



## Village of Biscayne Park Commission Agenda Report

**Village Commission Meeting Date:** December 1, 2015

**Subject:** Draft Ordinance - Proposed Changes  
To Chapter 8 Environmental Mgmt

**Prepared By:** Maria C. Camara

**Sponsored By:** Staff

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### Background

At the November 10<sup>th</sup> commission meeting, the Commission directed the Village Attorney to draft the language for the proposed changes to Chapter 8 of the Village's code of ordinances, Environmental Management. The proposed changes were provided by the Code Review Board.

### Fiscal / Budget Impact:

For the first and second reading of the ordinance, the cost for advertising, then codification.

**Recommendation:** Review and determine scheduling for first reading.

### Back-up Information:

- Draft ordinance
- Proposed changes from the Code Review Board  
(yellow highlights - Code Board; green highlights - Village Attorney)

Draft

ORDINANCE NO. 2016-

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3  
4 AN ORDINANCE OF THE VILLAGE  
5 COMMISSION OF THE VILLAGE OF BISCAYNE  
6 PARK, FLORIDA AMENDING CHAPTER 8 OF  
7 THE LAND DEVELOPMENT CODE ENTITLED  
8 “ENVIRONMENTAL MANAGEMENT” WHICH  
9 INCLUDE AMENDMENTS TO SECTIONS 8.2, 8.3  
10 AND 8.4; AMENDING VARIOUS  
11 ENVIRONMENTAL MANAGEMENT  
12 PROVISIONS CONCERNING PLANT LIFE IN  
13 THE RIGHTS-OF-WAY, TEMPORARY  
14 EXTERIOR HOLIDAY DECORATIONS, STORM  
15 SHUTTER REPLACEMENTS AND HOUSE  
16 NUMBERS; PROVIDING FOR CONFLICTS;  
17 PROVIDING FOR SEVERABILITY; PROVIDING  
18 FOR INCLUSION; PROVIDING FOR AN  
19 EFFECTIVE DATE

20  
21 WHEREAS, the Code Review Board (the “Board”) periodically reviews the Village  
22 Code and makes recommendations concerning amendments to the Code; and

23  
24 WHEREAS, the Board has recommended revisions to certain sections of Chapter 8 of the  
25 Land Development Code (“LDC”); and

26  
27 WHEREAS, the Village Commission finds it in the best interests of the Village to  
28 approve this ordinance, authorizing the LDC to be revised to be consistent with the Board’s  
29 recommendations;

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31  
32 NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF  
33 THE VILLAGE OF BISCAYNE PARK, FLORIDA:

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35  
36 **Section 1.** The foregoing “Whereas” clauses are hereby ratified and confirmed as  
37 being true and correct and are hereby made a specific part of this Ordinance upon adoption  
38 hereof.

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

41 **CHAPTER 8. - ENVIRONMENTAL MANAGEMENT**

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3 **8.1. - Generally.**  
4

5 8.1.1 Purpose of chapter. The purpose of this chapter is to provide measures to protect the air,  
6 water, habitat, and trees of the village, and furnish standards for landscaping, property  
7 maintenance, and avoidance of fire and explosive hazards.

8 **8.2. - Protection of natural resources.**  
9

10 8.2.1 Air pollution. To protect and enhance the air quality of the village, all sources of air  
11 pollution shall comply with rules set forth by the Federal Environmental Protection Agency  
12 and the Florida Department of Environmental Regulation. No person shall operate a  
13 regulated source of air pollution without a valid operating permit issued by the department  
14 of environmental regulation.

15 8.2.2 Water pollution. Standards are necessary to protect the quantity and quality of the  
16 principal source of water, the groundwater supply, to safeguard the health, safety and  
17 welfare of residents in the village and surrounding areas. The South Florida Water  
18 Management District's use rules and regulations shall apply.

19 8.2.3 Habitat protection.

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

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

24 8.2.4 Tree protection. It shall be unlawful for any person, unless otherwise permitted by the  
25 terms of ~~the MetroMiami-Dade County Code Ordinance No. 89-8~~, and as may be amended,  
26 to do tree removal work or to effectively destroy any tree without first obtaining a permit  
27 from ~~MetroMiami-Dade County's~~ Department of Environmental Regulation and  
28 Management. The following activities are exempt from tree removal permits:

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

32 (b) Removal of any dead tree.

