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ORDINANCE NO. 2012-06

AN ORDINANCE OF THE VILLAGE OF BISCAYNE PARK, FLORIDA PERTAINING TO PUBLIC HEALTH AND SAFETY; AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES ENTITLED ENVIRONMENTAL MANAGEMENT, BY CREATING NEW SECTIONS 8.4.5 THROUGH 8.4.16 PERTAINING TO LOT MAINTENANCE AND CLEAN UP IN ORDER TO REQUIRE THE CLEAN-UP OF PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING THE PURPOSE AND INTENT OF THE REVISION PROVIDING DEFINITIONS; DECLARING CERTAIN CONDITIONS ON LOTS, PARCELS, AND TRACTS WITHIN THE VILLAGE BOUNDARIES TO BE A NUISANCE; PROHIBITING THE ACCUMULATION OF TRASH, JUNK, OR DEBRIS, LIVING AND NONLIVING PLANT MATERIAL, AND STAGNANT WATER; PROHIBITING THE EXCESSIVE GROWTH OF GRASS, WEEDS, BRUSH, AND OTHER OVERGROWTH; PROHIBITING THE KEEPING OF FILL ON PROPERTY THAT RESULTS IN CERTAIN CONDITIONS; PROHIBITING CERTAIN CONDITIONS THAT CONSTITUTE AN IMMINENT THREAT TO PUBLIC HEALTH; AUTHORIZING THE VILLAGE TO UNDERTAKE IMMEDIATE ABATEMENT AND REMEDY OF IMMINENT PUBLIC HEALTH THREATS; PROVIDING FOR ENFORCEMENT OF VIOLATIONS; REQUIRING NOTICES TO OWNERS AND, IF APPLICABLE, AGENTS, CUSTODIANS, LESSEES, AND OCCUPANTS OF PROPERTY IN VIOLATION OF THIS CHAPTER; PROVIDING FOR APPEALS OF VIOLATION NOTICES; AUTHORIZING THE IMPOSITION AND LEVY OF SPECIAL ASSESSMENTS IF COSTS ARE INCURRED BY THE VILLAGE AND NOT REIMBURSED BY THE PROPERTY OWNER AND, IF APPLICABLE, THE PROPERTY AGENT, CUSTODIAN, LESSEE, OR OCCUPANT; REQUIRING NOTICES OF ASSESSMENT; CREATING ASSESSMENTS FOR THE COST OF LOT CLEAN-UP; ESTABLISHING THE VILLAGE AS A SPECIAL ASSESSMENT DISTRICT; AUTHORIZING THE LEVY OF NON-AD VALOREM ASSESSMENTS IN CONNECTION WITH VIOLATIONS OF THIS CHAPTER; PROVIDING FOR THE COLLECTION OF NON-AD VALOREM ASSESSMENTS; AUTHORIZING AN AGREEMENT WITH THE MIAMI-DADE COUNTY PROPERTY APPRAISER AND TAX COLLECTOR; AUTHORIZING AND REQUIRING THE ADOPTION OF A RESOLUTION REGARDING THE VILLAGE'S USE OF THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS; PROVIDING FOR ANNUAL NON-AD VALOREM ASSESSMENT ROLLS; PROVIDING TRANSITION PROVISIONS AND RATIFYING ASSESSMENTS TO RECOVER COSTS INCURRED BY THE VILLAGE TO REMEDY VIOLATIONS PRIOR TO THE ORDINANCE'S ENACTMENT; REPEALING ALL ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village Commission has determined that many properties in the Village, primarily those that have been abandoned because of pending mortgage foreclosures, have accumulations of junk, trash, debris, living and nonliving plant material, stagnant water, excessive overgrowth of weeds, grass, and other objectionable, unsightly or unsanitary materials; and

WHEREAS, by enactment of this ordinance the Village prohibits (i) the existence of excessive accumulations or untended growths of weeds, undergrowth, or other dead or living plant life, stagnant

1 water, rubbish, debris, trash, and all other objectionable, unsightly, or unsanitary matter upon any lot, tract  
2 or parcel, (ii) conditions conducive to the infestation or inhabitation of rodents, vermin, or wild animals,  
3 (iii) conditions conducive to the breeding of mosquitoes, and (iv) untended property that threatens or  
4 endangers the health, safety, or welfare of Village residents or adversely affects or impairs the economic  
5 welfare of adjacent property; and

