

# MEMORANDUM

Agenda Item No. 4(A)

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**TO:** Honorable Chairman Anthony Rodriguez  
and Members, Board of County Commissioners

**DATE:** July 21, 2026

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Ordinance relating to  
environmental protection in the  
incorporated and unincorporated  
areas; amending section 24-44 of  
the Code; providing for approval  
of non-recorded institutional  
controls for “no further action  
with conditions” site closures  
in connection with contaminated  
site cleanups under certain  
circumstances; making technical  
and clarifying changes

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan Carlos Bermudez.

  
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Geri Bonzon-Keenan  
County Attorney

GBK/smm

MDC001



## MEMORANDUM

(Revised)

**TO:** Honorable Chairman Anthony Rodriguez  
and Members, Board of County Commissioners

**DATE:** July 21, 2026

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 4(A)

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**
- \_\_\_\_\_ **Requires more than a majority vote (i.e., 2/3’s present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5’s \_\_\_\_, unanimous \_\_\_\_, majority plus one \_\_\_\_, CDMP 7 votes (majority of membership) \_\_\_\_, CDMP 2/3 members present but not less than 7 votes (majority of membership) \_\_\_\_, CDMP 9 votes (2/3 membership) \_\_\_\_ ) 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. 4(A)  
7-21-26

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO ENVIRONMENTAL PROTECTION IN THE INCORPORATED AND UNINCORPORATED AREAS; AMENDING SECTION 24-44 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR APPROVAL OF NON-RECORDED INSTITUTIONAL CONTROLS FOR “NO FURTHER ACTION WITH CONDITIONS” SITE CLOSURES IN CONNECTION WITH CONTAMINATED SITE CLEANUPS UNDER CERTAIN CIRCUMSTANCES; MAKING TECHNICAL AND CLARIFYING CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, properties may be contaminated due to past or current site activities that caused discharge of contaminants into groundwater, surface water, or soil; and

**WHEREAS**, to protect County residents and visitors from potential exposure to harmful contaminants, chapter 24 of the Code of Miami-Dade County, Florida (the “County Code”), includes a process requiring clean-up of contaminants; and

**WHEREAS**, section 24-44 of the County Code establishes clean-up target levels (“CTLs”) for various contaminants based on the type of contaminant and whether the contaminant is in the property’s groundwater, surface water, or soil; and

**WHEREAS**, the CTLs are designed to, among other things, minimize lifetime cancer risks and the risk of being exposed to other harmful, non-cancer health effects; and

**WHEREAS**, parties responsible for rehabilitating a contaminated site so that the contaminant levels meet CTLs include the discharger or, if the discharger is unknown or the contamination was the result of a previously unreported discharge, the property owner or operator; and

**WHEREAS**, when contamination exists beyond the property boundary of a site for which site rehabilitation has been initiated, the responsible party shall provide certain County Code-required notice to the property owners, residents, and tenants of any property onto or into which the contamination extends, and such persons shall have 30 calendar days upon receipt of the notice to comment on the assessment and the site remedy selected; and

**WHEREAS**, the County Code is set up to facilitate a phased risk-based assessment process that tailors site rehabilitation actions to site-specific conditions, including land use at the site (a process referred to as “risk-based corrective action” or “RBCA”); and

**WHEREAS**, under the RBCA approach, responsible parties may have several options available to complete site rehabilitation and obtain a site closure; and

**WHEREAS**, one option, referred to as a “no further action” closure, requires site rehabilitation to satisfy stringent CTLs for the site’s contaminants of concern; and

**WHEREAS**, a second option, referred to as a “no further action with conditions” closure, requires site rehabilitation to satisfy alternative CTLs in combination with institutional and, if applicable, engineering controls for which it has been demonstrated, using site-specific data, modeling results, risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are afforded protection equivalent to that provided by a “no further action” closure; and

**WHEREAS**, examples of potential engineering controls include caps, barriers, fences, and slurry walls, and section 24-44 requires that engineering controls be accompanied by an engineering control plan that demonstrates the control is effective, reliable, and capable of being monitored and maintained; and

**WHEREAS**, institutional controls are restrictions on the use of, or access to, a site to eliminate or manage exposure of human and environmental receptors to contaminants; and

**WHEREAS**, section 24-44 provides that an institutional control shall be “in a form prescribed by the Director . . . and approved by the Board of County Commissioners, with site-specific closure conditions” and that “[u]pon written approval by the Director . . . of the institutional control and, if applicable, the engineering control plan, the institutional control shall be recorded in the public records of Miami-Dade County”; and

**WHEREAS**, on July 24, 2001, this Board adopted Resolution No. R-857-01, approving a form covenant running with the land that property owners can use to implement institutional and, if applicable, engineering controls on their property to obtain a “no further action with conditions” closure; and

**WHEREAS**, examples of the institutional controls in the form covenant that property owners could choose include restrictions that the property shall not be used for residential purposes; that the property shall not be used for a children’s nursery, children’s day care center, children’s school, children’s camp, or any other similar facility; and that groundwater from the property shall not be used for drinking water purposes; and

**WHEREAS**, as provided by section 24-44, and as further reflected by this Board’s approval of the form covenant running with the land, an approvable institutional control must be a recorded instrument; and

**WHEREAS**, in concept, however, an institutional control need not be a recorded instrument to be as effective in protecting human health, public safety, and the environment; and

**WHEREAS**, examples of potential non-recorded institutional controls include County or municipal land use ordinances or restrictions imposed by a water management district; and

**WHEREAS**, such non-recorded institutional controls could impose the same types of land use restrictions as the County's form covenant but would have the benefit of being adopted and enforced in the manner of an ordinance or regulation while avoiding the transactional costs of executing and recording a covenant running with the land; and