33 (c) Removal of tree species specified by the Miami-Dade County Code (~~subsection 24-~~  
34 ~~60(4)(f)~~).

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

36 **8.3. - Landscaping.**  
37

38 8.3.1 Approved plants. ~~As far as possible~~ Native species (including xeriscape plants) should  
39 be used for landscaping as these species are tolerant of and suited to the weather, insects,  
40 and soil conditions of the area, and need less water, fertilizer, and pesticides to ensure their  
41 survival. Lists of approved trees, shrubs and hedges; groundcovers, and lawn grass, as well  
42 as prohibited plants, are designated in the Miami-Dade County Code and are hereby  
43 incorporated by reference into the village code.

44 **8.4. - Property maintenance.**  
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1 8.4.1 Lots and public rights-of-way.

- 2 (a) It shall be the duty and obligation of all occupant-owners and occupant-lessees of lots in  
3 the village to maintain and keep in good condition their lots and the swale areas  
4 between the pavement edge and the property line which includes the sidewalk adjacent  
5 and contiguous to their lots. The duty hereby imposed upon such occupant-owners and  
6 occupant-lessees shall not extend to any property other than that included within the lot  
7 lines of the property and the adjacent swale area as projected to include the swale area.  
8 (b) Lots and public rights-of-way areas will be considered maintained if all the following  
9 requirements are met:
- 10 (i) Areas must be kept free from any accumulation of debris, decayed vegetable  
11 matter, filth, rubbish, trash, discarded building materials, glass, or any other  
12 materials dangerous to the public health, safety, and welfare;
- 13 (ii) ~~Areas must not be allowed to become overgrown with~~ The growth or accumulation  
14 of any grass, weeds, or other plant life that exceeds the height of eight (8) inches  
15 from the ground must be removed by the property owner. ~~brush, and lawn and~~  
16 ~~groundcover areas shall not exceed eight (8) inches in height.~~  
17 (iii) The planting of trees, palms and bamboo in the right-of-way is prohibited except by  
18 the Village.
- 19 (c) A combination of paving and sodding of lots and rights-of-way area shall be permitted  
20 provided the impervious section does not exceed forty (40) percent of the total area and  
21 such paved areas shall be kept in good condition.
- 22 ~~(d) None of the above standards shall be construed to preclude property owners from~~  
23 ~~landscaping with approved trees or other permitted materials in the public right-of-way~~  
24 ~~area.~~

25 8.4.2 Unsightly and unused objects. The storage and harboring of disused motor vehicles  
26 hereinafter sometimes referred to as junk vehicles and any other unused or unsightly  
27 personal property on any lot is prohibited and declared unlawful unless the same is stored in  
28 a suitable building erected on such lot in accordance with the building code and this code, or  
29 with respect to a vehicle, is covered by a material covering designed for such purpose.

30 For the purpose of determining whether a vehicle ~~other than personalty~~ is junk, the code  
31 enforcement officer shall employ the criteria set forth in this code, subsections 9-17(a)(1)—(5),  
32 and those criteria are specifically incorporated herein. All of the criteria which are relevant to the  
33 particular personalty shall be considered in determining whether the property is junk, no one  
34 criterion being conclusive.

35 8.4.3 Violations and enforcement.

- 36 (a) Fences and walls not maintained in a safe condition and permitted to deteriorate or  
37 become unsightly shall constitute a violation of this code.
- 38 (b) Whenever there is any excessive growth of weeds and undergrowth, fallen or dead  
39 trees, or rubbish, debris, brush and unsightly and unsanitary matters located on any lot  
40 or public right-of-way in the village, it shall constitute a violation of this code.
- 41 (c) Any person owning land on which is stored any vehicle, including but not limited to,  
42 any house car, camp-car, trailer, unused or unsightly truck, wagon, buggy, boat,  
43 machinery or other unused or unsightly personalty property, shall be considered in  
44 violation of this code.

- 1 (d) Enforcement of any of the above violations shall be through the civil citation procedure.  
2 (e) Temporary exterior holiday decorations and temporary lighting shall not be placed more  
3 than forty five (45) days prior to the holiday or observance and must be removed no  
4 later than fourteen (14) days after the holiday or observance has ended.