6 **WHEREAS**, these prohibited conditions are declared public nuisances, and the failure of a  
7 property owner to abate and terminate the public nuisance results in (i) the “clean-up” of the property by  
8 the Village and (ii) the imposition of a non-ad valorem special assessment on the property if the Village is  
9 not timely reimbursed for the cost of the “clean-up”; and

10 **WHEREAS**, the Village has the authority to use the uniform method for the levy, collection, and  
11 enforcement of non-ad valorem assessments as set forth in Chapter 197 of Florida Statutes; and

12 **WHEREAS**, if not timely paid, the non-ad valorem assessment for clean-up of a lot will be  
13 included on the property owner’s annual tax bill, to be paid at the same time that yearly ad-valorem taxes  
14 are paid; and

15 **WHEREAS**, if the non-ad valorem assessment is not paid timely, a lien may also be recorded  
16 against the property; and

17 **WHEREAS**, the Village Commission now intends to amend its Code of Ordinances to (i)  
18 prohibit the nuisances that arise when property is allowed to deteriorate as described herein, (ii) provide  
19 for clean-up of the property and abatement of the nuisance, (iii) provide for assessment of property where  
20 the Village undertakes the clean-up, and (iv) authorize the use of the uniform method for the imposition  
21 and collection of non-ad valorem assessments against those properties; now, therefore

22 **BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF**  
23 **BISCAYNE PARK, FLORIDA:**

24 **Section 1.** That the Code of Village of Biscayne Park shall be and is hereby amended, more  
25 specifically, amending Chapter 8 “Environmental Management” by creating new Sections 8.4.5 through  
26 8.4.16 pertaining to Lot Maintenance and Clean Up to read as follows:

27 **Chapter 8. LOT MAINTENANCE AND CLEAN UP**

28 **Sec. 8.4.5 Purpose and Intent.**

29 The purpose and intent of this section is to prohibit the following:

- 30 a) accumulation of trash, junk, or debris, living and nonliving plant  
31 material, and stagnant water;
- 32 b) excessive and untended growth of grass, weeds, brush, branches, and  
33 other overgrowth;
- 34 c) the existence of all other objectionable, unsightly or unsanitary matter,  
35 materials, and conditions on property, whether improved or unimproved;
- 36 d) property being inhabited by, or providing a habitat for rodents, vermin,  
37 reptiles, or other wild animals;

- e) property providing a breeding place for mosquitoes;
- f) property being a place, or being reasonably conducive to serving as a place, for illegal or illicit activity;
- g) property threatening or endangering the public health, safety or welfare of Village residents;
- h) property reasonably believed to cause currently, or potentially to cause in the future, ailments or disease; and
- i) property adversely affecting and impairing the economic value or enjoyment of surrounding or nearby property.

**8.4.6. Definitions.**

These words, terms and phrases, when used in this section, will mean the following:

“Actual cost” means the actual cost to the Village, and if by contract the amount plus interest, if any, as invoiced by an independent, private contractor for terminating and abating a violation of this section on a lot, tract, or parcel, plus the cost of serving notice of the violation, obtaining title information on the property, and all other identifiable costs incurred by the Village in the clean-up of the lot, tract, or parcel.

“Compatible electronic medium or media” means machine-readable electronic repositories of data and information, including, but not limited to, magnetic disk, magnetic tape, and magnetic diskette technologies, which provide without modification that the data and information therein are in harmony with and can be used in concert with the data and information on the ad valorem tax roll keyed to the property identification number used by the Miami-Dade County Property Appraiser.

“Compost bin” means a container designed for the purpose of allowing nonliving plant material to decompose for use as fertilizer. For purposes of this article, any such compost bin shall be constructed of wire, wood lattice or other material that allows air to filter through the structure. A compost bin shall not exceed an area of sixty-four square feet or a height of five feet.

“Derelict property” means any property that is kept in such a condition that results in an imminent public health and/or safety threat as determined by the Village Manager or designee.

