

33 connections, illegal dumping, improper disposal and spills into the stormwater system,
34 and is required to have the authority to enforce such prohibitions; and

35 **WHEREAS**, this Ordinance was duly noticed and presented to the Village Council
36 in two readings, with second reading conducted as the required public hearing on
37 _____, 2023; and

38 **WHEREAS**, the Village Council finds that this Ordinance is in the best interest and
39 welfare of the residents of the Village.

40 **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND VILLAGE**
41 **COUNCIL OF MIAMI SHORES VILLAGE, FLORIDA, AS FOLLOWS:**¹

42 **Section 1. Recitals Adopted.** That each of the above stated recitals is hereby
43 confirmed, adopted, and incorporated herein and made a part hereof by reference.

44 **Section 2. Amendment to the Village Code.** That Chapter 20 - Streets,
45 Sidewalks and Other Public Places of the Village Code of Ordinances is hereby created
46 as follows:

47 **Chapter 20 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

48 *******

49 **ARTICLE II. – STREETS**

50 **Sec. 20-17. - Responsibilities of property owners regarding parkway area abutting**
51 **street.**

52 **Sec. 20-17. (c) Property owners may pave a portion of the parkway abutting their property**
53 **if approval of the public works director is granted after evaluation of drainage and traffic**
54 **considerations. The public works director will set the standards of paving each property**

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double-strikethrough~~ and double underline.

55 owner must meet-, such standards shall include, but not to be limited, to a maximum of
56 impervious coverage of percent (20%) within the parkway area.

57 ***

58

59 **ARTICLE V. - STORMWATER UTILITY**

60 **Division I. Stormwater Utility System.**

61 ***

62 **Division II. Water Quality.**

63 **Sec. 20-111. Scope and purpose.**

64 The purpose of this division is to safeguard persons, protect property, and prevent
65 damage to the environment, surface waters, and Biscayne Bay through the regulation of
66 non-stormwater discharges and pollutants into the municipal separate storm sewer
67 system (MS4), Biscayne Bay, and surface waters, to the maximum extent practicable.
68 This division will also promote the public welfare by guiding, regulating, and controlling
69 the design, construction, use, and maintenance of any development or other activity that
70 disturbs or breaks the topsoil or results in the movement of earth on land in the Village.

71 This division shall apply to all water entering the storm drain system generated on
72 any developed and undeveloped lands unless explicitly exempted by an authorized
73 enforcement agency.

74 This division establishes methods for controlling the introduction of pollutants into the
75 municipal separate storm sewer system (MS4) in order to comply with requirements of
76 the National Pollutant Discharge Elimination System (NPDES) permit process, and
77 otherwise assure the protection of the water quality of the Village.

78 The objectives of this division are to (1) regulate the contribution of pollutants to the
79 MS4 by stormwater discharges by any user; (2) prohibit illicit connections and discharges
80 to the MS4; and (3) establish legal authority to carry out all inspection, surveillance and
81 monitoring procedures necessary to ensure compliance with this division.

82 **Sec. 20-112. Findings, determinations, and administration.**

83 It is hereby found, determined and declared, as follows:

84 (1) As a means of complying with Federal and State-mandated goals and priorities
85 relating to stormwater management, and to provide for the current and future needs
86 of the Village with respect to collection, control, and disposal of storm and other

87 surface water within the geographical boundaries of the Village, the Village's existing
88 and planned system and all stormwater drainage properties relating thereto presently
89 owned and managed by the Village, including but not limited to such storm sewers,
90 drains, culverts, retention systems, detention basins, drainage wells, conduits, and
91 appurtenant features, catch basins, outfall structures, equipment, and all
92 appurtenances, whether man-made or natural, necessary, useful, or convenient shall
93 be treated as a unified stormwater management system.

94
95 (2) Any development affecting storm and surface water should be managed, regulated,
96 and controlled under the unified management of a Village-wide system for the purpose
97 of, among other things, reducing or controlling erosion, sedimentation and turbidity,
98 and other pollution of water, danger, and damage to life and property, and to protect
99 and encourage the use of natural and efficient man-made means to these ends.

100
101 (3) During the construction process, soil is highly vulnerable to erosion by wind and water.
102 Eroded soil endangers water resources by reducing water quality and causing the
103 siltation of aquatic habitat for fish and other desirable species. Eroded soil also
104 necessitates repair of sewers and ditches and the dredging of lakes. In addition,
105 clearing and grading during construction cause the loss of native vegetation necessary
106 for terrestrial and aquatic habitat.

107
108
109 (4) The operation of the system will serve a vital public purpose and promote the common
110 interests and provide for the health, safety, and welfare of the residents of the Village.

111
112 (5) Those elements of the system which provide for the collection, storage, treatment, and
113 conveyance of stormwater management are of benefit and provide value to all
114 properties within the Village.

115
116 (6) The standards set forth herein and promulgated pursuant to this division are minimum
117 standards; therefore this division does not intend nor imply that compliance by any
118 person will ensure that there will be no contamination, pollution, nor unauthorized
119 discharge of pollutants.

120
121 (7) The Village Manager or designee shall administer, implement, and enforce the
122 provisions of this ordinance.

123
124 **Sec. 20-113. Definitions.**

125 The following words, terms, and phrases, when used in this division, shall have the
126 meanings ascribed to them in this section, except where the context clearly indicates a
127 different meaning.

128 *Best Management Practices (BMPs).* Schedules of activities, prohibitions of
129 practices, general good house keeping practices, pollution prevention and educational
130 practices, maintenance procedures, or other measures, practices, or devices that are
131 generally accepted within an industry as being effective to reduce erosion from occurring

132 on a disturbed site, prevent sedimentation from occurring on an adjacent property or
133 within a waterway, or to prevent or reduce the discharge of pollutants directly or indirectly
134 to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include
135 treatment practices, operating procedures, and practices to control site runoff, spillage or
136 leaks, sludge or water disposal, or drainage from raw materials storage.

137 *Certified contractor.* A person who has received training and is licensed by the Florida
138 Department of Environmental Protection (FDEP) to inspect and maintain erosion and
139 sediment control practices.

