

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 V. - STORMWATER UTILITY**

50 **Division I. Stormwater Utility System.**

51 ***

52 **Division II. Water Quality.**

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

54 The purpose of this division is to safeguard persons, protect property, and prevent
55 damage to the environment, surface waters, and Biscayne Bay through the regulation of
56 non-stormwater discharges and pollutants into the municipal separate storm sewer

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.

57 system (MS4), Biscayne Bay, and surface waters, to the maximum extent practicable.
58 This division will also promote the public welfare by guiding, regulating, and controlling
59 the design, construction, use, and maintenance of any development or other activity that
60 disturbs or breaks the topsoil or results in the movement of earth on land in the Village.

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

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

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

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

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

74 (1) As a means of complying with Federal and State-mandated goals and priorities
75 relating to stormwater management, and to provide for the current and future needs
76 of the Village with respect to collection, control, and disposal of storm and other
77 surface water within the geographical boundaries of the Village, the Village's existing
78 and planned system and all stormwater drainage properties relating thereto presently
79 owned and managed by the Village, including but not limited to such storm sewers,
80 drains, culverts, retention systems, detention basins, drainage wells, conduits, and
81 appurtenant features, catch basins, outfall structures, equipment, and all
82 appurtenances, whether man-made or natural, necessary, useful, or convenient shall
83 be treated as a unified stormwater management system.

84
85 (2) Any development affecting storm and surface water should be managed, regulated,
86 and controlled under the unified management of a Village-wide system for the purpose
87 of, among other things, reducing or controlling erosion, sedimentation and turbidity,
88 and other pollution of water, danger, and damage to life and property, and to protect
89 and encourage the use of natural and efficient man-made means to these ends.

90
91 (3) During the construction process, soil is highly vulnerable to erosion by wind and water.
92 Eroded soil endangers water resources by reducing water quality and causing the
93 siltation of aquatic habitat for fish and other desirable species. Eroded soil also
94 necessitates repair of sewers and ditches and the dredging of lakes. In addition,
95 clearing and grading during construction cause the loss of native vegetation necessary
96 for terrestrial and aquatic habitat.

97
98

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

101
102 (5) Those elements of the system which provide for the collection, storage, treatment, and
103 conveyance of stormwater management are of benefit and provide value to all
104 properties within the Village.

105
106 (6) The standards set forth herein and promulgated pursuant to this division are minimum
107 standards; therefore this division does not intend nor imply that compliance by any
108 person will ensure that there will be no contamination, pollution, nor unauthorized
109 discharge of pollutants.

110
111 (7) The Village Manager or designee shall administer, implement, and enforce the
112 provisions of this ordinance.

113
114 **Sec. 20-113. Definitions.**

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

118 *Best Management Practices (BMPs).* Schedules of activities, prohibitions of
119 practices, general good house keeping practices, pollution prevention and educational
120 practices, maintenance procedures, or other measures, practices, or devices that are
121 generally accepted within an industry as being effective to reduce erosion from occurring
122 on a disturbed site, prevent sedimentation from occurring on an adjacent property or
123 within a waterway, or to prevent or reduce the discharge of pollutants directly or indirectly
124 to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include
125 treatment practices, operating procedures, and practices to control site runoff, spillage or
126 leaks, sludge or water disposal, or drainage from raw materials storage.

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

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

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

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

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

141 Development or activity.

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

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

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

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

149 Erosion. The detachment, transport, and deposition of particulate matter by the
150 action of wind, water, or gravity.

151 Erosion control. A measure that prevents erosion.

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

157 Grading. Any stripping, excavating, filling, stockpiling, or combination thereof,
158 including the land in its excavated or filled condition.

