

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE MIAMI BEACH CITY CODE, ENTITLED "ENVIRONMENT," BY CREATING ARTICLE X, TO BE ENTITLED "WATER QUALITY", ESTABLISHING PURPOSE AND INTENT OF THE ARTICLE; PROVIDING FOR DEFINITIONS, SEDIMENT AND CONTROL REQUIREMENTS FOR CERTAIN DEVELOPMENTS, STANDARDS FOR SEDIMENT AND EROSION CONTROL, PERMIT ISSUANCE CONDITIONS, ADMINISTRATIVE PROCEDURES FOR INSPECTION AND ENFORCEMENT OF SEDIMENT AND EROSION CONTROL REQUIREMENTS, PROHIBITION OF ILLICIT DISCHARGE, REPORTING OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS, AND ADMINISTRATIVE PROCEDURES FOR INSPECTION OF ILLICIT DISCHARGES; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND, PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach is a barrier island surrounded by the Atlantic Ocean, the Biscayne Bay Aquatic Preserve, and an interconnected system of waters that provide habitat for fish and wildlife, opportunities for recreation, and an enhanced quality of life; and

WHEREAS, the City has found that illicit discharge to the stormwater system results in the damage and loss of natural resources, including the degradation of water quality; and

WHEREAS, the City has found that land disturbing activities accelerate the process of soil erosion and expose sediment to surface stormwater runoff, resulting in the damage and loss of natural resources, including the degradation of water quality; and

WHEREAS, sedimentation, which is the process by which sediment resulting from accelerated erosion is transported off the site of the land-disturbing activity, introduces excess nutrients, suffocates sea grass, blocks sunlight, inhibits photosynthesis, and depletes oxygen levels in the Bay; and

WHEREAS, the discharge of pollutants directly or via stormwater runoff into Biscayne Bay and surrounding water bodies degrades water quality and poses a public health risk; and

WHEREAS, the City often finds that storm drains are not properly protected, storm drain protections put in place are not maintained, or sites are allowing an accumulation of debris, which can cause unwanted run-off to enter the stormwater system and discharge into Biscayne Bay and its interconnected waterways.

WHEREAS, on December 10, 2020, Miami-Dade County released *Report on Development and Implementation of an Annual Report Card Program on the Health of Biscayne Bay* found that the health of the Bay is largely driven by water quality; and

WHEREAS, as an operator of Municipal Separate Storm Sewer Systems (MS4) and a permittee of National Pollution Discharge Elimination System (NPDES) Permit No. FLS000003, the City must enforce regulatory mechanisms that prohibit illicit discharges, illicit connections, improper disposal and illegal dumping into the stormwater system, and sediment and erosion reducing best management practices; and

WHEREAS, the City has determined it is in the best interest of the City to enact this ordinance to safeguard persons, protect property, and prevent damage to the environment in the City; and

WHEREAS, the quality of our waterways, Biscayne Bay, and the Atlantic Ocean is critical to environmental, economic, and recreational prosperity, and to the health, safety and welfare of the citizens of the City of Miami Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 46 of the Code of the City Miami Beach is hereby amended to create Article X thereof, to be entitled "Water Quality," as follows:

CHAPTER 46

ENVIRONMENT

* * *

ARTICLE X. WATER QUALITY

Sec. 46-231. Purpose and Intent.

The purpose of this article is to safeguard persons, protect property, and prevent damage to the environment, Miami Beach's surface waters, and Biscayne Bay through the regulation of non-stormwater discharges and pollutants into the City's municipal separate storm sewer system (MS4), Biscayne Bay, and its connected waterbodies to the maximum extent practicable.

Sec. 46-232. Definitions.

For this Article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

Applicant means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits or approvals to undertake construction, demolition or renovation projects within the City.

Best Management Practices (BMP) means measures, practices, prohibition of practices, schedule or activities, general good housekeeping practices, maintenance procedures, educational practices, and/or devices which are generally accepted within an industry as being effective, to reduce erosion from occurring on a disturbed site, preventing sedimentation from occurring on an adjacent property or within a waterway, or preventing the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems.

CFR means the Code of Federal Regulations.

Construction means the act of creating or maintaining stockpiles of soil or other material which are erodible if exposed to water or wind and are capable of generating dust; or developing

or improving public or private land which involves the removal of surface cover or disturbance of soils and includes clearing, grading, demolition, and excavation.

