be approved by the city attorney and set forth in each permit application. The risk management division shall be responsible for monitoring an applicant's compliance with the indemnification requirements and may, in its discretion, waive or reduce such requirements based upon its experience with previous events, size, duration, location, and nature of the event.
- (b) *Liability insurance.* Insurance coverage requirements approved by the city commission shall be set forth in each permit application to protect the city from liability that may result from the special event or parade and any work associated therewith. All applicants shall provide to the risk management division proof of an appropriate policy of insurance issued by an insurance company with an A.M. Best rating of at least (A-/VI) or the equivalent thereof, which policy shall name the city as an additional insured on a primary and non-contributory basis and contain a waiver of subrogation endorsement in favor of the city. The risk management division shall be responsible for monitoring an applicant's compliance with the insurance requirements and may, in its discretion, waive or reduce such requirements based upon its experience with previous event size, duration, location, and nature.

(Code 2006, § 62-228; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-293. Schedule of fees, performance bonds, and exemptions.

- (a) *Established.* A schedule of fees, performance bonds and exemptions for special events and parades shall be as established in section 1-8.
- (b) *Application fee.* At the time of application, an applicant shall deposit a nonrefundable application fee as established in section 1-8 to cover the administrative costs of processing the permit application.
- (c) *Fee for city services.* If any city services shall be required for the special event or parade, the applicant shall pay, prior to the issuance of a permit, the charges for those services in accordance with a schedule of service costs established in section 1-8. Such charges may include charges for police and fire protection services, code enforcement services, electrical services, exclusive use of city-owned parking spaces, barricades, labor, materials, and any other charges for city services incidental to the special event or parade. In addition, a closing fee shall be imposed following the conclusion of the special event or parade for any additional required city services not paid for by the applicant prior to the issuance of the permit.
- (d) *Costs of site plan and traffic plan.* The events committee may require the applicant to provide a site plan and/or a traffic plan in connection with the proposed special event or parade. If the events committee determines that a site plan and/or a traffic plan is required, the applicant will be responsible for the cost of providing any required plan.
- (e) *Performance bond.* All persons seeking a permit to hold a special event or parade shall be required to post a performance bond securing their obligations to comply with the requirements of this division, including, but not limited to, their obligation to clean up after the special event or parade. For events ending by 6:00 p.m., all cleaning activities shall be completed within six hours after the end of the event; and for events ending after 6:00 p.m., all clean-up activities shall be completed by 8:00 a.m. the following morning. Requests for

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(Supp. No. 21, Update 2)

additional time by which to complete clean-up activities shall be directed to the events committee and shall be reviewed on a case-by-case basis. An applicant's failure to adequately clean-up after a special event or parade or to otherwise comply with the provisions of this article, as determined by the events committee or its designee, shall result in the forfeiture of the performance bond and may result in the imposition of additional fees and charges on the applicant for costs incurred by the city. A schedule of performance bonds for special events and parades shall be as established in section 1-8.

- (f) *Waiver of fees and performance bond.* The city manager or his or her designee may waive or reduce one or more of the enumerated fees or the performance bond based upon experience with previous event size, duration, location, nature and the likelihood of unremoved litter or damage to property.

(Code 2006, § 62-229; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-294. Police services.

- (a) *Review of applications; police services.* The chief of police or his or her designee shall review each permit application and determine whether and to what extent police protection is reasonably necessary for the special event or parade for traffic control and public safety. The chief of police shall base this decision on the size, location, duration, time and date of the event, the expected sale or service of alcoholic beverages, the number of streets and intersections blocked, and the need to detour or pre-empt citizen travel and use of the streets and sidewalks. The chief of police shall, pursuant to city police standard operating policies, determine the number of off-duty officers or overtime officers, or a combination thereof, needed to provide special police services in connection with the special event or parade. The applicant shall be responsible for the cost of any such off-duty or overtime officers deemed necessary by the chief of police. If possible without the disruption of ordinary police services or the compromise of public safety, the chief of police may provide regularly scheduled on-duty police personnel to provide police services at the special event or parade.
- (b) *Revocation of permit.* The chief of police or his or her designee shall have the authority to revoke a special event or parade permit instantly upon violation of the conditions or standards for issuance set forth in this division or when a public emergency arises, provided the police, fire or other city resources required for that emergency are so great that deployment of police, fire or other services for the special event or parade would have an immediate and adverse effect upon the welfare and safety of persons or property.

