



Village of Biscayne Park Commission Agenda Report

Village Commission Meeting Date: August 4, 2015

Subject: Ordinance 2015-04 – Proposed changes to Chapter 5 (swales and driveways)

Prepared By: Maria C. Camara, Village Clerk

Sponsored By: Staff

BACKGROUND

The Code Review Board has the responsibility of reviewing the Village's current code and to make recommendations and propose changes. After their dedicated review of Chapter 5 of the Land Development Code, the Board brought forward their proposed changes for the Commission's consideration. After numerous meetings and workshops with the Board and residents, the Village Commission reviewed and amended certain portions and at its July meeting, directed the Village Attorney to draft the Ordinance for first and second reading.

Ordinance 2015-04 includes the following:

- As is currently required, property owners are responsible for the maintenance of the swale in front of their property which includes maintenance of sod and landscaping, mowing and general edging, weeding, trimming, pruning and cleanup.
- Property owners are also responsible for the removal and associated costs of dead, diseased and/or fallen trees and any trees that may interfere with the right-of-way or otherwise pose a danger to the health, safety and welfare of the community.
- All properties will be required to have all vehicles park on an approved driveway surface (concrete, paver, brick, gravel, asphalt, cut stone or turf block). Properties that do not have an approved driveway surface will have two (2) years to obtain a permit.
- If a property currently has a driveway that is not on an approved surface, it may remain until a substantial portion (50% or greater) requires repair or an addition is added to the driveway.

This ordinance only includes certain portions of the proposed changes at this time. Additional changes will be reviewed and discussed once the Storm Water Master Plan has been completed.

August 4, 2015

Commission Agenda Report

Ordinance 2015-04 Chapter 5 (changes to swales and driveways)

FISCAL / BUDGET IMPACT:

Cost for advertisement for second reading of the Ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of Ordinance 2015-04 at first reading.

ATTACHMENTS

- Ordinance 2015-04

1 **ORDINANCE NO. 2015-04**

2
3 **AN ORDINANCE OF THE VILLAGE COMMISSION**
4 **OF THE VILLAGE OF BISCAYNE PARK, FLORIDA**
5 **AMENDING SECTION 5.3.4 OF THE LAND**
6 **DEVELOPMENT CODE ENTITLED “OBJECTS IN**
7 **THE RIGHT-OF-WAY” TO PROVIDE**
8 **REGULATIONS PERTAINING TO THE SWALE**
9 **AREA; AMENDING SECTION 5.6 OF THE LAND**
10 **DEVELOPMENT CODE ENTITLED “OFF-STREET**
11 **PARKING” TO PROVIDE REGULATIONS**
12 **PERTAINING TO OFF-STREET PARKING;**
13 **PROVIDING FOR CONFLICTS; PROVIDING FOR**
14 **SEVERABILITY; PROVIDING FOR INCLUSION;**
15 **PROVIDING FOR AN EFFECTIVE**

16
17 WHEREAS, at the direction of the Village Commission, the Code Review Board
18 reviewed Chapter 5 entitled “Transportation” of the Land Development Code; and

19
20 WHEREAS, numerous meetings and workshops were held to discuss the proposed
21 changes to Chapter 5 of the Land Development Code; and

22
23 WHEREAS, the Village Commission finds it in the best interests of the Village to amend
24 Sections 5.3.4 addressing objects in the right-of-way and swale area and to amend Section 5.6
25 addressing off-street parking and to approve this ordinance, authorizing the LDC to be amended;

26
27 **NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF**
28 **THE VILLAGE OF BISCAYNE PARK, FLORIDA:**

29
30 **Section 1.** The foregoing “Whereas” clauses are hereby ratified and confirmed as
31 being true and correct and are hereby made a specific part of this Ordinance upon adoption
32 hereof.

33
34 **Section 2.** Section 5.3.4 of the Village of Biscayne Park Land Development Code,
35 entitled “Objects in the right-of-way”, shall be amended to read as follows:

36
37 **5.3.4 Landscaping and Objects in the swale area of the right-of-way.**

1
2 * * * *

3
4 (e) A combination of paving and sodding of rights-of-way shall be permitted
5 provided the impervious section does not exceed forty (40) percent of the total area and such
6 paved areas shall be kept in good condition.

