Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date:	**October 6, 2015**
Subject:	**Chapter 8 Revisions**
Prepared By:	**Vice-Mayor Bob Anderson**
Sponsored By:	**Commission**

Background:

The Code Review Committee has been working on Chapter 8 Revisions for well over a year. I believe it is time for this commission to discuss this Chapter and provide clear direction to the committee, staff and our Village attorney so that we can move forward with this Chapter.

Fiscal/Budget Impact: Nothing at this time

Recommendation: Have discussion.

Attachments:

- BP Code Chapter 8 Recommendations
- Draft Chapter 8

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 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 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 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 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 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) 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 the public right-of-way area.
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 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 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 *exterior (added by CRB 12/5/12)* holiday decorations and temporary lighting, provided they carry no advertising matter, shall not be placed forty five (45) days prior, and are removed fourteen days (14) *(thirty (30) days (added by CRB 12/5/12)* 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. *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) 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~~ *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;
~~(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 that 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 that 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.

Revised 01 07 2013

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