“Excessive growth” means grass, weeds, rubbish, brush, branches, or undergrowth that has reached a height of eight inches or more.

“Fill” means material such as dirt that is imported and deposited on property by artificial means.

“Grass, weeds, or brush” means grass or weeds or brush that, when allowed to grow in a wild and unkempt manner, will reach a height of eight inches or more.

1 This definition does not include bushes, shrubs, trees, vines, flowering plants, and  
2 other living plant life typically used and actually being used for landscaping  
3 purposes.

4 “Imminent public-health threat” means the condition of a lot, tract, or parcel of  
5 land that, because of the accumulation of trash, junk, or debris, such as broken  
6 glass, rusted metal, automotive and appliance parts, some of which may contain  
7 chemicals, such as Freon, oils, fluids, or the like, may cause injury or disease to  
8 humans or contaminate the environment, or the condition of a lot, tract or parcel  
9 that, because of the excessive growth of grass, weeds, or brush that may have  
10 repeatedly violated section 8.4.1 of the code or be a hazard due to a weather event,  
11 or can harbor criminal activity, vermin, or disease.

12 “Levy” means the imposition of a non-ad valorem assessment against property  
13 found to be in violation of this section.

14 “Non-ad valorem assessment” means a special assessment that is not based upon  
15 millage and that can become a lien against a homestead as permitted in Section 4  
16 of Article X of the Florida Constitution.

17 “Non-ad valorem assessment roll” means the roll prepared by the Village and  
18 certified to the Miami-Dade County Property Appraiser Tax Collector, as  
19 appropriate under Florida law, for collection.

20 “Non-living plant material” means nonliving vegetation such as leaves, grass  
21 cuttings, shrubbery cuttings, tree trimmings and other material incidental to  
22 attending the care of lawns, shrubs, vines and trees.

23 “Property” means a lot or tract or parcel of land and the adjacent unpaved and  
24 ungraded portion of the right-of-way, whether such lot or tract or parcel is  
25 improved or unimproved.

26 “Trash, junk, or debris” mean waste material, including, but not limited to,  
27 putrescible and nonputrescible waste, combustible and non-combustible waste, and  
28 generally all waste materials such as paper, cardboard, tin cans, lumber, concrete  
29 rubble, glass, bedding, crockery, household furnishings, household appliances,  
30 dismantled pieces of motor vehicles or other machinery, rubber tires, and rusted  
31 metal articles of any kind.

32 **8.4.7. Declaration of nuisance and menace.** The (i) accumulation of trash,  
33 junk, or debris, living and nonliving plant material, or stagnant water upon  
34 property, (ii) the excessive growth of grass, weeds, brush, branches, and other  
35 overgrowth upon property, and (iii) the keeping of fill in a unsafe and unsanitary  
36 manner is declared to be a nuisance and menace to the public health, safety, and  
37 welfare of the citizens of the Village for the following reasons:

38 a) The aesthetic appearance of property preserves the value of other  
39 properties within the Village.

40 b) The (i) accumulation of trash, junk, or debris, nonliving plant  
41 material, or stagnant water, (ii) the excessive growth of grass, weeds, brush,  
42 branches, and other overgrowth, and (iii) the keeping of fill in an unsafe and

1 unsanitary manner is dangerous, unhygienic, unhealthy, visually unpleasant to the  
2 reasonable person of average sensibilities, and a visual nuisance because it  
3 depreciates, or potentially can depreciate, the value of neighboring property, that  
4 unless addressed properly in this Code of Ordinances, Village taxpayers could be  
5 and would be required to pay the cost of cleaning up such properties, and such  
6 clean-ups would have to be undertaken by the Village several times a year, in  
7 some cases for the same properties.

8 **8.4.8. Accumulation of trash, junk, or debris, living and nonliving plant**  
9 **material, and stagnant water.**

10 a) Every owner and, if applicable, every agent, custodian, lessee, or  
11 occupant of property shall reasonably regulate and effectively control  
12 accumulations of trash, junk, or debris, living and nonliving plant material, and  
13 stagnant water (i) on the property, and (ii) that portion of the adjoining public  
14 right-of-way between the property and the paved or graded street.