140 *Clearing.* Any activity that removes vegetative surface cover.

141 *Construction.* The act of creating or maintaining stockpiles of soil or other material
142 which are erodible if exposed to water or wind and are capable of generating dust; or
143 developing or improving public or private land, including without limitation the removal of
144 surface cover, disturbance of soils, clearing, grubbing, grading, excavating and/or
145 demolition.

146 *Construction Activity.* Construction projects resulting in a land disturbance. Such
147 construction activities include but are not limited to clearing and grubbing, grading,
148 excavating, and demolition.

149 *Demolition.* The partial, substantial, or complete removal or destruction of any
150 structure, building or *development* improvement.

151 *Development or activity.*

152 (i) The construction, installation, demolition, or removal of a structure;

153 (ii) Clearing, scraping, grubbing, killing or otherwise removing vegetation from a
154 site; and/or

155 (iii) Adding, removing, exposing, excavating, leveling, grading, digging, furrowing,
156 dumping, piling, dredging, or otherwise significantly disturbing soil, mud, sand,
157 or rock of a site.

158 *Drainage way.* Any channel that conveys surface runoff throughout a site.

159 *Erosion.* The detachment, transport, and deposition of particulate matter by the
160 action of wind, water, or gravity.

161 *Erosion control.* A measure that prevents erosion.

162 *Erosion and Sediment Control Plan.* A set of plans prepared by or under the direction
163 of a licensed professional engineer indicating the specific measures and sequencing to
164 be used on a development site during and after construction for the control of soil erosion,
165 sedimentation of waters, release of pollutants into waterbodies or the MS4, and runoff
166 resulting from land-disturbing activity.

167 *Grading.* Any stripping, excavating, filling, stockpiling, or combination thereof,
168 including the land in its excavated or filled condition.

169 *Hazardous Materials.* Any material, including any substance, waste, or combination
170 thereof, which because of its quantity, concentration, or physical, chemical, or infectious

171 characteristics may cause, or significantly contribute to, a substantial present or potential
172 hazard to human health, safety, property, or the environment when improperly treated,
173 stored, transported, disposed of, or otherwise managed.

174 *Illicit Connections.* An illicit connection is defined as either of the following:

- 175 (i) Any drain or conveyance, whether on the surface or subsurface, which allows an
176 illegal discharge to enter the storm drain system including but not limited to any
177 conveyances which allow any non-stormwater discharge including sewage,
178 process wastewater, and wash water to enter the storm drain system and any
179 connections to the storm drain system from indoor drains and sinks, regardless of
180 whether said drain or connection had been previously allowed, permitted, or
181 approved by the Village; or
182 (ii) Any drain or conveyance connected from a commercial or industrial land use to
183 the storm drain system which has not been documented in plans, maps, or
184 equivalent records and approved by the Village.

185 *Illicit or Illegal Discharge.* Any direct or indirect non-stormwater discharge to the storm
186 drain system, except as exempted by this division.

187 *Industrial Activity.* Activities subject to NPDES Industrial Permits as defined in 40
188 CFR, Section 122.26 (b)(14).

189 *Municipal separate storm sewer system or MS4.* The conveyance or system of
190 conveyances that is owned and operated by Miami Shores Village, and is designed or
191 used to collect or convey stormwater (e.g., storm drains, pipes, and/or ditches).

192 *Non-structural controls.* BMPs that include collecting trash and debris, sweeping up
193 nearby sidewalks and streets, maintaining equipment, and training site staff on erosion
194 and sediment control practices.

195 *NPDES.* The National Pollutant Discharge Elimination System.

196 *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge*
197 *Permit.* A permit issued by the Environmental Protection Agency (EPA) or by the State of
198 Florida Department of Environmental Protection under authority delegated pursuant to
199 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the State,
200 whether the permit is applicable on an individual, group, or general area-wide basis.

201 *Non-Stormwater Discharge.* Any discharge to the storm drain system that is not
202 composed entirely of stormwater.

203 *Operator.* Any party that has:

- 204 (i) Operational control of construction project plans and specifications, including the
205 ability to make modifications to those plans and specifications; and/or
206 (ii) Day-to-day operational control of any activities that are necessary to ensure
207 compliance with an erosion and sediment control plan for the site or other permit
208 conditions imposed by the Village.

209 Person. Any individual, association, organization, partnership, firm, corporation or
210 other entity recognized by law and acting as either the owner or as the owner's agent.

211 Perimeter control. A barrier that prevents sediment from leaving a site by filtering
212 sediment-laden runoff or diverting it to a sediment trap or basin.

213 Pollutant. Anything which causes or contributes to pollution. Pollutants may
214 include, but are not limited to: paints, varnishes, and solvents; oil and other automotive
215 fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage,
216 litter, or other discarded or abandoned objects, ordinances, and accumulations, so that
217 same may cause or contribute to pollution; floatables; pesticides, herbicides, and
218 fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens;
219 dissolved and particulate metals; animal wastes; wastes and residues that result from
220 constructing a building or structure; and noxious or offensive matter of any kind.

221 Phasing. Clearing a parcel of land in distinct phases, with the stabilization of each
222 phase completed before the clearing of the next.

223 Pollutant. Anything that causes or contributes to pollution. Pollutants may include,
224 but are not limited to, chemicals, paints, varnishes, degreasers and solvents; grease;
225 antifreeze, oil and other automotive fluids or petroleum products; gasoline; diesel fuel;
226 non-hazardous and toxic or poisonous liquid and solid wastes; sanitary sewage; heated
227 water, chemically treated cooling water or other water; acids or alkalis; lawn clippings,
228 leaves, branches, or yard trash; animal carcasses; pet waste; dyes; laundry waste or
229 soaps; construction materials; pool water; effluent from boats, vessels, and other
230 recreational watercraft or recreational vehicles; refuse, rubbish, garbage, litter, sediment,
231 or other discarded or abandoned objects, and accumulations, so that the same may
232 cause or contribute to pollution; pesticides; herbicides; fertilizers; hazardous substances
233 and wastes; sewage; dissolved and particulate metals; animal wastes; wastes and
234 residues that result from constructing a building or structure; steam cleaning waste; filter
235 backwash water; silt; any groundwater containing phosphorous or nitrogen
236 concentrations greater than the surface water into which the groundwater is discharged;
237 solids in such quantities or of such size capable of causing interference or obstruction to
238 the flow in the Village's stormwater system; any water that exceeds the state surface
239 water standards; and noxious or offensive matter of any kind.

