



Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: October 6, 2016

Subject: Ordinance 2016-08 Chapter 5

Prepared By: Maria C. Camara, Village Clerk

Sponsored By: Staff

Background

At the June 7th meeting, the Commission began reviewing a previously adopted ordinance, number 2015-04, specifically as it related to driveway requirements and use of swales/right-of-way for off street parking. The discussion continued over the next several meetings and on September 13th, the Commission approved the final changes and directed the Village Attorney to draft an ordinance based upon the agreed upon changes to Chapter 5 and to present it for first reading at the next meeting.

The changes are summarized as follows:

- existing swales, whether or not permitted, and which are currently used for parking and are properly maintained may remain, unless there is deterioration beyond 50%
- no new improvement of the swale area will be allowed, except for the necessary driveway approach
- if the swale is currently used for parking and is properly maintained, and there is no parking provided on the property, the resident will not be required to provide for parking on the property
- if it is not possible to install a driveway on the property due to the uniqueness of the property or extraordinary circumstances related to the property, the property owner can apply for a special exception; the Village Manager would make the recommendation to submit the variance request to the Planning Board and all appeals would then be brought before the Commission
- ribbon driveways are allowed as long as they are properly maintained and a driveway approach connects the ribbon driveway to the road
- non-conforming properties will have until June 1, 2017, to come into compliance

Attachments

- Ordinance 2016-08

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ORDINANCE NO. 2016-08

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA AMENDING VARIOUS PROVISIONS IN CHAPTER 5 OF THE LAND DEVELOPMENT CODE ENTITLED "TRANSPORTATION" TO PROVIDE REGULATIONS PERTAINING TO DRIVEWAYS, RIGHTS-OF-WAY, DEFINITIONS AND THE CREATION OF A SPECIAL EXCEPTION PROCESS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE

WHEREAS, at the direction of the Village Commission, staff reviewed Chapter 5 entitled "Transportation" of the Land Development Code; and

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

WHEREAS, the Village Commission finds it in the best interests of the Village to amend various sections in Chapter 5 to provide regulations pertaining to driveways, rights-of-way, definitions and the creation of a special exception process, and to approve this ordinance, authorizing the LDC to be amended;

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. Chapter 5 of the Village of Biscayne Park Land Development Code, entitled "Transportation", shall be amended to read as follows:

CHAPTER 5. - TRANSPORTATION

5.1. - General provisions.

5.1.1 Definitions.

Driveway shall mean a private road leading from a street or other thoroughfare to a building, house, garage, or other structure.

1 Off-street Parking shall mean an area dedicated for parking of vehicles on private
2 property.

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4 Public Right-of-way shall mean the surface, the area above, and the area below the
5 surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge,
6 tunnel, parkway, waterway, public easement, or similar property in which the village, county or
7 state now or hereafter holds any property interest. Public rights-of-way do not include buildings,
8 parks, or other property owned or leased by the village.

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10 Swale shall mean the right-of-way property between the edge of the roadway pavement
11 and the property contiguous to that property.

12 ~~5.1.1~~ 5.1.2 *Purpose.* This chapter establishes minimum requirements applicable to the
13 transportation system, including public and private streets, bikeways, pedestrian ways,
14 parking, and access control from public streets. The standards in this chapter are intended to
15 minimize the traffic impacts of development, and to assure that all developments adequately
16 and safely provide for the storage and movement of vehicles with good engineering and
17 development design practices.

18 ~~5.1.2~~ 5.1.3 *Compliance with technical construction standards manual.* All required elements
19 of the transportation system shall be provided in compliance with the engineering design and
20 construction standards of ~~the Public Works Manual, Metro~~ Miami-Dade County, as
21 amended from time to time.

22 **5.2. - Streets.**

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24 5.2.1 *Street classification system established.* Streets in the village are classified and mapped
25 according to function served in order to allow for regulation of access and appropriate
26 design and construction standards. Streets dedicated to the village and private streets are
27 classified in a street hierarchy system with design tailored to function. The street hierarchy
28 system shall be defined by road function and average daily traffic (ADT), calculated by trip
29 generation rates prepared by the Institute of Transportation Engineers. The following street
30 hierarchy is established: Residential, collector, and arterial. Each street type is divided into
31 subcategories.