(Code 2006, § 62-230; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-295. Fire and life safety protection.

- (a) *Review of applications; fire protection services.* The fire chief or his or her designee shall review each permit application and determine whether and to what extent additional fire and life safety protection is reasonably necessary for any special event or parade presenting a fire-safety concern or incorporating a fireworks display. The fire chief shall base this decision on the requirements of the state fire prevention code, crowd size, location, duration, time and date of the event, the expected sale or service of alcoholic beverages, and the number of streets and intersections blocked. If additional fire and life safety protection services are deemed necessary by the fire chief, the applicant shall have the duty to secure the fire and life safety protection services deemed necessary by the fire chief at the sole expense of the applicant.
- (b) *Professional licenses, insurance, and notice to property owners for fireworks displays.* For any fireworks or pyrotechnic displays, the applicant shall provide:
- (1) Copies of all professional fireworks licenses and appropriate insurance to the events committee or its designee no less than four weeks prior to the date of the requested display; and

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- (2) Notice of the display to all property owners within 1,000 feet of the location of the display no less than 15 days prior to the date of the requested display.

(Code 2006, § 62-231; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-296. Nondiscrimination.

The events committee, all other city officials, and the city commission, as necessary, shall uniformly consider each application upon its merits and shall not discriminate in exercising authority under this division based upon political, religious, ethnic, racial, disability, sexual orientation, or gender related grounds, or upon the content of the participants' speech.

(Code 2006, § 62-232; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-297. Notice of denial of application.

The events committee shall act promptly upon a timely filed application for a special event or parade permit, but in no event shall the events committee grant or deny a permit less than 48 hours prior to the proposed special event or parade. Where a permit application is disapproved, the events committee shall notify the applicant by personal delivery or certified mail at least 48 hours prior to the proposed special event or parade and state the reasons for denial.

(Code 2006, § 62-233; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-298. Alternative permit.

The events committee, in denying an application for a special event or parade permit, may authorize the conduct of the special event or parade at a date, time, location, or route different from that requested by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the events committee, file a written notice of acceptance with the events committee, with copies to the chief of police and fire chief. An alternate special event or parade permit shall conform to the requirements of, and shall have the effect of, a special event or parade permit issued under this division.

(Code 2006, § 62-234; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-299. Appeals.

- (a) *Appeal to city manager.* Any adverse decision rendered by the events committee or any other city official exercising authority under this article is initially appealable to the city manager. An initial appeal to the city manager must be submitted within five business days after receipt of the adverse decision by filing a written notice of appeal, together with a written statement containing the grounds for the appeal, with the city manager, with copies of the notice of appeal and statement of grounds provided to the events committee. The city manager shall promptly act upon a timely filed appeal following receipt of the notice of appeal.
- (b) *Appeal to city commission.* Upon a denial by the city manager of an applicant's timely appeal under subsection (a) of this section, the applicant shall have the right to appeal to the city commission the adverse decision rendered by the events committee or any other city official exercising authority under this division. The applicant shall make the appeal to the city commission within five business days after receipt of the city manager's denial of the initial appeal by filing a written notice of appeal, together with a written statement containing the grounds for the appeal, with the city manager, with copies of the notice of appeal and

statement of grounds provided to the city clerk and the events committee. The city commission shall act upon the appeal at its next regularly scheduled meeting following receipt of the notice of appeal.