15 b) The following uses are permissible:

- 16 1. Storage of trash, junk, debris, and living and nonliving plant  
17 material in garbage cans that comply with applicable ordinances  
18 relating to solid-waste collection.
- 19 2. The storage of nonliving plant material in compost bins, except that  
20 no property may have more than two compost bins.
- 21 3. Keeping wood on the property for use as fire or fuel, provided, such  
22 wood shall be piled, stacked, bundled, or corded and the area  
23 surrounding the piles, stacks, bundles, or cords shall be free of  
24 excessive growth of grass, weeds, brush, branches, and other  
25 overgrowth.

26 **8.4.9. Excessive growth of grass, weeds, brush, and other overgrowth.**

27 Every owner and, if applicable, every agent, custodian, lessee, or occupant of  
28 property shall reasonably regulate and effectively control the excessive growth of  
29 grass, weeds, brush, and other overgrowth (i) on the property, and (ii) that portion  
30 of the adjoining public right-of-way between the property and the paved or graded  
31 street. Excessive growth of grass, weeds, brush, and other overgrowth that exceeds  
32 the height limitations as provided for in section 8.4.1 of this Code, as may be  
33 amended from time to time, is prohibited.

34 Vegetative growth that is a mature Florida ecological community, as defined by  
35 the Soils Conservation Service in its publication entitled 26 Ecological  
36 Communities in Florida, or any similar successor publication, is not prohibited by  
37 this section. However, in the event this vegetative growth constitutes an imminent  
38 public health threat, it shall be removed upon the order of the Village Manager.

39 **8.4.10. Keeping of fill on property.**

40 Every owner and, if applicable, every agent, custodian, lessee, or occupant of  
41 property shall reasonably regulate and effectively control the property so as to

1 prevent the keeping of fill on it to prevent the creation of (i) a habitat for rodents,  
2 vermin, reptiles, or other wild animals, (ii) breeding ground for mosquitoes, (iii) a  
3 place conducive to illegal activity, (iv) a place that threatens or endangers the  
4 public health, safety or welfare of Village residents, (v) a place that is reasonably  
5 believed to cause currently, or potentially to cause in the future, ailments or  
6 disease, or (vi) a condition on the property that adversely affects and impairs the  
7 economic value or enjoyment of surrounding or nearby property.

8 **8.4.11. Imminent public-health threat.**

9 Any property that is deemed to be derelict property may be remedied by the  
10 Village immediately without notice to the owner or, if applicable, the agent,  
11 custodian, lessee, or occupant. The Village Manager shall determine whether,  
12 under the provisions of this section, an imminent public health and/or safety threat  
13 exists.

14 An (i) accumulation of trash, junk, debris, living and nonliving plant material, or  
15 stagnant water, (ii) excessive growth of grass, weeds, brush, or other overgrowth,  
16 or (iii) the keeping of fill on property that presents an imminent public health threat  
17 may be remedied by the Village immediately without notice to the owner or if  
18 applicable, the agent, custodian, lessee, or occupant. The Village Manager shall  
19 determine whether, under the provisions of this section, an imminent public health  
20 and/or safety threat exists

21 After-the-fact notice will be provided by the Village to the owner and, if  
22 applicable, the agent, custodian, lessee, or occupant within a reasonable time after  
23 the abatement. After-the-fact notice shall be sent as set forth in section 8.4.12  
24 below, and the owner and, if applicable, the agent, custodian, lessee, or occupant  
25 shall have fifteen (15) days from the date notice is received to (i) reimburse the  
26 Village or (ii) appeal the Village Manager's determination to the Village  
27 Commission that an imminent public-health threat existed on the property.

28 **8.4.12. Enforcement.**

29 *(a) Violations.* Failure or refusal by the owner and/or, if applicable, the agent,  
30 custodian, lessee or occupant of property to comply with the requirements of  
31 sections 8.4.5 through 8.4.16 is a violation of this Ordinance. The existence of an  
32 imminent public-health threat on a property is a violation of this Ordinance.

