

MEMORANDUM

Agenda Item No. 7(K)
(Second Reading: 2-6-24)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: November 7, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to zoning; amending article I of chapter 33 and section 33-50 of the Code; defining solar facility and floating solar facility; revising definition of solar energy system; authorizing solar facility and floating solar energy system as an unusual use; authorizing solar facility and solar energy system as an accessory structure and ancillary use subject to conditions; amending section 33-124; providing off-street parking regulations for solar facilities; amending section 33-279; allowing a solar facility in the Agricultural (AU) zoning district subject to conditions and providing exemptions from certain regulations pertaining to parking and driveway surfaces, lot coverage, and landscaping regulations; amending Division 1 of article I of chapter 24; revising definitions; clarifying plan review requirements for facilities requiring operating permits; requiring operating permits for floating solar facilities and systems and providing exceptions; amending section 24-43.1; authorizing unusual uses for solar facilities and floating solar systems to be served by on site domestic well system; amending section 24-48.2; revising application requirements for certain County environmental permits, including requirements for consents of other property owners; providing that for certain work, municipal zoning approval shall not be required at time of application; making technical and organizational changes

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Kevin Marino Cabrera.


Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001

Memorandum



Date: February 6, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava *Daniella Levine Cava*
Mayor

Subject: Ordinance Relating to Zoning and Environmental Protection, Amending Sections 33.1, 33-13, 33-20, 33-50, 33-124, 33-279 of Chapter 33 and Amending Sections 24-5, 24-15, 24-18, 24-43.1, 24-48.2 of Chapter 24 Relating to the siting and permitting of Solar Energy Systems, Floating Solar Energy Systems, Solar Facilities, and Floating Solar Facilities

Executive Summary

The proposed ordinance creates additional opportunities throughout unincorporated Miami-Dade County and wherever else the County exercises zoning jurisdiction for the deployment of solar energy systems and facilities to create clean, renewable energy from the sun while addressing recent amendments to sections 163.3205 and 163.32051 of the Florida Statutes. The ordinance amends the current County Code definition of solar energy system, which serves only the property on which it is installed, and defines solar facility, which serves properties beyond where it is installed. The proposed ordinance: authorizes solar facilities as a primary use on agriculturally zoned lands, as required by section 163.3205 of the Florida Statutes; provides zoning districts where “floating” solar facilities, which are installed on certain bodies of water, are permitted as required by Section 163.32051; and establishes setback and buffering regulations for such facilities as permitted by those statutes. The proposed ordinance also expands opportunities to install such solar uses in other zoning districts beyond the minimum requirements of State law. The proposed ordinance also codifies previous administrative interpretations related to, and expands on allowances for, solar energy systems.

The proposed ordinance also amends Chapter 24 to: provide greater allowances for solar energy systems and solar facilities, including floating installations; and make technical clean-ups for Class I, II, III, IV, and V permit application requirements, including removing the requirement that a substantiating letter or plan approval from a zoning authority be submitted with applications by an electric or gas utility for work that relates to the construction, repair, and inspection of electrical or gas transmission or distribution infrastructure. These changes are consistent with the policies of other statutes governing local permitting of such utilities, such as section 337.401, which generally require expedited reviews.

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the proposed ordinance revising Chapter 33 to comply with Sections 163.3205 and 163.32051, Florida Statutes, and providing broader allowances for solar energy uses and amending Chapter 24 permitting requirements for short form and standard form Class I, II, III, IV, V, and VI permit applications and other requirements related to expanding opportunities for solar uses. These amendments further Miami-Dade County’s resiliency goals to enhance renewable solar power generation and use while streamlining permitting for important electric and gas utility work.

Scope

The changes to Chapter 33 (the Zoning Code) affect the Unincorporated Municipal Service Area (UMSA) and other areas where the County exercises zoning jurisdiction, while the changes to Chapter 24 (Environmental Protection) apply Countywide, to both the incorporated and unincorporated areas.

Delegation of Authority

The proposed ordinance delegates authority to the Assistant Director over Zoning and the Assistant Director over DERM in the Department of Regulatory and Economic Resources to review and approve or deny permits for the uses authorized by this ordinance.

Fiscal Impact/Funding Source

Approval of this item is not anticipated to create a fiscal impact to the County, as the proposed changes will not require additional staffing resources or generate additional operational expenses that would not already be covered in the existing fees for building permits, Zoning Improvement Permits (ZIP), or environmental permits, whichever is applicable.

