

CHAPTER 1. GENERAL PROVISIONS

1.1. Title.

1.1.1 *Entitlement of code.* This code shall be entitled the "Biscayne Park Land Development Code" and may be referred to as "Land Development Code" or "Code". ~~and may also be cited as "this code".~~

1.2. Authority.

1.2.1 *Enactment of eCode.* This Land Development Code is enacted pursuant to the requirements and authority of Florida law and the Village Charter. ~~F.S. § 163.3203, (the Local Government Comprehensive Planning and Land Development Regulation Act), the Village Charter effective 1933, 2006, and the general powers in F.S. Ch. 166/125, (City Government).~~

1.3. Findings.

1.3.1 *Statutory requirement.* Chapter 163 of the Florida Statutes F.S. Ch. 163, requires each Florida local government to enact a single land development code which implements and is consistent with the local comprehensive plan, and which contains all land development regulations for the vVillage.

1.3.2 *General public need.* The control of the location, design, and construction of development within the vVillage is necessary to maintain and improve the ~~quality of life in Biscayne Park.~~ health, safety and welfare of the Village.

1.4. Intent.

1.4.1 *General intent.* The provisions of this Land Development Code shall be construed and implemented to achieve the following intentions and purposes of the vVillage eCommission:

(a) To foster and preserve public health, safety, comfort and welfare, to aid in the harmonious, orderly, aesthetically pleasing and socially beneficial development of the village in accordance with the comprehensive plan.

(b) To implement the vVillage eComprehensive pPlan as required by the Local Government Comprehensive Planning and Land Development Regulation Act.

(c) To establish the regulations, procedures and standards for review and approval of all proposed development in the vVillage.

(d) To provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet the level of service requirements (concurrency).

1.4.2 *Specific intent.* The provisions of this code dealing with the following specific subject areas shall be construed and implemented to achieve the intentions and purposes of the comprehensive plan and F.S. § Section 163.3202 (2) of the Florida Statutes, as amended from time to time.

- (a) Future land use, including historic sites;
- (b) Housing;
- (c) Transportation, including parking;
- (d) Public facilities and services, including stormwater management;
- (e) Recreation and open space;
- (f) Environmental management, including tree protection;
- (g) Adopted levels of service;
- (h) Design and improvement standards, including subdivision of land;
- (i) Accessory structures;
- (j) Signs;
- (k) Planning board and local planning agency;
- (l) Enforcement;
- (m) Procedures;
- (n) Permits and certificates;
- (o) Notices;
- (p) Fees, bonds, and charges.

1.5. Relationship to the comprehensive plan.

1.5.1 *Implements the comprehensive plan.* The adoption of a unified land development code implements the goals, policies and objectives of the comprehensive plan.

1.5.2 *Consistency with the comprehensive plan.* A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities in the

comprehensive plan and if it meets all other criteria enumerated by the local government (~~F.S. § 163.3194(3)(b)~~). consistent with Section 163.3194, as amended from time to time.

1.6. Applicability.

1.6.1 *General applicability.* Except as specifically provided herein, the provisions of this code shall apply to all development in the ~~v~~Village, and no development shall be undertaken without prior authorization pursuant to this code.

1.6.2 *Exceptions.* The provisions of this code and amendments thereto shall not affect the validity of any lawfully issued and effective building permit provided the activity authorized by the permit has been commenced prior to the effective date of this code or any amendment thereto, or will be commenced after the effective date of this code but within six (6) months of issuance of the building permit.

1.6.3 *Consistency with the comprehensive plan.* Nothing in this section shall be construed to authorize development that is inconsistent with the village comprehensive plan.

1.7. Rules of interpretation.

1.7.1 *General rules.* In the interpretation and application of this code all provisions shall be liberally construed in favor of the objectives and purposes of the village and deemed neither to limit nor repeal any other powers granted under state statutes.

1.7.2 *Responsibility of interpretation.* In the event that any question arises concerning the application of regulations, definitions, or any other provision of this code, the planning board shall be responsible for interpretation and shall look to the village comprehensive plan for guidance. Responsibility for interpretation by the planning board shall not be construed to include interpretation of any technical codes adopted by reference in this code, nor be construed to override the responsibilities given to any commission, board, or official named in other sections of this code.

1.7.3 *Minimum requirements.* ~~In interpreting and applying the provisions of this code, the planning board shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare of the community. Where this code imposes a higher standard upon the use of buildings or premises, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements the provisions of this code shall control.~~

1.8. Repeal of prior provisions.

~~1.8.1 *Effect of repeal of ordinances.*—~~

~~(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinances repealed took effect.~~

~~(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.~~

~~State constitutional law reference—No bill of attainder, ex post facto law or law impairing the obligation of contracts shall ever be passed, Florida Constitution, Article I, § 10.~~

~~1.8.2 *Certain ordinances not affected by code.* Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this code:~~

~~(a) Any ordinance promising or guaranteeing the payment of money by the village, or authorizing the issuance of any bonds of the village, or any evidence of the village's indebtedness, or any contract agreement, lease, deed or other instrument or obligation assumed by the village;~~

~~(b) Any right or franchise permit, or other right granted by any ordinance;~~

~~(c) Any personnel regulations;~~

~~(d) Any ordinance establishing position, classifying positions or setting salaries of village officers and employees;~~

~~(e) Any ordinance establishing and prescribing the street grades in the village;~~

~~(f) Any appropriation ordinance or any ordinance levying or imposing taxes;~~

~~(g) Any ordinance providing for local improvements and assessing taxes therefor;~~

~~(h) Any ordinance dedicating or accepting any plat or subdivision in the village;~~

~~(i) Any ordinance establishing the official plat of the village, the future land use or residential sectors map or any amendments thereof;~~

~~(j) Any easements, or land uses ordinance;~~

~~(k) Any ordinance prescribing traffic and parking regulations for specific streets and location;~~

~~(l) Any ordinance annexing territory or excluding territory from the village;~~

~~(m) Any temporary or special ordinance;~~

~~(n) Any provisions of Chapter 16319, 1933, Special Acts of Florida Legislature, as amended by special law or otherwise, which have been converted to ordinances by F.S. Ch. 166 and have not been superseded or repealed;~~

~~and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.~~

~~1.8.3 *Code and prior offenses, penalties, rights, etc.* Nothing in this code or the ordinance adopting this code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this code.~~

~~1.8.4 *Abrogation.* This land development code is not intended to repeal, annul, or interfere with any existing easements, covenants, or deed restrictions duly recorded in the public records.~~

1.89. Amendments.

1.89.1 *Amendments to code; effect of new ordinances; amendatory language.*

(a) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion therein. When subsequent ordinances repeal any

chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the code by omission from reprinted pages.

~~(b) Amendments to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this code in substantially the following language:~~

~~"That section _____ of the Land Development Code of Ordinances, Village of Biscayne Park, Florida, is hereby amended to read as follows: _____."~~

~~The new provisions shall then be set out in full as desired.~~

~~(c) If a new section not heretofore existing in the code is to be added, the following language may be used:~~

~~"That the Land Development Code of Ordinances, Village of Biscayne Park, Florida, is hereby amended by adding a section to be numbered _____, which section reads as follows: _____."~~

~~The new section may then be set out in full as desired.~~

~~(d) All sections, divisions, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.~~

~~**State law references:** Minimum procedural requirements for adoption of ordinances and resolutions, F.S. § 166.041.~~

1.910. Supplements.

1.910.1 *Supplementation of code.*

(a) By contract or by village personnel, supplements to this code shall include all substantive permanent and general parts of ordinances passed by the commission or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the code, but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

1.1011. Severability.

1.1011.1 *Severability of parts of code.* It is hereby declared to be the intention of the commission that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

1.1112. Section catchlines.

1.12.1 *Catchlines of sections.* The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

1.1213. Reference sources.

1.1213.1 *History notes.* The history notes appearing in parenthesis or footnotes of sections of this code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

1.1314. Incorporation by reference.

1.1314.1 *Technical construction standards manuals.* The South Florida Building Code and the Public Works Manual, Miami Dade County are hereby incorporated into this code by reference.

1.1314.2 *Map.* The map showing the residential sectors is incorporated into this code by reference.

1.1314.3 *Table*. The table of residential sectors is incorporated into this code by reference.

~~1.15. Effective date. 1.15.1 Effective date of land development regulations. These regulations shall be effective on May 1, 1990.~~

CHAPTER 2. DEFINITIONS

2.1. Generally.

2.1.1 *Establishment of definitions*. In the construction of this code, and of all ordinances, the following are the definitions adopted, unless such definitions would be inconsistent with the manifest intent of the village commission.

2.2. Meanings.

2.2.1 *Accessory use*: A building or structure, the use of which is incidental to the main building or structure, and is located on the same lot, and the use of which is manifestly incidental to that of the main building.

2.2.2 *Addition*: An extension or increase in floor area or height of a building.

2.2.3 *Adult Congregate Living Facility (ACLF)*: A type of residential care facility, defined in F.S. Ch. 400, Pt. 2: Chapter 400, Florida Statutes, as amended from time to time.

2.2.4 *Alley*: A narrow thoroughfare dedicated or used for public passageway up to twenty-five (25) feet in width, upon which usually abut the rear of the premises, or upon which service entrances or buildings abut, and not generally used as a thoroughfare by both pedestrians and vehicles, which is not used for general traffic, and is not otherwise officially designated as a street.

2.2.5 *Alteration*: Any change or modification of construction, space arrangement and/or occupancy of a building, or decreasing or increasing the area thereof.

2.2.6 *Building*: Any structure, either temporary or permanent, having a roof. ~~Anything constructed or erected, the use of which demands a permanent location on the land or anything attached to a building.~~

2.2.7 *Business or commercial*: Any use or activity designed or used for gainful purposes.

2.2.8 *Carport*: A covered area for sheltering a motor vehicle that is a permanent structure.

2.2.9 *Charter*: The word "charter" shall mean the Charter of the Village of Biscayne Park as printed in Part I of the ~~General Code of the village.~~

2.2.10 *Code*: Reference to "~~this e~~Code" shall mean the Land Development Code of Ordinances, Village of Biscayne Park, Florida, as designated in chapter 1, subsection 1.1.

2.2.11 *Commission*: The words "commission," "village commission" or "governing body" shall mean the village commission of the Village of Biscayne Park.

2.2.12 *Community residential home*: A community residential home means a dwelling unit licensed to serve clients of the department of health and rehabilitative services, which provides a living environment for seven (7) to fourteen (14) unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

2.2.13 *Comprehensive plan*: A plan that meets the requirements of F.S. ~~§§ 163.3177 and 163.3178~~. Chapter 163 of the Florida Statutes.