33 *(b) Notice of violation.* Whenever the Village Manager or designee determines  
34 there is a violation of this section, the Village Manager shall serve, or cause to be  
35 served, a "notice of violation" on the owner and, if applicable, the agent, custodian,  
36 lessee, or occupant of the property. The "notice of violation" shall direct the  
37 owner and, if applicable, the agent, custodian, lessee, or occupant to terminate and  
38 abate the violation within twenty calendar days of the date the "notice is received."  
39 If the "notice of violation" pertains to an imminent public-health threat abated by  
40 the Village, the notice shall direct the owner and, if applicable, the agent,  
41 custodian, lessee, or occupant to pay to the Village the cost of such abatement.

42 If the notice of violation is sent or delivered to the owner and the owner's agent,  
43 custodian, lessee, or occupant, they shall be jointly and severally responsible to  
44 remedy the violation.

1 (c) *Notice is received.* The “notice of violation” shall be sent by United States  
2 certified mail with a return receipt requested. “Notice is received” on the date the  
3 owner or, if applicable, the agent, custodian, lessee, or occupant of the property  
4 initials or otherwise indicates receipt of the notice on the return receipt.

5 In the event that certified-mail delivery cannot be accomplished, and after  
6 reasonable search by the Village for such owner or, if applicable, the agent,  
7 custodian, lessee, or occupant of the property, or if the notice is not accepted or is  
8 returned to the Village, a physical posting of the “notice of violation” on the  
9 property shall be deemed the date the “notice of violation” is received.

10 (d) *Form of notice.* The notice shall be in substantially the following form:

11 **NOTICE OF VIOLATION**

12  
13 Name of owner:

14  
15 \_\_\_\_\_

16  
17 Address of owner:

18  
19 \_\_\_\_\_

20  
21  
22 Name of agent, custodian, lessee, or occupant (if applicable):

23  
24 \_\_\_\_\_

25  
26  
27 Address of agent, custodian, lessee, or occupant (if applicable):

28  
29 \_\_\_\_\_

30  
31  
32 Our records indicate that you are the owner, agent, custodian, lessee or occupant of  
33 the following property in the Village of Biscayne Park, Florida:

34  
35 [description of property]

36  
37 An inspection of this property discloses, and I have found and determined, that a  
38 public nuisance exists on this property. This public nuisance violates [description  
39 of section violated] of the Code of Ordinances of the Village of Biscayne Park,  
40 Florida in that:

41  
42 [description of the violation in this section]

43  
44 YOU ARE HEREBY NOTIFIED THAT IF, WITHIN TWENTY DAYS (20)  
45 FROM THE DATE OF THIS NOTICE,

46  
47 a. THE VIOLATION DESCRIBED ABOVE IS NOT  
48 REMEDIED AND ABATED, OR  
49

1 b. THIS VIOLATION NOTICE HAS NOT BEEN TIMELY  
2 APPEALED, AS SET FORTH IN SUBSECTION 8.4.13 OF THE VILLAGE'S  
3 CODE OF ORDINANCES, THE VILLAGE WILL CAUSE THE VIOLATION  
4 TO BE REMEDIED, AND THE COSTS INCURRED BY THE VILLAGE IN  
5 CONNECTION WITH THE CLEANUP WILL BE ASSESSED AGAINST THE  
6 PROPERTY. To appeal this notice of violation, you must file your notice of  
7 appeal no later than 15 days after receipt of this notice with the Village Clerk.  
8

9 Village of Biscayne Park, Florida

10  
11 By: \_\_\_\_\_

12 Title: \_\_\_\_\_  
13

14 If the notice is an after-the-fact notice of an imminent public-health threat, the  
15 capitalized portions shall be deleted and, in their place, the information required in  
16 section 8.4.16 (a) through (f) regarding levy of assessment on the property for the  
17 costs of abatement incurred by the Village shall be substituted.

18 **8.4.13. Appeals.**

19 Within fifteen (15) days after notice is received, the owner or, if applicable, the  
20 agent, custodian, lessee, or occupant of the property may appeal to the Village  
21 Commission that a "notice of violation" is not warranted for the property or that  
22 the property did not pose an imminent public-health threat that required immediate  
23 cleanup.

24 *(a) Content of Appeal.* The owner or, if applicable, the agent, custodian, lessee, or  
25 occupant of the property must appeal the notice of violation by written notice to  
26 the Village Clerk. The written notice must be accompanied by a reasonable filing  
27 fee, as determined by the Village Clerk, and shall be either hand delivered to the  
28 Village Manager, or mailed to the Village Clerk and postmarked, within the  
29 fifteen-day (15) period after notice is received.