**WHEREAS**, because governments act in the public interest, allowing non-recorded institutional controls on properties owned or operated by a governmental entity would provide additional assurance that human health, public safety, and the environment would be protected; and

**WHEREAS**, consistent with the flexible, risk-based approach the County Code takes for site rehabilitation, this Board wishes to amend the County Code to allow for the approval of non-recorded institutional controls for sites owned or operated by a governmental entity; and

**WHEREAS**, this Board further recognizes that, regardless of whether a property is approved for a recorded or non-recorded institutional control, section 24-44 still separately requires that, when contamination exists beyond the property boundary of a site, property owners, residents, and tenants of any property onto or into which the contamination extends shall be given the County Code-required notice and opportunity to comment on a proposed institutional control,

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

**Section 1.** The foregoing recitals are hereby approved and incorporated herein.

**Section 2.** Section 24-44 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

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<sup>1</sup> 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.

**Sec. 24-44 - Clean-up Target Levels (CTLs) and Procedures for  
Site Rehabilitation Actions (SRAs).**

\* \* \*

- (2) CLEAN-UP TARGET LEVELS (CTLs) AND  
PROCEDURES FOR SITES OR CONTAMINANTS  
OTHER THAN THOSE IDENTIFIED IN SECTION 24-  
44(1).

\* \* \*

- (k) Site closure, in the form of a no further action or a no  
further action with conditions, shall be approved by  
the Director, or the Director's designee, when the  
CTLs or alternative CTLs established pursuant to  
Section 24-44(2)(f)(iii) and the requirements set  
forth in this section have been achieved.

\* \* \*

- (ii) A no further action with conditions proposal  
shall be approved by the Director, or the  
Director's designee, provided the following:  
the property owner of the location elects to  
implement institutional and, if applicable,  
engineering controls; it is demonstrated,  
using site-specific data, modeling results, risk  
assessment studies, risk reduction techniques  
or a combination thereof, that human health,  
public safety and the environment are  
afforded protection equivalent to that  
provided in Section 24-44(2)(f)(i) and  
Section 24-44(2)(f)(ii); and the following  
criteria are met:

\* \* \*

6. The property owner of the location at  
which site rehabilitation actions are  
being conducted elects to implement  
an institutional and, if applicable,  
engineering control to eliminate or  
control exposure of human and  
environmental receptors to  
contaminants. When an engineering

control is used in conjunction with institutional controls, an engineering control plan shall be submitted to the Department. The engineering control plan shall provide details of the design and construction of the engineering control and shall demonstrate that the engineering control is effective, reliable and capable of being monitored and maintained.

The no further action with conditions proposal shall include a copy of the proposed >>recorded<< institutional control, in a form prescribed by the Director, or the Director's designee, and approved by the Board of County Commissioners, with site-specific closure conditions. Upon written approval by the Director, or the Director's designee, of the institutional control and, if applicable, the engineering control plan, the institutional control shall be recorded in the public records of Miami-Dade County. A copy of the recorded instrument shall be submitted to the Department and the engineering control, if applicable, shall be implemented prior to approval of the no further action with conditions proposal.

>>It is provided further that, for sites owned or operated by a governmental entity, the Director shall approve in writing a non-recorded institutional control in lieu of a recorded institutional control upon a finding that the non-recorded institutional control will provide a level of protection to human health, public safety, and the environment that is comparable to that which would be provided by a form of recorded

institutional control that has been approved by the Board of County Commissioners. In making this finding, the Director's consideration shall include, but not be limited to, whether the non-recorded institutional control is reasonably expected to be enforceable and adequately enforced by the responsible governmental entity and whether and how the governmental entity has proposed to provide notice, if appropriate, of the restrictions contained within said institutional control. For a non-recorded institutional control to be approvable, a governmental entity shall not be required to enter into an agreement with the County. One of the conditions of a Director's approval of a non-recorded institutional control shall be that the responsible governmental entity shall submit certification of compliance with the approved non-recorded institutional control, in a form approved by the Director, on an annual basis or at such other frequency as prescribed by the Director.

The Director shall have 60 days to issue a decision approving or disapproving a proposed non-recorded institutional control. Any person aggrieved by the Director's decision on a proposed non-recorded institutional control may seek review of the Director's decision by submitting to the Director a written request for appeal within 15 days of the Director's decision, which request shall include a written statement specifying the reasons for reversal of the Director's decision. Within 10 days of the timely filing of a request for appeal, the Director shall transmit

to the County Commission the request for appeal, any documents submitted therewith, and the Director's written recommendation. The request for appeal shall thereafter be placed on the next available County Commission agenda for a public hearing, with notice published in a newspaper of general circulation at least seven days in advance of the public hearing. At the conclusion of the public hearing, the County Commission shall by resolution affirm, reverse, or modify the Director's decision. Notwithstanding anything in this chapter to the contrary, this administrative appellate remedy shall be the exclusive administrative appellate remedy for review of the Director's decision on a proposed non-recorded institutional control, and no person or entity may seek judicial review of the Director's decision on a proposed non-recorded institutional control without having exhausted this administrative appellate remedy.

The Director shall maintain a registry of approved non-recorded institutional controls, which shall include the site location, type of control, and date of closure determination.<<

Upon demonstration to the satisfaction of the Director, or the Director's designee, by the party or parties responsible for SRAs that institutional and, if applicable, engineering controls are no longer required because the conditions set forth in Section 24-44(2)(k)(i) have been achieved, the Director, or the Director's designee, shall release the institutional control.

\* \* \*

**Section 3.** 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 4.** 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 but excluding section 4, 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 5.** 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:

MBV for  
CJW

Prepared by:

Christopher J. Wahl

Prime Sponsor: Commissioner Juan Carlos Bermudez