



# Village of Biscayne Park

## Commission Agenda Report

**Village Commission Meeting Date:** March 1, 2016

**Subject:** Ordinance 2016-02 - Section 16.15  
Landlord Permits

**Prepared By:** Maria C. Camara

**Sponsored By:** Staff

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### Background

At the February 2, 2016, commission meeting, the Commission discussed section 16.15 of the Land Development Code regarding Landlord permits, specifically removing the waiver of the permit fee after three years.

Following discussion, there was consensus from the Commission to have the Village Attorney draft the ordinance for first reading to remove the waiver, and to also include language proposed by Staff, regarding:

- Removal of Section 16.15.3 Exemption
- Removal of references to required inspections by the Village

### Recommendation

Approval of Ordinance 2016-02 at first reading.

### Attachments

- Resolution 2016-02

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**ORDINANCE NO. 2016-02**

**AN ORDINANCE OF THE VILLAGE  
COMMISSION OF THE VILLAGE OF BISCAYNE  
PARK, FLORIDA AMENDING SECTION 16-15 OF  
THE LAND DEVELOPMENT CODE ENTITLED  
“LANDLORD PERMITS”; PROVIDING FOR  
CONFLICTS; PROVIDING FOR SEVERABILITY;  
PROVIDING FOR INCLUSION; PROVIDING FOR  
AN EFFECTIVE DATE**

WHEREAS, Section 16-15 of the Village’s Land Development Code requires a property owner to obtain an annual landlord permit when the dwelling unit has been leased, subleased, rented or allowed to be occupied; and

WHEREAS, the implementation of this policy has assisted the Village in ensuring that owners and occupants of residential rental units share the responsibility in maintaining the rental units in compliance with Village codes and avoiding nuisances for neighboring residents; and

WHEREAS, the annual permit fee of \$50.00 per unit assists in defraying the expense of administration of the policy; and

WHEREAS, the Village Commission finds it in the best interests of the Village to approve this ordinance, authorizing the continuation of the landlord permitting program;

**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.** Section 16-15 of the Village of Biscayne Park Land Development Code, entitled, “Landlord permits”, is hereby amended to read as follows:

16.15. - Landlord permits.

16.15.1 Application for permit; issuance of permit. Every owner of a dwelling is required to obtain an annual landlord permit for each dwelling unit from the village manager or designee prior to leasing, subleasing, renting or allowing the occupancy of such unit to another natural person or other natural persons, unrelated to the owner, whether or not for consideration, except as provided in subsection 16.15.3. In the case of multiple owners of any such dwelling unit, it shall be sufficient for any one of the owners to have obtained a permit on the unit. The application shall be in writing and on a form provided by the village.

1 Such annual permit shall be valid from January 1 through December 31 of each year and  
2 shall be issued and not revoked if:

- 3 (1) The annual regulatory fee is paid.
- 4 (2) The applicant and the applicant's property are not in violation of this section.
- 5 (3) The applicant provided the correct street address for all parcels or property covered by  
6 this section.

7 16.15.2 Landlord permit required. It is hereby deemed unlawful for any person to lease, sublease,  
8 rent or allow the occupancy of any dwelling or dwelling unit for the purpose of tenancy,  
9 whether or not for consideration, without first obtaining the required landlord permit.

10 ~~16.15.3 Exemption. The provisions of this section do not apply if the dwelling unit is occupied~~  
11 ~~by less than three (3) persons eighteen (18) years of age or older, one (1) of whom is the~~  
12 ~~owner, and the children of one (1) or both of these people.~~

13 16.15.4~~3~~ Payment; late payment. The village shall bill each applicant or holder of a landlord  
14 permit for the annual fee, once the village manager or designee determines that all  
15 requirements for the permit have been met. If payment is not received on the due date, the  
16 account shall be considered delinquent and subject to a delinquency penalty of ten (10)  
17 percent for the first thirty (30) days of delinquency and an additional five (5) percent penalty  
18 for each month of delinquency thereafter until paid; provided that the total delinquency  
19 penalty shall not exceed twenty-five (25) percent of the fee due. If payment is not received  
20 within one hundred twenty (120) days, the village manager or designee may refer the  
21 account to a collection agency. If the collection agency does not collect the amount due  
22 within ninety (90) days of the referral, or if the village manager or designee decides not to  
23 refer the account to a collection agency, the applicant or permit holder shall be subject to  
24 citation for violation of this section and proceedings before the code enforcement board.