32 5.2.2 *Residential streets (local roads).* Residential streets are primarily suited to providing
33 direct access to residential development and are designed to minimize unnecessary and/or
34 speeding traffic. Each residential street shall meet the minimum standards for one (1) of the
35 following street types:

- 36 (a) *Residential access street.* This is the lowest order street in the hierarchy. A residential
37 access street is a frontage street which provides direct access to abutting properties and
38 should not carry more traffic than is generated on the street itself. Residential access
39 streets may take access from any higher order street type. Both ends of a residential
40 loop street must take access from a single higher order street. Residential access streets
41 shall have a maximum ADT of five hundred (500). Loop streets shall have a maximum
42 of four hundred (400). Cul-de-sacs shall have a maximum ADT of two hundred (200).
- 43 (b) *Residential subcollector street.* This is the middle order street in the residential street
44 hierarchy. It will collect traffic from residential access streets and provide direct access
45 to abutting properties. Residential subcollector streets may take access from any higher
46 order street type and may give access to residential access streets and may provide

1 direct access to nonresidential uses. Residential subcollector streets shall have a
2 maximum ADT of one thousand (1,000).

- 3 (c) *Residential collector street.* This is the highest order street that can be classified as
4 residential. It will collect traffic from residential access and subcollector streets and
5 may provide direct access to nonresidential uses. Residential collector streets shall have
6 a maximum ADT of two thousand (2,000).

7 5.2.3 *Collector roads (county collectors).* Collector roads connect lower order streets to other
8 collector streets and to arterial streets, provide access to nonresidential uses, and serve
9 through traffic. Collector streets shall have an average daily traffic volume of no greater than
10 seven thousand (7,000).

11 5.2.4 *Arterial roads (state minor arterials).* There are three (3) types of arterial roads, minor,
12 major, and freeways but there is only a minor type in the village. The minor arterial links
13 community districts to regional and state highways and may give access to any lower order
14 street type.

15 5.2.5 *Special purpose roadways.*

- 16 (a) *Alley.* Alleys are not considered part of the street hierarchy system as they are generally
17 unpaved thoroughfares for the purpose of service to adjacent properties.
18 (b) *Divided streets.* Divided streets are for the purpose of protecting environmental features
19 or avoiding excessive grading. In such a case, the standards shall be applied to the
20 aggregate dimensions of the two (2) street segments.

21 5.2.6 *Future traffic circulation map.* The future traffic circulation map and any amendments
22 thereto, adopted by the village as part of the comprehensive plan (Map 3.4), is hereby made
23 a part of this code. Roadways within the village are either designated in the future traffic
24 circulation map or may be classified according to function, design, and use by the village
25 upon request. The map shall be the basis for all decisions regarding required road
26 improvements or access.

27 **5.3. - Rights-of-way.**

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29 5.3.1 *Right-of-way widths.* The right-of-way shall be measured from lot line to lot line.

30 5.3.2 *Protection and use of rights-of-way.*

- 31 (a) No encroachment shall be permitted into existing rights-of-way, except for temporary
32 uses authorized by the village.
33 (b) Use of the right-of-way for public or private utilities, including, but not limited to,
34 potable water, telephone wires, cable television wires, gas lines, sanitary sewer, or
35 electricity transmission, shall be allowed subject to the placement specifications of
36 Miami-Dade County in the Public Works Manual, Metro-Dade County, and other
37 applicable county regulations.
38 (c) All vehicles of any type parked on any street, alley, or public right-of-way in the
39 Village of Biscayne Park shall have at all times attached a current license plate.
40 (d) Sidewalks and bicycle ways shall be placed within the right-of-way.

41 5.3.3 *Parking of trucks, etc., prohibited in the right-of-way.*

- 42 (a) It shall be unlawful to park or cause to be parked upon any public street or in the public
43 right-of-way in the village any truck, trailer, semitrailer, bus (public or private owned)

1 except while loading or unloading or when such vehicle is parked in connection with
2 and in the aid of the performance of a service to or on the property being serviced.

3 ~~(b) Nothing herein contained shall be deemed to prohibit the parking of one (1) truck in~~
4 ~~front of any one property not exceeding three fourths ton net weight that contains no~~
5 ~~lettering or advertising and is owned or leased by the occupant of the property, when it~~
6 ~~is proven to be physically impossible to park it off of the public right-of-way.~~

7 (eb) It shall be unlawful to park or store any boat, boat trailer, air boat, any self-propelled or
8 nonself-propelled mobile home, motor home or camper upon any public street or in the
9 public right-of-way in the village.

10 5.3.4 *Landscaping and objects in the swale area of the right-of-way.*

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

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

22 (c) *Paving and drainage.* Pervious pavers shall be allowed but any impervious paving shall
23 be adequately drained to prevent the buildup of stormwater in the right-of-way. The
24 pervious pavers and impervious area shall be limited to no more than forty (40) percent
25 of the swale area.