30 Upon timely receipt, the Village Manager will schedule the appeal for a public  
31 hearing before the Village Commission. At the public hearing, the appellant shall  
32 be afforded due process and may present such evidence as is probative of the  
33 appellant's case. The Village Manager or other Village staff shall present such  
34 evidence as is probative of the alleged violation. Members of the public shall be  
35 afforded the opportunity to present germane testimony and evidence. Thereafter,  
36 the hearing shall be closed and the Village Commission shall rule on the appeal.

37 *(b) Unsuccessful appeal.* If the appeal is unsuccessful, the property must be  
38 "cleaned up" and the violation remedied and removed within fifteen days (15)  
39 from the date of the Village Commission's decision.

40 **8.4.14. Special assessment imposed.**

41 In the event an appeal is not made within fifteen days (15) after notice is received  
42 and the violation is not remedied, or a timely appeal is made, but is unsuccessful  
43 and the violation is not remedied, the Village may undertake such action as is  
44 necessary or useful to remedy the violation. The costs incurred by the Village to  
45 remedy the violation, including the actual cost of clean-up, all administrative

1 expenses, and all other identifiable costs incurred by the Village, shall be assessed  
2 against the property as authorized by Section 8.4.16. All assessments shall be paid  
3 in full no later than the close of Village business on the twentieth (20th) business  
4 day after the property owner has received notice of the assessment. Thereafter, the  
5 unpaid amount of the assessment will accrue interest at the rate of 10% per annum  
6 or at the maximum rate allowed by law, whichever is less.

7 **8.4.15. Notice of assessment.**

8 Upon completion of the actions undertaken by the Village to remedy the violation  
9 on the property, the Village shall notify in writing the owner and, if applicable, the  
10 agent, custodian, lessee, or occupant that a special assessment has been imposed on  
11 the property. The notice shall be delivered to the owner and, if applicable, the  
12 agent, custodian, lessee, or occupant in the manner set forth for delivery of the  
13 notice of violation in section 8.4.12.

14 The notice of assessment shall set forth the following:

- 15 a) A description of the violation, a description of the actions taken by  
16 the Village to remedy the violation, and the fact that the property has been  
17 assessed for the costs incurred by the Village to remedy the violation.
- 18 b) The aggregate amount of such costs and an itemized list of such costs.
- 19 c) The intent of the Village to record the assessment as a lien against the  
20 property if not paid timely, within the period of twenty business days as set forth  
21 in section 8.4.12.
- 22 d) The intent of the Village to place the assessment on the tax roll as a  
23 non-ad valorem assessment if not paid by the following December 1.
- 24 e) The potential for the property to be subject to the sale of a tax  
25 certificate, bearing interest by law at a rate as high as 18% per annum, if the non-  
26 ad valorem assessment is not paid as part of the tax bill on the property.
- 27 f) The potential for the property to be sold and conveyed by tax deed if  
28 the tax certificate is not redeemed by payment of the non-ad valorem assessment  
29 in full, plus interest, as required by Florida law.

30 **8.4.16. Assessments for lot maintenance and clean-up.**

31 a) **Establishment of special assessment district.** The Village of Biscayne Park  
32 in its entirety, as its Village boundaries exist on the date of enactment of this article  
33 and as they may be expanded or contracted from time to time, is hereby declared a  
34 special-assessment district for the purposes of abating and remedying violations of  
35 this article. Individual properties within the Village's boundaries, as they may  
36 exist from time to time, may be assessed for the costs incurred by the Village in  
37 abating and remedying violations of this article.

38 b) **Levy of non-ad valorem assessments.** There is hereby levied, and the  
39 Village Commission is authorized to levy from time to time, a non-ad valorem  
40 assessment against each and every property in the Village (i) on which there occurs

1 or has occurred a violation of this article, (ii) the Village undertakes or has  
2 undertaken action pursuant to this article to abate and/or remedy the violation and,  
3 thereby, incurs or has incurred costs, and (iii) the property owner and, if  
4 applicable, the agent, custodian, lessee, or occupant of the property fails or refuses  
5 or has failed or refused, for whatever reason, to pay timely the amount owed to the  
6 Village under this article for the costs incurred by the Village in carrying out such  
7 abatement and remedy.

