

ORDINANCE NO. 26-359

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING CHAPTER 35, “UTILITIES,” ARTICLE II, “UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY,” OF THE TOWN CODE OF ORDINANCES TO ALIGN THE TOWN’S REGULATIONS GOVERNING THE INSTALLATION, MAINTENANCE, AND REMOVAL OF UTILITY FACILITIES WITHIN PUBLIC RIGHTS-OF-WAY WITH CURRENT FLORIDA STATUTES; PROVIDING FOR AMENDMENTS TO DEFINITIONS, REGISTRATION, INSURANCE, INDEMNIFICATION, TERMINATION, PERMITTING, AND RELATED PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the “Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, Chapter 35, Article II of the Town Code of Ordinances governs the placement, maintenance, and removal of utility facilities, other than communications facilities, within the Town’s public rights-of-way; and

WHEREAS, the review of Chapter 35 originated from a request by Councilmember Collazo, raised as a new business item, asking staff to evaluate and develop a work plan to encourage utility companies to remove obsolete or abandoned infrastructure more efficiently; and

WHEREAS, during this review, staff determined that while the current Code includes enforcement mechanisms related to the removal of old utility infrastructure, several sections require updating to properly align with current provisions in the Florida Statutes; and

WHEREAS, the Town Council desires to amend Chapter 35, Article II to ensure that the Town's regulations are aligned with current Florida Statutes, specifically regarding the installation, maintenance, and removal of utility facilities within public rights-of-way; and

WHEREAS, the Town Council finds that the adoption of this Ordinance is necessary and in the best interest of the public health, safety, and welfare of the residents of the Town; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above-stated recitals is hereby adopted, confirmed, and incorporated herein by this reference.

Section 2. Amendment to Chapter 35, Article II. Chapter 35, "Utilities," Article II, "Utility Facilities in Public Rights-of-Way," of the Town Code of Ordinances is hereby amended to read as follows (words underlined are added; words ~~stricken through~~ are deleted; asterisks (* * *) indicate provisions not amended and remaining in full force and effect):

ARTICLE II. UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

DIVISION 1. GENERALLY

Sec. 35-25. Intent and purpose.

* * * (No change)

Sec. 35-26. Definitions.

For purposes of this article 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 otherwise defined in this section or in any permit that may be granted pursuant to this article shall be given the meaning ~~set forth in the Communications Act of 1934, 47 USC 151 et seq., as amended (collectively the "Communications Act")~~, and if not defined in the Communications Act, as defined by Florida Statutes, including F.S. Ch. 337 and Ch. 366; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning.

* * *

Applicable codes means uniform building, ~~fire~~fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes

or ordinances adopted to implement this article. The term includes objective design standards provided in this article that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. ~~The term includes objective design standards provided in this article that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived upon a showing that the design standards are not reasonably compatible for the particular location of the small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.~~

~~Communications facility or communications system means any permanent or temporary plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, fiber optics, poles, antennas, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances and other equipment or pathway placed or maintained or to be placed or maintained in the public rights of way of the Town and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer communication services. Pursuant to F.S. § 337.401(6)(c), communication facility for purposes of this article shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes.~~

Days means calendar days unless the language expressly provides for business days.

Emergency means situations of a serious nature, developing suddenly and unexpectedly, and demanding immediate action that will affect public safety, disruption of utility service, or damage to the rights-of-way, and conditions that ~~affects~~affect the public's health, safety or welfare.

Excavate or 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), as amended. The term includes pipe bursting, directional drilling or boring from one point to another point beneath the surface of the earth, and other trenchless technologies.

* * *

LDC means ~~the~~ Chapter 13 of this Code, titled "Land Development Code."

Licensed engineer means a Florida registered professional engineer or a person who is exempt from such registration requirements as provided in F.S. § 471.003, as amended.

* * *

User means ~~electric, gas (natural, manufactured or similar gaseous substance), water or sewer utility, or other similar type of entity that places or maintains facilities of whatever type in the Town's public roads or public rights-of-way.~~ any person or entity, including an Occupant, that uses or accesses the public rights-of-way in connection with the placement or maintenance of a facility.