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

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

165 (i) Any drain or conveyance, whether on the surface or subsurface, which allows an
166 illegal discharge to enter the storm drain system including but not limited to any
167 conveyances which allow any non-stormwater discharge including sewage,
168 process wastewater, and wash water to enter the storm drain system and any
169 connections to the storm drain system from indoor drains and sinks, regardless of
170 whether said drain or connection had been previously allowed, permitted, or
171 approved by the Village; or

172 (ii) Any drain or conveyance connected from a commercial or industrial land use to
173 the storm drain system which has not been documented in plans, maps, or
174 equivalent records and approved by the Village.

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

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

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

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

185 NPDES. The National Pollutant Discharge Elimination System.

186 National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge
187 Permit. A permit issued by the Environmental Protection Agency (EPA) or by the State of
188 Florida Department of Environmental Protection under authority delegated pursuant to
189 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the State,
190 whether the permit is applicable on an individual, group, or general area-wide basis.

191 Non-Stormwater Discharge. Any discharge to the storm drain system that is not
192 composed entirely of stormwater.

193 Operator. Any party that has:

194 (i) Operational control of construction project plans and specifications, including the
195 ability to make modifications to those plans and specifications; and/or

196 (ii) Day-to-day operational control of any activities that are necessary to ensure
197 compliance with an erosion and sediment control plan for the site or other permit
198 conditions imposed by the Village.

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

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

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

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

213 Pollutant. Anything that causes or contributes to pollution. Pollutants may include,
214 but are not limited to, chemicals, paints, varnishes, degreasers and solvents; grease;
215 antifreeze, oil and other automotive fluids or petroleum products; gasoline; diesel fuel;
216 non-hazardous and toxic or poisonous liquid and solid wastes; sanitary sewage; heated
217 water, chemically treated cooling water or other water; acids or alkalis; lawn clippings,

218 leaves, branches, or yard trash; animal carcasses; pet waste; dyes; laundry waste or
219 soaps; construction materials; pool water; effluent from boats, vessels, and other
220 recreational watercraft or recreational vehicles; refuse, rubbish, garbage, litter, sediment,
221 or other discarded or abandoned objects, and accumulations, so that the same may
222 cause or contribute to pollution; pesticides; herbicides; fertilizers; hazardous substances
223 and wastes; sewage; dissolved and particulate metals; animal wastes; wastes and
224 residues that result from constructing a building or structure; steam cleaning waste; filter
225 backwash water; silt; any groundwater containing phosphorous or nitrogen
226 concentrations greater than the surface water into which the groundwater is discharged;
227 solids in such quantities or of such size capable of causing interference or obstruction to
228 the flow in the Village's stormwater system; any water that exceeds the state surface
229 water standards; and noxious or offensive matter of any kind.

230 *Pollution.* The contribution of pollutants to any land, the MS4, Biscayne Bay, or
231 surface waters.

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

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

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

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

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

243 *Site development permit.* A permit issued by the Village for the construction or
244 alteration of ground improvements and structures for the control of erosion, runoff, and
245 grading.

246 *Solid waste.* Includes bulky waste, commercial refuse, garden trash, tree and
247 shrubbery, garbage, refuse, rubbish, special handling trash, trash, hazardous waste,
248 biohazardous waste, industrial waste, residential refuse, white goods, or other discarded
249 material, including solid, liquid, semisolid, or contained gaseous material, resulting from
250 domestic, industrial, commercial, mining, or agricultural operations.

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

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

257 *Storm Drainage System.* Publicly-owned facilities by which stormwater is collected
258 and/or conveyed, including but not limited to any roads with drainage systems, municipal

259 streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and
260 detention basins, natural and human-made or altered drainage channels, reservoirs, and
261 other drainage structures.

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

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

273 *Structural controls.* Structural BMPs such as silt fences, sedimentation ponds,
274 erosion control blankets, and temporary or permanent seeding.

275 *Surface waters, or water(s), or waterway.* Waters on the surface of the earth,
276 contained in bounds created naturally or artificially, including the Atlantic Ocean, bays,
277 bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams,
278 springs, creeks, branches, sloughs, tributaries, canals, ditches, and other watercourses.