7
8 (f) Removal of obstructions by the Village: In the event any object or tree placed in
9 the swale creates an emergency situation involving potential danger to the health, safety, and
10 welfare of the community, the Village may perform removal operations immediately, thus
11 eliminating the emergency, and may assess the cost of such removal against the adjacent
12 property owner.

13
14 (g) Removal of trees in the swale by the abutting property owner: Property owners
15 must obtain a permit from the Village and Miami-Dade County to remove trees in the swale.

16
17 (h) Property owner's responsibilities for maintenance: The property owner or
18 resident living in the property shall be jointly and severally responsible for the maintenance of
19 the swale area contiguous to their property. Maintenance shall include but not be limited to
20 mowing the sod and performing general edging, weeding, trimming, pruning and cleanup
21 activities. The landscaping and sod shall be maintained in good plant health. The landscaping
22 shall be kept free of dead limbs and branches. No swale landscaping shall be maintained in such
23 manner as to constitute a nuisance.

24
25 (i) Property owners shall be responsible for the removal and costs of dead, diseased
26 and/or fallen trees and any trees that may interfere with the right-of-way or otherwise pose a
27 danger to the health, safety and welfare of the community.

28
29
30 **Section 3.** Section 5.6 of the Village of Biscayne Park Code of Ordinances, entitled
31 "Off-street parking", shall be amended to read as follows:
32

1 **5.6. Off-street parking.**

2
3 5.6.1 *Applicability.* Off-street parking facilities shall be provided ~~for~~ within the lot of all
4 development properties within in the village pursuant to the requirements of this code. The
5 facilities shall be maintained as long as the use exists that the facilities were designed to serve.

6
7 (a) All vehicles must be parked on an approved driveway surface subject to the design
8 standards set forth in Section 5.6.8.

9 1. Non-conforming properties that do not have an approved driveway surface shall
10 have two (2) years from the date of enactment of this ordinance to have the
11 compliant driveway installed and permitted.

12
13 2. Existing non-conforming driveways permitted by the Village may remain unless a
14 substantial portion, fifty (50) percent or greater, requires repair or an addition to
15 the driveway occurs.

16
17 3. When an approved driveway surface exists, all vehicles shall park on said
18 driveway effective upon enactment of this ordinance.

19
20 5.6.2 *Computation.* In the village hall, recreation area, church, the occupancy shall be based on
21 the maximum capacity rating given the building by the fire marshal. Gross floor area shall be the
22 sum of the gross horizontal area of all floors of a building measured from the exterior faces of
23 the exterior walls.

24
25 5.6.3 *Number of parking spaces required.* The table below specifies the required minimum
26 number of off-street automobile parking spaces. The number of off-street parking spaces for uses
27 not listed in the table shall be determined by the planning board. The term "tandem parking
28 space" means a parking space that abuts a second parking space in such a manner that vehicular
29 access to the second space can be made only through the abutting (tandem) space.

30
31 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 <u>Duplexes/attached and detached:</u> | | |
| | <u>1, 2, 3 or more bedrooms</u> | 2 spaces/unit* | 0.5 spaces/unit** |
| (b) | Recreation <u>area</u> . | | |
| | Parks, Clubs: <u>determined</u> by the planning board. | | |
| (c) | Public assembly. | | |
| (d) | Church: 1 space/3 seats or 1 space/35 square feet of gross auditorium floor area | | |
| (e) | <u>Government buildings:</u> 1 space/300 square feet of gross floor area | | |

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* 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 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~~ supplemental spaces for the handicapped shall be counted. The parking and related features contained in the Department of Community Affairs, Florida

1 Board of Building, Codes and Standards, Accessibility Requirements Manual are hereby
2 incorporated by reference into the village code.

3
4 5.6.5 *Parking in medians prohibited.* No parking shall be allowed in median open spaces or
5 median parkways.

