



Village of Biscayne Park Commission Agenda Report

Village Commission Meeting Date: September 1, 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.

September 1, 2015

Commission Agenda Report

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

At the August 4th commission meeting, the Ordinance was reviewed and there was consensus to amend the language at certain parts, and then approved at first reading.

Ordinance 2015-04 has been amended and is presented for second reading.

FISCAL / BUDGET IMPACT:

Cost for advertisement for second reading of the Ordinance.

STAFF RECOMMENDATION:

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

ATTACHMENTS

- Ordinance 2015-04

1
2 (a) Markers. Dome type markers only may be placed within dedicated right-of-way
3 provided that they are placed not closer than eighteen (18) inches to the nearest edge of the
4 paved surface of the designated roadway. All markers must be at least twenty-four (24) inches
5 apart. Markers placed in the right-of-way shall not exceed twelve (12) inches in diameter nor be
6 more than six (6) inches in height and shall be white in color.

7
8 (b) Landscaping. Nothing shall be planted or allowed to grow in such a manner so as
9 to obstruct the right-of-way clear zone at a level between three (3) feet and six (6) feet above the
10 grade, measured at the centerline of right-of-way. Trees or palms, however, having trunks and
11 foliage trimmed in such a manner that no branches or foliage extend into the right-of-way area
12 clear zone shall be allowed, provided they are so located so as not to create a traffic hazard.

13 (c) Paving and drainage. Pervious pavers shall be allowed but any impervious paving
14 shall be adequately drained to prevent the buildup of stormwater in the right-of-way.

15
16 (d) Other objects prohibited. It shall be unlawful to install, place or maintain within
17 the dedicated right-of-way, parking or swale area of the village any pointed concrete or other
18 unapproved hard materials, such as rocks, stones, bricks, metal objects or other similar
19 obstructions.

20
21 (e) A combination of an approved parking approach and sodding of rights-of-way
22 shall be permitted provided the impervious section does not exceed forty (40) percent of the total
23 area and such paved areas shall be kept in good condition.

24
25 (f) Removal of obstructions by the Village: In the event any object or tree placed in
26 the swale creates an emergency situation involving potential danger to the health, safety, and
27 welfare of the community, the Village may perform removal operations immediately, thus
28 eliminating the emergency, and may assess the cost of such removal against the adjacent
29 property owner.

30
31 (g) Removal of trees in the swale by the abutting property owner: Property owners
32 must obtain a permit from the Village and Miami-Dade County to remove trees in the swale.

33
34 (h) Property owner's responsibilities for maintenance: The property owner or
35 resident living in the property shall be jointly and severally responsible for the maintenance of
36 the swale area contiguous to their property. Maintenance shall include but not be limited to
37 mowing the sod and performing general edging, weeding, trimming, pruning and cleanup
38 activities. The landscaping and sod shall be maintained in good plant health. The landscaping
39 shall be kept free of dead limbs and branches. No swale landscaping shall be maintained in such
40 manner as to constitute a nuisance.

41
42 (i) Property owners shall be responsible for the maintenance of the swale area
43 contiguous to their property as well as for the removal and costs of dead, diseased and/or fallen
44 trees and any trees that may interfere with the right-of-way or otherwise pose a danger to the
45 health, safety and welfare of the community.

1 **Section 3.** Section 5.6 of the Village of Biscayne Park Code of Ordinances, entitled
2 “Off-street parking”, shall be amended to read as follows:

3 **5.6. Off-street parking.**

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

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

- 11
12 1. Non-conforming properties that do not have an approved parking surface,
13 including an approved approach, shall have one (1) year from the date of
14 enactment of this ordinance to have the compliant parking surface permitted and
15 installed.
- 16
17 2. Existing non-conforming parking surfaces permitted by the Village may remain
18 unless a substantial portion, fifty (50) percent or greater, requires repair or an
19 addition to the parking surface occurs.
- 20
21 3. When an approved parking surface exists, all vehicles shall park on said approved
22 parking surface effective upon enactment of this ordinance.

23
24 5.6.2 *Computation.* In the village hall, recreation area, church, the occupancy shall be based on
25 the maximum capacity rating given the building by the fire marshal. Gross floor area shall be the
26 sum of the gross horizontal area of all floors of a building measured from the exterior faces of
27 the exterior walls.

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

34
35 TABLE INSET:

36

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 Duplexes/attached and detached:		
	1, 2, 3 or more bedrooms	2 spaces/unit*	0.5 spaces/unit**
(b)	Recreation <u>area</u> .		
	Parks, Clubs: d <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: 1 space/300 square feet of gross floor area</u>		

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

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

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

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

1 5.6.8 *Design standards for off-street parking.* Except as provided herein, all required off-street
2 parking spaces and the use they are intended to serve shall be located on the same parcel. The
3 size and layout of these spaces shall be according to the Miami-Dade County Code and Public
4 Works Manual, Metro Miami-Dade County. Vehicles shall be parked on impervious or pervious
5 surfaces but impervious areas shall not exceed forty (40) percent of the front yard, excluding the
6 right-of-way. Off-street parking (within the lot lines of all properties) shall only be permitted on
7 approved surfaces by the Village of Biscayne Park. In no circumstances shall grass or sod be an
8 approved surface.

- 9
- 10 a. All parking surfaces shall be of approved materials except as otherwise provided
11 below.
- 12
- 13 b. All parking surfaces must have an improved approach across the swale which
14 shall meet the minimum standard of gravel construction.
- 15
- 16 c. All parking surfaces shall be no closer than thirty (30) inches from side property
17 line unless exempted below in subsection (d).
- 18
- 19 d. All non-conforming parking surfaces, as related to setback, shall come into
20 compliance when there is a change in parking surface material or the installation
21 of a new parking surface. If a determination is made by the Village Manager or
22 designee that adhering to the setback would make the parking surface non-
23 functional, the Village Manager may waive this requirement in writing.
- 24
- 25 e. Parking surfaces shall only be constructed with the following materials; concrete,
26 paver, brick, gravel, asphalt, cut stone or turf block.
- 27
- 28 f. Gravel parking surfaces shall be built with a permanent perimeter border
29 consisting of suitable material as approved by Village staff a minimum of four (4)
30 inches deep with the width of the border being sixteen inches (16") immediately
31 adjacent to the road perimeter and four inches (4") along the entire length of both
32 edges of the parking surface.

33

34 Construction of a portion of a parking surface in the swale or right-of-way, such as the apron and
35 parking surface approach, shall require the property owner to indemnify, hold harmless, and
36 defend the Village from any and all actions, caused by, resulting from, or in any way associated
37 with the proposed work within the Village right-of-way on a form provided by the Village.

38

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

41

42 **Section 5.** **Severability.** The provisions of this Ordinance are declared to be
43 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason
44 be held to be invalid or unconstitutional, such decision shall not affect the validity of the

1 remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in
2 effect, it being the legislative intent that this Ordinance shall stand notwithstanding the
3 invalidity of any part.
4

5 **Section 6. Codification.** It is the intention of the Village Commission of the Village of
6 Biscayne Park, that the provisions of this Ordinance shall become and made a part of the Code
7 of Ordinances of the Village of Biscayne Park, Florida, and that the Sections of this Ordinance
8 may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section,"
9 "Article" or other word or phrase in order to accomplish such intention.
10

11 **Section 7. Effective Date.** This Ordinance shall be effective upon adoption on
12 second reading.
13

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

17 PASSED AND ADOPTED upon first reading this 4th day of August, 2015.

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

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

21 _____
22
23 David Coviello, Mayor

24 Attest:

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

30 Approved as to form:

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

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