279 *Wastewater.* Any water or other liquid, other than uncontaminated stormwater,
280 discharged from a facility.

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

283 *Waterway.* A channel that directs surface runoff to a watercourse or to the public
284 storm drain.

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

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

299

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

302
303 (3) The owner of any stormwater drainage facility that connects directly or indirectly to the
304 Village's stormwater management system shall maintain the facility to limit the peak
305 discharge and the quantity of runoff entering the Village's stormwater management
306 system to that which was computed at the time the connection was authorized.

307
308 (4) In any instance where existing property, land, buildings, or development negatively
309 impact adjacent properties, land, buildings, or residences by directing or causing to
310 be directed stormwater or runoff to the adjacent site, the Village shall have the
311 authority to require said property to take corrective action as it deems appropriate to
312 ameliorate or otherwise mitigate said impact to the maximum extent practicable.
313 Failure to complete said corrective action within a reasonable time shall constitute a
314 violation of this division.

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

316 (1) Construction sites and construction activities.

317 (a) Construction sites and operations shall be required to maintain, during and after
318 all construction, development, excavation, and/or alteration operations, structural and
319 non-structural, best management practices with the intent to reduce pollutants and
320 sediment in stormwater run-off.

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

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

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

331
332 (2) Alterations or obstructions to stormwater management. Alterations or obstructions to
333 any stormwater management system, including pump stations, structural controls,
334 catch basins, culverts, wetlands, or swales shall be prohibited without prior written
335 approval of the Village.

336
337 (3) Herbicide, pesticide, fertilizer applications. Companies involved in the application of
338 herbicides, pesticides, fertilizers, or any regulated material shall be required to train
339 their employees in the application of said materials with the intent to minimize or
340 prevent over application and spills; develop plans for spill response and spill control
341 of said materials; and comply with Chapter 102 of the Village Code and Miami-Dade

342 County regulations related to herbicides, pesticides, fertilizers, or any regulated
343 material.

344
345 (4) *Litter, littering material.* The accumulation, placing, sweeping, scattering, throwing, or
346 dumping of litter, or littering material such as dead plants, yard clippings, stagnant
347 water, rubbish, debris, trash, including any wrecked, derelict, or partially dismantled
348 motor vehicle, trailer, boats, machinery, appliances, furniture or other similar division,
349 or any unsanitary, hazardous or significant material upon any surface area,
350 stormwater management system, or water body within the Village is hereby
351 prohibited.

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

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

358
359 (2) *Erosion and Sediment Control Plan Required Prior to Building Permit; Exceptions.*

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

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

376 ii) *Sites equal to or greater than one acre.* All construction activity that results in
377 the disturbance of an area equal to or greater than one acre is required to obtain
378 coverage under the FDEP Generic Permit for Stormwater Discharge from
379 Large and Small Construction Activities (Construction Generic Permit ["CGP"]).
380 The notice of intent ("NOI"), any correspondence, the acknowledgement letter
381 granting coverage under the CGP, a copy of the CGP, SWPPP, and all
382 completed inspection forms and other documentation required by the CGP
383 shall be available at the site at all times and made available to the Village
384 Manager or any other Village official or inspector until land-disturbing activities
385 have been completed. The contractor shall always have at least one person

386 on-site during work activities who is certified through the Florida Stormwater,
387 Erosion and Sedimentation Control Inspector Training Program. All
388 construction activity that involves the alteration of surface water flows is
389 required to obtain coverage under the FDEP Environmental Resource Permit
390 ("ERP") or any other agency with jurisdiction.

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

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

394

395 (3) Permit Applications.

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

401 (b) A Construction Site Erosion and Sediment Control Affidavit, in a form prescribed
402 by the Village and signed by the property owner and certified contractor, shall be
403 submitted with a building permit application and shall acknowledge that any land
404 clearing, construction, or development involving the movement of earth shall be in
405 accordance with the Erosion and Sediment Control Plan, that a certified contractor
406 shall be on site on all days when construction or grading activity takes place, and that
407 the Erosion and Sediment Control Plan will be maintained for the duration of the
408 construction phase.