- (c) *Standard of review.* On appeal to the city manager or the city commission, the city manager or the city commission, as applicable, shall determine whether the adverse decision rendered by the events committee or other city official was appropriate based on the criteria set forth in this division.
- (d) *Court review.* In the event that the city commission rejects an applicant's timely appeal, the applicant may file an immediate request for review with a court of competent jurisdiction.

(Code 2006, § 62-235; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-300. Notice to city and other officials.

Immediately upon the approval of a special event or parade permit, the events committee shall send a copy thereof to the following:

- (1) City attorney;
- (2) Assistant city managers;
- (3) Director of public safety;
- (4) Chief of police;
- (5) Fire chief;
- (6) Director of community recreation;
- (7) Director of the public works department;
- (8) Director of code enforcement; and
- (9) Responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route or location of the proposed special event or parade.

(Code 2006, § 62-236; Ord. No. 2016-38, § 2, 7-26-2016; Ord. No. CAO 2021-006, 5-25-2021)

Sec. 62-301. Contents of permit.

Each special events or parade permit shall state or attach the following information:

- (1) Where a special event or parade is excused from compliance with other provisions of the city code or zoning code as provided in this division, the terms and conditions on which the permittee is excused from compliance with other provisions of the city code or zoning code.
- (2) The starting and approximate ending time.
- (3) Any site plan and/or a traffic plan required by the events committee.
- (4) The minimum and maximum speed of any parade units.
- (5) The maximum interval of space to be maintained between any parade units.
- (6) The portions of the streets, sidewalks or other public places that may be occupied by the special event or parade.
- (7) The maximum length of any parade in miles or fractions thereof.

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- (8) That persons in the special event or parade are authorized to ride or drive, or cause to be ridden or driven, animals or animal-drawn vehicles upon public places or streets (if applicable).
 - (9) Such other information as the events committee shall find necessary to fulfill the purposes of this division, including any reasonable conditions necessary for the protection of the rights, property and personal safety of persons.

(Code 2006, § 62-237; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-302. Compliance; possession of permit.

- (a) A permittee under this division shall comply with all permit directions and conditions. By applying for and being granted a permit, the applicant shall assume all conditions on the face of the permit.
- (b) A permittee shall comply with all applicable laws and sections of the city code and zoning code. Notwithstanding the foregoing sentence, the events committee is authorized to issue permits that expressly allow special events and parades to violate specified provisions of the city code and/or the zoning code for the duration of the special event or parade, including, for example, the signage restrictions set forth in the city code and zoning code and the prohibition against obstruction of pedestrian or vehicular traffic. Any permitted exceptions to the provisions of the city code or zoning code must be expressly listed on the face of the permit.
- (c) The chair or other person heading or leading the special event or parade shall carry the permit personally during the conduct of the special event or parade.

(Code 2006, § 62-238; Ord. No. 2016-38, § 2, 7-26-2016)

Sec. 62-303. COVID-19 emergency business recovery special event permit.

- (a) For purposes of this section, the following definitions shall apply:

COVID-19 emergency means the pandemic and public health crisis related to the Novel Coronavirus Disease-2019 which resulted in the issuance of various emergency orders by the State of Florida, Miami-Dade County, and the city which ordered the temporary closure of certain businesses and establishments and set forth strict re-opening conditions on a phased basis, including reduced indoor capacity and social distancing measures.

COVID-19 recovery special event shall mean a special event as defined in this article organized to enhance economic opportunities for a business or other establishment in the city impacted by the COVID-19 emergency. It shall not include other special events unrelated to the impact of the COVID-19 emergency.