Demolition means the partial, substantial, or complete removal or destruction of any structure, building or improvement.

Development or development activity means (1) the construction, installation, demolition, or removal of a structure; (2) clearing, scraping, grubbing, killing or otherwise removing vegetation from a site; or (3) adding, removing, exposing, excavating, leveling, grading, digging, furrowing, dumping, piling, dredging, or otherwise significantly disturbing soil, mud, sand, or rock of a site.

Environmentally Sensitive Area means landscape elements or places which are vital to the long-term maintenance of biological diversity, soil, water or other natural resources both on the site and in a regional context. These areas shall include but not be limited to all wetlands, open water bodies, and beaches.

Erosion means the detachment, transport, and deposition of particulate matter by the action of wind, water, and gravity.

Exfiltration means a stormwater management procedure, which stores runoff in a subsurface collection system and disposes of it by percolation into the surrounding soil.

FDEP means the Florida Department of Environmental Protection.

Florida Storm Water Erosion and Sedimentation Control Inspector's Manual means the training manual developed by the FDEP designed to be a comprehensive reference source for the use, installation, and maintenance of erosion, sedimentation, and stormwater BMPs.

Grading means any stripping, excavating, filling, stockpiling, or combination thereof, including the land in its excavated or filled condition.

Hazardous Materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connection means either of the following: (1) any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 including but not limited to any conveyances that allow any non-storm water discharge, including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the department; or (2) any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the City.

Illicit Discharge or illegal discharge or illegal dumping means any discharge to the municipal separate storm sewer system, Biscayne Bay, and its connected waterbodies that is not composed entirely of storm water, except for discharges allowed under an NPDES permit.

Land Disturbing Activities means any activity which may result in soil erosion from water or wind and the movement of sediments into surface waters or lands, including, but not limited to, clearing, dredging, grading, excavating, transporting, demolition, and filing of land.

Municipal separate storm sewer system or MS4 means the conveyance or systems of conveyances that is owned by the City of Miami Beach, and is designed or used to collect or convey stormwater (e.g., storm drains, pipes, ditches).

NPDES means the National Pollutant Discharge Elimination System program, aimed at improving stormwater runoff quality.

Non-hazardous waste means all waste materials not specifically deemed hazardous under federal law are considered nonhazardous wastes.

Non-structural controls mean BMP's that include picking up trash and debris, sweeping up nearby sidewalks and streets, maintaining equipment, and training site staff on erosion and sediment control practices.

Off-site sedimentation means the transport of sediment across boundaries of a land disturbing activity, resulting in deposition of such materials in any lake or natural watercourse or on any land, public or private, not owned by the person responsible for the land-disturbing activity.

Operator means the party or parties that have (a) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (b) day-to-day operational control of those activities that are necessary to ensure compliance with a Sediment and Erosion Control Plan for the site or other permit conditions.

Permit means the authorization necessary to conduct land-disturbing activity under the provisions of this ordinance.

Person means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

Pollutant means anything that causes or contributes to pollution. Pollutants may include, but are not limited to paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes; refuse, rubbish, garbage, litter, sediment, or other discarded or abandoned objects, and accumulations, so that the same may cause or contribute to pollution; pesticides; herbicides; fertilizers' hazardous substances and wastes; sewage; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Qualified Person means a person who has received training and is licensed by the State of Florida to inspect and maintain sediment and erosion control practices.

Sediment and Erosion Control Plan (SECP) means a plan, including in the form of notes, for the control of soil erosion, sedimentation of waters, release of sediment related pollutants into waters, and runoff resulting from Land Disturbing Activity.

Sediment means a solid material, both organic and inorganic, that is in suspension, is being transported, or had been moved from its site of origin by wind, water, or gravity as a product of erosion.

Sediment Related Pollutants means substances such as nutrients, pesticides, pathogens, and organic materials that are transmitted with, or in association with, sediment.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity and onto adjacent public or private property or into a waterbody.

Solid waste means any garbage or refuse, sludge, and other discarded material, resulting from industrial, commercial, or dining operations, and from community activities.

Stabilize means to establish groundcover sufficient and adequate to prevent erosion. Temporary stabilization measures are those that are sufficient to prevent erosion until the appropriate time for establishing permanent control measures.

Stormwater means the flow of water which results from, and which occurs immediately following, a rainfall event.