26 (d) *Other objects prohibited.* Other than as provided for in section 5.6.8 of this Code, it
27 shall be unlawful to install, place or maintain within the dedicated right-of-way, parking
28 or swale area of the village any pointed concrete or other unapproved hard materials,
29 such as rocks, stones, bricks, metal objects or other similar obstructions.

30 (e) A combination of an approved parking approach and ~~sodding of rights of way~~
31 landscape consistent with the Village Code shall be permitted, provided the pervious
32 pavers and impervious sections does not exceed forty (40) percent of the total area and
33 such paved areas shall be kept in good condition.

34 (f) *Removal of obstructions by the village.* In the event any object or tree placed in the
35 swale creates an emergency situation involving potential danger to the health, safety
36 and welfare of the community, the village may perform removal operations
37 immediately, thus eliminating the emergency, and may assess the cost of such removal
38 against the adjacent property owner.

39 (g) *Removal of trees in the swale by the abutting property owner.* Property owners must
40 obtain a permit from the village and Miami-Dade County to remove trees in the swale.

41 (h) *Property owner/resident responsibilities for maintenance.* The property owner or
42 resident living in the property shall be jointly and severally responsible for the
43 maintenance of the swale area contiguous to their property. Maintenance shall include,
44 but not be limited to, mowing the sod and performing general edging, weeding,
45 trimming, pruning and cleanup activities. The landscaping and sod shall be maintained

1 in good plant health. The landscaping shall be kept free of dead limbs and branches. No
2 swale landscaping shall be maintained in such manner as to constitute a nuisance.

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

7 5.3.5 *Vacation of rights-of-way.* Applications to vacate a right-of-way may be approved upon a
8 finding that all the following requirements are met:

- 9 (a) The requested vacation is consistent with the traffic circulation element of the village
10 comprehensive plan.
11 (b) The right-of-way does not provide the sole access to any property. Remaining access
12 shall not be by easement.
13 (c) The vacation would not imperil the current or future location of any utility.
14 (d) The proposed vacation is not detrimental to the public interest, and provides a benefit to
15 the village.

16 **5.4. - Street standards.**

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18 5.4.1 *Clear visibility triangle.* In order to provide a clear view of intersecting streets to the
19 motorist, there shall be a triangular area of clear visibility formed by two (2) intersecting
20 streets or the intersection of a driveway and a street. The following standards shall be met:

- 21 (a) For street intersections the clear visibility triangle shall be formed by a line along the
22 street pavement edge fifteen (15) feet long from the street corner perpendicular,
23 generally, to a second line of the street pavement edge of approaching traffic, connected
24 by a third line that measures three (3) times the speed limit of the street.
25 (b) For driveways two (2) clear visibility triangles shall be formed by connecting, in each
26 case, a point on the edge of the street pavement and a point on the edge of the driveway,
27 each to be located at a distance of twenty (20) feet from the intersection of the street and
28 driveway lines, and a third line joining the two (2) points.
29 (c) Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner
30 so as to obstruct cross-visibility at a level between three (3) feet and six (6) feet above
31 the grade, measured at the centerline of the intersection. Trees or palms, however,
32 having trunks and foliage trimmed in such a manner that no trunks or foliage extend
33 into the cross-visibility area shall be allowed, provided they are so located so as not to
34 create a traffic hazard.

35 **5.5. - Sidewalks and bikeways.**

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37 5.5.1 *Design and construction standards.* Design and construction of sidewalks, bikeways, or
38 other footpaths shall conform to the requirements of ~~the Public Works Manual,~~
39 ~~Metro~~Miami-Dade County, including provision for access by physically handicapped
40 persons.

41 **5.6. - Off-street parking.**

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43 5.6.1 *Applicability.* Off-street parking facilities shall be provided within each property in the
44 village pursuant to the requirements of this code. The facilities shall be maintained as long
45 as the use exists that the facilities were designed to serve.

1 (a) All vehicles must be parked on an approved parking surface subject to the design
2 standards set forth in section 5.6.8.

3 (1) All residential properties, other than those currently utilizing the swale for parking,
4 are required to have a driveway using approved parking surface materials. The
5 driveway area shall be limited to no more than forty percent (40%) of the front yard
6 and may be of pervious or impervious material. The remaining sixty percent (60%)
7 of the front yard must be landscaped consistent with the village code.

8 (2) Ribbon driveways are allowed, as long as properly maintained and provided there
9 is a driveway approach that connects the ribbon driveway to the road.