Social Equity

Implementation of the proposed ordinance would provide for the generation, expansion, and use of a renewable, clean energy source—solar energy. Enabling the use of solar energy systems and facilities is consistent with the County’s goal of reducing greenhouse gas emissions and contributes to the County’s goal to be more resilient to climate change and sea level rise. Utilizing renewable energy sources such as solar power can reduce air particulate levels and provide cleaner air quality for all residents. The proposed ordinance incorporates safeguards for drinking water resources, environmentally sensitive areas, national parks, estuaries, and other protected land while aligning the code with the Florida Statutes. The proposed ordinance ensures compatibility with existing neighborhoods and their zoning districts. Further, the proposed ordinance actualizes many of the environmentally focused Comprehensive Development Master Plan (CDMP) goals and policies and encourages solar energy deployment within Miami-Dade County. The amendments to Chapter 24 provide a positive social equity benefit by streamlining permitting process.

Track Record/Monitor

Nathan Kogon, Assistant Director, Development Services Division, Department of Regulatory and Economic Resources is responsible for Chapter 33 provisions while Lisa Spadafina, Assistant Director, Division of Environmental Resource Management, Department of Regulatory and Economic Resources is responsible for Chapter 24 provisions.

Background

In Ordinance No. 19-41, the Board approved greater allowances to install solar energy systems, which serve the property where they are located, as accessory structures in residential zoning districts. Subsequently, the Florida Legislature amended sections 163.3205 and 163.32051, Florida Statutes, to require local governments to allow solar facilities, which serve properties beyond those on which they are installed, in agricultural zoning districts, to allow floating solar facilities under certain conditions, and to promote the use of solar power as a clean renewable energy source.

These statutes expressly provide that the County may regulate the required solar energy facilities, including floating facilities (also known as “floatovoltaics”), by imposing buffer and landscaping requirements on these uses, provided that those regulations do not exceed the requirements for similar

uses that are already permitted in the agricultural zoning districts. Absent this ordinance, Section 163.3205 would require the County to approve solar facilities in all agricultural zoning districts but without setback and landscape buffering requirements. Section 163.32051 similarly requires local governments to amend their zoning regulations to expand the use of floating solar facilities, although unlike section 163.3205, it gives local governments discretion to determine where such floating facilities are appropriate; but as with solar facilities under section 163.3205, regulations are thereafter limited to setback and landscape buffering requirements.

The proposed ordinance authorizes solar facilities, including floatovoltaics, in appropriate zoning districts as required by State law, and further provides requirements for setbacks and landscape buffers. Section 163.32051(5) further allows a local government to prohibit floating solar facilities in an Everglades Agricultural Area reservoir project if the local government determines that it will have a negative environmental impact. The proposed ordinance accordingly prohibits such facilities in the Everglades Agricultural Area 99 reservoir project, other environmentally sensitive areas, Everglades Restoration areas, and on land designated “Environmental Protection” on the County’s Comprehensive Development Master Plan (CDMP) Land Use Plan Map.

The proposed ordinance also furthers the recommendations made in the “Feasibility of Floating Solar Power Plants” report provided to the Board of County Commissioners on May 4, 2022. The proposed ordinance provides greater allowances than required by the Florida Statutes, by allowing these solar uses to be approved in zoning districts beyond the Agricultural (AU) zoning district, whether as unusual uses after public hearing or as ancillary uses that may be approved administratively subject to certain requirements. In particular, solar energy systems are administratively approvable in all zoning districts, including residential districts; but floating solar energy systems in an RU or EU residential zoning district are subject to additional requirements and may require a public hearing in certain circumstances. In addition, solar facilities, including floatovoltaics, may be approved administratively as an accessory structure and ancillary use, subject to the standards set forth in the ordinance: in AU, IU, BU, GP zoning districts and GU districts when trended to AU, IU, BU, GP; on lands designated “Institutions, Utilities and Communications” on the CDMP Land Use Plan map; or on government-owned property. The proposed ordinance also allows for solar uses that are not expressly permitted to be approved administratively to instead be approved as an unusual use after public hearing, pursuant to section 33-13.

The proposed ordinance also amends Section 24-18 of the Code to require the operator of any solar facility, floating solar system, or any ancillary or accessory use that involves liquid waste, hazardous waste, or hazardous materials to obtain and maintain an annual operating permit. However, the DERM Director may determine that an operating permit for a solar facility or floating solar system is not required if the system or facility does not involve liquid waste, hazardous waste, or hazardous material.

