



## Village of Biscayne Park Commission Agenda Report

**Village Commission Meeting Date:** April 5, 2016

**Subject:** Ordinance 2016-03 - Section 6.3  
Relating to Solid Waste

**Prepared By:** Maria C. Camara

**Sponsored By:** Staff

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### Background

At the February 2, 2016, commission meeting, the Commission discussed Section 6.3 of the Code of Ordinances relating to Solid Waste, specifically the inconsistencies when garbage, trash and recycling may be placed at the curb. Following discussion, there was consensus from the Commission to have the Village Attorney draft the ordinance for first reading to amend the language.

At the March 1, 2016 meeting, Ordinance 2016-03 was presented and approved at first reading with direction to the Village Attorney to amend as follows for second reading:

- Amend time reference in section 6.3.3(a) to “no earlier than 9:00am of the day preceding the scheduled collection time and containers must be removed and placed out of sight by 9:00am the day following the scheduled day of collection.”
- Add “Failure to comply with the provisions of this section shall constitute a violation of this Code.” to section 6.3.4.
- Section 6.3.9 needs to consider/include citation process, and to make reference to the fee schedule.

**Recommendation:** Approval at second reading.

### Attachments:

- Ordinance 2016-03



1 leaves and grass cuttings. Garbage cans shall be kept tightly-closed at all times and  
2 easily accessible to collectors. Collection service may be discontinued where the  
3 garbage cans or containers are determined to be unfit for receptacles by the public  
4 works department. Failure of the property owner to provide proper garbage cans or  
5 containers which results in discontinuance of service shall subject the property owner to  
6 the penalty provisions of this Code.

7 (b) Garbage cans and trash receptacles must be placed behind the face of the building and  
8 screened from view except when properly placed out for pickup.

9 (c) Dumpsters.

10 (1) Intent. It is the intent of this section to regulate the location and construction of  
11 bulk container enclosures in a manner that promotes the public health and safety,  
12 and lessens or otherwise mitigates the visual impact of such bulk containers upon  
13 the community. A bulk container is a receptacle with a capacity of greater than one  
14 (1) cubic yard which purpose is for the disposal and storage of garbage, trash and  
15 any form of waste materials, not including hazardous or infectious waste

16 (2) Domestic trash. Every refuse accumulation of animal, fruit or vegetable matter that  
17 attends the preparation, use, cooking and dealing in the storage of edibles, and any  
18 other matter of any nature whatsoever which is subject to decay, purification and  
19 degeneration of noxious or offensive gases or odors.

20 (3) Garden/bulky waste. Items of household refuse, tree cutbacks and shrubbery  
21 cuttings, and other refuse attending the care of lawns, boxes and like articles.

22 (4) Enclosure. Wheeled bulk containers for the disposal of solid waste shall be  
23 enclosed in a fence or wall fully screening it from view. Chain link fencing is not  
24 permitted for enclosure or gate. Containers are to be positioned upon a hard surface  
25 pad and a hard surface roll-away from the pad to the servicing area is provided to  
26 facilitate servicing. Wheeled bulk containers shall only be placed curbside for  
27 collection and shall remain curbside for a reasonable amount of time in order to  
28 facilitate collection. In no case shall wheeled bulk containers remain overnight at  
29 curbside or street side.

30 (5) Size requirement. Each enclosure shall provide a minimum of eighteen (18) inches  
31 of clear space between each side of each bulk container (including lifting flanges)  
32 and the adjacent wall surface of that enclosure, or other containers within the same  
33 enclosure. The height of each enclosure shall be six (6) inches greater than the  
34 highest part of the bulk container therein.

35 (6) Placement. The placement of containers and enclosures shall be planned and  
36 constructed in a manner that allows unobstructed access to each container and the  
37 unobstructed opening of the gates during the emptying process. Containers shall  
38 not be located in such a manner that the service vehicle will block any intersection  
39 during the emptying process. Containers shall be located to the rear of the property,  
40 no closer than ten (10) feet to a property line.

41 (7) Gates. All enclosures shall have gates and their construction shall be of sturdy  
42 metal frame and hinges with an opaque facing material. Servicing gates shall  
43 incorporate gate stops and latches that are functional in the full open and closed

1 positions. Hinge assemblies shall be strong and durable so that access and servicing  
2 gates function properly and do not sag. Enclosure gates shall be closed at all times  
3 except for the time necessary to service the bulk container(s).

4 (8) Pad/hard surface. All enclosures shall be placed on poured concrete, solid or  
5 perforated interlocking concrete block paving (ICB), or any existing hardened  
6 paving system. A service access drive for the purpose of emptying the bulk  
7 container shall also be provided unless a hard surface that provides access to the  
8 bulk container already exists.

9 (9) Maintenance. Approved enclosures shall be maintained in good condition and  
10 appearance at all times. Gates and latches shall be kept fully operable and shall be  
11 cleaned periodically to prevent noxious odors and unsanitary conditions from  
12 occurring. Enclosure pads and access drives shall be repaired or rebuilt whenever  
13 the pavement structure deteriorates.