- (b) The city manager is authorized to establish an expedited application and permitting process, which may include a relaxation of certain special events standards, for COVID-19 recovery special events, provided that at all times, any COVID-19 recovery special event shall comply with the requirements of the Florida Building Code, Americans with Disabilities Act, general life safety standards, and all COVID-19 regulations, including social distancing measures, set forth in state, county, and local laws, including all applicable emergency orders.
- (c) The city manager is specifically authorized to relax certain requirements for COVID-19 recovery special events, as follows:
 - (1) *Application.* The city manager is authorized, at his discretion, to prepare a simplified permit application form specifically for COVID-19 recovery special events. The city manager retains the authority to require an applicant to submit an application that includes all of the contents set forth in section 62-289 if necessary for appropriate review of a proposed COVID-19 recovery special event.

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- (2) *Time limitation for application.* The city manager is authorized to accept permit applications within a reasonable time before the proposed COVID-19 recovery special event to allow for appropriate review and determination.
- (3) *Review and approval of permit applications.* Completed applications for COVID-19 recovery special events shall be routed internally by staff for concurrent review and approval or denial by the chief of police, the fire chief, and the director of any other department as determined by the director of community recreation. In relation to COVID-19 recovery special events only, all of the functions delegated to the special events and parades staff committee set forth in this article are delegated to the city manager or his or her designee. The applicant shall not be required to appear at a pre-permit coordination meeting, unless required by the director of community recreation. In reviewing a permit application for a COVID-19 recovery special event, the standards and criteria for approval of application set forth in section 62-291 shall be considered by the appropriate reviewers and applied in order to impose any appropriate conditions or restrictions on the COVID-19 recovery special event permit.
- (4) *Determination of time specified area will be used; maximum length of events; location and time of events.* The city manager, or his or her designee, is authorized to relax the limitations set forth in section 62-260 as to the time that a specific area may be utilized and the maximum length of events (including the allowable days of the week that special events may be allowed).
- (5) *Fees.* There shall be no application fee for a COVID-19 recovery special event permit application. However, all fees for city services, including, but not limited to, cost of all police services as determined by the chief of police, costs of site plan and traffic plan, and performance bond requirements set forth in section 62-293(c), (d), and (e) shall apply. The city manager retains the authority to waive or reduce fees or the performance bond requirement as provided section 62-293(f).
- (6) *Contents of permit.* The COVID-19 recovery special event permit shall include the information set forth in section 62-301, as well as any other additional information or conditions necessary to ensure the COVID-19 recovery special event complies with all social distancing regulations in place pursuant to state, local, or city laws, including emergency orders.
- (7) *All other requirements for special events apply.* Unless otherwise addressed in this section, all other requirements for special events shall apply to COVID-19 recovery special events.
- (d) The provisions set forth in this section shall be valid and applicable to COVID-19 recovery special events scheduled through January 15, 2022. This section shall expire on January 15, 2022.
- (Ord. No. 2020-18, § 2, 6-9-2020; Ord. No. 2021-03, § 2, 1-12-2021; Ord. No. CAO 2021-006, 5-25-2021; Ord. No. 2021-20, § 2, 5-25-2021)

Secs. 62-304—62-322. Reserved.

ARTICLE VIII. VACATION, ABANDONMENT AND CLOSURE OF STREETS, EASEMENTS AND ALLEYS

Sec. 62-323. Definitions.

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. Words not defined shall be given the meaning provided under their common and ordinary meaning unless the context suggests otherwise.

Abandon or vacate means to renounce or disclaim all interest of the city and of the public in and to any land dedicated for transportation or travel by the public.

Easement means any easement granted for the use of nonspecified utilities or to the public in general. Any reference to easement in this article shall refer to a public easement unless otherwise specified.

Right-of-way means any public street, road, alley, place, or other non-fee interest or portion thereof.

(Code 2006, § 62-258; Ord. No. O-2004-34, § 1(22-230), 9-14-2004)

Sec. 62-324. Purpose and methods.

The purpose of this article is to set forth a uniform procedure for applications for vacation, abandonment and closure of streets, easements, alleys and other non-fee interests of the city, to provide a method for the city to vacate, abandon and close its fee interest on the public right-of-way, to designate the appropriate departments and boards of the city that shall be responsible for processing such applications, and to provide the methods, procedures and standards that shall govern such processing.