The ordinance also amends Section 24-48.2, providing Class I, II, III, IV, V, and VI permit application procedures, to eliminate duplicative provisions and to clarify that, where the Code requires proof that work in an incorporated area has been approved by the municipal zoning authority as consistent with municipal zoning regulations, that approval may be provided through a substantiating letter from the applicable zoning authority rather than a plan approval. Finally, the proposed ordinance further amends Section 24-48.2 to exempt electric and gas utilities from having to submit any such proof of municipal zoning approval for specified types of work. This change will streamline both the review and issuance of

Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

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environmental permits related to electric or gas utility work, including the construction, repair, and inspection of electrical or gas transmission or distribution infrastructure.



Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: February 6, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(K)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(K)
2-6-24

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; AMENDING ARTICLE I OF CHAPTER 33 AND SECTION 33-50 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; DEFINING SOLAR FACILITY AND FLOATING SOLAR FACILITY; REVISING DEFINITION OF SOLAR ENERGY SYSTEM; AUTHORIZING SOLAR FACILITY AND FLOATING SOLAR ENERGY SYSTEM AS AN UNUSUAL USE; AUTHORIZING SOLAR FACILITY AND SOLAR ENERGY SYSTEM AS AN ACCESSORY STRUCTURE AND ANCILLARY USE SUBJECT TO CONDITIONS; AMENDING SECTION 33-124; PROVIDING OFF-STREET PARKING REGULATIONS FOR SOLAR FACILITIES; AMENDING SECTION 33-279; ALLOWING A SOLAR FACILITY IN THE AGRICULTURAL (AU) ZONING DISTRICT SUBJECT TO CONDITIONS AND PROVIDING EXEMPTIONS FROM CERTAIN REGULATIONS PERTAINING TO PARKING AND DRIVEWAY SURFACES, LOT COVERAGE, AND LANDSCAPING REGULATIONS; AMENDING DIVISION 1 OF ARTICLE I OF CHAPTER 24; REVISING DEFINITIONS; CLARIFYING PLAN REVIEW REQUIREMENTS FOR FACILITIES REQUIRING OPERATING PERMITS; REQUIRING OPERATING PERMITS FOR FLOATING SOLAR FACILITIES AND SYSTEMS AND PROVIDING EXCEPTIONS; AMENDING SECTION 24-43.1; AUTHORIZING UNUSUAL USES FOR SOLAR FACILITIES AND FLOATING SOLAR SYSTEMS TO BE SERVED BY ON SITE DOMESTIC WELL SYSTEM; AMENDING SECTION 24-48.2; REVISING APPLICATION REQUIREMENTS FOR CERTAIN COUNTY ENVIRONMENTAL PERMITS, INCLUDING REQUIREMENTS FOR CONSENTS OF OTHER PROPERTY OWNERS; PROVIDING THAT FOR CERTAIN WORK, MUNICIPAL ZONING APPROVAL SHALL NOT BE REQUIRED AT TIME OF APPLICATION; MAKING TECHNICAL AND ORGANIZATIONAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. The above recitals are incorporated in this ordinance and are approved.

Section 2. Article I of chapter 33 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

ARTICLE I. - IN GENERAL

Sec. 33-1. – Definitions

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

* * *

(97.05) *Solar Energy System.* An accessory structure or structures for an energy system that consists of one or more solar collection devices, solar-energy-related equipment, and other associated infrastructure, with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of energy >>to be consumed on the subject property<<. >>A solar energy system that is located on a body of water shall be referred to as a “floating solar energy system.”

(97.06) *Solar facility.*

- (a) A solar facility is a production facility for electric power that:
 - (i) uses photovoltaic modules to convert solar energy to electricity that may be stored on site, delivered to a transmission system, and consumed primarily offsite; and
 - (ii) consists principally of photovoltaic modules, a mounting or racking system, power inverters, transformers, collection systems, battery systems, fire suppression equipment, and associated components; and
 - (iii) may include accessory administration or

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

maintenance buildings, electric transmission lines, substations, energy storage equipment, and related accessory uses and structures.

(b) A solar facility that is located on a body of water shall be referred to as a “floating solar facility,” “floating facility,” or “floatovoltaic.”<<

* * *

Sec. 33-13. - Unusual uses.

* * *

(e) *Unusual and new uses.*

(i) Unless approved upon public hearing, the following unusual uses or uses similar thereto shall not be permitted in any district save and except in those districts that permit such uses without a public hearing:

* * *

>>(58.1) Solar facility, including floating solar facility, not otherwise authorized as a permitted use pursuant to the applicable zoning district regulations or pursuant to section 33-20.

(58.2) Floating solar energy system not otherwise authorized pursuant to section 33-20.<<

* * *

Sec. 33-20. – Accessory structures and ancillary uses.