6
7 5.6.6 *Existing nonconforming minimum off-street parking requirements.* The number of off-
8 {street} parking spaces existing on properties at the time of the adoption of this code, although
9 such number does not conform to the minimum off-street parking requirements hereof, may be
10 lawfully continued. However, all vehicles must be parked on an approved driveway surface
11 consistent with Section 5.6.1.

12
13 5.6.7 *Historic preservation exemption.* The preservation of any property that has been placed
14 on the county or national register of historic places, shall be grounds for a grant by the planning
15 review board of a reduction in, or complete exemption from, the parking requirements in
16 subsection 5.6.3 of this chapter.

17
18 5.6.8 *Design standards for off-street parking.* Except as provided herein, all required off-street
19 parking spaces and the use they are intended to serve shall be located on the same parcel. The
20 size and layout of these spaces shall be according to the Miami-Dade County Code and Public
21 Works Manual, Metro Miami-Dade County. Vehicles shall be parked on impervious or pervious
22 surfaces but impervious areas shall not exceed forty (40) percent of the front yard, excluding the
23 right-of-way. Off-street parking (within the lot lines of all properties) shall only be permitted on
24 approved surfaces by the Village of Biscayne Park. In no circumstances shall grass or sod be an
25 approved surface.

- 26
27 a. All driveways shall be of approved materials except as otherwise provided below.
28
29 b. All driveways must have an improved approach across the swale which shall meet
30 the minimum standard of gravel construction.
31

- 1 c. All driveways shall be no closer than thirty (30) inches from side property line
2 unless exempted below in subsection (d).
- 3
- 4 d. All non-conforming driveways, as related to setback, shall come into compliance
5 when there is a change in driveway material or the installation of a new driveway.
6 If a determination is made by the Village Manager or designee that adhering to
7 the setback would make the driveway non-functional, the Village Manager may
8 waive this requirement in writing.
- 9
- 10 e. Driveways shall only be constructed with the following materials; concrete, paver,
11 brick, gravel, asphalt, cut stone or turf block.
- 12
- 13 f. Gravel driveways shall be built with a permanent perimeter border consisting of
14 suitable material as approved by Village staff a minimum of four (4) inches deep
15 with the width of the border being sixteen inches (16”) immediately adjacent to
16 the road perimeter and four inches (4”) along the entire length of both edges of
17 the driveway.
- 18
- 19 g. Construction of a portion of a driveway in the swale or right-of-way, such as the
20 apron and driveway approach, shall require the property owner to indemnify, hold
21 harmless, and defend the Village from any and all actions, caused by, resulting
22 from, or in any way associated with the proposed work within the Village right-
23 of-way on a form provided by the Village.
- 24

25 **Section 4.** **Conflicts.** That all Ordinances or parts of Ordinances, Resolutions or parts
26 thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

27

28 **Section 5.** **Severability.** The provisions of this Ordinance are declared to be
29 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason
30 be held to be invalid or unconstitutional, such decision shall not affect the validity of the
31 remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in

1 effect, it being the legislative intent that this Ordinance shall stand notwithstanding the
2 invalidity of any part.

3
4 **Section 6. Codification.** It is the intention of the Village Commission of the Village of
5 Biscayne Park, that the provisions of this Ordinance shall become and made a part of the Code
6 of Ordinances of the Village of Biscayne Park, Florida, and that the Sections of this Ordinance
7 may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section,"
8 "Article" or other word or phrase in order to accomplish such intention.

9
10 **Section 7. Effective Date.** This Ordinance shall be effective upon adoption on
11 second reading.

12
13 The foregoing Ordinance was offered by _____, who moved its adoption. The
14 motion was seconded by _____ and upon being put to a vote, the vote was as
15 follows:

16
17 PASSED AND ADOPTED upon first reading this ____ day of _____, 2015.

18 PASSED AND ADOPTED upon second reading this ____ day of _____, 2015.

19
20 The foregoing ordinance upon being put to a
21 vote, the vote was as follows:

22
23 _____
24 David Coviello, Mayor

25 Attest:

26
27
28
29 _____
30 Maria C. Camara, Village Clerk

31 Approved as to form:

32
33
34
35 _____
36 John J. Hearn, Village Attorney

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