240 Pollution. The contribution of pollutants to any land, the MS4, Biscayne Bay, or
241 surface waters.

242 Premises. Any building, lot, parcel of land, or portion of land whether improved or
243 unimproved including adjacent sidewalks and parking strips.

244 Sediment. A solid material, whether organic or inorganic, that is in suspension, is
245 being transported, or has been moved from its site of origin by wind, water, or gravity as
246 a product of erosion.

247 Sediment control. Measures that prevent eroded sediment from leaving the site.

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

251 Site. A parcel of land or a contiguous combination thereof, where grading work is
252 performed as a single unified operation.

253 Site development permit. A permit issued by the Village for the construction or
254 alteration of ground improvements and structures for the control of erosion, runoff, and
255 grading.

256 Solid waste. Includes bulky waste, commercial refuse, garden trash, tree and
257 shrubbery, garbage, refuse, rubbish, special handling trash, trash, hazardous waste,
258 biohazardous waste, industrial waste, residential refuse, white goods, or other discarded
259 material, including solid, liquid, semisolid, or contained gaseous material, resulting from
260 domestic, industrial, commercial, mining, or agricultural operations.

261 Stabilization or stabilize. To establish groundcover sufficient and adequate to prevent
262 erosion; the use of practices that prevent exposed soil from eroding.

263 Start of construction. The first land-disturbing activity associated with a development,
264 including land preparation such as clearing, grading, and filling; installation of streets and
265 walkways; excavation for basements, footings, piers, or foundations; erection of
266 temporary forms; and installation of accessory buildings.

267 Storm Drainage System. Publicly-owned facilities by which stormwater is collected
268 and/or conveyed, including but not limited to any roads with drainage systems, municipal
269 streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and
270 detention basins, natural and human-made or altered drainage channels, reservoirs, and
271 other drainage structures.

272 Stormwater. Any surface flow, runoff, and drainage consisting entirely of water
273 from any form of natural precipitation, and resulting from such precipitation.

274 Stormwater Pollution Prevention Plan (SWPPP). A written plan required for
275 construction projects proposing to disturb an area equal to or greater than one acre of
276 land, which identifies non-structural BMPs Practices, strategies, and activities to be
277 implemented to minimize stormwater runoff that will be generated by the project, identify
278 sources of pollution or contamination at a site, and identify the actions to eliminate or
279 reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or
280 receiving waters to the maximum extent practicable. The SWPPP shall be consistent with
281 the guidelines in the *Florida Stormwater, Erosion, and Sedimentation Control Inspector's*
282 *Manual* published by the Florida Department of Environmental Protection.

283 Structural controls. Structural BMPs such as silt fences, sedimentation ponds,
284 erosion control blankets, and temporary or permanent seeding.

285 Surface waters, or water(s), or waterway. Waters on the surface of the earth,
286 contained in bounds created naturally or artificially, including the Atlantic Ocean, bays,

287 bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams,
288 springs, creeks, branches, sloughs, tributaries, canals, ditches, and other watercourses.

289 Wastewater. Any water or other liquid, other than uncontaminated stormwater,
290 discharged from a facility.

291 Watercourse. Any body of water, including, but not limited to lakes, ponds, rivers,
292 streams, and bodies of water delineated by the Village.

293 Waterway. A channel that directs surface runoff to a watercourse or to the public
294 storm drain.

295 **Sec. 20-114. Private facilities.**

296 (1) Property owners shall be responsible, in compliance with local law, for providing and
297 maintaining stormwater drainage facilities located on private property to collect and
298 dispose of stormwater on site where runoff will principally be collected within that
299 property. It shall be unlawful for any person to alter privately owned stormwater
300 drainage facilities without the prior approval of the Village. The owner shall clean and
301 maintain the facility or channel, as required, to ensure efficient and proper operation
302 of the facility. The owner shall obtain the Village's prior written approval for any
303 proposed changes or alterations to any private stormwater drainage facilities that, in
304 the Village's sole discretion, as decided by the Village Manager or his or her designee,
305 may substantially or adversely affect stormwater drainage in the property owner's area
306 in light of the requirements of this division and applicable law. No changes shall be
307 permitted by the Village which will adversely affect the stormwater management
308 system in the area of the property.

309
310 (2) The Village may provide for inspection of private facilities to ascertain that the
311 stormwater facilities are functioning as designed and approved.

312
313 (3) The owner of any stormwater drainage facility that connects directly or indirectly to the
314 Village's stormwater management system shall maintain the facility to limit the peak
315 discharge and the quantity of runoff entering the Village's stormwater management
316 system to that which was computed at the time the connection was authorized.

317
318 (4) In any instance where existing property, land, buildings, or development negatively
319 impact adjacent properties, land, buildings, or residences by directing or causing to
320 be directed stormwater or runoff to the adjacent site, the Village shall have the
321 authority to require said property to take corrective action as it deems appropriate to
322 ameliorate or otherwise mitigate said impact to the maximum extent practicable.
323 Failure to complete said corrective action within a reasonable time shall constitute a
324 violation of this division.

325 **Sec. 20-115. Pollution control.**

326 (1) Construction sites and construction activities.

327 (a) Construction sites and operations shall be required to maintain, during and after
328 all construction, development, excavation, and/or alteration operations, structural and

329 non-structural, best management practices with the intent to reduce pollutants and
330 sediment in stormwater run-off.

331 (b) Construction or construction operations over any existing or planned stormwater
332 management system, or any such operations causing interference with any
333 stormwater management system shall not be permitted.

334 (c) A schedule of inspections for monitoring may be developed to be carried out during
335 and after the construction and operation phases as conditions to the permit to
336 determine and verify compliance with this section.