### 14 6.3.3 Owner/occupant responsibility.

15 (a) It shall be the duty of each owner/occupant to prevent the continued, excessive and  
16 unsightly accumulation of garbage, trash and other types of waste and rubbish.

17 (b) Each owner/occupant shall place domestic trash and recyclable materials at the property  
18 line in front of the property no earlier than 9:00 a.m. of the day ~~the evening not more~~  
19 ~~than twenty four (24) hours before~~ preceding the scheduled collection time and  
20 containers must be removed and placed out of sight by 9:00 a.m. the day following the  
21 scheduled day of collection. ~~Each owner/occupant shall remove their trash container~~  
22 ~~from the front of the property within twenty four (24) hours after collection.~~

23 (c) Failure to comply with the provisions of this section shall constitute a violation of this  
24 Code.

25 6.3.4 Garden/bulky waste. All tree trimmers and tree surgeons who are employed by a resident  
26 or occupant of any residence or who may be employed by the village, or who may otherwise  
27 pursue their occupation in the village shall be required to remove immediately to a dump or  
28 other place designated for refuse, all refuse, cutting or debris resulting from their operation.  
29 In no event shall any refuse, cuttings or debris remain overnight on any premises where tree  
30 trimmers or tree surgeons have been engaged in their occupation. Each property owner shall  
31 place tree and garden refuse at the property line in front of the property no earlier than 9:00  
32 a.m. ~~6:00 a.m.~~ of the day preceding the scheduled collection time and containers must be  
33 removed and placed out of sight by ~~6:00 a.m.~~ 9:00 a.m. the day following the scheduled day  
34 of collection. Failure to comply with the provisions of this section shall constitute a  
35 violation of this Code.

36 6.3.5 Recycling program. The village may form cooperative arrangements with the county for  
37 implementing recycling programs. The following requirements shall apply:

38 (a) Construction and demolition debris must be separated from the solid waste stream and  
39 segregated in separate locations at a solid waste disposal facility or other permitted site.

40 (b) The local government is encouraged to separate all plastic, metal, and all other grades of  
41 paper for recycling prior to final disposal and is further encouraged to recycle yard trash  
42 and other mechanically treated solid waste into compost available for agricultural and  
43 other acceptable uses.

1 (c) In developing and implementing recycling programs, the village is encouraged to use  
2 for-profit organizations for the collection, marketing, and disposition of recyclable  
3 materials.

4 6.3.6 Solid waste franchise. The village may enter into a written agreement with other persons  
5 to undertake to fulfill some or all of the village's solid waste responsibilities.

6 6.3.7 Determination and announcement of full cost for solid waste management.

7 (a) The village shall determine the full cost for solid waste management within the service  
8 area of the village for the one-year period beginning on October 1, 1988, and shall  
9 update the full cost every year thereafter. The method to be used in calculating full cost  
10 shall be according to the rule established by the Florida Department of Environmental  
11 Regulations.

12 (b) The village shall establish a system to inform, no less than once a year, residential and  
13 nonresidential users of solid waste management services within the village service area  
14 of the user's share, on an average or individual basis, of the full cost for solid waste  
15 management as determined pursuant to subsection 6.3.7(a) above.

16 (c) Additional/unscheduled trash removal. The village shall provide additional/unscheduled  
17 trash removal for its residents. The cost for these services shall be determined annually  
18 by resolution of the village commission.

19 6.3.8 Litter. Unless otherwise authorized by law or permit, it shall be unlawful for any person  
20 to dump litter in any manner or amount as stipulated in the Florida Litter Law.

21 6.3.9 Violations of this section; enforcement procedures available to village; schedule of fines  
22 and penalties. Any violation or repeat violation of this section may be pursued by the village  
23 by appropriate remedy either in court, or through code enforcement by the imposition of a  
24 fine as set forth in a resolution kept on file by the Village Clerk. ~~below, or by any other~~  
25 ~~means available at law or in equity, at the option of the village.~~ If it is the first violation, a  
26 warning may be given. ~~Any person violating this section shall be punished by a fine of not~~  
27 ~~more than thirty dollars (\$30.00) per violation.~~ Each day, or portion thereof, that a violation  
28 occurs is considered a separate and additional violation.

29  
30 **Section 3.** Conflicts. That all Ordinances or parts of Ordinances, Resolutions or parts  
31 thereof in conflict herewith, are and the same are hereby repealed to the extent of such conflict.

32 **Section 4.** Severability. The provisions of this Ordinance are declared to be  
33 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be  
34 held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining  
35 sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it

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

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

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

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

14  
15 PASSED AND ADOPTED upon first reading this 1<sup>st</sup> day of March, 2016.

16 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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23 David Coviello, Mayor

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Attest:

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Maria C. Camara, Village Clerk

Approved as to form:

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John J. Hearn, Village Attorney