Stormwater pollution prevention plan (SWPPP) means a written plan required for construction projects disturbing equal to or greater than one (1) acre of land, approved by the City submitted by the applicant which identifies a strategy to minimize stormwater runoff that will be generated. The SWPPP shall follow the guidelines of the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual published by the Florida Department of Environmental Protection.

Structural Controls means structural best management practices such as silt fences, sedimentation ponds, erosion control blankets, and temporary or permanent seeding.

Surface waters, or water(s) as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) means waters on the surface of the earth, contained in bounds created naturally or artificially, including , the Atlantic Ocean, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, canals, and ditches.

Violator, as used in Chapter 46, Article X, means (1) The developer or other person who has financial or operational control over the land-disturbing activity; or (2) The landowner or person in possession or control of the land when he or she has directly or indirectly allowed the land-disturbing activity or has benefitted from it or he or she has failed to comply with any provision of this Article, (3) the owner, landowner, or person in possession or control of the land, building, structure, or device by which pollutants were discharged or caused to be discharged.

Waterway means a channel that directs surface runoff to a watercourse or to the public storm drain.

Sec. 46-233. Requirements to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The City shall require the use of best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, Biscayne Bay, or waters of the United States. The owner or operator of a commercial or industrial establishment, or construction site, shall provide, at the expense of the owner or operator, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system, Biscayne Bay, and its connected waterbodies, through the

use of structural and non-structural BMPs. Furthermore, any person responsible for a property or premise which is or may be the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. An illicit discharge that occurs despite compliance with BMPs is still a violation of this section, except if such discharge is permitted under section 46-235.

Sec. 46-234. Illicit Discharge.

- (a) No person shall throw, drain, or otherwise discharge, cause, or cause others under such person's control to similarly discharge into the City's MS4, Biscayne Bay, and its connected waterbodies, any pollutants or waters containing pollutants, whether such discharges occur directly into a waterbody, through piping connections, runoff, exfiltration, infiltration, seepage, or leaks. Polluting matter includes, but is not limited to, the following:
1. Petroleum products including, but not limited to oil
 2. Diesel
 3. Solid Waste
 4. Paints
 5. Pesticides, herbicides, or fertilizers
 6. Degreasers, solvents
 7. Sanitary sewage
 8. Heated Water
 9. Chemically treated cooling water or other water
 10. Antifreeze and other automotive products
 11. Chemicals
 12. Toxic or poisonous solids or liquids
 13. Acids or alkalis
 14. Lawn clippings, leaves, branches, or yard trash
 15. Animal carcasses
 16. Pet waste
 17. Dyes
 18. Laundry waste or soaps
 19. Construction materials
 20. Sediment, stones, or silt
 21. Chlorinated pool water
 22. Dumping, discharge, effluent, or spills from boats, vessels, and other recreational watercraft onto land or into a waterbody
 23. Any debris, chemical, or material
- (b) No person may maintain, use, or establish, any direct or indirect connection to the City's MS4 that results in any discharge in violation of any provision of Federal, State, or Local governmental law, rule, or regulation.

Sec. 46-235. Illicit Discharge Exemptions.

The following activities shall be exempt from the requirements of this Ordinance to the extent that these discharges meet state water quality standards or significantly contributes pollutants into the MS4:

1. Water line flushing
2. Discharges from potable water sources
3. Air conditioning condensate
4. Irrigation water
5. Water from crawl space pumps
6. Footing drains
7. Lawn watering
8. Discharges or flows from emergency firefighting activities
9. Reclaimed water line flushing authorized pursuant to a permit issued under the authority of Chapter 62-610, Florida Administrative Code.
10. Uncontaminated roof drains

Sec. 46-236. Reporting and Investigation of Illicit Discharges and Illicit connection.

- (a) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, Biscayne Bay, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City immediately. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.
- (b) When the City suspects that an illicit discharge has occurred or is occurring, it shall investigate the discharge and the premises from which the discharge has occurred or is occurring.

Sec.46-237. Suspension of Access to a Municipal Storm Sewer System.

The City may suspend access to the MS4 if either one of the following situations occurs:

- (a) *Suspension due to illicit discharges in emergency situations.* The City, without prior notice, may suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which prevents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, Biscayne Bay, or other waterbodies.
- (b) *Suspension due to detection of illicit discharge.* Any person discharging to the MS4 in violation of this Article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge.

Sec. 46-238. Notice of Violation for Illicit Discharge.