~~2.2.14 *Computation of time*: In computing any period of time prescribed or allowed by this code the day of the act, event or default from which the designated period of time beginning to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.~~
~~**State law references:** Similar provision, Florida Rules of Civil Procedure, § 1.090(a).~~

2.2.15 *County*: The words "the county" or "this county" shall mean **Miami**- Dade County, Florida.

~~**State law references:** Boundaries of Dade County, F.S. § 7.13.~~

2.2.16 *Delegation of authority*: Whenever a provision appears requiring the head of a department or officer of the village to do some act or make certain inspections, it is to be construed to authorize the head of the department or officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

2.2.17 *Developer*: Any person, including a governmental agency, undertaking any development as defined in F.S. § 380.04.

2.2.18 *Development*: Any of the following activities: Building, installing, enlarging, replacing or substantially restoring a structure; a minor replat; alteration of a historic property for which authorization is required under this code; tree removal for which authorization is required under this code.

2.2.19 *Development order*: Any order granting, denying, or granting with conditions an application for a development permit.

2.2.20 *Development permit*: This includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

2.2.21 *Dish antenna*: A dish antenna intended for the purpose of receiving communications from orbiting satellites and other extraterrestrial sources, a low noise amplifier (L.N.A.) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals, a coaxial cable for the purpose of carrying signals to the interior of a building.

2.2.22 *Domestic and commercial building material waste*: This type of waste includes sand, earth, wood, stone, brick, concrete construction blocks, roofing materials, metals, cardboard products and any other waste material accumulated after construction, renovation, remodeling, repair projects or removal of buildings.

2.2.23 *Dwelling, one-family*: A private residence building used or intended to be used as a home or residence in which all living rooms are accessible to each other from within the building and in which the use and management of all sleeping quarters, all appliances for sanitation, cooking, ventilating, heating or lighting are for the use of one (1) family only.

2.2.24 *Dwelling, duplex*: A residence building designed for, or used as the separate home or residence of two (2) separate and distinct families, but having the appearance of a single-family dwelling house. Each individual unit in the duplex shall comply with the definition for a one-family dwelling.

2.2.25 *Family*: One (1) person, or a group of two (2) or more persons living together and interrelated by blood, marriage or legal adoption, occupying a dwelling unit designed as a single-family use, as a separate housekeeping unit with a single set of kitchen facilities. The persons thus constituting a family may also include gratuitous guests and domestic servants.

~~2.2.26 *F.S.*: The abbreviation "F.S." shall mean the latest edition or supplement of the Florida Statutes.~~

2.2.26 *Fence*: An artificially constructed barrier, including gates, erected to enclose, screen, or separate an area.

2.2.27 *Garage, private*: A structure not larger than five hundred (500) square feet in area for the private use solely for the owner or occupant of the principal building on a lot or of his family or domestic employees for the storage of motor vehicles, and which has no public shop or mechanical service in connection therewith.

2.2.28 *Gender*: A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

2.2.29 *Gross density*: The total number of dwelling units divided by the total site area plus half the width of the public right-of-way.

2.2.30 *Gross floor area*: The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, or any space where the floor-to-ceiling height is less than six (6) feet.

2.2.31 *Hedge*: ~~A dense row of shrubs or low trees in excess of eight (8) feet in length which constitutes a barrier.~~ A continuous planting of shrubs constituting a visual screen serving a function similar to a fence or wall.

2.2.32 *[Reserved.]*

2.2.33 *Highway (street)*: Any public thoroughfare wider than twenty-five (25) feet including streets, which afford primary access to abutting property, and any thoroughfare of less width which is not classed as an alley.

~~2.2.34 *Keeper and proprietor*: These terms include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.~~

2.2.34~~35~~ *Land*: The earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

2.2.35~~36~~ *Land use*: The development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under an adopted comprehensive plan or element or portion thereof, land development regulations, or land development code, as the context may indicate.

2.2.36~~37~~ *Lot*: A parcel of land fronting on a street, place, way or waterway which is or may be occupied by a building and its accessory units including the open spaces required by the terms of this code and which parcel or land is a matter of record in the public records of Miami-Dade County, Florida. A lot having two (2) such frontages shall be known as a dual frontage. The word "lot" includes the words "plot" and "tract."

2.2.37~~38~~ *Lot, corner*: Any lot situated at the junction of and abutting on two (2) or more intersections or intercepting streets or public highways. If the angle of intersection of the direction lines of two (2) highways is more than one hundred thirty-five (135) degrees, the lot fronting on said intersection is not a corner lot.

2.2.38~~39~~ *Lot lines, front*: In the case of a lot abutting upon only one (1) street, the front line is the line separating such lot from the public right-of-way. In the case of a corner lot not occupied by a building that part of the lot having the narrowest frontage on any street shall be considered the front lot line. In the case of a corner lot occupied by a building the front lot line shall be determined by the location of the front door of the dwelling. In the case of any other lot, one (1) such line shall be elected to be the front

line for the purposes of this code, provided it is so designated by the building plans which meet the approval of the planning board.

2.2.3940 *Lot line, rear:* The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, or any odd-shaped lot, the rear lot line shall be determined by the planning board.

2.2.4044 *Lot line, side:* A side lot line is any boundary lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street is an exterior side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

2.2.4142 *Manufactured home:* A structure, transportable in one (1) or more sections, which is built on a permanent chassis, designed to be used with or without a permanent foundation, and connected to the required utilities.

2.2.4243 *Minor replat:* The subdivision of a single lot or parcel of land into two (2) lots or parcels, or the subdivision of a parcel into two (2) or more lots solely for the purpose of increasing the area of two (2) or more adjacent lots or parcels of land, where there are no roadway, drainage or other required improvements, and where the resultant lots comply with the standards of this code.

2.2.4344 *Mobile home (trailer):* A non-self-propelled vehicle or conveyance, permanently equipped to travel upon the public highways, that is used either temporarily or permanently as a residence or living quarters.

~~2.2.45 *Month:* The word "month" shall mean a calendar month.~~

~~2.2.46 *Name of officer, department, board, etc.:* The naming of an officer, department, board, etc., shall be construed as if followed by the words "of the Village of Biscayne Park."~~

2.2.4447 *Nonconforming use:* Use of any property or premises in any manner which does not comply with the regulations provided for the residential sector in which the property or premises are situated, if such use was originally legally established.

2.2.4548 *Nontechnical and technical words:* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

2.2.4649 *Number:* A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

2.2.4750 *Oath:* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be submitted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

2.2.4854 *Owner*: The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

2.2.4952 *Person*: The word "person" shall extend and be applied to individuals, children, associations, firms, joint ventures, estates, trusts, business trusts, syndicates, fiduciaries, partnerships and bodies politic and corporate, and all other groups and combinations.

2.2.5053 *Planning board*: The Village of Biscayne Park Planning Board.

2.2.5154 *Preceding, following*: The words "preceding" and "following" means next before and next after, respectively.

2.2.5255 *Real property*: Land, and generally whatever is erected or growing upon or affixed to land. Also rights issuing out of, annexed to, and exercisable with or about land.

2.2.5356 *Recreation vehicle*: (**Land Based Vehicles**) A vehicular-type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreation, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

2.2.5457 *Setback*: The minimum horizontal distance between the street, rear or side lines of a lot and the front, rear or side lines of the building. When two (2) or more lots under one (1) ownership are used, the exterior property line so grouped shall be used in determining setbacks.

2.2.5558 *Shall*: the word "shall" is mandatory and not ~~directory~~ [discretionary].

2.2.5659 *Sidewalks*: Any portion of a street between the curblineline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

2.2.5760 *Singular*: The singular includes the plural, and the plural includes the singular.

2.2.5864 *Solid waste management*: The process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way, according to an orderly purposeful, and planned program.

(a) *Solid waste* includes garbage, refuse, yard trash, clean debris, white goods, special waste, ashes, sludge, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic or governmental operations.

(b) *Yard trash* means vegetative matter resulting from landscaping maintenance and land-clearing operations.

(c) *Clean debris* means any solid waste which is virtually inert and which is not a pollution threat to groundwater or surface waters and is not a fire hazard, and which is likely to retain its physical and chemical structure under expected conditions of disposal or use. The term includes uncontaminated concrete, including embedded pipe or steel, brick, glass, ceramics, and other wastes designated by the department of environmental regulation.

(d) *White goods* includes inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

(e) *Special wastes* means solid wastes that require special handling and management, including but not limited to, white goods, whole tires, used oil, mattresses, furniture, lead-acid batteries, and biological wastes.

(f) *Sludge* includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility; and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

State law references: ~~Environmental control, resource recovery and management, definitions, F.S. § 403.703.~~

2.2.~~59~~62 *State*: The words "the state" or "this state" shall mean the State of Florida.

2.2.~~60~~63 *Stormproof*: Requires compliance with the latest adopted methods or codes.

2.2.~~61~~64 *Structural alterations*: Any change in the shape, size of any portion of a building or of the supporting members of a building or structure such as walls, columns, beams, arches, girders, floor joists or roof joists.

2.2.~~62~~65 *Structure*: Anything constructed or erected the use of which requires rigid location on the ground, or attachment to something having a permanent location on the ground, including buildings, walls, fences, signs, light standards, towers, tanks, etc.

2.2.~~63~~66 *Tenant*: The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease of or who occupies, the whole or part of such a building or land, either along or with others.

2.2.~~64~~67 *Tense*: Words used in the past or present tense include the future as well as the past and present.

2.2.6568 *Village*: The words "the village" or "this village" shall mean the municipal corporation of Biscayne Park, Florida, or any of its officers, agents or departments, as the sense shall require or admit.

2.2.6670 *Yard*: An open space on the same lot with a building, said space being unoccupied and unobstructed from the ground upward, except as otherwise permitted herein. A front, rear, or side yard shall be defined as that open space adjoining a front, rear, or side lot line respectively.

~~2.2.71 *Year*: The word "year" shall mean a calendar year, unless otherwise specified. (Ord. No. 283, § 1, 10-5-93)~~

~~**State law references:** Construction of Florida Statutes, F.S. § 1.01 et seq~~

PART II. ELEMENTS

CHAPTER 3. FUTURE LAND USE

3.1. Generally.

3.1.1 *Purpose of chapter.* The purpose of this chapter is to describe the specific uses and restrictions that apply to the land use district in the land use element of the comprehensive plan. These regulations are intended to allow development and use of property only in compliance with the goals, objectives, and policies of the Vvillage as expressed in the village of Biscayne Park's Comprehensive Plan.