Utility means any person or entity that ~~is an electric, gas, water, steam waste, disposal,~~ provides electric, gas, water, sewer, steam, waste disposal, or similar service consumed by the public, and who owns or operates appurtenant facilities or equipment that are situated ~~with~~ within the public rights-of-way for transmission of such utility's goods, commodities or services.

Utility pole means a pole or similar structure that is used in whole or in part to provide for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less. The term also does not include a pole used to support a communications facility, which is addressed in Article III of this Chapter.

* * * (Remaining definitions unchanged)

DIVISION 2. REGISTRATION

Sec. 35-27. Registration for placing or maintaining utilities in public rights-of-way.

* * *

(e) *Review and reporting.* The Town Manager or designee shall review the information submitted by the applicant. If the applicant submits information in accordance with subsection (d), the registration shall be effective and the Town shall notify the applicant of the effectiveness of registration in writing. The applicant may not apply for a permit to place or maintain utility, facilities in the public rights-of-way under this article unless and until it has been notified that its application is complete and effective. If the Town determines that the information has not been submitted in accordance with subsection ~~(e)~~(d), the Town shall notify the applicant in writing of the ~~noneffectiveness~~non-effectiveness of registration and reasons for the ~~noneffectiveness~~non-effectiveness.

* * *

(g) *Annual renewal.* A registrant shall update its registration with the Town by April 1 of each ~~years~~year in accordance with the registration requirements in this article. * * *

Sec. 35-28. Insurance.

* * *

(b)(3) *Commercial automobile liability.* Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this ~~Article XII~~article for limits of no less than \$1,000,000.00 per occurrence combined single limit each accident.

* * *

(c) *Proof of insurance.* Upon the effective date of the registration, the Registrant shall submit to the Town proof that it has obtained the insurance required under this ~~Section 35-35~~article, including a certificate of insurance signed by the insurance agent.

* * *

(f) *Abandonment.* Failure to maintain ~~required coverage shall be deemed an abandonment.~~ Failure to maintain all the required insurance coverage shall be deemed an abandonment of all ~~of the facilities of the registrant.~~ the required insurance coverage shall be deemed a violation of this article and subject to Code Enforcement proceedings, including any applicable fines or liens as permitted therein. In addition, the Town may suspend any open permits issued to the registrant until proof of required coverage is provided, and may pursue any other remedy available under law, including the procedures set forth in Section 35-31.

Sec. 35-29. Indemnification.

* * *

(b) *Hold harmless.* * * * This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant or to the Town; and the registrant, in defending any action on behalf of the Town, shall be entitled to assert in any action every defense or immunity that the Town could assert in its own behalf. ~~Nothing herein shall be construed as a waiver of the protections, limitations and immunities provided in F.S. § 768.28, as same may be amended from time to time.~~ The provisions of this ~~Section 35-36~~section include, but are not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding(s).

* * *

(e) *Investigation by registrant.* The registrant shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the Town, the registrant shall assume and defend not only itself but also the Town in connection with any such claims and any such defenses shall be at no cost or expense whatsoever to the Town; provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the negligence, gross negligence, or wanton or willful acts of the Town, its employees, agents, contractors, subcontractors, or invitees provided that the Town (exercisable by the Town Attorney), shall retain the right to select counsel of its own choosing.

* * *

(g) *Damages.* This indemnification by the registrant shall apply to all damages and claims for damages of any kind suffered, excepting any damages caused by the negligence, gross negligence, or intentional acts of the Town, its employees, agents or contractors, regardless of whether such insurance policies shall have been determined to be applicable to any such damages or claims for damages.

* * *

(i) *Term.* The indemnification requirements under this section and this article shall survive and be in full force and effect for a period of five years after the termination or cancellation of a registration, or until all of the registrant's equipment is removed from the Town's public rights-of-way, whichever is later.

Sec. 35-30. Force majeure.

* * * (No change)

Sec. 35-31. Termination of registration.

(a) *Involuntary termination.* * * * The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:

(1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide ~~communications service~~ utility service;

* * *

(3) The registrant voluntarily abandons all of its ~~communications facilities~~ utility facilities in public rights-of-way.