* * *

>>(o) *Solar energy system.*

(1) A solar energy system is permitted as an accessory structure and ancillary use in any zoning district provided that it complies with this subsection.

(2) A solar energy system may be mounted on a roof structure or on the ground, subject to the following:

(i) The front setback for a roof- or ground-mounted solar energy system shall be the

same as that of the principal building, and a ground-mounted solar energy system shall otherwise comply with the setbacks for an accessory building.

- (ii) Where the zoning district does not provide setbacks for accessory structures, ground-mounted solar energy systems shall otherwise comply with setbacks for the principal building.
- (iii) Building permits shall be obtained for the construction of any structures and other improvements to the extent required under the Florida Building Code.
- (iv) A facility that is exempt from the Florida Building Code shall obtain a zoning improvement permit pursuant to section 33-8.1.

- (3) A floating solar energy system shall only be permitted pursuant to subsection (q) below or where authorized as an unusual use as provided in section 33-13.

(p) Solar facility.

- (1) A solar facility is permitted as an accessory structure and ancillary use, provided that it complies with this subsection, within:
 - (i) AU, IU, BU, and GP zoning districts and the GU district when trended to one of the foregoing districts; or
 - (ii) Land designated Institutions, Utilities, and Communications on the CDMP Land Use Plan Map; or
 - (iii) Government-owned property.
- (2) Notwithstanding any provision to the contrary, solar facilities shall not be permitted in, on, over, or upon: national parks; wildlife management areas; water management areas; tidal waters or bay bottom lands; canal-related rights-of-way, reservations, and easements; aquatic preserves; Everglades restoration areas; environmentally protected parks; land designated as Environmental Protection by the CDMP Land Use Plan Map; land west of the C-111 canal; land within any potable water wellfield protection area; or on lands set aside as mitigation,

including but not limited to mitigation banks permitted pursuant to section 373.4135, F.S.

- (3) A dissimilar land use buffer shall be required in accordance with section 18A-6, and the facility shall not encroach on such buffer.
- (4) A solar facility located within:
 - (i) a land use compatibility restriction zone as defined in article XXXVII shall only be allowed if approved by the Miami-Dade Aviation Department pursuant to that article; and
 - (ii) an airport land use restriction area as defined in article XXXV shall only be allowed after submittal to Homestead Air Reserve Base for review and comment and if approved by the Department pursuant to that article.
- (5) Administrative site plan review pursuant to the procedures and criteria set forth in section 33-283.1 shall be required, except that references to “commercial vehicle and equipment storage area” shall instead be read as “solar facility.”
- (6) Building permits shall be obtained for the construction of any structures and other improvements to the extent required under the Florida Building Code.
- (7) A facility that is exempt from the Florida Building Code shall obtain a zoning improvement permit pursuant to section 33-8.1.
- (8) Plans, operating permits, and other applicable approvals required by chapter 24 and other provisions of this code shall be obtained.
- (9) Installations proposed on stormwater conveyance, retention, or detention areas shall only be allowed where such installation does not interfere with the stormwater infrastructure, as determined by the director responsible for administering chapter 24.
- (10) A floating facility shall only be permitted pursuant to subsection (q) below or where authorized as an unusual use as provided in section 33-13.

- (q) Floating solar system or facility. A floating solar energy system or floating solar facility (collectively, a “floating installation”) is permitted as an accessory structure and ancillary use only where it complies with the following requirements:
- (1) A floating solar system is allowable in any zoning district. A floating solar facility is only allowable on lands identified in subsection (p)(1) above.
 - (2) A floating installation may only be installed on a wastewater treatment pond, abandoned limerock mine area, stormwater treatment ponds, reclaimed water pond, or other water storage reservoir or artificial water body. For purposes of this subsection, “artificial water body” means a water body that is not connected to any wetlands as defined in chapter 24 or other natural surface water body.
 - (3) Notwithstanding any provision to the contrary, floating installations shall not be permitted in, on, over, or upon: national parks; wildlife management areas; water management areas; tidal waters or bay bottom lands; canal-related rights-of-way, reservations, and easements; aquatic preserves; Everglades restoration areas; environmentally protected parks; land designated as Environmental Protection by the CDMP Land Use Plan Map; land west of the C-111 canal; land within any potable water wellfield protection area; or on lands set aside as mitigation, including but not limited to mitigation banks permitted pursuant to section 373.4135, F.S..
 - (4) A floating solar system in an RU or EU zoning district may be approved administratively and without administrative site plan review where the system is located on a body of water that is wholly contained within the lot that it serves. Otherwise a floating solar system in an RU or EU zoning district may only be approved as an unusual use in accordance with section 33-13.
 - (5) A floating installation located within:
 - (i) a land use compatibility restriction zone as defined in article XXXVII shall only be allowed if approved by the Miami-Dade Aviation Department pursuant to that article; and

- (ii) an airport land use restriction area as defined in article XXXV shall only be allowed after submittal to Homestead Air Reserve Base for review and comment and if approved by the Department pursuant to that article.