5 8.4.4 Animals, etc., prohibited. The following shall be prohibited:

- 6 (a) Bee hives or the breeding or raising of any insects, reptiles or animals other than  
7 customary pets.  
8 (b) The keeping, breeding, or maintaining of horses, cattle or goats.  
9 (c) The raising of poultry or fowl.

10  
11 8.4.5 Storm shutters placement. Consistent with the provisions regarding storm shutters as  
12 defined and set forth in the Florida Building Code, as amended from time to time, it is prohibited  
13 to maintain storm shutters in a closed/secure position on a structure for periods in excess of five  
14 (5) business days unless:

- 15  
16 (a) Tropical storm or hurricane conditions are expected to occur within thirty six (36) hours;  
17 (b) A tropical storm or hurricane occurs during the five (5) day period, at which point  
18 the five (5) day period begins a new after hurricane conditions have subsided;  
19 (c) Tropical storm or hurricane conditions are expected to occur within thirty six (36)  
20 hours after the fifth day;  
21 (d) The structure is used for residential purposes and the property is vacant, then  
22 shutters may be in place for up to fourteen (14) consecutive days and the  
23 owner/occupant registers with the police department on a form prepared by the  
24 village.

25  
26 8.4.6 House numbers.

- 27  
28 (a) All owners of buildings within the village shall prominently display the correct  
29 numerical address of their respective buildings upon their building in any location  
30 such that the numbers are clearly visible from the street at all times. Such number  
31 shall not be less than four (4) inches in height.  
32 (b) All owners of buildings within the village having access to an alley shall  
33 prominently display the correct numerical address of their respective buildings  
34 upon their building in any location such that the numbers are clearly visible from  
35 the alley at all times. Such number shall not be less than four (4) inches in height.  
36 (c) It shall be the duty of the owner to maintain the numbers in good condition.

37 **8.5. - Fire and explosive hazards.**

38  
39 8.5.1 Fire and explosive standards. The South Florida Fire Prevention Code, and as may be  
40 amended from time to time, is hereby incorporated into the village code. The storage, use, or  
41 manufacture of flammable or explosive materials in Biscayne Park is prohibited.  
42

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

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

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

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

14  
15 The foregoing Ordinance was offered by Commissioner \_\_\_\_\_, who moved its  
16 adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote,  
17 the vote was as follows:

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

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20  
21 \_\_\_\_\_  
22 David Coviello, Mayor

23 Attest:

24  
25  
26  
27 \_\_\_\_\_  
28 Maria C. Camara, Village Clerk

Mayor Coviello: \_\_\_\_  
Vice Mayor Watts: \_\_\_\_  
Commissioner Anderson: \_\_\_\_  
Commissioner Jonas: \_\_\_\_  
Commissioner Ross \_\_\_\_

29 Approved as to form:  
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John J. Hearn, Village Attorney

# Revised 01 07 2013

## 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 the ~~MiamiMetro~~-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 ~~MiamiMetro~~-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 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 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; 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 ~~and the adjacent swale area 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) ~~The growth or accumulation of any grass, weeds, non-native undergrowth or other dead plant life and trees that exceeds the height of eight (8) inches from the ground must be removed by the property owner. (added Code Review Board – 4/24/2012 – Revised 12/5/12)~~

(iii) ~~The planting of trees , palms and bamboo in the right of way is prohibited except by the Village. (Added by CRB – 12/5/12)~~

(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 in 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), 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 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 (~~added by CRB 12/5/12~~) holiday decorations and temporary lighting, ~~provided they carry no advertising matter,~~ shall not be placed ~~more than~~ forty five (45) days prior to the holiday or observance and must be ~~and are~~ removed .36+ ~~no later than~~ fourteen days (14) (~~thirty (30) days (added by CRB 12/5/12)~~) after the holiday ends 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.

(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. At least two (2) means of ingress and egress are provided through a door, window or garage. (added by CRB 12/5/12)~~

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) 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 may be in place for up to fourteen (14) consecutive days, but no person is in residence for a period in excess of five (5) business days two (2) weeks (added by CRB 12/5/12)~~ and the owner / occupant registers with the police department on a form prepared by the ~~city/village~~;

(d) ~~At least two (2) means of ingress and egress are provided through a door, window or garage. (deleted by CRB on 12/5/12)~~

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.