* * *

Sec. 35-32. Transfer of control, sale, or assignment of assets.

* * * (No change)

Sec. 35-33. Conditional use of public rights-of-way.

* * * (No change)

Sec. 35-34. Security fund.

* * * (No change)

DIVISION 3. PERMITTING AND PLACEMENT OF FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

Sec. 35-35. Placement or maintenance of utilities in public rights-of-way, in general.

* * *

(e) *Undergrounding of facility.* A registrant or other user shall endeavor, to the greatest extent possible, to place all facilities underground. The Town may require the use of trenchless technology (i.e., directional bore method) for the installation of facilities in the public rights-of-way as well as joint trenching facilities in existing conduit. * * *

* * *

Sec. 35-36. Expanded security fund.

* * * (No change)

DIVISION 4. ENFORCEMENT AND APPEALS

Sec. 35-37. Enforcement remedies of permit obligations; suspension and revocation of permits.

* * * (No change)

Sec. 35-38. Appeals.

* * * (No change)

Sec. 35-39. Reports and records.

* * *

(b) Nothing in this ~~subsection~~section shall affect the remedies a registrant has available under applicable law.

* * *

DIVISION 5. ABANDONMENT OF A FACILITY AND RESERVATION OF RIGHTS

Sec. 35-40. Abandonment of a facility.

* * * (No change)

Sec. 35-41. Reservation of rights.

* * * (No change)

Sec. 35-42. No liability or warranty.

* * * (No change)

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,

sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Miami Lakes; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" may be changed to "Section," "Article," or other appropriate word.

Section 5. Conflicts. All ordinances or parts of ordinances, and all resolutions or parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

FIRST READING

The foregoing Ordinance was offered by Vice Mayor Morera who moved its adoption on first reading. The motion was seconded by Mayor Dieguez and upon being put to a vote, the vote was as follows:

Mayor Joshua Dieguez	Yes
Vice Mayor Bryan Morera	Yes
Councilmember Juan Carlos Fernandez	Yes
Councilmember Angelo Cuadra-Garcia	Yes
Councilmember Ray Garcia	Yes
Councilmember Steven Herzberg	Yes
Councilmember Alex Sanchez	Yes

Passed on first reading on the 21st day of July 2026

SECOND READING

The foregoing Ordinance was offered by Councilmember Garcia who moved its adoption on first reading. The motion was seconded by Councilmember Sanchez and upon being put to a vote, the vote was as follows:

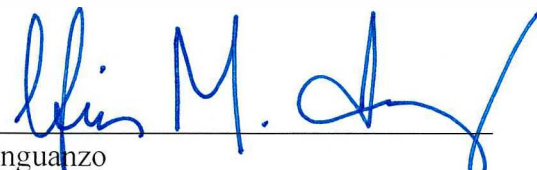
Mayor Joshua Dieguez	Yes
Vice Mayor Bryan Morera	Absent
Councilmember Juan Carlos Fernandez	Yes
Councilmember Angelo Cuadra-Garcia	Yes
Councilmember Ray Garcia	Yes
Councilmember Steven Herzberg	Yes
Councilmember Alex Sanchez	Yes

Passed and adopted on second reading on the 18th day of August 2026.



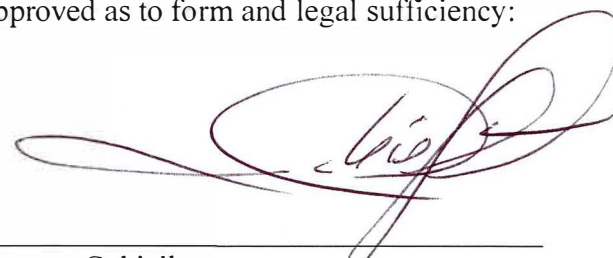
Joshua Dieguez
Mayor

Attest:



Gina Inguanzo
Town Clerk

Approved as to form and legal sufficiency:



Lorenzo Cobiella
Gastesi, Lopez and Mestre, PLLC
Deputy Town Attorney