- (6) Administrative site plan review pursuant to the procedures and criteria set forth in section 33-283.1 shall be required, except that references to “commercial vehicle and equipment storage area” shall instead be read as “solar facility.” It is provided, however, that administrative site plan review is not required as provided in paragraph (4) above.

- (7) Building permits shall be obtained for the construction of any structures and other improvements to the extent required under the Florida Building Code.

- (8) Floating installations exempt from the Florida Building Code shall obtain a zoning improvement permit pursuant to section 33-8.1.

- (9) Plans, operating permits, and other applicable approvals required by chapter 24 and other provisions of this code shall be obtained.

- (10) Installations proposed on stormwater conveyance, retention, or detention areas shall only be allowed where such installation does not interfere with stormwater infrastructure or stormwater management, as determined by the director responsible for administering chapter 24.<<

Section 3. Section 33-50 of the Code of Miami-Dade County is hereby amended as

follows:

Sec. 33-50. - Table of setback lines in residential and estate districts.

* * *

- (b) A solar energy system >>may be installed in accordance with section 33-20<< [[may be mounted on a roof structure or on the ground. The front setback for a roof- or ground-mounted solar energy system shall be the same as that of the principal building, and a ground-mounted solar energy system shall otherwise comply with the setbacks for an accessory building]].

* * *

Section 4. Section 33-124 of the Code of Miami-Dade County is hereby amended as follows:

Sec. 33-124. – Standards

Off-street parking shall be provided in accordance with the following minimum standards:

* * *

>>(q) Solar facility.

- (1) A solar energy facility shall provide one parking space for each four persons that can reasonably be expected to be on the site at one time, as determined by the Director, but in no event less than one parking space. Such parking shall only serve the solar energy facility.
- (2) Notwithstanding any provision of this chapter to the contrary, parking spaces and driveways for a solar energy facility may be provided on a natural or other pervious surface subject to applicable requirements of chapter 24 for parking on such surfaces.<<

Section 5. Section 33-279 of the Code of Miami-Dade County is hereby amended as follows:

Sec. 33-279. – Uses Permitted

No land, body of water, or structure shall be maintained, used, or permitted to be used, and no structure shall be hereafter maintained, erected, constructed, moved, reconstructed, structurally altered, or be permitted to be maintained, erected, constructed, moved, reconstructed, or structurally altered in an AU District, which is designed, arranged, or intended to be used or occupied for any purpose, except for one or more of the following uses:

* * *

>>(24) A solar facility shall be permitted as a primary use in accordance with the following:

- (a) The solar facility and subject property comply with lot area and width, lot coverage, setbacks and spacing, cubic content of buildings, height, and other requirements of this chapter applicable to the AU District, except that areas covered by solar collection panels shall not count against lot coverage requirements.
- (b) Parking is provided in accordance with article VII, except that parking spaces may be provided on a natural surface and driveways may be provided on an aggregate base surface.
- (c) Landscaping, street trees, and dissimilar land use buffering shall be provided in accordance with chapters 18A and 18B, provided that no minimum number of lot trees or maximum lawn area requirements shall apply.
- (d) The solar facility complies with subsection 33-20(p)(2)-(8) or, for a floating solar facility, subsection 33-20(q)(2)-(9).<<

Section 6. Division 1 of Article I of Chapter 24 of the Code of Miami-Dade County,

Florida, is hereby amended to read as follows:

ARTICLE I. - IN GENERAL

DIVISION 1. - GENERAL PROVISIONS

* * *

Sec. 24-5. - Definitions.

In construing the provisions of this chapter, where the context will permit and no definition is provided herein, the definitions provided in chapter 403, Florida Statutes, as may be amended from time to time, and in rules and regulations promulgated thereunder, as may be amended from time to time, shall

apply. The following words and phrases when used in this chapter shall have the meanings ascribed to them in this section:

* * *

>>(43) Building permit shall mean a permit pursuant to the Florida Building Code.<<

* * *

>>(70) County public works department or public works department means the public works department as defined in section 2-99.