3.2. Land use district.

3.2.1 *Land use district instituted.* The land use district for the village is instituted in the comprehensive plan, future land use element, including a map. The land use district and classifications defined in the future land use element of the Biscayne Park Comprehensive Plan and delineated in the future land use map shall be the determinants of permissible activities on any parcel in the jurisdiction. Allowable uses are described in section 3.3 below to safeguard the compatibility of adjacent land use activities with the land use district and address the location and extent of nonresidential land uses.

3.2.2 *Land use district; established residential.* The established residential land use district is provided to supply appropriate standards for the protection of the district consistent with the established development in the fully developed village. Appropriate uses are limited to residential development at existing densities, parks, public open spaces and outdoor recreation uses, and defined public service uses.

3.2.3 *Residential sectors instituted.* The village is hereby divided into residential sectors as shown on the official sector map made by the planning board and hereby made a part of this chapter. The original map is on file in the village clerk's office and a copy is included [following this appendix]. The sectors are designated and shall be subject to regulations as herein provided.

Cross references: Adopted levels of service shall not be degraded, § 9.2.

3.3 Uses allowed.

3.3.1 Types of uses allowed in the established residential land use district.

(a) *Residential.* The category of residential uses includes one-family dwellings and two-family dwellings. Certain areas or sectors of the village are limited to one (1) or more housing types in order to preserve the established character of the area.

(b) *Public open space and outdoor recreational.* These uses include public parks, street medians and parkways, and areas for outdoor recreational activities. Permissible uses shall include parks, public playgrounds, tennis courts, and similar recreational uses. No land or buildings shall be used for any use inconsistent with the rights of the public. Owners of property desiring to convey or dedicate areas to public or quasi-public use shall file an application with the planning board.

Cross references: Adopted levels of service, § 9.3.

(c) *Public service.* The public service category provides for institutional, such as churches, and public utility uses such as emergency service activities and maintenance facilities.

3.3.2 Allowable uses within each residential sector.

(a) The following uses are allowed in sectors A, B, and C in the established residential land use district. All other uses are prohibited:

- (1) Residential;
- (2) Public open space and outdoor recreational;
- (3) Public service.

(b) The following uses are allowed in sector D. All other uses are prohibited:

- (1) Community residential home;
- (2) Public open space;
- (3) Temporary parking (unpaved surface).

(c) Refer to Table A for the regulations applicable to each residential sector.

3.4. Nonconforming uses.

3.4.1 Prohibited uses. The following uses are specifically prohibited and declared unlawful, but the enumeration of these specific uses shall not by implication grant the

right to make any use not expressly permitted in this Code ~~by the terms of Ordinance No. 84 (11-21-1944).~~

(a) Garage apartment, tourist tent, trailers or trailer camps, truck trailers, mobile homes, amusement parks, bungalow courts, chicken houses, private or commercial dog kennels, rabbit hutches, night clubs, beer gardens, house boats, commercial boat houses or any use defined as commercial.

(b) Any use not consistent with the residential sector regulations (Table A).

3.4.2 *Nonconforming use discontinued.* The lawful use of land or improvements existing at the time of the adoption of this code, although such use does not conform to the provision hereof, may be continued, but if discontinued for a period of six (6) months such nonconforming use shall not thereafter be re-established and the future use of such land or improvements shall be in conformity with the provisions of this code. If any such non-conforming structure is destroyed to an extent of more than fifty (50) percent of its replacement cost at the time of destruction as determined by the replacement valuation on the most recent county tax roll, it shall not be reconstructed except in conformity with these regulations.

(Ord. No. 283, § 2, 10-5-93)

3.5. Historic sites.

3.5.1 *Historic preservation ordinance.* To protect, enhance and perpetuate properties of historic value and architectural merit in the village the Metropolitan Dade County Historic Preservation Ordinance is hereby incorporated by reference into this code.

3.5.2 *Building permit for designated historic sites.* No building permit for alteration, restoration or renovation will be issued by the village for a building or structure which is designated by the Dade County Historic Preservation Board prior to the approval of a certificate of appropriateness by the historic preservation board.

Reference--County Ord. No. 81-13, § 1, 2-17-81.

CHAPTER 4. HOUSING

4.1. Minimum housing standards.

4.1.1 *Applicability of the Dade County Code.* The provisions of the Dade County Code Chapters 17, Housing and 17A, Vacant Housing Structures Standards, Minimum, are incorporated herein by reference and shall be applicable as a minimum standard in the village to, among other things, prevent blight and decay and to safeguard public health, safety, morals and welfare.

(Ord. No. 283, § 3, 10-5-93)

4.2. Structural recertification of existing buildings forty (40) years or older.

4.2.1 *Applicability of the Dade County Ordinance.* The provisions of the Metropolitan Dade County Ordinance shall be applicable for structural recertification of existing buildings forty (40) years and older in the village.

Reference--County Ord. No. 75-34, § 5-21-75.

4.3. Dwelling types.

4.3.1 *Dwelling types allowed.* Dwelling types allowed in each residential sector of the village shall be only as described in Table A, Residential Sectors.

4.3.2 *Dwelling types prohibited.* Mobile homes are prohibited.

4.4. Community residential homes.

4.4.1 *Community Residential Homes Act.* The state requirements for siting of community residential homes are hereby incorporated into this code by reference.

~~4.4.2 *Designated site for a community residential home.* A site for a community residential home is designated as residential sector D in the established land use district.~~

Cross references: Allowable use within each residential sector, § 3.3.2(b).

State law references: Community residential homes, F.S. § 419.001 et seq.

CHAPTER 5. TRANSPORTATION

5.1. General provisions.

5.1.1 *Purpose.* This chapter establishes minimum requirements applicable to the transportation system, including public and private streets, bikeways, pedestrian ways, parking, and access control from public streets. The standards in this chapter are intended to minimize the traffic impacts of development, and to assure that all developments adequately and safely provide for the storage and movement of vehicles with good engineering and development design practices.

5.1.2 *Compliance with technical construction standards manual.* All required elements of the transportation system shall be provided in compliance with the engineering design and construction standards of the Public Works Manual, Metro-Dade County Village of Biscayne Park.

5.2. Streets.

5.2.1 *Street classification system established.* Streets in the village are classified and mapped according to function served in order to allow for regulation of access and appropriate design and construction standards. Streets dedicated to the village and private streets are classified in a street hierarchy system with design tailored to function. The street hierarchy system shall be defined by road function and average daily traffic

(ADT), calculated by trip generation rates prepared by the Institute of Transportation Engineers. The following street hierarchy is established: Residential, collector, and arterial. Each street type is divided into subcategories.

5.2.2 *Residential streets (local roads)*. Residential streets are primarily suited to providing direct access to residential development and are designed to minimize unnecessary and/or speeding traffic. Each residential street shall meet the minimum standards for one (1) of the following street types:

(a) *Residential access street*. This is the lowest order street in the hierarchy. A residential access street is a frontage street which provides direct access to abutting properties and should not carry more traffic than is generated on the street itself. Residential access streets may take access from any higher order street type. Both ends of a residential loop street must take access from a single higher order street. Residential access streets shall have a maximum average daily trip ("ADT") ADT of five hundred (500) vehicles. Loop streets shall have a maximum of four hundred (400) vehicles. Cul-de-sacs shall have a maximum ADT of two hundred (200) vehicles.

(b) *Residential subcollector street*. This is the middle order street in the residential street hierarchy. It will collect traffic from residential access streets and provide direct access to abutting properties. Residential subcollector streets may take access from any higher order street type and may give access to residential access streets and may provide direct access to nonresidential uses. Residential subcollector streets shall have a maximum ADT of one thousand (1,000).

(c) *Residential collector street*. This is the highest order street that can be classified as residential. It will collect traffic from residential access and subcollector streets and may provide direct access to nonresidential uses. Residential collector streets shall have a maximum ADT of two thousand (2,000).

5.2.3 *Collector roads (county collectors)*. Collector roads connect lower order streets to other collector streets and to arterial streets, provide access to nonresidential uses, and serve through traffic. Collector streets shall have an average daily traffic volume of no greater than seven thousand (7,000) vehicles.

5.2.4 *Arterial roads (state minor arterials)*. There are three (3) types of arterial roads, minor, major, and freeways but there is only a minor type in the village. The minor arterial links community districts to regional and state highways and may give access to any lower order street type.

5.2.5 *Special purpose roadways*.

(a) *Alley*. Alleys are not considered part of the street hierarchy system as they are generally unpaved thoroughfares for the purpose of service to adjacent properties.

(b) *Divided streets.* Divided streets are for the purpose of protecting environmental features or avoiding excessive grading. In such a case, the standards shall be applied to the aggregate dimensions of the two (2) street segments.

5.2.6 *Future traffic circulation map.* The future traffic circulation map and any amendments thereto, adopted by the village as part of the comprehensive plan (Map 3.4), is hereby made a part of this code. Roadways within the village are either designated in the future traffic circulation map or may be classified according to function, design, and use by the village upon request. The map shall be the basis for all decisions regarding required road improvements or access.

5.3. Rights-of-way.

5.3.1 *Right-of-way widths.* The right-of-way shall be measured from lot line to lot line.

5.3.2 *Protection and use of rights-of-way.*

(a) No encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the village.

(b) Use of the right-of-way for public or private utilities, including, but not limited to, potable water, telephone wires, cable television wires, gas lines, sanitary sewer, or electricity transmission, shall be allowed subject to the placement specifications in the Public Works Manual, Metro-Dade County, and other applicable county regulations.

(c) All vehicles of any type parked on any street, alley, or public right-of-way in the Village of Biscayne Park shall have at all times attached a current license plate.

(d) Sidewalks and bicycle ways shall be placed within the right-of-way.

5.3.3 *Parking of trucks, etc., prohibited in the right-of-way.*

(a) It shall be unlawful to park or cause to be parked upon any public street or in the public right-of-way in the village any truck, trailer, semitrailer, bus (public or private owned) except while loading or unloading or when such vehicle is parked in connection with and in the aid of the performance of a service to or on the property being serviced.

(b) Nothing herein contained shall be deemed to prohibit the parking of one (1) truck in front of any one property not exceeding three-fourths ton net weight that contains no lettering or advertising and is owned or leased by the occupant of the property, when it is proven to be physically impossible to park it off of the public right-of-way.

(c) It shall be unlawful to park or store any boat, boat trailer, air boat, any self-propelled or nonself-propelled mobile home, motor home or camper upon any public street or in the public right-of-way in the village.

Cross references: Truck overnight parking permit, § 16.11.

5.3.4 *Objects in the right-of-way.*

(a) *Markers.* Dome type markers only may be placed within dedicated right-of-way provided that they are placed not closer than eighteen (18) inches to the nearest edge of the paved surface of the designated roadway. All markers must be at least twenty-four (24) inches apart. Markers placed in the right-of-way shall not exceed twelve (12) inches in diameter nor be more than six (6) inches in height and shall be white in color.