10 (3) When an approved parking surface exists, all vehicles shall park on said approved
11 parking surface effective upon enactment of this ordinance. Existing swales that
12 are currently used for parking and are properly maintained can continue to be used
13 for parking, provided that no damage occurs to the grass and landscaped areas and
14 that parking does not cover any portion of any sidewalk. Those swale parking
15 surfaces may remain until a substantial portion, fifty (50) percent or greater,
16 requires repair. Parking on any swale shall be considered non-conforming parking
17 requiring a release agreement to be executed by the adjacent property owner.
18 Consistent with section 5.3.2, this section does not create any rights or ownership
19 by the adjacent property to the swale and is not an approved permanent use. The
20 Village may remove all or any portion of any driveway on the swale, if the Village,
21 in its sole discretion, deems it necessary to achieve a public purpose.

22 (4) If the occupants of a residential property do not currently have parking surface on
23 the swale, the occupants of that property shall not be allowed to utilize the swale
24 for parking in the future. No new improvements of the swale area will be allowed,
25 except for the necessary driveway approach.

26 ~~(45)~~ Nonconforming residential properties that do not have an approved parking surface,
27 including an approved approach, or an existing swale, consistent with Section
28 5.6.1(3), shall have ~~one (1) year until June 1, 2017 from the date of enactment of~~
29 this ordinance to have the compliant parking surface permitted and installed.

30 ~~(26)~~ Existing nonconforming parking surfaces permitted by the village, may remain
31 unless a substantial portion, fifty (50) percent or greater, requires repair or an
32 addition to the parking surface occurs.

33 (7) In rare occasions, and due to the unusual nature of the property, relief from this
34 section may be granted through a special exception as provided for in Section 5.7
35 of this Code.

36 5.6.2 *Computation.* In the village hall, recreation area, and church, the occupancy shall be
37 based on the maximum capacity rating given the building by the fire marshal. Gross floor
38 area shall be the sum of the gross horizontal area of all floors of a building measured from
39 the exterior faces of the exterior walls.

40 5.6.3 *Number of parking spaces required.* The table below specifies the required minimum
41 number of off-street parking spaces. The number of off-street parking spaces for uses not
42 listed in the table shall be determined by the planning board. The term "tandem parking
43 space" means a parking space that abuts a second parking space in such a manner that
44 vehicular access to the second space can be made only through the abutting (tandem) space.
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Use	Minimum Off-Street Parking Requirement	
	Resident Parking	Visitor Parking
(a) Residential		
Detached one-family:		
1, 2 and 3 bedrooms	2 spaces*	1 space**
4 bedrooms	3 spaces*	1 space**
Duplexes/attached and detached:		
1, 2, 3 or more bedrooms	2 spaces/unit*	0.5 spaces/unit**
(b) Recreation area:		
Determined by the planning board.		
(c) Public assembly/service:		
Church: 1 space/3 seats or 1 space/35 square feet of gross floor area		
(d) Government buildings:		
1 space/300 square feet of gross floor area		

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§ 9.0.1 Resident parking spaces may be tandem.

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§ 9.0.2 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.

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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 553.5041, or succeeding provisions as amended from time to time. 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 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.

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

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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 (June 14, 1985), 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.

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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

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1 planning review board of a reduction in, or complete exemption from, the parking
2 requirements in subsection 5.6.3 of this chapter.

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

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

29 Construction of a portion of a parking surface in the swale or right-of-way, such as the apron
30 and parking surface approach, shall require the property owner to indemnify, hold harmless, and
31 defend the village from any and all actions, caused by, resulting from, or in any way associated
32 with the proposed work within the village right-of-way on a form provided by the village.
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34 **5.7 Special exception from off-street parking requirements.**

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36 5.7.1 The owner of any property affected by the requirement to have an approved driveway on
37 their property shall have the right to apply for a special exception which may be granted where,
38 due to the extreme and unusual nature of the property, a driveway cannot be placed on the
39 property.

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41 5.7.2 Grounds for a special exception. In determining whether or not to grant a special
42 exception, the Planning Board shall review the Village Manager's recommendation and shall
43 determine whether:
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- 1 (a) There are special circumstances or conditions affecting the property, such as the
2 unusual size and/or configuration of the lot that makes the installation of the
3 driveway impractical; and
4 (b) The granting of a special exception will not be detrimental to the public welfare or
5 injurious to other adjacent properties; and
6 (c) Any appropriate mitigation measures will be required to be implemented by the
7 owner seeking a special exception.
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9 If all three criteria are met, the Planning Board shall grant a special exception.

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11 5.7.3 Appeal. An owner of property may appeal the Planning Board decision in writing to the
12 Village Commission within ten (10) days of that decision. The Village Commission shall review
13 the determination of the Planning Board and may reverse that decision only upon a specific
14 finding that the Planning Board erred in its determination.
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16 **Section 3.** **Conflicts.** That all Ordinances or parts of Ordinances, Resolutions or parts
17 thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

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

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

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