- (a) Whenever the City finds that a person has violated or failed to meet a requirement of this section, the City shall order compliance by written notice of violation to the responsible person. Such notice may require:
1. The performance of monitoring, analyses, and reporting.
 2. The elimination of illicit connections or discharges.
 3. That violating discharges, practices, or operations shall cease and desist.
 4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property at the violators expense.
 5. The implementation of source control or treatment BMPs.
 6. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed.
 7. Amount of fine for which the violator is liable.
 - i. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense, as provided in section 46-243.

Sec. 46-239. Sediment and Erosion Control General Requirements.

- (a) Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity. In addition, they will be held responsible for knowing and following the requirements of this Article.
- (b) All construction work, including work less than one (1) acre in size, that has the potential to impact the City's Municipal Separate Stormwater System (MS4), Biscayne Bay, and/or adjacent properties, is required to employ sediment and erosion control measures that are in accordance with the FDEP *Florida Storm Water Erosion and Sedimentation Control Inspector's Manual*, latest revision, and in accordance with Miami Dade County Department of Environmental Resource Management (DERM) and Florida Administrative Code Chapter 62-302.
- (c) All construction activity that results in the disturbance of equal to or greater than one (1) acre is required to obtain coverage under the Florida Department of Environmental Protection (FDEP) Generic Permit for Storm Water Discharge from Large and Small Construction Activities (Construction Generic Permit [CGP]). The notice of intent (NOI), any correspondence, the acknowledgement letter granting coverage under the CGP, a copy of the CGP, erosion control plans, Stormwater Pollution Prevention Plan (SWPPP), and all completed inspection forms and other documentation required by the CGP shall be available at the site at all times and made available to the City Manager, City inspectors, or designee until land disturbing activities have been completed. The contractor shall always have at least one (1) person on-site during work activities certified through the Florida Stormwater, Erosion and Sedimentation Control Inspector Training Program.
- (d) No person shall engage in any land disturbing activity associated with development until a Construction Site Sediment and Erosion Control Affidavit is submitted and a Sediment and Erosion Control Plan is approved by the Department of Environment and

Sustainability, unless explicitly stated by the Environment and Sustainability Department that a plan is not required.

- (e) The Sediment and Erosion Control Plan (SECP) shall comply with the erosion control standards provided in the latest edition of the *Florida Stormwater Erosion and Sediment Control Inspector's Manual*. The Department of Environment and Sustainability may require the operator to submit monitoring reports, as deemed necessary depending on the size and scope of the project, to determine whether the measures required by the approved Erosion and Sediment Control Plan are being properly performed.
- (f) Neither the approval of a Sediment and Erosion Control Plan, nor the absence of a requirement to submit a plan shall relieve the property owner or the operator of the requirement stated in subsection (a) of this section.

Sec. 46-240. Sediment and Erosion Control Plan (SECP).

- (a) A Sediment and Erosion Control Plan (SECP) approved by the Environment and Sustainability Department shall be required for all development or redevelopment activities that will disturb less than one (1) acre of the land area. All projects disturbing land area over one (1) acre shall provide a copy of the Stormwater Pollution Prevention Plan (SWPPP) in lieu of a SECP (See Sec. 46-239(c)).
- (b) SECPs shall be drawn to an appropriate scale and shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and measures proposed to minimize soil erosion and off-site sedimentation. The property owner and/or operator shall perform all clearing, grading, drainage, construction, and development in strict accordance with the approved plan.
- (c) A Sediment and Erosion Control Affidavit signed by the property owner and certified contractor acknowledging obligation to a Sediment and Erosion Control Plan and agreement to maintain the plan for the duration of the construction phase shall be submitted with a building permit application.
- (d) SECP must meet the following basic objectives:
 1. *Identify areas of concern.* Identify the on-site areas which are subject to severe erosion, and off-site areas, including storm drain locations, that are vulnerable to damage from erosion and/or sedimentation.
 2. *Limit Exposure.* Land-disturbing activity must be planned and conducted in a manner that limits the exposure of soil to disturbing activities.
 3. *Limit exposed areas.* Land-disturbing activity must be planned and conducted in a manner that limits the size of the area and duration exposed to land disturbing activities.
 4. *Control surface water.* Surface water runoff originating upgrade or as a result of land disturbing activities must be controlled to reduce erosion and sediment loss during the period of exposure.
 5. *Control sedimentation.* Land-disturbing activity must be planned and conducted in a manner as to prevent off-site sedimentation damage.
 6. *Stormwater management.* When the increase in the velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion

of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

7. Site map, including areas of soil disturbance, areas that are not to be disturbed, and locations of all structural and non-structural controls to be implemented.
- (e) Minimum best management practices for sediment and erosion for all development sites includes:
1. Temporary Gravel Construction Entrance and Exit
 2. Storm Drain Inlet Protection
 3. Staked Turbidity Barrier (Silt Fence)
- (f) An Environmental Review will be conducted for each application for building permit to determine its adherence to the requirements and provisions of this Article. Additional BMPs or criteria may be required by the Environment and Sustainability Department during plan review of the SECP.