25 16.15.5~~4~~ Fees.

26 (a) Fees to be charged for the purpose of administering this ordinance shall be established  
27 by separate resolution.

28 (b) The village manager shall collect all fees due and owing to the village.

29 ~~(c) Inspections of the applicant's premises shall be scheduled at the convenience of both the~~  
30 ~~enforcement officer/inspector, landlord and tenant(s). If the landlord and/or tenant fails~~  
31 ~~to be present at the time of the scheduled inspection or if the enforcement~~  
32 ~~officer/inspector is denied and/or unable to gain access to the dwelling or dwelling unit~~  
33 ~~to conduct the requisite inspection, the landlord may be subject to being charged a re-~~  
34 ~~inspection fee for each re-inspection, at the discretion of the village. Additionally, after~~  
35 ~~three (3) such attempts and/or denials of access to the premises, the village may pursue~~  
36 ~~the revocation of any existing permit(s) of use issued to the subject premises.~~

37 16.15.6 Waiver of permit fee. If the property has received no violations for three (3) consecutive  
38 years, then the landlord permit fee shall be waived.

39 16.15.7~~5~~ Application procedures.

40 (a) No landlord permit shall be issued or granted to any person unless an application is filed  
41 with the village manager, or his/her designee on forms provided for that purpose,  
42 disclosing the following:

1 (1) The landlord's name and address and telephone number, and any other emergency  
2 contact information. Any changes in such information during the period for which  
3 the landlord permit is issued shall be made to the village manager or his/her  
4 designee, in writing.

5 (2) If the applicant is a corporation or partnership, the full name and address of the  
6 corporation or partnership and the state of incorporation. Applicant must submit a  
7 copy of the articles of incorporation.

8 (b) All applications and permits shall be assigned a number, which may be an individual's  
9 Social Security Number, a corporation's federal tax number, or such other uniform  
10 method of numbering selected by the village manager or his designee.

11 (c) Statement of accuracy: The application form shall contain the following language:

12 "The undersigned has carefully reviewed this application and all information contained  
13 herein has been freely and voluntarily provided. All facts, figures, statements contained  
14 in this application are true, correct, and complete to the best of my knowledge and  
15 belief. ~~The applicant also acknowledges and understands that the issuance of a Village  
16 landlord permit is contingent upon a compliance inspection and in conjunction with the  
17 issuance of a certificate of occupancy.~~ The undersigned understands that failure to  
18 comply with the Village's ordinances may result in revocation of said landlord permit."

19 (d) The applicant shall print and sign his or her name to the application immediately after  
20 the statement required in subsection (c) above. In the case of a corporation, an officer  
21 shall be required to sign the application in his individual capacity and not solely as a  
22 corporate agent.

23 (e) Dwelling or dwelling units that are required to obtain a certificate of occupancy  
24 pursuant to the Florida Building Code, must do so prior to the issuance of a landlord  
25 permit. The village shall honor any certificate of occupancy issued by Miami-Dade  
26 County; provided that the occupancy for which the certificate was issued remains the  
27 same.

28 (f) State license, certificate, registration required. All premises regulated by the state must  
29 submit a copy of their current state license, certificate, and/or registration prior to the  
30 issuance of their landlord permit and thereafter each year at the time of renewal. Only  
31 the state license itself or receipt therefore shall constitute proof of current state license.