(b) *Landscaping.* Nothing shall be planted or allowed to grow in such a manner so as to obstruct the right-of-way clear zone at a level between three (3) feet and six (6) feet above the grade, measured at the centerline of right-of-way. Trees or palms, however, having trunks and foliage trimmed in such a manner that no branches or foliage extend into the right-of-way area clear zone shall be allowed, provided they are so located so as not to create a traffic hazard.

(c) *Paving and drainage.* Pervious pavers shall be allowed but any impervious paving shall be adequately drained to prevent the buildup of stormwater in the right-of-way.

(d) *Other objects prohibited.* It shall be unlawful to install, place or maintain within the dedicated right-of-way, parkway or swale area of the village any pointed concrete or other unapproved hard materials such as rocks, stones, bricks, metal objects or other similar obstructions.

5.3.5 *Vacation of rights-of-way.* Applications to vacate a right-of-way may be approved upon a finding that all the following requirements are met:

(a) The requested vacation is consistent with the traffic circulation element of the village comprehensive plan.

(b) The right-of-way does not provide the sole access to any property. Remaining access shall not be by easement.

(c) The vacation would not imperil the current or future location of any utility.

(d) The proposed vacation is not detrimental to the public interest, and provides a benefit to the village.

Cross references: Right-of-way permit, § 16-8.1; fees for right-of-way permits, § 17.5.1.

5.4. Street standards.

5.4.1 *Clear visibility triangle.* In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear visibility formed by two (2) intersecting streets or the intersection of a driveway and a street. **The following standards shall be met: (a) For street intersections the clear visibility triangle shall be**

formed by a line along the street pavement edge fifteen (15) feet long from the street corner perpendicular, generally, to a second line of the street pavement edge of approaching traffic, connected by a third line that measures three (3) times the speed limit of the street.(b) For driveways two (2) clear visibility triangles shall be formed by connecting, in each case, a point on the edge of the street pavement and a point on the edge of the driveway, each to be located at a distance of twenty (20) feet from the intersection of the street and driveway lines, and a third line joining the two (2) points.(c) Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner so as to obstruct cross-visibility at a level between three (3) feet and six (6) feet above the grade, measured at the centerline of the intersection. Trees or palms, however, having trunks and foliage trimmed in such a manner that no trunks or foliage extend into the cross-visibility area shall be allowed, provided they are so located so as not to create a traffic hazard.

Fences, walls, bus shelters or hedges shall not exceed two and one-half (2.5) feet in height within the safe sight distance triangle, as defined below. The height of fences, walls, bus shelters and hedges shall not exceed two and one-half (2.5) feet in height within ten (10) feet of the edge of driveway leading to a public right-of-way.

The safe sight distance triangle area shall not contain obstructions to cross-visibility at a height of two and one-half (2.5) feet or more above pavement; potential obstructions include, but are not limited to, structures, grass, ground covers, shrubs, vines, hedges, trees, rocks, walls and fences. The following table represents minimum criteria for determining the required area of cross-visibility:

Safe Sight Distance Triangle Table

Functional Classification of Through Street	Required Visibility		Depth on Minor Street (ft.)**
	Left (ft.)*	Right (ft.)*	
Local	0	0	0
(50 foot or less right-of-way)	(triangle lies within public right-of-way)		
Collector	190	40	7
(60 foot--70 foot right-of-way)			
Arterial	260	40	7
(80 foot or over right-of-way)			

*Visibility distances measured from center line of minor street, along right-of-way line of through street.

**Depth visibility on minor street measured from right-of-way line of through street, along center line of minor street (public or private street).

Table interpretations and waivers of the above requirements shall be made in writing by the Director of the Public Works Department.

5.5. Sidewalks and bikeways.

5.5.1 *Design and construction standards.* Design and construction of sidewalks, bikeways, or other footpaths shall conform to the requirements of the Public Works Manual, Metro-Dade County, Village of Biscayne Park, including provision for access by physically handicapped persons.

5.6. Off-street parking.

5.6.1 *Applicability.* Off-street parking facilities shall be provided for all development within the village pursuant to the requirements of this code. The facilities shall be maintained as long as the use exists that the facilities were designed to serve.

5.6.2 *Computation.* In the village hall, recreation area, church, the occupancy shall be based on the maximum capacity rating given the building by the fire marshal. Gross floor area shall be the sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls.

5.6.3 *Number of parking spaces required.* The table below specifies the required minimum number of off-street automobile parking spaces. The number of off-street parking spaces for uses not listed in the table shall be determined by the planning board. The term "tandem parking space" means a parking space that abuts a second parking space in such a manner that vehicular access to the second space can be made only through the abutting (tandem) space.

TABLE INSET:

Use		Minimum Off-Street Parking Requirement	
(a)	Residential	Resident Parking	Visitor Parking
	Detached one-family:		
	1, 2 and 3 bedrooms	2 spaces/unit*	1 space/unit**
	4 bedrooms	3 spaces/unit*	1 space/unit**
	Detached two-family:		
	2, 3 or more bedrooms	2 spaces/unit*	0.5 spaces/unit**

(b)	Recreation.		
	Parks, Clubs: determined by the planning board.		
(c)	Public assembly.		
	Church: 1 space/3 seats or 1 space/35 square feet of gross auditorium floor area		

* Resident parking spaces may be tandem.

** If on-street parking is not permitted or is restricted on the unit's street frontage, then one visitor parking space shall be required. The visitor space shall be located not more than one hundred (100) feet from the unit's street frontage.

5.6.4 *Handicapped parking spaces.* Any parking area to be used by the general public shall provide suitable, marked and paved parking spaces for handicapped persons. The number, design, and location of these spaces shall be consistent with the requirements of Chapter 316 Florida Statutes, as amended from time to time. F.S. §§ 316.1955, and 316.1956, or succeeding provisions. No parking spaces required for the handicapped shall be counted as a parking space in determining compliance with subsection 5.6.3, public uses, above, but optional spaces for the handicapped shall be counted. The parking and related features contained in the Department of Community Affairs, Florida Board of Building, Codes and Standards, Accessibility Requirements Manual are hereby incorporated by reference into the village code.

5.6.5 *Parking in medians prohibited.* No parking shall be allowed in median open spaces or median parkways.

5.6.6 *Existing nonconforming minimum off-street parking requirements.* The number of off-[street] parking spaces existing on properties at the time of the adoption of this code, although such number does not conform to the minimum off-street parking requirements hereof, may be lawfully continued.

5.6.7 *Historic preservation exemption.* The preservation of any property that has been placed on the county or national register of historic places, shall be grounds for a grant by the planning review board of a reduction in, or complete exemption from, the parking requirements in subsection 5.6.3 of this chapter.

5.6.8 *Design standards for off-street parking.* Except as provided herein, all required off-street parking spaces and the use they are intended to serve shall be located on the same parcel. The size and layout of these spaces shall be according to the ~~Dade County Code~~ Village of Biscayne Park and Public Works Manual, ~~Metro-Dade County.~~ Vehicles shall be parked on impervious or pervious surfaces but impervious areas shall not exceed forty (40) percent of the front yard, excluding the right-of-way. Off-street parking shall only be permitted on approved surfaces by the Village of Biscayne Park. In no circumstances shall grass be an approved surface.

CHAPTER 6. PUBLIC FACILITIES AND SERVICES

6.1. Generally.

6.1.1 *Purpose of chapter.* The purpose of this chapter is to provide criteria for basic utilities, to provide for a village solid waste management program, and establish the standards for stormwater management.

6.2. Utilities.

6.2.1 *Utilities.* The criteria for basic utilities for the village are listed below:

(a) *Electricity.* Every lot shall have available to it a source of electric power adequate to accommodate the reasonable needs of the principal use on the lot.

(b) *Water.* Every lot shall have central potable water hookup.

(c) *Telephone.* Every lot shall have available to it a telephone service cable adequate to accommodate the reasonable needs of the principal use.

6.3. Solid waste.

6.3.1 *Local government solid waste responsibilities.* The municipality of Biscayne Park is responsible for collecting and transporting solid waste from its jurisdiction to a solid waste disposal facility operated by the county or operated under a contract with the county. The county may charge reasonable fees for the handling and disposal of solid waste at their facilities.

6.3.2 Containers.

(a) Each residential unit shall have a sufficient number of garbage cans or approved containers, not to exceed ~~thirty (30)~~ thirty six (36) gallons in capacity, to accommodate all garbage, leaves and grass cuttings. Garbage cans shall be kept tightly closed at all times and easily accessible to collectors. Collection service may be discontinued where the garbage cans or containers are determined to be unfit for receptacles by the public works department. Failure of the property owner to provide proper garbage cans or containers which results in a discontinuance of service shall subject the property owner to the penalty provisions of this code.

(b) Garbage cans and trash receptacles must be placed behind the face of the building and screened from view except when properly placed out for pickup.

6.3.3 Owner/occupant responsibility.

(a) It shall be the duty of each property owner to prevent the continued, excessive and unsightly accumulation of garbage, trash and other types of waste and rubbish.

(b) Each property owner shall place domestic trash at the property line in front of their property no earlier than 6 PM of the day preceding scheduled collection time ~~the evening not more than twenty-four (24) hours before the scheduled collection time.~~ Each property owner shall remove his trash container from the front of his property by 6 AM on the following day of the scheduled day of collection ~~within twenty-four (24) hours after collection.~~

(c) Failure to comply with the provisions of this section shall constitute a violation of this code.

6.3.4 *Tree and garden refuse.* All tree trimmers and tree surgeons who are employed by a resident or occupant of any residence or who may be employed by the village, or who may otherwise pursue their occupation in the village shall be required to remove immediately to a dump or other place designated for refuse, all refuse, cutting or debris resulting from their operation. In no event shall any refuse, cuttings or debris remain overnight on any premises where tree trimmers or tree surgeons have been engaged in their occupation.

(a) Each property owner shall place tree and garden refuse at the property line no earlier than 6 AM of the day preceding scheduled collection time and containers must be removed and placed out of sight by 6 AM day following the scheduled day of collection.

6.3.5 *Recycling program.* The village may form cooperative arrangements with the county for implementing recycling programs. The following requirements shall apply:

(a) Construction and demolition debris must be separated from the solid waste stream and segregated in separate locations at a solid waste disposal facility or other permitted site.

(b) The local government is encouraged to separate all plastic, metal, and all other grades of paper for recycling prior to final disposal and is further encouraged to recycle yard trash and other mechanically treated solid waste into compost available for agricultural and other acceptable uses.