337 (d) Any person subject to an industrial or construction activity NPDES stormwater
338 discharge permit shall comply with all provisions of such permit. Proof of compliance
339 may be required in a form acceptable to the Public Works Director or designee prior
340 to allowing discharges to the municipal separate storm sewer system.

341

342 (2) *Alterations or obstructions to stormwater management.* Alterations or obstructions to
343 any stormwater management system, including pump stations, structural controls,
344 catch basins, culverts, wetlands, or swales shall be prohibited without prior written
345 approval of the Village.

346

347 (3) *Herbicide, pesticide, fertilizer applications.* Companies involved in the application of
348 herbicides, pesticides, fertilizers, or any regulated material shall be required to train
349 their employees in the application of said materials with the intent to minimize or
350 prevent over application and spills; develop plans for spill response and spill control
351 of said materials; and comply with Chapter 102 of the Village Code and Miami-Dade
352 County regulations related to herbicides, pesticides, fertilizers, or any regulated
353 material.

354

355 (4) *Litter, littering material.* The accumulation, placing, sweeping, scattering, throwing, or
356 dumping of litter, or littering material such as dead plants, yard clippings, stagnant
357 water, rubbish, debris, trash, including any wrecked, derelict, or partially dismantled
358 motor vehicle, trailer, boats, machinery, appliances, furniture or other similar division,
359 or any unsanitary, hazardous or significant material upon any surface area,
360 stormwater management system, or water body within the Village is hereby
361 prohibited.

362 **Sec. 20-116. Erosion and sediment control.**

363 (1) *Generally.* Any person conducting a land-disturbing activity shall take all reasonable
364 measures to protect all public and private property from damage caused by such
365 activity, consistent with the requirements of this section. Additionally, any such
366 person shall be held responsible for knowing and abiding by the requirements of this
367 section.

368

369 (2) *Erosion and Sediment Control Plan Required Prior to Building Permit; Exceptions.*

370 (a) In order to obtain a building permit for any land-disturbing activity, an
371 environmental plan review by the Building Department shall be required to ensure
372 the applicable Erosion and Sediment Control Plan is included in the plans as may be
373 required by this section. A review fee shall be assessed for any land-disturbing
374 activity, as determined by the Building Official. The review fee shall be set forth in the
375 Village's Fee Schedule, which may be amended from time to time by resolution of
376 the Village Council.

377 i) Sites less than one acre. All construction work, including work in an area less
378 than one acre in size, that has the potential to impact the Village's MS4,
379 connected waterbodies, surface waters, and/or adjacent properties, is required
380 to employ sediment and erosion control measures that are in accordance with
381 the Florida Department of Environmental Protection ("FDEP") Florida Storm
382 Water Erosion and Sedimentation Control Inspector's Manual, latest revision,
383 to maintain water quality standards in accordance with Miami Dade County
384 Department of Environmental Resource Management ("DERM") standards and
385 Florida Administrative Code Chapter 62-302, any other agency with jurisdiction.

386 ii) Sites equal to or greater than one acre. All construction activity that results in
387 the disturbance of an area equal to or greater than one acre is required to obtain
388 coverage under the FDEP Generic Permit for Stormwater Discharge from
389 Large and Small Construction Activities (Construction Generic Permit ["CGP"]).
390 The notice of intent ("NOI"), any correspondence, the acknowledgement letter
391 granting coverage under the CGP, a copy of the CGP, SWPPP, and all
392 completed inspection forms and other documentation required by the CGP
393 shall be available at the site at all times and made available to the Village
394 Manager or any other Village official or inspector until land-disturbing activities
395 have been completed. The contractor shall always have at least one person
396 on-site during work activities who is certified through the Florida Stormwater,
397 Erosion and Sedimentation Control Inspector Training Program. All
398 construction activity that involves the alteration of surface water flows is
399 required to obtain coverage under the FDEP Environmental Resource Permit
400 ("ERP") or any other agency with jurisdiction.

401 (b) A site development permit is not required for the following activities:

402 iii) Any emergency activity that is immediately necessary for the protection of life,
403 property, or natural resources.

404
405 (3) Permit Applications.

406 (a) Each permit application shall bear the name(s) and address(es) of the owner or
407 developer of the site, and of any consulting firm retained by the applicant together with
408 the name of the applicant's principal contact at such firm and shall be accompanied
409 by a filing fee. The fee shall be set forth in the Village's Fee Schedule, which may be
410 amended from time to time by resolution of the Village Council.

411 (b) A Construction Site Erosion and Sediment Control Affidavit, in a form prescribed
412 by the Village and signed by the property owner and certified contractor, shall be

413 submitted with a building permit application and shall acknowledge that any land
414 clearing, construction, or development involving the movement of earth shall be in
415 accordance with the Erosion and Sediment Control Plan, that a certified contractor
416 shall be on site on all days when construction or grading activity takes place, and that
417 the Erosion and Sediment Control Plan will be maintained for the duration of the
418 construction phase.

419 (c) The applicant will be required to file with the Village a faithful performance bond,
420 letter of credit, or other improvement security in an amount deemed sufficient by the
421 Building Official when valuation is greater than \$250,000.00 to cover all costs of
422 improvements, landscaping, maintenance of improvements for such period as
423 specified by the Village, and engineering and inspection costs to cover the cost of
424 failure or repair of improvements on the site.

425
426 (4) *Permit Review and Approval.* The Village, through its Director of Public Works and/or
427 Building Official, will review each application for a site development permit to
428 determine its conformance with the provisions of this division. Within 30 days after
429 receiving an application, the Village, through its Director of Public Works and/or
430 Building Official, shall, in writing:

431 (a) Approve the permit application;

432 (b) Approve the permit application subject to such reasonable conditions as may be
433 necessary to secure substantially the objectives of this regulation, and issue the permit
434 subject to these conditions; or

435 (c) Disapprove the permit application, indicating the reason(s) and procedure for
436 submitting a revised application and/or submission.