(71) County public works manual shall mean the manual of minimum standards for public works construction promulgated by the County public works department pursuant to section 2-100.<<

* * *

>>(86)<< [[(83)]] Director shall mean the primary official that has been delegated responsibility to administer the Department, with duties created pursuant to this chapter. Except where expressly provided or where context dictates otherwise, the term "Director" includes the Director's designee.

* * *

>>(115)<< [[(112)]] Facility shall mean anything that is built or purchased to make an action or operation easier or to serve a special purpose.

* * *

Sec. 24-15. Plan approval required.

* * *

>>(8) Other facilities requiring operating permits. For facilities that require operating permits but are not otherwise enumerated in this section, it shall be unlawful for any person to install, modify, or operate such a facility without first obtaining the prior written approval of the Director pursuant to section 24-18.<<

* * *

Sec. 24-18. - Operating permits.

(A) *Permit Required.* No person shall operate, maintain, permit, cause, allow, let, or suffer the operation or maintenance of a public water system, public sewerage system, a location where a site rehabilitation action has been completed in accordance with the provisions set forth in Section 24-44(2)(k)(ii), or any of the following facilities, all of which will reasonably be expected to be a source of air pollution, ground pollution, or water pollution, without a valid operating permit issued by the Director [~~or the Director's designee~~] or in violation of any condition, limitation, or restriction >>that<< [[which]] is part of an operating permit:

* * *

(4) Facilities >>that<< [[which]] generate, dispose of, store, use, discharge, handle>>₁<< or reclaim any liquid waste other than domestic sewage, any hazardous waste>>₁<< or any hazardous material (except factory prepackaged products intended primarily for domestic use or consumption), including, but not limited to, the following:

* * *

>>(e) Solar facilities or floating solar systems, as defined in section 33-1; it is provided, however, that the Director may determine that an operating permit for a solar facility or floating solar system is not necessary upon a determination, after review of plans pursuant to section 24-15, that neither the facility or system nor any ancillary or accessory uses thereto involve liquid waste, hazardous waste, or hazardous material.<<

* * *

Section 7. Section 24-43.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Section 24-43.1. – Liquid waste disposal and potable water supply systems.

* * *

- (6) *Other nonresidential land uses without public water, public sanitary sewer, or both.* Notwithstanding any provision of this code to the contrary, no County or municipal officer, agent, employee, or board shall approve, grant or issue any building permit, certificate of use, certificate of occupancy, municipal occupational license, platting action (final plat, waiver of plat or equivalent municipal platting action), development agreement subject to the Florida Local Government Development Agreement Act, zoning action (district boundary change, unusual use, special exception, use variance, or equivalent municipal zoning action), or other development order or development permit for any nonresidential land use served or to be served by any liquid waste storage, disposal, or treatment method other than public sanitary sewers, or by any source of potable water supply other than a public water main, without obtaining the Director's prior written approval.

Furthermore, notwithstanding any provision of this code to the contrary, no person shall construct, utilize, operate, occupy, or cause, allow, let, permit, or suffer to be constructed, utilized, operated, or occupied, any nonresidential land use served by any liquid waste storage, disposal, or treatment method, other than public sanitary sewers or any source of potable water supply other than a public water main, without obtaining the Director's prior written approval.

Such written approval shall only be issued if one or more of the following is met:

* * *

- (b) *On-site domestic well system.* The Director determines that the existing or requested nonresidential land use for the property is served or to be served by an on site domestic well system and is not an establishment primarily engaged in the handling of food and drink (except factory prepackaged products and food preparation facilities on agricultural properties which serve prepared food

and drink on site), educational institutions, intermediate care facilities, or health care facilities and is not one or more of the nonresidential land uses permitted under the following Miami-Dade County zoning classifications:

* * *

(viii) Unusual uses (excluding >>solar facility and floating solar system, as defined in section 33-1;<< lake excavation; concrete batching plant; concrete block plant; rock crushing and screening plant; filling of rock pits; rock quarries; radio and television towers and transmitting stations; trailers as watchman's quarters), or

* * *

Section 8. Section 24-48.2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 24-48.2 - Permit application forms; procedures.

There are two [(2)] types of application forms; short form and standard form. The general criteria for determining the type of application form required are based on the magnitude of the project, and its potential environmental impact. Unless waived by the municipality >>or exempted by this section<<, the applicant's plans shall require municipal approval >>through plan approval or a substantiating letter from the applicable zoning authority that the proposed work does not violate any applicable zoning law<<.

