Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **February 2, 2016**

Subject: **Ordinance 2016-01 - Chapter 8 Environmental Management**

Prepared By: **Maria C. Camara**

Sponsored By: **Staff**

Background

At the December 1st, 2015 commission meeting, the Commission reviewed and discussed the proposed changes to Chapter 8 of the Land Development Code from the Code Review Board. Following discussion, there was consensus from the Commission to have the Village Attorney draft the ordinance for first reading.

Attachments:

- Ordinance 2016-01

ORDINANCE NO. 2016-01

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA AMENDING CHAPTER 8 OF THE LAND DEVELOPMENT CODE ENTITLED "ENVIRONMENTAL MANAGEMENT" WHICH INCLUDE AMENDMENTS TO SECTIONS 8.2, 8.3 AND 8.4; TEMPORARY EXTERIOR HOLIDAY DECORATIONS, STORM SHUTTER/PROTECTIVE WINDOW COVER REPLACEMENTS AND HOUSE NUMBERS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Code Review Board (the "Board") periodically reviews the Village Code and makes recommendations concerning amendments to the Code; and

WHEREAS, the Board has recommended revisions to certain sections of Chapter 8 of the Land Development Code ("LDC"); and

WHEREAS, the Village Commission finds it in the best interests of the Village to approve this ordinance, authorizing the LDC to be revised to be consistent with the Board's recommendations;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:

Section 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Chapter 8 of the Village of Biscayne Park Land Development Code, entitled, "Environmental Management", is hereby amended to read as follows:

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.

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.

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.

8.2.4 Tree protection. It shall be unlawful for any person, unless otherwise permitted by the terms of the ~~Metro~~Miami-Dade County Code ~~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 ~~Metro~~Miami-Dade County's Department of ~~Environmental Regulation and Management~~ Regulatory and Economic Resources. 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 Dade County Code (subsection 24-60(4)).~~

8.3. - Landscaping.

8.3.1 Approved plants. ~~As far as possible n~~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; groundcovers, 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.

* * * *

8.4.2 Unsightly 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 personalty~~ is junk, the code enforcement officer shall employ the criteria set forth in this code, subsections 9-17(a)(1)—(5), and those criteria are specifically incorporated herein. All of the criteria which are relevant to the particular personalty 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 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 vehicle, including but not limited to, any ~~house~~ car, ~~camp car~~, trailer, unused or unsightly truck, wagon, buggy, boat, machinery or other unused or unsightly personalty 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 exterior holiday decorations and temporary lighting shall not be placed more than forty five (45) days prior to the holiday or observance and must be removed no later than fourteen (14) days after the holiday or observance has ended.

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.

8.4.5 Storm shutters/protective window cover placement. 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/protective window covers in a closed/secure position on a structure for periods in excess of five (5) business days unless:

(a) Tropical storm or hurricane conditions are expected to occur within thirty six (36) hours;
(b) A tropical storm or hurricane occurs during the five (5) day period, at which point the five (5) day period begins a new after hurricane conditions have subsided;
(c) Tropical storm or hurricane conditions are expected to occur within thirty six (36) hours after the fifth day;
(d) The structure is used for residential purposes and the property is vacant, then shutters/protective window covers may be in place for up to fourteen (14) consecutive days and the owner/occupant registers with the police department on a form prepared by the village.

It is not the intention that the above restrictions include window covers used as a decorative window cover or used to shield the residence from the sun.

8.4.6 Street address display.

(a) It is the intent of this regulation that all developments of any type within the municipal limits of the Village of Biscayne Park shall display identification in such a manner and place that location of a particular address can be ascertained from the nearest street or alley servicing the development.

(b) All property shall display their street address so that numerals and/or letters shall have sufficient contrast from its background and be legible from the street, alley or right-of-way upon which said property faces. For properties which have frontage on both streets and alleys, the street address must be displayed at both locations. The street address shall be displayed in numerals not less than four (4) inches in height.

(c) A building which does not face a street, alley or right-of-way and which contains more than four (4) dwelling units, shall display, in addition to individual unit addresses, the range of addresses assigned to units therein immediately adjacent to the roadway.

(d) It is the intent of this article to establish a duty for all property owners in the Village of Biscayne Park to install and maintain required signage. Property developed as of the effective date of this article shall be brought into compliance, at the expense of the property owner, within six (6) months from the date of enactment of this section.

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.

Section 3. **Conflicts.** That all Ordinances or parts of Ordinances, Resolutions or parts thereof in conflict herewith, are and the same are hereby repealed to the extent of such conflict.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it

being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** It is the intention of the Village Commission of the Village of Biscayne Park, that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the Village of Biscayne Park, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or other word or phrase in order to accomplish such intention.

Section 6. **Effective Date.** This Ordinance shall be effective upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner _____, who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

PASSED AND ADOPTED upon first reading this ____day of _____, 2016.

PASSED AND ADOPTED upon second reading this ____day of _____, 2016.

The foregoing ordinance upon being put to a vote, the vote was as follows:

_____
David Coviello, Mayor

Mayor Coviello: ___
Vice Mayor Watts: ___
Commissioner Anderson: ___
Commissioner Jonas: ___
Commissioner Ross: ___

Attest:

_____

Maria C. Camara, Village Clerk

Approved as to form:

_____

John J. Hearn, Village Attorney