437
438 (5) *Erosion and Sediment Control Plan.*

439 (a) The Erosion and Sediment Control Plan shall include one or more of the following,
440 as applicable and as approved by the Village through its Director of Public Works
441 and/or Building Official:

442 i) A sequence of construction of the development site, including pavement
443 stripping; clearing and grubbing; grading; construction of utilities, infrastructure,
444 and buildings; and final grading and landscaping. Sequencing shall identify the
445 expected date on which clearing will begin, the estimated duration of exposure
446 of cleared areas, areas of clearing, installation of temporary erosion and
447 sediment control measures, and establishment of permanent vegetation.

448 ii) All erosion and sediment control measures necessary to meet the objectives of
449 this division throughout all phases of construction and after completion of
450 development of the site. Depending upon the complexity of the project, the
451 drafting of immediate plans may be required at the close of each season.

452 iii) Seeding mixtures and rates, types of sod, method of seedbed preparation,
453 expected seeding dates, type and rate of lime and fertilizer application, and

454 kind and quality of mulching for both temporary and permanent vegetative
455 control measures.

456 iv) Provisions for maintenance and control facilities, including easements and
457 estimates of the cost of maintenance.

458 v) Plans to be signed and sealed by a Florida registered engineer.

459 (b) Modifications to the Erosion and Sediment Control Plan shall be processed and
460 approved or disapproved in the same manner as section 53-108(3) and shall include:

461 i) Major amendments of the Erosion and Sediment Control Plan; and

462 ii) Field modifications of a minor nature.

463 (c) Design Requirements.

464 i) Grading, erosion control practices, sediment control practices, and waterway
465 crossings shall meet the design criteria set forth in the most recent version of
466 FDEP's Florida Stormwater Erosion and Sedimentation Control Inspector's
467 Manual, and shall be adequate to prevent transportation of sediment from the
468 site.

469 ii) Clearing and grading of natural resources, such as forests and wetlands, shall
470 not be permitted, except when in compliance with all other chapters of this
471 Code. Clearing techniques that retain natural vegetation and drainage patterns,
472 as described in FDEP's Florida Stormwater Erosion and Sedimentation Control
473 Inspectors Manual, latest version shall be used.

474 iii) Clearing, except when necessary to establish sediment control devices, shall
475 not begin until all sediment control devices have been installed and have been
476 stabilized.

477 iv) Phasing shall be required on all sites disturbing greater than 30 acres, with the
478 size of each phase to be established at plan review and approved by the
479 Village, through its Director of Public Works and/or Building Official.

480 v) Erosion control requirements shall include one or more of the following, as
481 applicable and as approved by the Village through its Director of Public Works
482 and/or Building Official:

483 (1) Soil stabilization shall be completed within five days of clearing or inactivity
484 in construction.

485 (2) If seeding or another vegetative erosion control method is used, it shall
486 become established within four weeks or within such other time frame as
487 may be approved by the Village. If the seeding or other vegetative erosion
488 control method does not become established, the Village, through its
489 Building Official and/or Director of Public Works, may require the site to be
490 reseeded or a non-vegetative option employed.

491 (3) Special techniques that meet the design criteria outlined in FDEP's Florida
492 Stormwater Erosion and Sedimentation Control Inspectors Manual, latest

493 version on steep slopes or in drainage ways shall be used to ensure
494 stabilization.

495 (4) All disturbed areas of the site shall be vegetated or otherwise temporarily
496 stabilized until construction completion.

497 (5) Soil stockpiles must be stabilized or covered at the end of each workday.

498 (6) The entire site must be stabilized, using heavy mulch layer or another
499 method that does not require germination to control erosion, at the close of
500 the construction season.

501 (7) Techniques shall be employed to prevent the blowing of dust or sediment
502 from the site.

503 (8) Controlling dust on paved roadways will be done by use of a sweeper with
504 water-jet sprayers. Only enough water should be applied to control dust
505 while sweeping. Sprayers shall not generate runoff into catch basins.

506 (9) Techniques that divert upland runoff past disturbed slopes shall be
507 employed.

508 vi) Sediment control requirements shall include:

509 (1) Sediment traps and perimeter controls.

510 (2) Basins that are designed in a manner that allows adaptation to provide long
511 term stormwater management, if required by the Village, through its Building
512 Official and/or Director of Public Works.

513 (3) Protection for adjacent properties by the use of a vegetated buffer strip in
514 combination with perimeter controls.

515 vii) Waterway and watercourse protection requirements shall include:

516 (1) A temporary stream crossing installed and approved by the Village, through
517 its Building Official and/or Director of Public Works if a wet watercourse will
518 be crossed regularly during construction.

519 (2) Stabilization of the watercourse channel before, during, and after any in-
520 channel work.

521 (3) All on-site stormwater conveyance channels designed according to the
522 criteria outlined in the *Miami-Dade County Public Works Manual, Standard*
523 *Details.*

524 (4) Stabilization adequate to prevent erosion located at the outlets of all pipes
525 and paved channels.

526 viii) Construction site access and sediment control requirements shall include one
527 or more of the following, as applicable and as approved by the Village through
528 its Director of Public Works and/or Building Official:

529 (1) A temporary access road provided at all sites.