(Code 2006, § 62-257; Ord. No. O-2004-34, § 1(22-229), 9-14-2004)

Sec. 62-325. Application form.

- (a) Applications may be filed by the owner of record of property abutting or bounding the right-of-way or easement sought to be vacated by the city. All requests for vacation, abandonment, and closure of rights-of-way, easements, or city property shall be made in writing upon an application form furnished by the public works department, which shall require the following information:
- (1) The name and address of the applicant.
 - (2) A general description of the right-of-way or easement which the applicant seeks to have abandoned and the location of same. A legal description and recent survey, prepared and certified by a registered surveyor or engineer, shall be provided, which description shall be accompanied by a plat, map or drawing that also shows the general area involved and the location of the specific property interest sought to be vacated, abandoned, and closed.
 - (3) The reason for the requested abandonment, vacation and closure.
 - (4) The names and addresses of the owners of record of real property bounding and abutting the right-of-way or easement or city property the applicant seeks to have abandoned, and all owners of record of property located within 1,000 feet in all directions from any point of the right-of-way or easement proposed to be abandoned. The property owners of record shall be deemed to be those shown on the then-current tax assessment roll of the city.
 - (5) Letters of consent from affected utilities, including, but not limited to, Florida Power and Lights, BellSouth Telephone Company, Florida Public Utility, NUI Gas, Comcast and other telecommunications companies, the county water and sewer department and the city water and sewer division, as may be applicable.
 - (6) Existing utilities or improvements, if any, in the area involved. If utilities and improvements need to be relocated, all details regarding such relocation shall be identified, including dedication of new easements, including legal descriptions.
 - (7) At least 45 days prior to the consideration of the application by the development review committee, 20 completed copies of the application shall be submitted to the public works department by the applicant.

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- (8) The applicant's proposed mitigation plan designed to offset any potential impacts which may be caused by the requested vacation.
 - (9) Such other relevant information as the city may require.

The application shall be signed by the applicant, who shall verify under oath that the information contained therein is true and correct.

- (b) The city, through the city manager, may file an application with the public works director to initiate a review of proposed abandonment, vacation and closure of city right-of-way or easement. The city shall not file an application fee. The city application shall otherwise be reviewed and processed in accordance with the provisions of this article.

(Code 2006, § 62-259; Ord. No. O-2004-34, § 1(22-231), 9-14-2004)

Sec. 62-326. City right-of-way or easement.

- (a) The public works department shall prepare and distribute the application packages to city departments, public agencies and public utility companies as set forth in section 62-325, within ten days of receipt of a completed application for abandonment, vacation and closure of a right-of-way or easement.
- (b) The public works department shall review the application in accordance with the criteria set forth in the application and in section 62-328, and shall otherwise follow the procedures outlined in this article in reviewing and handling the application, except, however, that the city shall not pay an application fee.

(Code 2006, § 62-260; Ord. No. O-2004-34, § 1(22-232), 9-14-2004)

Sec. 62-327. Application fee and costs.

All applications for abandonment, vacation and closure filed by private property owners pursuant to this article shall be accompanied by an application fee in the amount established in section 1-8, unless such fee is waived or reduced by the city commission upon a showing of good cause. All costs of public notice and advertisement shall be borne by the applicant unless waived by the city commission.

(Code 2006, § 62-261; Ord. No. O-2004-34, § 1(22-233), 9-14-2004)

Sec. 62-328. Departments and agencies to receive and review applications.