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

415

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

421 (a) Approve the permit application;

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

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

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(5) Erosion and Sediment Control Plan.

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

- i) A sequence of construction of the development site, including pavement stripping; clearing and grubbing; grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- ii) All erosion and sediment control measures necessary to meet the objectives of this division throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of immediate plans may be required at the close of each season.
- iii) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quality of mulching for both temporary and permanent vegetative control measures.
- iv) Provisions for maintenance and control facilities, including easements and estimates of the cost of maintenance.
- v) Plans to be signed and sealed by a Florida registered engineer.

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

- i) Major amendments of the Erosion and Sediment Control Plan; and
- ii) Field modifications of a minor nature.

(c) Design Requirements.

- i) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of FDEP's Florida Stormwater Erosion and Sedimentation Control Inspector's Manual, and shall be adequate to prevent transportation of sediment from the site.
- ii) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns, as described in FDEP's Florida Stormwater Erosion and Sedimentation Control Inspectors Manual, latest version shall be used.
- iii) Clearing, except when necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

- 467 iv) Phasing shall be required on all sites disturbing greater than 30 acres, with the
468 size of each phase to be established at plan review and approved by the
469 Village, through its Director of Public Works and/or Building Official.
- 470 v) Erosion control requirements shall include one or more of the following, as
471 applicable and as approved by the Village through its Director of Public Works
472 and/or Building Official:
- 473 (1) Soil stabilization shall be completed within five days of clearing or inactivity
474 in construction.
- 475 (2) If seeding or another vegetative erosion control method is used, it shall
476 become established within four weeks or within such other time frame as
477 may be approved by the Village. If the seeding or other vegetative erosion
478 control method does not become established, the Village, through its
479 Building Official and/or Director of Public Works, may require the site to be
480 reseeded or a non-vegetative option employed.
- 481 (3) Special techniques that meet the design criteria outlined in FDEP's *Florida*
482 *Stormwater Erosion and Sedimentation Control Inspectors Manual*, latest
483 version on steep slopes or in drainage ways shall be used to ensure
484 stabilization.
- 485 (4) All disturbed areas of the site shall be vegetated or otherwise temporarily
486 stabilized until construction completion.
- 487 (5) Soil stockpiles must be stabilized or covered at the end of each workday.
- 488 (6) The entire site must be stabilized, using heavy mulch layer or another
489 method that does not require germination to control erosion, at the close of
490 the construction season.
- 491 (7) Techniques shall be employed to prevent the blowing of dust or sediment
492 from the site.
- 493 (8) Controlling dust on paved roadways will be done by use of a sweeper with
494 water-jet sprayers. Only enough water should be applied to control dust
495 while sweeping. Sprayers shall not generate runoff into catch basins.
- 496 (9) Techniques that divert upland runoff past disturbed slopes shall be
497 employed.
- 498 vi) Sediment control requirements shall include:
- 499 (1) Sediment traps and perimeter controls.
- 500 (2) Basins that are designed in a manner that allows adaptation to provide long
501 term stormwater management, if required by the Village, through its Building
502 Official and/or Director of Public Works.
- 503 (3) Protection for adjacent properties by the use of a vegetated buffer strip in
504 combination with perimeter controls.
- 505 vii) Waterway and watercourse protection requirements shall include:

- 506 (1) A temporary stream crossing installed and approved by the Village, through
507 its Building Official and/or Director of Public Works if a wet watercourse will
508 be crossed regularly during construction.
- 509 (2) Stabilization of the watercourse channel before, during, and after any in-
510 channel work.
- 511 (3) All on-site stormwater conveyance channels designed according to the
512 criteria outlined in the *Miami-Dade County Public Works Manual, Standard*
513 *Details.*
- 514 (4) Stabilization adequate to prevent erosion located at the outlets of all pipes
515 and paved channels.
- 516 viii) Construction site access and sediment control requirements shall include one
517 or more of the following, as applicable and as approved by the Village through
518 its Director of Public Works and/or Building Official:
- 519 (1) A temporary access road provided at all sites.
- 520 (2) Construction entrance(s) shall be stabilized wherever traffic will be leaving
521 a construction site and traveling on paved roads or other paved areas within
522 the site that is open to the public.
- 523 (3) Any sediment that is tracked onto road pavement shall be removed
524 immediately (prior to the end of each workday).
- 525 (4) Pavement shall not be cleaned by washing/flushing street unless proper
526 drain protection is in place to prevent discharges into the MS4.
- 527 (5) All sediments/soils shall remain on site.
- 528 (6) Perimeter protection, including a staked silt fence where applicable, is
529 required for all development or redevelopment activities.
- 530 (7) Catch basin inserts are to be used to prevent sediments from entering
531 drainage system. Inserts are to be inspected and cleaned weekly and after
532 each rainfall event.
- 533 (8) If a water truck is used to control dust on dirt/graded areas only, the water
534 truck will only drop enough water to control the dust or reach the optimum
535 moisture content of the soil for compaction. No run-off is to be generated.
- 536 (9) Controlling dust on paved roadways will be done by use of a sweeper with
537 water-jet sprayers. Only enough water should be applied to control dust
538 while sweeping. Sprayers shall not generate runoff into catch basins.
- 539 (10) Sediment/soil erosion entering the right-of-way, adjacent private
540 property, or waterbody shall be prohibited.
- 541 (11) Sediment/soil erosion from uplands into environmentally sensitive
542 areas shall be prohibited.
- 543 (12) Dumping or piling of construction material, vegetative debris, or
544 clippings in right-of-way or environmentally sensitive areas shall be
545 prohibited.

546 (13) Tracking sediment or soil onto a roadway shall be prohibited

547 (14) Floating turbidity curtains labeled with the name of the contractor
548 shall be required for construction or development activities occurring in or
549 adjacent to a waterway, or that may cause sedimentation of the adjacent
550 waterway.

551 (15) Other measures required by the Village, through its Building Official
552 and/or, Director of Public Works in order to ensure that sediment is not
553 tracked onto public streets by construction vehicles or washed into storm
554 drains.

555 (6) Inspections.

556 (a) The Village, through its Building Official and/or Director of Public Works, shall
557 make inspections as hereinafter required and shall approve the portion of the work
558 completed or shall notify the permittee wherein the work fails to comply with the
559 Erosion and Sediment Control Plan as approved. Plans for grading, stripping,
560 excavating, and filling work bearing the stamp of approval of the Village, through its
561 Building Official and/or Director of Public Works shall be maintained at the site during
562 the progress of the work. To obtain inspections, the permittee shall notify the Village's
563 Building Department at least two business days before the following:

- 564 i) Start of construction;
565 ii) Completion of site clearing; and
566 iii) Completion of construction.

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

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

577 (7) Enforcement.

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

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

588 (1) *Illegal Discharges Prohibited.*

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

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

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

601 (a) Water line flushing or other potable water sources;

602 (b) Landscape irrigation or lawn watering;

603 (c) Diverted stream flows;

604 (d) Rising ground waters;

605 (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to
606 separate storm sewers;

607 (f) Uncontaminated pumped ground water;

608 (g) Discharges from potable water sources;

609 (h) Foundation drains;

610 (i) Air conditioning condensate;

611 (j) Irrigation water;

612 (k) Springs;

613 (l) Water from crawl space pumps;

614 (m) Footing drains;

615 (n) Lawn watering;

616 (o) Individual residential (i.e., non-commercial) car washing;