- 530 (2) Construction entrance(s) shall be stabilized wherever traffic will be leaving
531 a construction site and traveling on paved roads or other paved areas within
532 the site that is open to the public.
- 533 (3) Any sediment that is tracked onto road pavement shall be removed
534 immediately (prior to the end of each workday).
- 535 (4) Pavement shall not be cleaned by washing/flushing street unless proper
536 drain protection is in place to prevent discharges into the MS4.
- 537 (5) All sediments/soils shall remain on site.
- 538 (6) Perimeter protection, including a staked silt fence where applicable, is
539 required for all development or redevelopment activities.
- 540 (7) Catch basin inserts are to be used to prevent sediments from entering
541 drainage system. Inserts are to be inspected and cleaned weekly and after
542 each rainfall event.
- 543 (8) If a water truck is used to control dust on dirt/graded areas only, the water
544 truck will only drop enough water to control the dust or reach the optimum
545 moisture content of the soil for compaction. No run-off is to be generated.
- 546 (9) Controlling dust on paved roadways will be done by use of a sweeper with
547 water-jet sprayers. Only enough water should be applied to control dust
548 while sweeping. Sprayers shall not generate runoff into catch basins.
- 549 (10) Sediment/soil erosion entering the right-of-way, adjacent private
550 property, or waterbody shall be prohibited.
- 551 (11) Sediment/soil erosion from uplands into environmentally sensitive
552 areas shall be prohibited.
- 553 (12) Dumping or piling of construction material, vegetative debris, or
554 clippings in right-of-way or environmentally sensitive areas shall be
555 prohibited.
- 556 (13) Tracking sediment or soil onto a roadway shall be prohibited
- 557 (14) Floating turbidity curtains labeled with the name of the contractor
558 shall be required for construction or development activities occurring in or
559 adjacent to a waterway, or that may cause sedimentation of the adjacent
560 waterway.
- 561 (15) Other measures required by the Village, through its Building Official
562 and/or, Director of Public Works in order to ensure that sediment is not
563 tracked onto public streets by construction vehicles or washed into storm
564 drains.

565 (6) Inspections.

- 566 (a) The Village, through its Building Official and/or Director of Public Works, shall
567 make inspections as hereinafter required and shall approve the portion of the work
568 completed or shall notify the permittee wherein the work fails to comply with the
569 Erosion and Sediment Control Plan as approved. Plans for grading, stripping,

570 excavating, and filling work bearing the stamp of approval of the Village, through its
571 Building Official and/or Director of Public Works shall be maintained at the site during
572 the progress of the work. To obtain inspections, the permittee shall notify the Village's
573 Building Department at least two business days before the following:

- 574 i) Start of construction;
575 ii) Completion of site clearing; and
576 iii) Completion of construction.

577 (b) The Village or its designated agent shall make regular inspections of all control
578 measures in accordance with the inspection schedule outlined in the approved
579 Erosion and Sediment Control Plan. The purpose of such inspections will be to
580 determine the overall effectiveness of the control plan and the need for additional
581 control measures. All inspections shall be documented in written form and submitted
582 to the Building Official and/or Director of Public Works at the time interval specified in
583 the approved permit.

584 (c) The Village Manager or his or her designee and/or a Code Inspector shall enter
585 the property of the applicant as deemed necessary to make regular inspections to
586 ensure the validity of the reports filed under this section.

587 (7) Enforcement.

588 Stop-Work Order; Revocation of Permit. In the event that any person holding a site
589 development permit pursuant to this section violates the terms of the permit or implements
590 site development in such a manner as to materially or adversely affect the health, welfare,
591 or safety of persons residing or working in the neighborhood or development site so as to
592 be materially detrimental to the public welfare or injurious to property or improvements in
593 the neighborhood, the Village's Director of Public Works, Building Official, or Manager
594 may suspend or revoke the site development permit. This remedy is supplemental to the
595 remedies provided in section 20-123.

596 **Sec. 20-117. Illicit discharges and connections; Reporting of illicit discharges;**
597 **Suspension/ termination of access to the MS4.**

598 (1) Illegal Discharges Prohibited.

599 (a) No person shall discharge or cause to be discharged into the municipal storm
600 drain system or watercourses any materials, including but not limited to pollutants or
601 waters containing any pollutants that cause or contribute to a violation of applicable
602 water quality standards, other than stormwater.

603 (b) Prohibited illicit discharges shall require spill response, spill control, and spill
604 clean-up by the property owner and responsible party as designated and prescribed
605 by the Village.

606 (2) Illegal Discharges Exemptions. The following activities shall be exempt from the
607 requirements of this section, but only to the extent that the discharge meets state
608 water quality standards, and does not significantly contribute pollutants into the MS4,
609 as determined by the Village, through its Building Official and/or Director of Public
610 Works:

- 611 (a) Water line flushing or other potable water sources;
612 (b) Landscape irrigation or lawn watering;
613 (c) Diverted stream flows;
614 (d) Rising ground waters;
615 (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to
616 separate storm sewers;
617 (f) Uncontaminated pumped ground water;
618 (g) Discharges from potable water sources;
619 (h) Foundation drains;
620 (i) Air conditioning condensate;
621 (j) Irrigation water;
622 (k) Springs;
623 (l) Water from crawl space pumps;
624 (m) Footing drains;
625 (n) Lawn watering;
626 (o) Individual residential (i.e., non-commercial) car washing;
627 (p) Flows from riparian habitats and wetlands;
628 (q) Dechlorinated swimming pool discharges;
629 (r) Street wash waters;
630 (s) Discharges or flows from emergency firefighting activities;
631 (t) Reclaimed water line flushing authorized pursuant to a permit issued under the
632 authority of Rule 62-610, Florida Administrative Code;
633 (u) Flows from uncontaminated roof drains; and
634 (v) Dye testing after obtaining approval in writing from the Village prior to the time of
635 the test.
636 (w) Discharges specified in writing by the Village Manager or designee as being
637 necessary to protect public health and safety.
- 638 (3) Reporting of Illicit Discharges. Notwithstanding other requirements of law, any person
639 responsible for a facility operation, or responsible for emergency response for a
640 facility or operation, upon learning of any known or suspected release of materials
641 which are resulting or may result in an illegal discharge of a pollutant into stormwater,
642 the storm drain system, or waters of the state, shall take all necessary steps to ensure
643 the discovery, containment, and cleanup of such release. In the event that hazardous
644 materials are released, said person shall immediately notify the State Warning Point

645 and the Village. In the event that only non-hazardous materials are released, said
646 person shall notify the Village's Building Department and/or Public Works Department
647 immediately. If the discharge of prohibited materials emanates from a commercial or
648 industrial establishment, the owner or operator of such establishment shall also retain
649 an on-site written record of the discharge and the actions taken to prevent its
650 recurrence. Such records shall be retained for at least three (3) years and available
651 for inspection by the Village and/or other appropriate agencies.