- (a) Applications for vacation, abandonment and closure pursuant to this article, together with the required filing fee, shall be made and directed to the public works department for processing. The public works department shall provide a copy of the complete application to the following departments and agencies for review and comment:
 - (1) City manager;
 - (2) Development services department;
 - (3) Fire department;
 - (4) Police department;
 - (5) Public works department;
 - (6) Parking department;
 - (7) City clerk;

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- (8) City attorney;
 - (9) Public utilities and governmental agencies listed in section 62-325;
 - (10) Such other agencies as determined by the director of public works.
- (b) The governmental agency, public utility company and departmental review and evaluation of the application shall include, but not be limited to:
- (1) A determination of whether the subject right-of-way is useful as part of the city street system.
 - (2) A determination of whether the proposed action is consistent with the city's comprehensive land use plan.
 - (3) A study of geographic areas within 2,500 feet that may be impacted by the proposed action and the manner of impact.
 - (4) Suggested alternative actions to the proposed action, if any, which would alleviate the identified problems.
 - (5) A determination of whether the proposed action may be accomplished in conformance with the standards, rules and regulations of the local, state and federal governing authorities.
 - (6) A determination of what additional property, interests, easements, utility relocations, agreements and other actions are necessary to accommodate the proposed action. The applicant may also be required to provide an alternative right-of-way or easement.
 - (7) Identification and evaluation of any impact that the proposed action would have on the delivery and provision of service by public services vehicles.
 - (8) Identification and evaluation of any impact that the proposed action would have on the surrounding city street system.
 - (9) The results of any applicable traffic study.
 - (10) An estimated immediate and future cost to the city, if any, of completing the proposed action.
 - (11) A study of the reason identified for the proposed action.
 - (12) A review of the applicant's proposed mitigation plan to offset potential impacts that may be caused by the requested vacation.

(Code 2006, § 62-262; Ord. No. O-2004-34, § 1(22-234), 9-14-2004)

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 of the public hearing to be held by the city commission on the application.

(Code 2006, § 62-263; Ord. No. O-2004-34, § 1(22-235), 9-14-2004; Ord. No. 2024-02, § 2(Exh. A), 1-9-2024)

Sec. 62-330. Action by city commission.

- (a) The city commission shall consider the entire record of the application for abandonment, vacation and closure, which record shall consist of the report and recommendations of the departments, agencies and public utility companies, the recommendations of the development review committee and planning and zoning board and the record of the public hearing held before the planning and zoning board.
- (b) In reaching its decision, the city commission shall adopt findings of fact and shall also consider the following criteria at a duly advertised public hearing in determining whether the general public welfare would be best served by the proposed action:
 - (1) Whether the public benefits from the use of the subject right-of-way as part of the city street system;
 - (2) Whether the proposed action is consistent with the city's comprehensive plan;
 - (3) The availability of alternative action to alleviate the identified problems;
 - (4) The effect of the proposed action upon traffic circulation;
 - (5) The effect of the proposed action upon the safety of pedestrians and vehicular traffic;
 - (6) The effect of the proposed action upon the provision of municipal services, including, but not limited to, emergency services and waste removal; and
 - (7) The mitigation plan proposed by the applicant to offset any potential impacts.
- (c) At the conclusion of the hearing, the city commission shall accept, modify, or deny the application in accordance with the standards set forth in this section and in the best interests of the public welfare.

(Code 2006, § 62-264; Ord. No. O-2004-34, § 1(22-236), 9-14-2004)

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. 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.

(Code 2006, § 62-265; Ord. No. O-2004-34, § 1(22-237), 9-14-2004; Ord. No. 2024-02, § 2(Exh. A), 1-9-2024)

Secs. 62-332—62-347. Reserved.

ARTICLE IX. PLAY STREETS

Sec. 62-348. Play streets.

- (a) The city manager is hereby authorized to declare and to establish, whenever he or she shall find that the public safety and convenience are best served thereby, any street or part thereof a play street and to place appropriate signs and barricades enclosing the roadway indicating and helping to protect the same.
- (b) The city manager is authorized to place other items including, but not limited to, landscaping, benches, and play equipment on a play street.
- (c) Whenever authorized signs and barricades are erected enclosing any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof.

(Ord. No. 2017-29, § 2(62-266), 7-11-2017)