32 (g) Landlord permits shall not be issued unless all application procedures in this section are  
33 completed.;

34 ~~(1) There has been a site inspection of the dwelling or dwelling unit(s) by the village.~~

35 ~~(2) The village has verified compliance with all applicable laws and regulations and~~  
36 ~~has collected all applicable fees due to the village.~~

37 16.15.86 Failure to apply for permit. If the village manager or designee has reasonable cause to  
38 believe that a dwelling unit is being leased, subleased, rented or occupied without a permit  
39 in violation of this section, the owner of the property shall be given notice that a permit is  
40 required and that an application must be filed with the village within thirty (30) days of the  
41 notice. If an application, or evidence that a permit is not required, is not received on the due

1 date, the owner shall be cited for violation of this section and proceedings before the code  
2 enforcement board will begin.

3 16.15.97 Tenant documents. Prior to executing a lease for the dwelling unit covered by the  
4 permit, applicant will provide each tenant with a copy of:

5 (a) F.S. Ch. 83, pt. II, entitled "Residential Tenancies;" and

6 (b) Chapter 16, section 16.15 of this Code, entitled "Landlord Permits."

7 16.15.408 Obligation to pursue lawful remedies. In the event the village provides notice to the  
8 applicant (property owner or designated agent) of repeated violations of certain ordinances  
9 by a tenant or guests of a tenant of the dwelling unit, the applicant will pursue all lawful  
10 remedies available under F.S. § 83.56, regarding termination of the rental agreement due to  
11 the tenant's failure to comply with F.S. Ch. 83, the provisions of the lease or this Code.

12 16.15.419 Requirements of permittee.

13 (a) Any owner who resides outside of Miami-Dade County either at the time of procuring a  
14 permit or after having procured a permit shall appoint an agent who resides within the  
15 county for the purpose of receiving notices from the village concerning the permit. The  
16 owner shall notify the village in writing of the name, address and telephone number of  
17 the agent. If the owner fails to appoint an agent or notify the village, the permittee shall  
18 be presumed to have agreed to constructive notice by publication in a newspaper of  
19 county-wide circulation within Miami-Dade County.

20 (b) The permittee and appointed agent, if any, shall maintain a list of the names of tenants  
21 in each dwelling unit. Such lists shall be available to the village upon reasonable notice.

22 16.15.4210 Material breaches of lease. Adjudications of guilt or pleas of no contest of the  
23 village's ordinances, including but not limited to, noise, animal control, solid waste, storage,  
24 trash and yard maintenance, shall be a material breach of a lease of any unit regulated by  
25 this section, and grounds for termination of the lease.

26 16.15.4311 Agreement to allow inspection. By applying for a permit, the owner agrees to allow  
27 inspection of the unit for violations of the housing code at any reasonable time; however,  
28 this provision shall not be interpreted as authorizing the village to conduct an inspection of  
29 an occupied rental unit without obtaining either the consent of an occupant or a warrant.

30 16.15.4412 Contact information. No permit shall be issued or renewed until the applicant or  
31 permit holder has provided the name and phone number of a natural person eighteen (18)  
32 years of age or older who can be contacted twenty-four (24) hours a day, seven (7) days a  
33 week, regarding the rental unit. This contact person may be the owner, the owner's agent, or  
34 any other person other than a resident of the rental unit who has agreed to be the contact  
35 person.

36 16.15.4513 Denial or revocation of permit.

37 (a) The village manager or designee may deny issuance of, or revoke, any permits applied  
38 for under this section if it is determined either that the applicant or holder has made  
39 material misrepresentations about the condition of his/her property, or that the owner  
40 has otherwise violated a provision of this section.

41 (b) If the village manager or designee determines there is reasonable cause to believe that  
42 there are grounds to revoke or deny a permit applied for or held, a written notice shall

1 be mailed by registered mail to the owner or agent whose address was provided in the  
2 application for such permit. If the dwelling unit in question is occupied, a copy of the  
3 notice shall be mailed to at least one (1) tenant. Such written notice shall state the  
4 alleged grounds for revocation or denial. For revocation of a permit, such written notice  
5 shall also state that the revocation will become effective thirty (30) days from the date  
6 of the notice unless, within the thirty (30) days, the alleged grounds for revocation are  
7 remedied (or legal action to do so is begun) to the satisfaction of the village manager or  
8 designee or a hearing is applied for in accordance with this section.