Sec. 46-241. Sediment and Erosion Control Standards and Prohibited Activities.

- (a) Construction entrance(s) shall be stabilized wherever traffic will be leaving a construction site and traveling on paved roads or other paved areas within the site that is open to the public.
- (b) Any sediment that is tracked onto road pavement shall be removed immediately (prior to the end of the workday) by sweeping. The sediment collected by sweeping shall be removed from the roadway and stabilized on-site.
- (c) Pavement shall not be cleaned by washing/flushing street, unless proper drain protection is in place to prevent discharges into the MS4.
- (d) All sediments/soils shall remain on site.
- (e) Perimeter protection is required for all development or redevelopment activities.
- (f) Catch basin inserts are to be used to prevent sediments from entering drainage system. Inserts are to be inspected and cleaned weekly and after each rainfall event.
- (g) If water truck is used to control dust on dirt/graded areas only, water truck will only drop enough water to control the dust or reach the optimum moisture content of the soil for compaction. No run-off is to be generated.
- (h) Controlling dust on paved roadways will be done by use of sweeper with water-jet sprayers. Only enough water should be applied to control dust while sweeping. Do not generate runoff from sprayers that runs into catch basins.
- (i) All disturbed areas of the site shall be vegetated or otherwise permanently stabilized.
- (j) Sediment/soil erosion leaving a site or property shall be prohibited.
- (k) Sediment/soil erosion from uplands into environmentally sensitive areas shall be prohibited.
- (l) Dumping or piling vegetative debris or clippings in environmentally sensitive areas shall be prohibited.
- (m) Tracking sediment or soil onto a roadway shall be prohibited.
- (n) Floating turbidity curtains labeled with contractors name are required for all in water work.

Sec. 46-243. Enforcement and penalties.

- (a) Fines collected shall be deposited in the Miami Beach Biscayne Bay Protection Trust Fund, established in Sec. 46-230, dedicated to fulfilling the purposes of this section and protecting the health and water quality of Biscayne Bay. Funds generated by penalties imposed under this section shall be used by the City for the administration, education, and enforcement of the corresponding sections of Chapter 46, Article X, and to further water conservation, nonpoint pollution prevention activities, water quality improvements, and marine and coastal ecosystems enhancements that protect the City's water resources and Biscayne Bay.

- (b) If a code compliance officer finds a violation of this article, the code compliance officer shall issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

- (c) A violator who has been served with a notice of violation must elect to either
 - 1. Pay the following civil fine:
 - (a) First violation within a 12-month period.....\$500.00;
 - (b) Second violation within a 12-month period.....\$1,000.00;
 - (c) Third or subsequent violation within a 12-month period....\$5,000.00;

 - Or
 - 2. Request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the City commission, which shall be refunded if the named violator prevails in the appeal.

- (d) Failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

- (e) A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After three months following the recording of any such lien that remains unpaid, the City may foreclose or otherwise execute upon the lien for the amount of the lien plus accrued interest.

- (f) The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten (10) days of the service of the notice of violation. The special master shall not have discretion to alter the penalties prescribed in this article. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.
- (g) The Violator shall pay for any water quality control violations from any agency that results in fines being assessed to the City because of the Violator's failure to eliminate turbid runoff from leaving the site and raising background levels of turbidity above existing background levels.
- (h) The Violator is responsible for reimbursement to the City of all investigative and cleanup costs incurred by the City. Costs shall include, but are not limited to, cost of equipment operation and maintenance associated with the investigation, cost of materials used in the investigation, personnel cost of contract services, waste disposal cost, laboratory costs, and Department labor costs. The City shall submit an itemized invoice with all the reimbursable costs to the Violator.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

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

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, 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. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2021.

PASSED AND ADOPTED this _____ day of _____, 2021.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(sponsored by Commissioner Micky Steinberg)