



## Legislation Text

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**File #: 22-4842, Version: 1**

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An Ordinance of the City Commission amending Chapter 78 "Utilities", Article I "In General" Section 78-1 "Utility Easement" and Article VI "Underground Utilities" Sections 78-280 Through 78-282 of the Code of Ordinances, by requiring attaching entities to underground and remove co-located facilities, requiring pole-owners to remove redundant utility poles, providing for procedures related to major hardening projects, and requiring property owners to cooperate and comply with access to utility easements, access to property, and location of facilities, providing for severability clause, repealer provision, codification, and providing for an effective date.

The City Commission recently adopted Resolution No. 2022-197, accepting Florida Power and Light's ("FPL") plan to place overhead utilities underground via the Storm Secure Underground Pilot Program (SSUPP). Under the SSUPP, FPL is seeking approval from the Florida Public Service Commission (FPSC) to convert all remaining above-ground neighborhood lines, poles ("lateral lines"), and individual residential and business service connections citywide from overhead to underground. The SSUPP is currently approved by the FPSC for ten years and FPL plans to convert 40% of overhead lateral lines by year ten. Additionally, FPL plans to pursue timely FPSC approval to convert the remaining 60% of overhead lateral lines to underground after year ten. FPL also projects to complete hardening of above-ground main lines ("feeder lines") in the City within the next five years and currently estimates that approximately 15% of the total miles of existing overhead feeders within the City could potentially be converted from overhead to underground.

In order to realize the full benefit of the SSUPP, the City wishes to exercise its regulatory authority to promote the conversion of overhead utilities to underground, eliminate unused redundant poles, facilitate the removal of pole attachments from redundant poles, and the coordination and cooperation of all affected parties through notice requirements and civil penalty provisions.

During the 2021 legislative session, the legislature enacted Florida Statute 366.97 via Senate Bill 1944 (SB 1944). The bill creates a process for handling redundant utility poles and abandoned pole attachments and vests the FPSC with jurisdiction to administer the bill's provisions. This ordinance is consistent with Florida Statute 366.97 and other state laws in this area.

Additionally, in order for the overhead to underground conversion project to be successful and to ensure utilities may access property to construct, maintain, and repair above-ground and underground electric infrastructure facilities and equipment, the City wishes to exercise its regulatory authority and police powers to promote and protect the health, safety, and welfare of the City by requiring individuals to cooperate, and not impede or obstruct (1) the acquisition of utility easements required for new utility infrastructure facilities and equipment and (2) access to property to place, maintain, and repair new utility infrastructure facilities and equipment.

On second reading, a provision was added to clarify that review and/or approval by the Board of Architects and

Historic Preservation Board shall not be required for transformers, switch cabinets, or other utility equipment associated with a City-led or utility-led neighborhood, area, or citywide overhead-to-underground infrastructure conversion project or infrastructure hardening project.