9 (c) Within thirty (30) days from the date the notice of revocation or denial is mailed, a  
10 holder of or applicant for a permit or the appointed agent may request in writing to the  
11 village manager a hearing on the revocation or denial. The village manager or  
12 designee shall schedule the hearing to occur within fifteen (15) days after receiving the  
13 request for hearing and shall notify the permit holder or applicant at least five (5) days  
14 in advance. The hearing may be postponed if mutually agreed upon by all parties.

15 (d) The hearing shall be conducted informally and adherence to the rules of evidence  
16 normally followed by the courts shall not be required. Any person may present  
17 testimony, documents or other evidence as deemed relevant by the village manager or  
18 designee. Any person may be represented by counsel.

19 (e) The village manager or designee shall consider all evidence presented, and if the  
20 preponderance of the evidence supports the allegation of violation the permit shall be  
21 denied or revoked. If the preponderance of the evidence does not support the allegation  
22 of violation, the permit shall be issued or allowed to continue. The decision of the  
23 village manager or designee may be appealed to the county court of Miami-Dade  
24 County.

25 (f) The village manager or designee may waive the revocation requirement as to any permit  
26 if it is determined that the owner has attempted in good faith to comply with this  
27 section. In determining asserted good faith as required for a waiver, the village manager  
28 or designee may consider, but not be limited to, the owner's having remedied the  
29 violation, and the owner's past history of violations of the conditions of the landlord  
30 permit.

31 (g) If a permit is revoked under this section, the owner whose permit was revoked shall not  
32 be issued another permit on the same premises for a period of six (6) months after the  
33 date of revocation.

34 16.15.4614 Inspections and complaints.

35 (a) Inspections. If there is cause to believe a violation of this section exists, the village  
36 manager or designee is hereby authorized to make inspections of any premises at  
37 reasonable times with seventy-two (72) hours notice to the owner or agent at the address  
38 provided in the application for the permit for the premises or, if no permit has been  
39 applied for, to the owner as shown on the latest tax rolls, and one (1) occupant (if any),  
40 to determine if a violation exists. Upon refusal to allow entry into the dwelling, the  
41 village may apply for a search warrant from the appropriate court for authorization to  
42 enter the dwelling.

1 (b) Complaints. All complainants shall be requested to state their names and addresses and  
2 give a statement of the facts giving rise to the complainant's belief that the provisions of  
3 this section are being violated. Such information may be obtained orally or in writing.

4 16.15.4715 Penalties for violations. Any person who violates any section of this ordinance shall  
5 be subject to the issuance of a civil citation with a civil penalty in the amount of two  
6 hundred fifty dollars (\$250.00) per day. Violations of this ordinance may also be punished  
7 by a fine not to exceed five hundred dollars (\$500.00). Each day any violation or any  
8 provision of this Code shall continue, shall constitute a separate offense.

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

11  
12 **Section 4.** Severability. The provisions of this Ordinance are declared to be  
13 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be  
14 held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining  
15 sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it  
16 being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any  
17 part.

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

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25 **Section 6.** Effective Date. This Ordinance shall be effective upon adoption on  
26 second reading.  
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29 The foregoing Ordinance was offered by Commissioner \_\_\_\_\_, who moved its  
30 adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote,  
31 the vote was as follows:

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34 PASSED AND ADOPTED upon first reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

35 PASSED AND ADOPTED upon second reading this \_\_\_\_ day of \_\_\_\_\_, 2016.  
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**The foregoing ordinance upon being put  
to a vote, the vote was as follows:**

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

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6 David Coviello, Mayor  
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14 Attest:  
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19 Maria C. Camara, Village Clerk  
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24 Approved as to form:  
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29 John J. Hearn, Village Attorney  
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