(c) In developing and implementing recycling programs, the village is encouraged to use for-profit and nonprofit organizations for the collection, marketing, and disposition of recyclable materials.

6.3.6 *Solid waste franchise.* The village may enter into a written agreement with other persons to undertake to fulfill some or all of the village's solid waste responsibilities.

6.3.7 *Determination and announcement of full cost for solid waste management.*

(a) The village shall determine the full cost for solid waste management within the service area of the village for the one-year period beginning on October 1, 1988, and shall update the full cost every year thereafter. The method to be used in calculating full cost shall be according to the rule established by the Florida Department of Environmental Regulation.

(b) The village shall establish a system to inform, no less than once a year, residential and nonresidential users of solid waste management services within the village service area of the user's share, on an average or individual basis, of the full cost for solid waste management as determined pursuant to subsection 6.3.7(a) above.

(c) Additional/unscheduled trash removal. The village shall provide additional/unscheduled trash removal for its residents. The cost for these services shall be determined annually by resolution of the village commission.

Cross references: Local solid waste management fees, § 18.4.

6.3.8 *Litter.* Unless otherwise authorized by law or permit, it shall be unlawful for any person to dump litter in any manner or amount as provided stipulated in the Florida Litter Law.

State law references: Florida Litter Law, F.S. 403.413; resource recovery and management, F.S. 403.702 et seq.

6.3.9 *Violations of this section; enforcement procedures available to village; schedule of fines and penalties.* Any violation or repeat violation of this section may be pursued by the village by appropriate remedy either in court, through code enforcement by the imposition of a fine as set forth below, or by any other means available at law or in equity, at the option of the village. If it is the first violation, a warning may be given. Any person violating this section shall be punished by a fine of not more than thirty dollars (\$30.00) per violation. Each day, or portion thereof, that a violation occurs is considered a separate and additional violation.

(Ord. No. 2007-8, § 2, 5-8-07)

6.4. Septic tanks.

6.4.1 *Septic tank requirements.* All septic tank requirements, inspections and permitting shall comply with the regulations of Metro-**Miami** Dade County's Department of Environmental Resources Management.

6.5. Stormwater.

6.5.1 *Stormwater management requirements.* All stormwater management systems shall comply with applicable state regulations (Chapter 17-25, Florida Administrative Code) or rules of the South Florida Water Management District (Chapter 40E-4). In all cases the strictest of the applicable standards shall apply.

6.5.2 *Flooding and drainage.* On the basis of the Stormwater Rule (Chapter 17-25, F.A.C.) of the Florida Department of Environmental Regulation (DER) and Rule 17-40 F.A.C., flood and drainage considerations of any proposed development shall comply with Dade County Code Regulations Chapter 11C and Chapters 24.58, Dade County Public Works Manual Chapter 28, and the South Florida Water Management District's (SFWMD) criteria in their "Management and Storage of Surface Water; Permit Information Manual, Volume IV". All nonexempt development shall require appropriate

permits from the DER and SFWMD before a development order is issued by the local government. Except development includes the construction of a single-family or duplex residential dwelling and accessory structures on a single parcel of land.

(Ord. No. 260, 7-23-90)

6.6. Water emergency.

6.6.1 *Water emergency restrictions.*

(a) *Intent and purpose.* It is the intent and purpose of this section to protect the water resources of the Village of Biscayne Park from the harmful effects of over-utilization during periods of water shortage and allocate available water supplies by assisting the South Florida Water Management District in the implementation of its water shortage plan.

(b) *Definitions.* For the purpose of this section, the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

(1) *District* means the South Florida Water Management District.

(2) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.

(3) *Water resource* means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

(4) *Water shortage condition* means that situation when sufficient water is not available to meet the present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

(5) *Water shortage emergency* means that situation when the powers which can be exercised under Florida Administrative Code, Ch. 40E-21, Pt. II, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

(c) *Application of section.* The provisions of this section shall apply to all persons using the water resource within the geographical areas subject to the water shortage condition or water shortage emergency, as determined by the district, whether from publicly or privately owned water utility systems, private wells, or private connections with surface water bodies. This section shall not apply to persons using treated effluent or saltwater.

(d) *Adoption of water shortage plan.* Florida Administrative Code, Ch. 40E-21, as same may be amended from time to time, is incorporated herein by reference as part of the Village of Biscayne Park Code of Ordinances.

(e) *Declaration of water shortage condition; water shortage emergency.* The declaration of a water shortage condition or water shortage emergency within all or any part of the village by the village commission or the executive director of the district shall invoke the provisions of this section. During such water shortage emergency or water shortage condition, all water use restrictions or other measures adopted by the district applicable to the village shall be subject to enforcement action pursuant to this section. Any violation of the provisions of Florida Administrative Code, Ch. 40E-21, or any order issued pursuant thereto, shall be a violation of this section.

(f) *Prohibited acts.* Notwithstanding any provisions of this code, the following shall be prohibited in the village upon declaration of a water shortage condition or water shortage emergency by the village commission or the executive director of the district:

(1) Operation of outdoor fountains or outside aesthetic facilities whose purpose is strictly ornamental or decorative.

(2) Pressure cleaning of impervious surfaces, except for the preparation of surfaces for painting, sealing or waterproofing, or for safety, sanitation, health or medical purposes. These restrictions shall remain in effect for the duration of the declared water shortage condition or water shortage emergency.

(g) *Enforcement.* Every police officer or code enforcement officer in the village shall, in connection with all other duties imposed by law, diligently enforce the provisions of this section. In addition, the village manager may also delegate enforcement responsibility for this section to other departments or personnel as the need may arise.

(h) *Penalties.* Violation of any provision of this section shall be subject to the following penalties:

(1) First violation: seventy-five dollar (\$75.00) fine;

(2) Second and subsequent violations: Fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in the county jail, not to exceed sixty (60) days.

(Ord. No. 2007-9, § 2, 6-5-07)

Cross references: Environmental management, water pollution, § 8.2.2; landscaping (water conservation), § 8.3.1.

CHAPTER 7. RECREATION AND OPEN SPACE

7.1. Generally.

7.1.1 *Purpose of chapter.* The purpose of this chapter is to describe the conditions for the storage of boats and recreational vehicles in the village.

7.2. Boat storage.

7.2.1 *Conditions for the storage of boats.* Boats not more than twenty-six (26) feet in length, not more than eight (8) feet and six (6) inches beam, and thirteen (13) feet, six (6) inches in height, may be stored subject to the following conditions:

- (a) Boats shall not be stored in the public right-of-way.
- (b) No more than two (2) ~~one (1)~~ boats may be kept on any one plot that will be visible from another property or from the street may be stored on any one premises.
- (c) Boats and place of storage shall be kept in a clean, neat and presentable condition. No boat shall be kept, stored or parked so that any part shall extend into the front yard beyond the front building line. Boat shall be obscured from the public right-of-way with a fence or hedge.
- (d) No major repairs to such boats except those of a minor nature shall be made or performed on the premises, the making of which shall not tend to disturb the neighbors or overhaul work shall be made or performed on the premises.
- (e) The boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
- (f) Boats shall be secured so that they will not be a hazard or menace during high winds or hurricanes.
- (g) Boats shall be owned by the occupant of the property and the boat shall have a current registration and trailer tag where applicable.
- ~~(h) Any boat that exceeds the dimensions specified above shall be registered with the village within ninety (90) days of the effective date of this code. Such registered boat shall be allowed to remain until such time as the boat is sold.~~

7.3. Recreational and camping vehicles.

7.3.1 *Conditions for the storage of recreational vehicles.* Recreational and camping vehicles in the form of travel and camping trailers, truck trailers and motor travel homes, designed and used as temporary living quarters for recreation, camping or travel use may be parked on lots in the open on sites containing a single-family or duplex residence, subject to the following conditions:

- (a) No more than one (1) such vehicle may be kept on any one plot that will be visible from another property or from the street shall be parked on such site.
- (b) Such parking shall be limited to such vehicles owned or leased by the occupant-owner or occupant-lessee of the site concerned, or owned or leased by a bona fide out-of-Dade County house guest of the occupant-owner or occupant-lessee of the site

concerned, with the parking of such vehicles in the driveway by the guest not to exceed fourteen (14) days semi-annually. Such vehicles must have a current license.

(c) Such parked vehicles shall not be stored in the public right-of-way.

(d) Such vehicles and the area of parking shall be maintained in a clean, neat and presentable manner and the vehicles shall be in a usable condition at all times. Vehicle shall be stored behind the front building line and be obscured from the right-of-way with a fence or hedge.

(e) No major repairs or overhaul work on such vehicles shall be made or performed on the site, (or any other work performed thereon which would constitute a nuisance under existing ordinances).

(f) When parked on the site, such vehicles shall not be used for living or sleeping quarters, or for housekeeping or storage purposes and shall not have attached thereto any service connections lines, except as may periodically be required to maintain the vehicles and appliances.

(g) Such vehicles shall not exceed the maximum length, width, height and weight permitted under applicable provisions of the motor vehicle laws of the State of Florida; provided, however, the maximum length shall not exceed thirty (30) feet and the maximum height shall not exceed ten (10) feet.

~~(h) Any vehicle that exceeds the dimensions specified in (g) above shall be registered with the village within ninety (90) days of the effective date of this code. Such registered vehicles shall be allowed to remain until such time as the vehicle is sold.~~

(h) Such vehicle shall be secured so that it will not be a hazard or menace during high winds or hurricanes.

Cross references: Uses allowed, § 3.3.1; off-street parking for recreation area, § 5.6.3.

7.4. Open space.

Editor's note: Provisions designated as 7.4, open space, contained no substantive provisions; however, the user's attention is directed to the following references: Retention of existing open space, § 3.2.2; public open spaces and outdoor recreational uses allowed, § 3.3.1; rights-of-way protection, § 5.3.2; sidewalks and bikeways, § 5.5.1; landscaping, § 8.3; maintenance of public rights-of-way, § 8.4.1; adopted levels of service, § 9.3; fences, walls and hedges, § 11.6; prohibited and exempt signs, § 12.2.

CHAPTER 8. ENVIRONMENTAL MANAGEMENT

8.1. Generally.

8.1.1 *Purpose of chapter.* The purpose of this chapter is to provide measures to protect the air, water, habitat, and trees of the village, and furnish standards for landscaping, property maintenance, and avoidance of fire and explosive hazards.

8.2. Protection of natural resources.

8.2.1 *Air pollution.* To protect and enhance the air quality of the village, all sources of air pollution shall comply with rules set forth by the Federal Environmental Protection Agency and the Florida Department of Environmental Regulation. No person shall operate a regulated source of air pollution without a valid operating permit issued by the department of environmental regulation.