652

653 (4) *Illicit Connections Prohibited.*

654 (a) The construction, use, maintenance or continued existence of illicit connections to
655 the storm drain system is prohibited. This prohibition expressly includes, without
656 limitation, illicit connections made in the past, regardless of whether the connection
657 was permissible under law or practices applicable or prevailing at the time of
658 connection.

659 (b) A violation of this section occurs if a person connects a line conveying sewage to
660 the MS4 or allows such a connection to continue.

661 (5) *Suspension and Termination of MS4 access.*

662 (a) Suspension due to illicit discharges in emergency situations. The Village may,
663 without prior notice, suspend MS4 discharge access to a person when such
664 suspension is necessary to stop an actual or threatened discharge which presents or
665 may present imminent and substantial danger to the environment, or to the health or
666 welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply
667 with a suspension order issued in an emergency, the Village Manager or designee
668 may take such steps as deemed necessary to prevent or minimize damage to the MS4
669 or Waters of the State, or to minimize danger to persons.

670 (b) Termination due to the detection of illicit discharge. Any person discharging to the
671 MS4 in violation of this ordinance may have their MS4 access terminated if such
672 termination would abate or reduce an illicit discharge. The Village Manager or
673 designee will notify a violator of the proposed termination of its MS4 access. The
674 violator may petition the Village Manager or designee for a reconsideration and
675 hearing.

676 (c) A violation of this subsection shall be deemed to have occurred if the person
677 reinstates MS4 access to premises suspended or terminated pursuant to this section
678 without the Village's prior approval.

679 **Sec. 20-118. Stormwater inspections and monitoring procedures.**

680 To the fullest extent allowed by law, the Village may enter all structures and premises to
681 perform inspections, surveillance, and monitoring procedures, within reasonable hours,
682 of said structures or premises, and shall have free access to copying or reviewing

683 pertinent records of a facility, system, or premises in order to ascertain the state of
684 compliance with the laws, rules, and regulations of the Village, as outlined in this division.

685 (1) The compliance personnel of the Village shall be provided with official identification
686 and shall exhibit such identification when making inspections.

687 (2) The owner, operator, lessee, occupant, or person in charge of the structure or
688 premises shall give the inspecting officer free access to the structure or premises for
689 the purpose of making such inspections without hampering, obstructing, or interfering
690 with such inspection.

691 **Sec. 20-119. Monitoring of stormwater discharges associated with**
692 **commercial/industrial activity.**

693 (1) Applicability. This section applies to all properties that have stormwater discharges
694 associated with commercial and/or industrial activity, including construction activity.

695
696 (2) Access to Properties.

697 (a) The Village shall be permitted to enter and inspect properties subject to regulation
698 under this division as often as may be necessary to determine compliance with this
699 division. If a discharger has security measures in force which require proper
700 identification and clearance before entry into its premises, the discharger shall make
701 the necessary arrangements to allow access to Village representatives.

702 (b) Operators shall allow the Village ready access to all parts of the premises for the
703 purposes of inspection, sampling, examination and copying of records that must be
704 kept under the conditions of an NPDES permit to discharge stormwater, and the
705 performance of any additional duties as defined by state and federal law.

706 (c) The Village shall have the right to set up on any permitted facility such devices as
707 are necessary in the opinion of the Village Manager or designee to conduct
708 monitoring and/or sampling of the facility's stormwater discharge.

709 (d) The Village has the right to require the discharger to install monitoring equipment
710 as necessary. The facility's sampling and monitoring equipment shall be maintained
711 at all times in a safe and proper operating condition by the discharger at its own
712 expense. All devices used to measure stormwater flow and quality shall be calibrated
713 to ensure their accuracy.

714 (e) Any temporary or permanent obstruction to safe and easy access to the facility to
715 be inspected and/or sampled shall be promptly removed by the operator at the written
716 or oral request of the Village and shall not be replaced. The costs of clearing such
717 access shall be borne by the operator.

718 (f) Unreasonable delays in allowing the Village access to a permitted facility is a
719 violation of a stormwater discharge permit and of this ordinance. A person who is the
720 operator of a facility with a NPDES permit to discharge stormwater associated with
721 industrial activity commits an offense if the person denies the Village Manager or

722 designee reasonable access to the permitted facility for the purpose of conducting
723 any activity authorized or required by this ordinance.

724 (g) If the Village has been refused access to any part of the premises from which
725 stormwater is discharged, and he/she is able to demonstrate probable cause to
726 believe that there may be a violation of this ordinance, or that there is a need to
727 inspect and/or sample as part of a routine inspection and sampling program designed
728 to verify compliance with this ordinance or any order issued hereunder, or to protect
729 the overall public health, safety, and welfare of the community, then the Village
730 Manager or designee may seek issuance of a search warrant from any court of
731 competent jurisdiction.

732 **Sec. 20-120. Watercourse protection.**

733 Every person owning property through which a watercourse passes, or such person's
734 lessee, shall keep and maintain that part of the watercourse within the property free of
735 trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate,
736 or significantly retard the flow of water through the watercourse. In addition, the owner or
737 lessee shall maintain existing privately owned structures within or adjacent to a
738 watercourse, so that such structures will not become a hazard to the use, function, or
739 physical integrity of the watercourse.

740 **Sec. 20-121. Determination of compliance or non-compliance.**

741 The Village Manager or designee shall have the authority to determine the compliance or
742 non-compliance with this division of a stormwater management system or non-stormwater
743 discharge to a stormwater management system, body of water, or surface area; based
744 on investigation, surveillance, monitoring, sampling, testing, and/or sound engineering
745 and operational evaluations.

746 **Sec. 20-122. Requirement to prevent, control, and reduce stormwater pollutants by**
747 **the use of best management practices.**

748 (1) The Village shall adopt requirements identifying Best Management Practices and
749 require the use thereof for any activity, operation, or facility which may cause or
750 contribute to pollution or contamination of stormwater, the storm drain system, or
751 waters of the State.

752
753 (2) The property owner or operator of a commercial or industrial establishment shall
754 provide, at their own expense, reasonable protection from accidental discharge of
755 prohibited materials or other wastes into the municipal storm drain system or
756 watercourses through the use of these structural and non-structural BMPs.