(I) *Short Form Permit Application:*

(A) *When permissible:* A short form permit application may be accepted by the Department [~~of Environmental Resources Management~~] for the following types of work:

* * *

(B) *Application procedure (class I, class II, class III, class IV, class V, and class VI permits):*

* * *

(1) The applicant or the applicant's agent shall submit to the Department an application in such form as prescribed by the ~~[[Department]]~~ >>Director, in accordance with the following<<.

>>(i)<< Written consent of >>an<< ~~[[the]]~~ upland property owner who possesses riparian rights to the area of the proposed work shall be submitted with the application for a class I permit.

>>(a)<< For removal and disposal of contaminated sediments from the Miami River and its tidal tributaries conducted by the U.S. Army Corps of Engineers and the local project sponsor in conjunction with maintenance dredging of the Miami River federal navigation channel, the written consent of >>an<< ~~[[the]]~~ upland property owner who possesses riparian rights to the area of the proposed work or the written consent of the lessee who possesses riparian rights to the area of the proposed work shall be the equivalent of the aforesaid verification of the application. In such case, the local project sponsor shall be deemed and shall be the applicant for the purposes of this article.

>>(b)<< Written consent shall be in a form prescribed by the Director~~[[or the Director's designee]]~~.

>>(c)<< The written consent of >>an<< ~~[[the]]~~ upland property owner who possesses riparian rights to the area of the proposed work

or by the lessee of said upland property shall not be required for a class I permit application submitted by a federal, state, county, municipal, or other governmental entity for dredging projects to improve drainage in tidal waters of canals and rivers, provided, that the proposed work shall be performed only on submerged lands owned by the governmental entity submitting the class I permit application.

>>(ii)<< Written consent of >>an<< [[the]] owner of the property upon which the work is proposed shall be submitted with the application for a class IV permit >>in<<[[on]] a form >>prescribed<< [[approved]] by the >>Director<< [[Departments]].

>>(iii)<< A public hearing by the Board of County Commissioners shall be held for a short form application if a written request therefore is filed with the Department [[of Environmental Resources Management]] prior to the Department's issuance of the permit. The written request for public hearing before the Board of County Commissioners shall include in the written request the specific Department [[of Environmental Resources Management]] pending permit application number.

>>(iv)<< If no such written request is filed, the Department shall approve and issue, deny>>₂<< or approve and issue subject to conditions, limitations>>₂<< or restrictions, the work proposed under the permit application based upon the applicable evaluation factors set forth in >>section<< [[Section]] 24-48.3 [[of this Code]].

>>(v)<< If a timely request is filed, the Board of County Commissioners shall approve, approve with conditions, limitations>>_2<< or restrictions, or deny a permit for the proposed work after conducting said public hearing in accordance with the procedures set forth in >>paragraph (II)(C) below<< [[Section 24 48.2(II)(C)(1), (2) and (3)].

>>(vi)<< A short form permit application shall include but not be limited to the following:

* * *

(d) ~~[[If the proposed work is within an incorporated area, a]]~~ >>A<< substantiating letter or plan approval shall be submitted, as part of the permit application, from the >>applicable<< zoning authority ~~[[of the incorporated area. If the proposed work is within an unincorporated area, a substantiating letter or plan approval from Miami-Dade County Department of Planning and Zoning shall be submitted as part of the permit application]].~~

>>1.<< Said substantiating letter shall state that the proposed usage of the property upon which the proposed work would occur does not violate any zoning law applicable to the area of the proposed work.

>>2. A substantiating letter or plan approval from the applicable zoning authority shall not be

required for the following:<<

Applications by the Federal Government, the Florida Department of Transportation, >>the Florida<< Department of Environmental Protection>>,<< [[~~or~~]] the South Florida Water Management District>>,<< or a municipality or the County within its own jurisdiction>>:

applications by an electric or gas utility for work that consists of or substantially relates to the construction, repair, or inspection of electrical or gas transmission or distribution

infrastructure, including cables, power lines, towers, pipes, poles, mains, pipes, utility tunnels, or the like;<< [[, shall not be required to submit the above described

~~substantiating letter or plan approval from the local zoning authority.~~

~~For]]>>:<< Class V projects>>:<< and work limited exclusively to the trimming, cutting or alteration of mangrove tree(s)[[,-----a substantiating letter or plan approval shall not be required]] >>It is~~

provided, however, that this exception shall not be construed to excuse compliance with applicable zoning regulations<<.

* * *

(II) *Standard Form Permit Application:*

* * *

(A) A standard form permit application shall be required for the following types of work. A standard form permit application shall also be required for all short form permit applications for which a public hearing has been requested pursuant to >>section<< ~~[[Section]]~~ 24-48.2(I)(B)(1).