Reference--Federal environmental protection agency, Code of Federal Regulations, Title 40.

8.2.2 *Water pollution.* Standards are necessary to protect the quantity and quality of the principal source of water, the groundwater supply, to safeguard the health, safety and welfare of residents in the village and surrounding areas. The South Florida Water Management District's use rules and regulations shall apply.

State law references: Water resources act, F.S. Ch. 373.

8.2.3 *Habitat protection.*

(a) Bird Sanctuary. It is hereby declared that all the territory embraced within the village shall be and is hereby declared to be a bird sanctuary.

(b) Killing or harming birds prohibited. It shall be unlawful for any person to shoot, trap or in any manner kill or destroy birds within the village.

Cross references: Similar provisions, Code of Ordinances, §§ 3-1, 3-2.

8.2.4 *Tree protection.* It shall be unlawful for any person, unless otherwise permitted by the terms of Miami Metro-Dade County Ordinance No. 89-8, and as may be amended, to do tree removal work or to effectively destroy any tree without first obtaining a permit from Miami Metro-Dade County's Department of Environmental Regulation and Management. The following activities are exempt from tree removal permits:

(a) Removal of trees within the yard area of an existing residence, provided the trees are not specimen trees. This exemption does not apply to trees which are growing on rights-of-way and other public property.

(b) Removal of any dead tree.

(c) Removal of tree species specified by the Miami-Dade County Code (subsection 24-60(4)(f)).

(d) Removal of other trees as described in the Miami-Dade County Code (subsection 24-60(4)).

Cross references: Tree removal permit, § 16.10.

8.3. Landscaping.

8.3.1 *Approved plants.* As far as possible native species (including xeriscape plants) should be used for landscaping as these species are tolerant of and suited to the weather, insects, and soil conditions of the area, and need less water, fertilizer, and pesticides to ensure their survival. Lists of approved trees, shrubs and hedges; ground covers, and lawn grass, as well as prohibited plants, are designated in the Miami-Dade County Code and are hereby incorporated by reference into the village code.

8.4. Property maintenance.

8.4.1 *Lots and public rights-of-way.*

(a) It shall be the duty and obligation of all occupant-owners and occupant-lessees of lots in the village to maintain and keep in good condition their lots and the swale areas between the pavement edge and the property line which includes the sidewalk adjacent and contiguous to their lots. The duty hereby imposed upon such occupant-owners and occupant-lessees shall not extend to any property other than that included within the lot lines of the property as projected to include the swale area.

(b) Lots and public rights-of-way areas will be considered maintained if all the following requirements are met:

(i) Areas must be kept free from any accumulation of debris, decayed vegetable matter, filth, rubbish, trash, discarded building materials, glass, or any other materials dangerous to the public health, safety, and welfare;

(ii) Areas must not be allowed to become overgrown with grass, weeds, or brush, and lawn and ground cover areas shall not exceed eight (8) inches in height.

(c) A combination of paving and sodding of lots and rights-of-way area shall be permitted provided the impervious section does not exceed forty (40) percent of the total area and such paved areas shall be kept in good condition.

(d) None of the above standards shall be construed to preclude property owners from landscaping with approved trees or other permitted materials the public right-of-way area.

8.4.2 *Unightly and unused objects.* The storage and harboring of disused motor vehicles hereinafter sometimes referred to as junk vehicles and any other unused or unsightly personal property on any lot is prohibited and declared unlawful unless the same is stored in a suitable building erected on such lot in accordance with the building code and this code, or with respect to a vehicle, is covered by a material covering designed for such purpose.

For the purpose of determining whether a vehicle other than personality is junk, the code enforcement officer shall employ the criteria set forth in this Code, subsection 9-17(a)(1)--(5) of the Village of Biscayne Park Code of Ordinances, and those criteria are specifically incorporated herein. All of the criteria which are relevant to the particular personality shall be considered in determining whether the property is junk, no one criterion being conclusive.

8.4.3 *Violations and enforcement.*

(a) Fences and walls not maintained in a safe condition and permitted to deteriorate or become unsightly shall constitute a violation of this code.

(b) Whenever there is any excessive growth of weeds and undergrowth, fallen or dead trees, or rubbish, debris, brush ~~and~~ or unsightly and unsanitary matters located on any lot or public right-of-way in the village, it shall constitute a violation of this code.

(c) Any person owning land on which is stored any house car, camp car, trailer, unused or unsightly truck, wagon, buggy, boat, machinery or other unused or unsightly personal property, shall be considered in violation of this code.

(d) Enforcement of any of the above violations shall be through the civil citation procedure.

(e) Temporary holiday decorations and temporary lighting, provided they carry no advertising matter, ~~shall not~~ may be placed forty five (45) days prior, and are must be removed fourteen days (14) days after the holiday ends.

8.4.4 *Animals, etc., prohibited.* The following shall be prohibited:

(a) Bee hives or the breeding or raising of any insects, reptiles or animals other than customary pets.

(b) The keeping, breeding, or maintaining of horses, cattle or goats.

(c) The raising of poultry or fowl.

(Ord. No. 283, § 4, 10-5-93)

8.4.5 Storm Shutters placement. It is prohibited to maintain storm shutters on a structure beyond the officially declared hurricane season, unless hurricane conditions are expected to occur within thirty six (36) hours. Consistent with the provisions regarding storm shutters as defined and set forth in the Florida Building Code, as amended from time to time, it is prohibited to maintain storm shutters during hurricane season in a closed / secure position on a structure for periods in excess of five (5) business days unless:

(a) A hurricane occurs during the five (5) day period, at which point the five (5) day period begins a new after hurricane conditions have subsided;

(b) Hurricane conditions are expected to occur within thirty six (36) hours after the fifth day;

(c) The structure is used for residential purposes, but no person is in residence for a period in excess of five (5) business days and the owner / occupant registers with the police department on a form prepared by the city;

(d) At least two (2) means of ingress and egress are provided through a door, window or garage.

8.4.6 House numbers.

(a) All owners of buildings within the village shall prominently display the correct numerical address of their respective buildings upon their building in any location such that the numbers are clearly visible from the street at all times. Such number shall not be less than four (4) inches in height.

(b) All owners of buildings within the village having access to an alley shall prominently display the correct numerical address of their respective buildings upon their building in any location such that the numbers are clearly visible from the alley at all times. Such number shall not be less than four (4) inches in height.

(c) It shall be the duty of the owner to maintain the numbers in good condition.

8.5. Fire and explosive hazards.

8.5.1 *Fire and explosive standards.* The South Florida Fire Prevention Code, and as may be amended from time to time, is hereby incorporated into the village code. The storage, use, or manufacture of flammable or explosive materials in Biscayne Park is prohibited.

CHAPTER 9. ADOPTED LEVELS OF SERVICE

9.1. Generally.

9.1.1 *Purpose of chapter.* It is the purpose of this chapter to ensure that the adopted level of service standards in the village's comprehensive plan are not degraded.

9.1.2 *Consistency and concurrency.* As the Village of Biscayne Park is completely built-out the determination of consistency of proposed development projects with the comprehensive plan and the meeting of concurrency requirements of the plan are not issues. A proposed development would be considered consistent with the comprehensive plan if the development conforms to the land development code as it is reasonable to presume that the code fully implements the comprehensive plan.

Concurrency is a condition where specified facilities and services have or will have the necessary capacity to meet the adopted level of service standard at the time of impact of the development project.

State law references: Land development code to be consistent with and implement the comprehensive plan, F.S. § 163.3202.

9.2. Adopted levels of service shall not be degraded.

9.2.1 *General rule.* All applications for development orders shall demonstrate that the proposed development does not degrade adopted levels of service in the village.

9.2.2 *Burden of showing compliance on developer.* The burden of showing compliance with the adopted level of service requirements shall be upon the developer. In order to be approvable, applications for development shall provide sufficient information showing compliance with these requirements.

9.3. Adopted levels of service.

9.3.1 *Incorporation of levels of service standards.* The following level of service standards were adopted in the village comprehensive plan (Table 8D) and are hereby incorporated into this code. Development activity shall not be approved unless there is sufficient available capacity to sustain these levels of service (LOS):

TABLE INSET:

Element	Facility	LOS Standard
Traffic circulation	Local roads	Peak hour LOS A
	County and state roads	Peak hour LOS D
Solid waste	Garbage and trash generate rate	5.5 pounds perperson per day
Potable water	Supply from the City of North Miami	105 gallons perperson per day
Recreation and open space	Open space	4.5 acres per 1000 population

CHAPTER 10. DESIGN AND IMPROVEMENT STANDARDS

10.1. Subdivision.

10.1.1 *Minor plat.* As the village is completely platted and builtout, only minor plats, for which a development order is required, are possible.

10.2. Site design.

10.2.1 *Residential sector regulations.* No residential building or land shall be used and no residential building shall be erected, constructed, reconstructed or structurally altered

for any specific use except according to the regulations contained in Table A, Residential Sectors.

10.2.2 *Lot areas and dimensions.* Lot areas or dimensions shall not be reduced or diminished so that the yards or open spaces, also called setbacks herein, shall be smaller than those provided by this code, nor shall the lot area per family be reduced in any manner except in conformity with the regulations hereby established for the sector in which the building is located.

10.2.3 *Nonconforming lots.* This code shall not be construed to prevent the construction of a building on any lot of record by an owner of record at the time of the passage of the ordinance from which this code was derived notwithstanding the fact that such lot may have a lesser area than is required in the particular sector; in which case yards may be made to conform to existing yards on the same street in the same block. Hereafter every building erected or structurally altered shall provide a lot of not less than seventy-five (75) feet front or width.

10.2.4 *Site location of buildings for public gatherings.* No building or land where public gatherings are to be held, such as schools, churches and playgrounds shall be located nearer than fifty (50) feet to adjacent property line.

10.3. Architectural design.

10.3.1 *Style and color of buildings.* All principal and accessory buildings shall be of an architectural style, character and appearance, including exterior color, which will harmonize and blend in with the other buildings in the area.

Cross references: Exterior painting permit, § 16.13.

10.3.2. *Roof design.*

(a) There shall be no houses constructed in the village with a single level roof known as a flat top roof.

(b) There must be two (2) or more roof levels with at least one (1) foot minimum difference in roof elevation when flat top roof construction is used.

(c) No air conditioning or other duct work shall be visible on any roof from ground level.

10.4. Building construction.

10.4.1 *Building code.* The **South** Florida Building Code, and as same may be amended from time to time, as published by the Board of County Commissioners, Dade County, Florida, is hereby adopted as and for the building code of the village. A copy of the code is on file in the village clerk's office.