757
758 (3) Any person responsible for a property or premise, which is, or may be, the source of
759 an illicit discharge, may be required to implement, at said person's expense,
760 additional structural and non-structural BMPs to prevent the further discharge of
761 pollutants to the municipal separate storm sewer system.

762

763 (4) Compliance with all terms and conditions of a valid NPDES permit authorizing the
764 discharge of stormwater associated with industrial activity, to the extent practicable,
765 shall be deemed compliance with the provisions of this section. These BMPs shall be
766 part of a stormwater pollution prevention plan (SWPP) as necessary for compliance
767 with requirements of the NPDES permit.

768 **Sec 20-123. Violations; Assessment of penalty for non-compliance.**

769 (1) Penalties for violations of the provisions of this division shall be enforced through
770 Chapter 2, Article IV., "Code Enforcement Board," of the Village Code. Fines shall be
771 as follows: First offense, 250.00; Second and subsequent offenses within the
772 preceding 12 months, 500.00. Each and every day on which such person continues
773 to violate the provisions of this division after having been notified of such violation
774 shall constitute a separate offense. The Village Manager or designee may bring any
775 violation of the provisions of this division before the Village Code Enforcement Board
776 for a determination as to whether the violation is irreparable or irreversible in nature.
777 Upon a finding by the Village Special Master that a violation of this division is
778 irreparable or irreversible in nature, the Special Magistrate shall impose a fine of up
779 to \$5,000 in accordance with Section 162.09(2), Florida Statutes.

780
781 (2) Upon determination of a violation of this division, the violator shall bear all costs
782 incurred for clean-up, enforcement action, and remediation.

783
784 (3) The Village may order the correction of any unsafe, nonconforming or unauthorized
785 condition which is in violation of any provision of this division. The Village may also
786 order the discontinuance of any activity causing such condition.

787
788 (4) Any person responsible for pollutant discharge into any body of water or stormwater
789 systems, and who fails to correct any prohibited condition or discontinue any
790 prohibited activity at the Village's request, shall be responsible to pay the necessary
791 expenses incurred by the Village in carrying out the pollution abatement, including
792 any expenses incurred in testing, measuring, sampling, collecting, removing,
793 containing, treating, and disposing of the pollutant materials.

794
795 (5) If abatement of a violation and/or restoration of affected property is required, the
796 notice shall set forth a deadline within which such remediation or restoration must be
797 completed. Said notice shall further advise that, should the violator fail to remediate
798 or restore within the established deadline, the work will be done by a designated
799 governmental agency or a contractor and the expense thereof shall be charged to
800 the violator.

801
802 (6) Cost of Abatement of the Violation. The owner of the property will be notified of the
803 cost of abatement, including administrative costs. If the amount due is not paid within
804 10 days after notice of the cost of abatement, the charges shall become a special

805 assessment against the property and shall constitute a lien on the property for the
806 amount of the assessment. The costs shall be paid in not more than 12 equal
807 payments. Interest shall be assessed in accordance with and at the rate set forth in
808 section 170.09, Florida Statutes.

809
810 (7) Violations Deemed a Public Nuisance. In addition to the enforcement processes and
811 penalties provided herein, any condition caused or permitted to exist in violation of
812 any of the provisions of this division is a threat to public health, safety, and welfare,
813 and is declared and deemed a nuisance, pursuant to section 823.01, Florida Statutes,
814 and thereby constitutes a second degree misdemeanor punishable by a \$500 fine
815 pursuant to section 775.083(1)(e), Florida Statutes. The nuisance may be summarily
816 abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or
817 otherwise compel the cessation of such nuisance may be taken.

818
819 (8) In addition to the remedies set forth in this division, the Village may, immediately upon
820 discovering an ongoing or potential discharge of pollutants into the Village's bodies
821 of water or stormwater system in violation of this division, seek relief in any court of
822 competent jurisdiction for a temporary restraining order or temporary or permanent
823 injunction to halt or prohibit such discharge. Prior to the filing of such judicial action,
824 the Village shall attempt to notify the offender of the Village's intention to file such
825 action, but such notification shall not be a condition precedent to the Village's action
826 for and obtaining such or other relief.

827
828 (9) The remedies and penalties provided in this section are not exclusive, and the Village
829 may seek whatever other remedies are authorized by statute, at law, or in equity,
830 against any person who violates the provisions of this division.

831
832 **Secs. 20-411~~124~~—20-129. - Reserved.**

833
834

835 **Section 3. Conflicting Provision.** Any provisions of the Code of Ordinances of
836 Miami Shores Village, Florida, in conflict with the provisions of this Ordinance are hereby
837 repealed, but only to the extent of such conflict.

838 **Section 4. Severability.** That the provisions of this Ordinance are declared to
839 be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for
840 any reason, be held to be invalid or unconstitutional, such decision shall not affect the
841 validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but

842 they shall remain in effect, it being the legislative intent that this Ordinance shall stand
843 notwithstanding the invalidity of any part.

844 **Section 5. Codification.** That it is the intention of the Village Council and it is
845 hereby ordained that the provisions of this Ordinance shall become and be made a part
846 of the Code of Ordinances of the Miami Shores Village, Florida, that the sections of this
847 Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the
848 word "Ordinance" shall be changed to "Section," or other appropriate word.

849 **Section 6. Effective Date.** That this Ordinance shall become effective
850 immediately upon adoption on second reading.

851 **PASSED and ADOPTED** this ____ day of _____, 2023.

852

853 First Reading: _____, 2023

854 Second Reading: _____, 2023

855

856

857 Attest:

858

859

860

861 _____
Ysabely Rodriguez, CMC

862 Village Clerk

863

864

865

866 APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

867

868

869 _____

George Burch

Mayor

870 Weiss, Serota, Helfman, Cole + Bierman, P.L.

871 Village Attorney

872

873

874

875

876

FINAL VOTES AT ADOPTION	
Council Member Jerome Charles	_____
Council Member Sandra Harris	_____
Council Member Daniel Marinberg	_____
Vice Mayor Jesse Valinsky	_____
Mayor George Burch	_____