617 (p) Flows from riparian habitats and wetlands;

618 (q) Dechlorinated swimming pool discharges;

619 (r) Street wash waters;

- 620 (s) Discharges or flows from emergency firefighting activities;
621 (t) Reclaimed water line flushing authorized pursuant to a permit issued under the
622 authority of Rule 62-610, Florida Administrative Code;
623 (u) Flows from uncontaminated roof drains; and
624 (v) Dye testing after obtaining approval in writing from the Village prior to the time of
625 the test.
626 (w) Discharges specified in writing by the Village Manager or designee as being
627 necessary to protect public health and safety.

628 (3) Reporting of Illicit Discharges. Notwithstanding other requirements of law, any person
629 responsible for a facility operation, or responsible for emergency response for a
630 facility or operation, upon learning of any known or suspected release of materials
631 which are resulting or may result in an illegal discharge of a pollutant into stormwater,
632 the storm drain system, or waters of the state, shall take all necessary steps to ensure
633 the discovery, containment, and cleanup of such release. In the event that hazardous
634 materials are released, said person shall immediately notify the State Warning Point
635 and the Village. In the event that only non-hazardous materials are released, said
636 person shall notify the Village's Building Department and/or Public Works Department
637 immediately. If the discharge of prohibited materials emanates from a commercial or
638 industrial establishment, the owner or operator of such establishment shall also retain
639 an on-site written record of the discharge and the actions taken to prevent its
640 recurrence. Such records shall be retained for at least three (3) years and available
641 for inspection by the Village and/or other appropriate agencies.

642
643 (4) Illicit Connections Prohibited.

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

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

651 (5) Suspension and Termination of MS4 access.

652 (a) Suspension due to illicit discharges in emergency situations. The Village may,
653 without prior notice, suspend MS4 discharge access to a person when such
654 suspension is necessary to stop an actual or threatened discharge which presents or
655 may present imminent and substantial danger to the environment, or to the health or
656 welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply
657 with a suspension order issued in an emergency, the Village Manager or designee

658 may take such steps as deemed necessary to prevent or minimize damage to the MS4
659 or Waters of the State, or to minimize danger to persons.

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

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

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

670 To the fullest extent allowed by law, the Village may enter all structures and premises to
671 perform inspections, surveillance, and monitoring procedures, within reasonable hours,
672 of said structures or premises, and shall have free access to copying or reviewing
673 pertinent records of a facility, system, or premises in order to ascertain the state of
674 compliance with the laws, rules, and regulations of the Village, as outlined in this division.

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

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

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

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

685
686 (2) Access to Properties.

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

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

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

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

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

708 (f) Unreasonable delays in allowing the Village access to a permitted facility is a
709 violation of a stormwater discharge permit and of this ordinance. A person who is the
710 operator of a facility with a NPDES permit to discharge stormwater associated with
711 industrial activity commits an offense if the person denies the Village Manager or
712 designee reasonable access to the permitted facility for the purpose of conducting
713 any activity authorized or required by this ordinance.

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

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

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

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

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

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

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

742
743 (2) The property owner or operator of a commercial or industrial establishment shall
744 provide, at their own expense, reasonable protection from accidental discharge of
745 prohibited materials or other wastes into the municipal storm drain system or
746 watercourses through the use of these structural and non-structural BMPs.

747
748 (3) Any person responsible for a property or premise, which is, or may be, the source of
749 an illicit discharge, may be required to implement, at said person's expense,
750 additional structural and non-structural BMPs to prevent the further discharge of
751 pollutants to the municipal separate storm sewer system.

752
753 (4) Compliance with all terms and conditions of a valid NPDES permit authorizing the
754 discharge of stormwater associated with industrial activity, to the extent practicable,
755 shall be deemed compliance with the provisions of this section. These BMPs shall be
756 part of a stormwater pollution prevention plan (SWPP) as necessary for compliance
757 with requirements of the NPDES permit.