10.4.2 *Applicable codes.* All construction in the public rights-of-way shall conform to the uniform standards established by the official Public Works Manual of Metro-Dade County.

10.4.3 *Minimum construction dimensions.* The establishment of minimum construction dimensions by this code shall not be deemed as permitting any deviation from the requirements of the building code. All buildings, including accessory buildings regardless of size and cost must comply with the provisions of the building code and must be so constructed as to be safe from all storm hazard.

10.4.4 *Material used in construction.* No material shall be used in the construction of buildings except stone, concrete blocks, tile, brick or brick veneer, frame, steel or any standard fabricated material. All buildings shall be constructed on concrete or tile foundations under all portions of main buildings.

10.4.5 *Roof material.*

(a) Roof material shall be of tile for roofs with an incline of more than two and one-half (2 1/2) inches per foot, built-up tar and gravel for roofs with an incline less than two and one-half (2 1/2) inches per foot unless the roof structure will not support the weight in which case wood or composition shingles may be used.

(b) No plain felt mopped-on roof shall be permitted on any pitched roof.

(c) All dwellings erected shall be consistently stormproof, according to the latest approved code and building methods.

(d) No three-tab shingles shall be permitted.

10.4.6 *Tile required on pitched roof.* Any building constructed in the village that has a pitched roof, shall have a roof finished with clay or cement tile.

10.4.7 *Roof repair or reroofing requirement and exception.* All buildings in the village which have roofs which are concrete or clay tile roofs must be repaired or reroofed only with clay or concrete tile. Shingles in reroofing shall be permitted only on existing roofs that had shingles on the effective date of this code. In all cases work shall conform with all requirements of the South Florida Building Code adopted herein for tile roofs.

Cross references: Roof repair or reroofing permit, § 16.9.

10.4.8 *Removal of construction materials.*

(a) Any accumulated debris shall be deposited in an dumpster and surplus materials and construction equipment shall be removed from the premises if the job is abandoned. Any person causing the accumulation of building material waste is required to collect, convey and dispose of such material waste within ten (10) days of completion of the project or on notification from the building official. Failure to do so will be considered a violation of this code and all other related ordinances and governing laws and be subject to the penalties thereof.

(b) The village will not collect, convey or dispose of building material waste.

10.4.9 Improvements to a nonconforming use.

(a) Where an improvement being used for nonconforming use comes within the terms of subsection 3.4.2, no structural alterations shall be made except such as are required by ordinance, law or are ordered by an authorized officer to assure the safety of the building.

(b) Nothing in this code shall be constructed to prohibit the restoration and repair of a building destroyed or damaged to the extent of not more than fifty (50) percent of its reasonable value by fire, explosion, act of God or public enemy nor the continued use and occupancy of such building after such restoration. Any building damaged to the extent of more than fifty (50) percent of its reasonable value shall not be restored, but shall be demolished and removed.

10.4.10 *Construction work prohibited on Sunday.* No work on any construction job shall be performed on Sunday.

(Ord. No. 283, § 5, 10-5-93)

10.5. Landscape design.

10.5.1 *Landscaping of public areas.* All landscaping of public areas should conform to the following general design principles:

(a) Drainage systems and circulation systems for vehicles and pedestrians should be integrated into the landscaping plan.

(b) Landscaping should be used to minimize potential erosion through the use of ground covers or any other type of landscape material that aids in soil stabilization.

(c) Native vegetation should be preserved and used to meet landscaping requirements.

(d) Landscaping should enhance the visual environment through the use of materials that achieve variety with respect to species of living material selected textures, colors and size at maturity.

(e) Landscaping should consider the aesthetic and functional changes of vegetation, both when initially installed and when the vegetation has reached maturity.

(f) Landscaping should enhance public safety and minimize nuisances.

(g) Landscaping should maximize the shading of streets and vehicle use areas.

Cross references: Landscaping, § 8.3.

CHAPTER 11. ACCESSORY STRUCTURES

11.1. Generally.

11.1.1 *Purpose.* It is the purpose of this chapter to regulate the installation, configuration, and use of accessory structures, in order to ensure that they are not harmful either aesthetically or physically.

11.1.2 *General standards and requirements.* Accessory structures may be located on a lot, provided that the following general standards and requirements are met:

(a) There shall be a permitted principal development on the lot, located in full compliance with all standards and requirements of this code.

(b) All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this code.

(c) Accessory structures shall not in general be located in a required setback area unless otherwise allowed herein.

11.2. Accessory buildings.

11.2.1 Permitted accessory buildings, which include private garages, storage buildings, private workshops, utility buildings, screen enclosures, gazebo, chiki huts and greenhouses, shall:

(a) Maintain the same setbacks as the principal building.

(b) Comply with the general standards and requirements of subsection 11.1.2 above.

(c) Not be used as a place of abode.

(d) Not occupy in the aggregate more than thirty (30) percent of the area between the rear line of the main building and the rear property line except that a lot having a dual frontage shall have the same setback on each street property line.

11.3. Boat docks.

11.3.1 *Extension of boat dock, etc., into Biscayne Canal.* Unless otherwise provided for, no dock, wharf or other structure shall be built or extended into Biscayne Canal a distance greater than three (3) feet.

11.4. Carports.

11.4.1 *Carport material, size, and location.* Only one (1) carport, of aluminum, welded steel or canvas only, is permitted per lot and shall be limited to twenty (20) feet by twenty (20) feet in size and shall be located at least five (5) feet from the front property line and five (5) feet from the side property line.

Cross references: Carport permit, § 16.5.

11.5. Dish antennas.

Private noncommercial dish antennas may be permitted in the village provided:

11.5.1 *Location.* They are located in the rear yard.

11.5.2 *Setbacks.* They are placed no closer to any property boundary line than a distance equal to their height as measured from ground level to the top of the antenna but in no event closer than ten (10) feet to the property lines.

11.5.3 *Setbacks on corner properties.* No portion of the apparatus may extend beyond the imaginary extension of the line of the house structure.

11.5.4 *Roof-mounted dish antennas.* No roof-mounted dish antennas shall be permitted except on two-story buildings with a flat roof when the antenna cannot be viewed from the ground level.

11.5.5 *Dimensions.* The height of dish antennas shall not exceed fifteen (15) feet from ground level nor shall their diameter exceed twelve (12) feet.

11.5.6 *Number allowed and color.* Only one (1) dish antenna shall be allowed per single-family, duplex or apartment building, and such antenna shall be neutral in color.

11.5.7 *Anchorage.* All dish antennas shall be anchored securely to the ground in compliance with the requirements of the South Florida Building Code relative to structures.

11.5.8 *Maintenance.* Once installed, dish antennas and related appurtenances must be maintained in good and operable condition.

11.5.9 *Existing antennas.* All dish antennas that are legally existing at the time of the adoption of Ordinance No. 250 (4, 1989) shall be allowed to remain until such time that they may be replaced, at which time they shall conform in all respects to this section.

Cross references: Dish antenna permit, § 16.6.

11.6. Fences and walls and hedges.

11.6.1 *Location.*

(a) All fences and walls and hedges may be located within any yard including upon the property line thereof. No such wall and fence or hedge shall extend beyond an official right-of-way line.

(b) When a fence or wall or hedge is placed on a property line, whether it be on an alley or a side front property line, at least forty (40) square feet, a minimum of four (4) feet deep, of open space must be left for the storage of trash.

(c) All fences and walls require a permit and approval by the Planning board.

11.6.2 *Height.*

(a) ~~The height of any hedge shall not exceed four (4) feet when located between the building and any paved street. When located between the building and other property lines, fences and walls shall not exceed six (6) feet in height. , and hedges shall not exceed eight (8) feet in height.~~

(b) The inside through lots on Northeast 11 Place from Northeast 119 Street to Northeast 121 Street shall be allowed the six-foot height from the building to and parallel to the rear property line.

~~(c) The existing hedges on Lot 30, Block 23 of Biscayne Park Estates amended shall not be affected by the height requirement only for so long as the garbage and trash trucks are parked there. When the trucks are no longer allowed there, the hedges shall conform to all the provisions of this chapter.~~

11.6.3 *Construction.* Fences and walls may be constructed of aluminum, wood, concrete, chain link, ornamental metal, vinyl, composite material or wire, and shall be constructed so as to be non-climbable. Material to be approved by the Planning board.

(a) ~~Wood~~ Fences shall be constructed according to the ~~South~~ Florida Building Code.

(b) Walls may be constructed of the following materials and must conform to the construction requirement of the ~~South~~ Florida Building Code.

(i) Coral rock.

(ii) Concrete block stuccoed on both sides with a concrete cap and combined with one (1) or more of the other construction materials listed in this subsection or ornamental wrought iron, ornamental aluminum, cast iron or cast aluminum or other stucco treatments designed to impact additional architectural interest.

(iii) Slump brick.

(iv) Used red bricks, limed red bricked or cement bricks appropriately painted.

(c) Wire fences shall be of chain-link or diamond weave of heavy galvanized material or material of equal strength and shall have top rails. All posts shall be set in concrete so as to be secure and safe.

(d) All parts of the fence, including uprights, posts and vertical and horizontal and structural supports shall be on applicant's side of the fence or wall. No part of the fence or wall shall protrude into the adjacent property or public right-of-way.

(e) Plans for fences shall be submitted with each application for building permit and must be so designed to be suitable and compatible with surrounding areas.

11.6.4 ~~Chain-link, wooden~~ *Fences, and walls prohibited in certain areas.*

(a) ~~Chain-link, wooden~~ Fences, and walls shall not be permitted when they extend farther toward the front street property line than the front corner of the building closest to the side property line. **No fence in front as per standing code.**

(b) Fences and walls shall be permitted on corner lots and shall be permitted to extend towards the side street as long as they do not exceed a height of 4 feet, and only if granted approval by the planning board. Side yard fences shall not be permitted to extend into the front yard as defined in 11.6.4. Chain link is not permitted in this area.

(c) All fences that are existing at the time of adoption of Ordinance 244 (5, 1988) shall be allowed to remain until such time that they deteriorate.

(d) Properties abutting the FEC corridor shall be permitted to erect a fence or wall up to eight (8) feet in height only on the property line abutting the FEC corridor.

11.6.5 Electric or barbed wire prohibited. No fence shall be constructed with barbed wire and no fence charged with electricity shall be erected.

(Ord. No. 283, § 6, 10-5-93)

Cross references: Fence and wall maintenance violation, § 8.4.3.

11.7. Outdoor utility or storage sheds.

Utility or storage sheds shall be permitted upon the following conditions:

11.7.1 Building permits shall be required.

11.7.2 A utility shed may be attached to or separated from the main building and used only for the storage of property related to the premises which it serves and shall not be used as a place of abode.