* * *

(B) >>Application procedure:<< The applicant or the applicant's agent shall submit to the Department an application in such form as prescribed by the ~~[[Department]]~~>>Director, in accordance with subparagraph (I)(B)(1)(i) and (ii) above<<. ~~[[Written consent of the upland property owner who possesses riparian rights to the area of the proposed work shall be submitted with the standard form application for a class I permit. For removal and disposal of contaminated sediments from the Miami River and its tidal tributaries conducted by the U.S. Army Corps of Engineers and the local project sponsor in conjunction with maintenance dredging of the Miami River federal navigation channel, the written consent of the upland property owner who possesses riparian rights to the area of the proposed work or the written consent of the lessee who possesses riparian rights to the area of the proposed work shall be required. In such case, the local project sponsor shall be deemed and shall be the applicant for the purposes of this article. Written consent shall be in a form prescribed by the Director or the Director's designee. Written consent of the upland property owner who possesses riparian rights to the area of the proposed work or by the~~

~~lessee of said upland property shall not be required for a class I permit application submitted by a federal, state, county, municipal, or other governmental entity for dredging projects to improve drainage in tidal waters of canals and rivers, provided, that the proposed work shall be performed only on submerged lands owned by the governmental entity submitting the class I permit application. Written consent of the owner of the property upon which the work is proposed shall be submitted with the standard form application for a class IV permit. All permit applications shall be submitted to the Department in such form as prescribed by the Department.]] A standard form permit application shall include, but not be limited to, the following:~~

- (1) ~~Evidence of ownership or a lease of [[the]] upland and submerged land >>or wetland upon which work is proposed, as required for a short form application<<[[, or evidence of ownership or a lease of the wetland upon which work is proposed. Said evidence of ownership may include, in the discretion of the Department, an affidavit of ownership executed by the owner of the property. For proposed work on submerged lands owned by a federal, state, county, municipal, or other governmental entity, evidence of ownership or a lease of the upland and a.) the written consent of the federal, state, county, municipal, or other government entity owning the submerged lands upon which the work is proposed or, b.) lease from the federal, state, county, municipal, or other governmental entity owning the submerged lands upon which the work is proposed, shall be required. Written consent shall be in a form prescribed by the Director or the Director's designee. For removal and disposal of contaminated sediments from the Miami River and its tidal tributaries conducted by the U.S. Army Corps of Engineers and the local project sponsor in conjunction with maintenance dredging of the Miami River federal navigation channel, the written consent of the owner or lessee of~~

~~the submerged lands and the written consent of the owner or lessee of the upland who possesses riparian rights to the area of the proposed work shall be deemed to satisfy the requirements of this paragraph. The written consent shall be in a form prescribed by the Director or the Director's designee]].~~

* * *

(7) ~~[[If the proposed work is within an incorporated area, a]] >>A<< substantiating letter or plan approval shall be submitted, as part of the permit application, from the applicable zoning authority>>, as required for a short form application, except as follows.<< [[of the incorporated area. If the proposed work is within an unincorporated area, a substantiating letter or plan approval from Miami Dade County Department of Planning and Zoning shall be submitted as part of the permit application. Said substantiating letter shall state that the proposed usage of the property upon which the proposed work would occur does not violate any zoning law applicable to the area of the proposed work.]]~~

>>(a)<< Applicants for class I permits shall have the option of submitting the above described substantiating letter or plan approval from the applicable zoning authority after obtaining approval from the Board of County Commissioners but prior to permit issuance[[:-]]>>;

(b) A substantiating letter or plan approval from the applicable zoning authority shall not be required for: applications<< [[Applications]] for class I or class IV permits by the State of Florida Department of Transportation>>₂<< [[and]] the Federal Government, the State of Florida Department of Environmental Protection>>₂<< [[or]] the South Florida Water Management District>>₂<< or a municipality or the

County within its own jurisdiction~~[[, shall not be required to submit the above described substantiating letter or plan approval from the local zoning authority]] >>~~; applications by an electric or gas utility for work that consists of or substantially relates to the construction, repair, or inspection of electrical or gas transmission or distribution infrastructure, including cables, power lines, towers, pipes, poles, mains, pipes, utility tunnels, or the like; or work limited exclusively to the trimming, cutting or alteration of mangrove tree(s). It is provided, however, that this exception shall not be construed to excuse compliance with applicable zoning regulations<<.

* * *

Section 9. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 10. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 11. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel
Abbie Schwaderer Raurell

GKS for GBK