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

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

770
771 (2) Upon determination of a violation of this division, the violator shall bear all costs
772 incurred for clean-up, enforcement action, and remediation.

773
774 (3) The Village may order the correction of any unsafe, nonconforming or unauthorized
775 condition which is in violation of any provision of this division. The Village may also
776 order the discontinuance of any activity causing such condition.

- 777
- 778 (4) Any person responsible for pollutant discharge into any body of water or stormwater
779 systems, and who fails to correct any prohibited condition or discontinue any
780 prohibited activity at the Village's request, shall be responsible to pay the necessary
781 expenses incurred by the Village in carrying out the pollution abatement, including
782 any expenses incurred in testing, measuring, sampling, collecting, removing,
783 containing, treating, and disposing of the pollutant materials.
784
- 785 (5) If abatement of a violation and/or restoration of affected property is required, the
786 notice shall set forth a deadline within which such remediation or restoration must be
787 completed. Said notice shall further advise that, should the violator fail to remediate
788 or restore within the established deadline, the work will be done by a designated
789 governmental agency or a contractor and the expense thereof shall be charged to
790 the violator.
791
- 792 (6) Cost of Abatement of the Violation. The owner of the property will be notified of the
793 cost of abatement, including administrative costs. If the amount due is not paid within
794 10 days after notice of the cost of abatement, the charges shall become a special
795 assessment against the property and shall constitute a lien on the property for the
796 amount of the assessment. The costs shall be paid in not more than 12 equal
797 payments. Interest shall be assessed in accordance with and at the rate set forth in
798 section 170.09, Florida Statutes.
799
- 800 (7) Violations Deemed a Public Nuisance. In addition to the enforcement processes and
801 penalties provided herein, any condition caused or permitted to exist in violation of
802 any of the provisions of this division is a threat to public health, safety, and welfare,
803 and is declared and deemed a nuisance, pursuant to section 823.01, Florida Statutes,
804 and thereby constitutes a second degree misdemeanor punishable by a \$500 fine
805 pursuant to section 775.083(1)(e), Florida Statutes. The nuisance may be summarily
806 abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or
807 otherwise compel the cessation of such nuisance may be taken.
808
- 809 (8) In addition to the remedies set forth in this division, the Village may, immediately upon
810 discovering an ongoing or potential discharge of pollutants into the Village's bodies
811 of water or stormwater system in violation of this division, seek relief in any court of
812 competent jurisdiction for a temporary restraining order or temporary or permanent
813 injunction to halt or prohibit such discharge. Prior to the filing of such judicial action,
814 the Village shall attempt to notify the offender of the Village's intention to file such
815 action, but such notification shall not be a condition precedent to the Village's action
816 for and obtaining such or other relief.
817

818 (9) The remedies and penalties provided in this section are not exclusive, and the Village
819 may seek whatever other remedies are authorized by statute, at law, or in equity,
820 against any person who violates the provisions of this division.
821

822 **Secs. ~~20-441124~~—20-129. - Reserved.**

823
824

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

828 **Section 4. Severability.** That the provisions of this Ordinance are declared to
829 be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for
830 any reason, be held to be invalid or unconstitutional, such decision shall not affect the
831 validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but
832 they shall remain in effect, it being the legislative intent that this Ordinance shall stand
833 notwithstanding the invalidity of any part.

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

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

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

842

843 First Reading: _____, 2023

844 Second Reading: _____, 2023

845

846

847 Attest:

848

849

850 _____

851 Ysabely Rodriguez, CMC

852 Village Clerk

853

854

855

856 APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

857

858

859 _____

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

861 Village Attorney

862

863

864

865

866

George Burch

Mayor

FINAL VOTES AT ADOPTION

Council Member Jerome Charles _____

Council Member Sandra Harris _____

Council Member Daniel Marinberg _____

Vice Mayor Jesse Valinsky _____

Mayor George Burch _____