11.7.3 Only one (1) utility shed shall be permitted per building site and shall not exceed one hundred (100) square feet in area and shall not have a height greater than nine (9) feet, and no utility service shall be connected thereto.

11.7.4 Sheds shall be installed in accordance with standards and specifications established by the Products Control Division of Metro-Dade County.

11.7.5 All sheds shall be installed only to the rear of the existing building and shall conform to the side setback lines and in no event be nearer than three (3) feet to the rear property line. When attached to the building the shed shall be firmly and securely attached to the satisfaction of the building official. **Shed shall not be visible from street and shall be planted with trees or shrubs at least three (3) feet in height so that structure will not be seen or visible from the street.**

11.7.6 In the case of corner lots, when there is not space in the rear to install a shed to conform with subsection 11.7.5 above, a shed may be installed attached to the side of the building that does not face a street, so installed that the shed shall be flush with and contiguous with the rear line of the building, and there shall be planted trees or shrubs

at least three (3) feet in height and not more than one and one-half (1 1/2) feet apart, of a fast growing variety so that eventually it will be seen or be visible from the street. When the shed is attached to the building and is constructed of the same materials as the house, planting shall not be required.

11.7.7 All utility sheds existing at the time of adoption of Ordinance 172 (1, 1975) that are located to the rear of the building line and are not a nuisance or a hazard shall be allowed to remain until such time that they deteriorate or are declared to be a nuisance or a hazard by the building inspector at which time they shall be made to conform with this section in all respects.

(Ord. No. 283, § 6, 10-5-93)

Cross references: Utility or storage shed building permit, § 16.12.

11.8. Superimposed structures.

11.8.1 *Height limit.* Towers, aerials, tanks and other superimposed structures upon any building shall not exceed eight (8) feet in height.

11.9. Swimming pools.

11.9.1 A swimming pools, unless entirely screened in, must be surrounded by a protective fence and/or wall of a minimum height of four (4) feet.

11.9.2 The fence or wall shall be placed either around the swimming pool or the premises on which the pool is located and must meet minimum standard required by Florida Building code for fencing and gates.

11.9.3 The fence or wall shall be constructed of concrete block or two-inch chain link, galvanized wire with top rail. All gates shall be the spring local type (close automatically) and shall be equipped with a lock in accordance with section 11.6.

11.9.4 Final inspection and/or approval of construction of a swimming pool shall not be granted until such a fence or wall has been erected.

11.9.5 No overhead electric power line shall pass over any pool nor shall any power line be nearer than ten (10) feet horizontally or vertically from the pool's water edge.

11.9.6 Pool pumps must be located behind front corner of the building closest to the side property line.

11.10. Portable storage units.

11.10.1 *Portable storage unit:* Any container designed for the storage of personal property which is typically rented to owners or occupants of property for their temporary use and which is delivered and removed by truck.

11.10.2 Portable storage units on any site shall not exceed eight (8) feet in height, eight (8) feet in width and sixteen (16) feet in length.

11.10.3 No more than two ~~(2)~~ (1) portable storage units may be located on any lot.

11.10.4 Portable storage units may remain onsite up to fourteen (14) consecutive days and will be permitted up to three ~~(3)~~ (2) times per year unless otherwise authorized herein.

11.10.5 Portable storage units shall not be located in such a manner to impair a motor vehicle operator's view and must comply with the Village Code as to site triangle and all other regulations.

11.10.6 Portable storage units shall not be located in such a manner to obstruct the flow of pedestrian or vehicular traffic.

11.10.7 Sign faces shall be permitted on a portable storage unit.

11.10.8 Portable storage units will be permitted as long as an active permit, fees for which are set by resolution, is in place. Any portable storage unit which is not removed at the end of the prescribed time for which it may lawfully remain in place, or immediately upon the direction of a code enforcement officer for removal of such temporary structure for safety reasons, may be removed by the village immediately and without notice. The cost of administration of its removal, may be assessed against the property on which the temporary structure was located and against the owner of the portable storage unit and may be filed as a lien against the property by the village.

11.10.9 In the event of a natural disaster the requirements of this section may be exempted for a specific period of time as deemed necessary by the appropriate department to meet the needs of the community.

11.10.10 The owner, operator and/or renter of the portable storage unit shall be responsible to ensure that the portable storage unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks. When not in use, the portable storage unit shall be kept locked. The owner and operator of any site on which a portable storage unit is placed shall also be responsible that no hazardous substances are stored or kept within the portable storage units.

11.10.11 A violation of any part of this section is subject to fines of one hundred dollars (\$100.00) per occurrence. Each day that the violation continues will result in a separate fine.

(Ord. No. 2005-4, § 2, 8-2-05)

11.10. Hedges

11.10.1 Location.

(a) All hedges may be located within any yard including upon the property line thereof. No such hedge shall extend beyond an official right-of-way line.

(b) When a hedge is placed on a property line, whether it be on an alley or a front property line, at least forty (40) square feet, a minimum of four (4) feet deep, of open space must be left for the storage of trash.

CHAPTER 12. SIGNS

12.1. Statement of purpose.

12.1.1 *[Purpose.]* The purpose of this chapter is to create framework for a balanced system of sign control and to promote public safety through clear, aesthetic and pleasant communication between people and the environment. It is also the purpose of this chapter to preserve the character and quality of the village's appearance and to protect property values.

12.1.2 *Maintenance.* All signs must be well maintained and must present a clean and neat appearance and comply with all codes.
(Ord. No. 2005-10, § 1, 9-11-05)

12.2. Prohibited and exempt signs.

12.2.1 *Prohibited signs.* It shall be unlawful to construct or maintain any sign on any property in the village except as expressly provided for herein. Other than village signs, no signs are permitted on public rights-of-way or village-owned property.

12.2.2 *Illuminated signs prohibited.* Other than village owned signs or illuminated signs approved prior to 2005, no sign shall be illuminated or lighted in any way. Addresses are not considered signs and, therefore, may be discreetly lit as long as consistent with all other codes and regulations.

12.2.3 *Permitted signs.*

(a) *Real estate sign.* One (1) real estate sign, not exceeding three (3) square feet in area and four (4) feet in height fixed to a post not to exceed one inch by one inch in size, advertising a property for sale, rent or lease may be installed upon such property so advertised, but at no less distance than five (5) feet from the property line.

(b) *Signs on premises or building during construction.* One (1) sign on a premises or building during construction, to give the public warning or to advertise the architect, builder or the materials used in the construction, must be erected. ~~Owner/builders are exempt from this requirement.~~ The sign is to include on it the permit, contractor's name and telephone number, state certificate number, and is not to exceed three (3) square feet in area and four (4) feet in height fixed to posts not to exceed one inch by one inch in size, at no less distance than five (5) feet from the property line and shall be removed on completion of building.

~~(c) *Accessory signs on apartment houses.* Signs indicating the name, address of an apartment house, those facilities that have more than four (4) units may be erected and~~

~~is not to exceed three (3) square feet in area and four (4) feet in height. The signs must be no less than five (5) feet from the property line.~~

(c) *Burglar alarm signs.* (1) Burglar alarm sign permissible and is not to exceed 1 sq ft in size.

(d) *Political signs.* Political signs including window signs are permitted as provided for in section 12.3 below. Political signs must be no less than five (5) feet from the property line.

(Ord. No. 292, § 1, 5-3-95; Ord. No. 2005-10, § 1, 9-11-05)

12.3. Political signs.

12.3.1 *Defined.* A political sign is any sign which indicates the name, cause or affiliation of anyone seeking public office, or which expresses any issue of public importance.

12.3.2 *Placement signs.* Political signs shall be permitted on private property by the owner or lessee of the property. No more than one (1) election sign per candidate, measure or issue shall be permitted on any one (1) private property site.

12.3.3 *Size.* Political signs, are not to exceed three (3) square feet in area. Political signs, other than window signs, can be no higher than four (4) feet.

12.3.4 *Pre-election requirements.* Prior to the posting of election signs, each candidate, campaign chairperson, firm or corporation shall file with the clerk's office and provide the clerk's office with a local address and telephone number at which the candidate, campaign chairperson, firm or corporation wishing to post the signs may be reached during normal business hours concerning any violation of this chapter or requirements of the village. Except for window signs, written consent of the property owner where the election sign shall be placed is also required for all signs placed on privately owned vacant lands and must be filed with the clerk's office.

12.3.5 *Cash bond.* Except for window signs, a cash bond of two hundred fifty dollars (\$250.00) shall be required from each election campaign political issue. This bond shall be conditioned upon the removal of all political signs of that candidate or issue within five (5) calendar days after the election to which they relate or thirty (30) days on political issues. Failure to remove all signs shall be cause for the village's designee to direct that the signs be removed by the code enforcement division and the bond forfeited. Further remedies are available to the village consistent with subsection 12.3.6. The cash bond shall be returned within thirty (30) days after all signs have been removed and a request is made by the appropriate election campaign contact. Successful candidates in nominating elections may continue to display their signs during the interval between the nominating or primary and general elections without posting any additional bond except where the interval exceeds ninety (90) days.

12.3.6 *Violations of this section; enforcement procedures available to village; schedule of fines and penalties.*

(a) Any violation or repeat violation of this section may be pursued by the village by appropriate remedy either in court, through code enforcement by the imposition of a fine as set forth below, or by any other means available at law or in equity, at the option of the village. If it is the first violation for the individual, campaign or corporation, a warning should first be given unless extenuating circumstances exist. Any person violating this chapter shall be punished by a fine of not more than one hundred dollars (\$100.00) per violation. Each day, or portion thereof, that a violation occurs is considered an additional violation.

(b) After twenty-four (24) hours' notification is given to the campaign chairperson, or designee, the village may draw on the bond placed pursuant to this section towards the payment of any delinquent penalties which are assessed by the village for any violations of the provisions herein. Notification shall be deemed legally sufficient upon the village, during regular business hours, attempting to contact by telephone the number which the campaign chairperson, or designee, filed with the code enforcement division. Notification shall not be required within forty-eight (48) hours of election. Penalties may be assessed immediately upon violation within forty-eight (48) hours of an election.

12.3.7 *Setbacks.* No sign shall be placed less than five (5) feet from the property line and no sign shall be permitted in an area which is determined by the village to cause a safety hazard or violate visibility triangles.

12.3.8 *Headquarters sign.* A candidate for village public office may display one (1) sign not to exceed sixteen (16) square feet on only one (1) property in Biscayne Park and designate it as headquarters. Such sign shall conform to the setback requirements of subsection 12.3.7 above.

(Ord. No. 292, § 1, 5-3-95; Ord. No. 2005-10, § 1, 9-11-05)