8 **c) Collection of non-ad valorem assessments.** The Village Commission elects  
9 to use the uniform method to impose and collect non-ad valorem assessments  
10 against properties on which violations of this article occur or have occurred. The  
11 non-ad valorem assessments collected pursuant to this section will be included in  
12 the combined notice for ad-valorem taxes and non-ad valorem assessments as  
13 provided in section 197.3635 of Florida Statutes. Non-ad valorem assessments  
14 collected pursuant to this section are subject to all collection provisions in section  
15 197.3632 of Florida Statutes, including provisions relating to discount for early  
16 payment, prepayment by installment method, deferred payment, penalty for  
17 delinquent payment, and issuance and sale of tax certificates and tax deeds for  
18 nonpayment.

19 **d) Agreement to reimburse the Miami-Dade County Property Appraiser**  
20 **and the Miami-Dade County Tax Collector.** In order to use the uniform method  
21 for the levy, collection, and enforcement of the non-ad valorem assessments, the  
22 Village is authorized to enter into a written agreement with the Miami-Dade  
23 County Property Appraiser and the Miami-Dade County Tax Collector providing  
24 for the reimbursement of their costs incurred in the administration and collection of  
25 the non-ad valorem assessments levied under this section.

26 **e) Adoption of a resolution.** The Village Commission will adopt a resolution at  
27 a public hearing prior to January 1, 2013 or if agreed by the property appraiser, tax  
28 collector, and the Village by March 1, in accordance with subsection  
29 197.3632(3)(a) of the Florida Statutes (2009), which resolution shall state the  
30 following:

31 1) The Village's intent to use the uniform method of collecting non-ad  
32 valorem assessments.

33 2) The Village's need for the imposition of the non-ad valorem  
34 assessments.

35 3) The entire Village is declared a special-assessment district, with  
36 individual properties being subject to the non-ad valorem assessment from time to  
37 time if and when violations of this article occur.

38 4) Publish in a newspaper of general circulation four (4) weeks preceding  
39 the hearing of the boundaries of the local government of the properties subject to  
40 levy.

41 5) The Village shall send a copy of the Resolution by January 10, 2013, or  
42 March 10, 2013 if agreed by the property appraiser, tax collector, and the Village.

1 The Village will comply with all statutory notice prerequisites set forth in Section  
2 197.3632 of Florida Statutes (2009).

3 **f) Annual non-ad valorem assessment roll.** Each year, the Village  
4 Commission will approve a non-ad valorem assessment roll at a public hearing  
5 between January 1 and September 15. The non-ad valorem assessment roll will be  
6 comprised of properties that have had levied against them non-ad valorem  
7 assessments under this section, and such assessments have not otherwise been paid  
8 in full prior to approval of the roll.

9 The Village Clerk is authorized and directed each year (i) to prepare the notice that  
10 must be provided as required by subsection 197.3632(4)(b) of Florida Statutes, and  
11 (ii) to prepare and publish the newspaper notice required by subsection  
12 197.3632(4)(b) of Florida Statutes.

13 The notice to be sent by first-class mail will be sent to each person owning  
14 property that will be on the non-ad valorem assessment roll and will include the  
15 following:

- 16 1) The purpose of the assessment;
- 17 2) The total amount to be levied against the parcel, which includes the  
18 actual cost incurred by the Village;
- 19 3) A statement that failure to pay the assessment will cause a tax certificate  
20 to be issued against the property, which may result in a loss of title;
- 21 4) A statement that all affected property owners have a right to appear at the  
22 hearing and to file written objections with the local governing board within 20  
23 days of the notice; and
- 24 5) The date, time, and place of the hearing.

25 Upon its approval by Village Commission, the non-ad valorem assessment roll will  
26 be certified to the tax collector as required by law.

27 **Section 2.** Non-ad valorem assessments to recover actual costs incurred by the Village in  
28 remedying violations of this article of the Code of Ordinances prior to the effective date of this ordinance  
29 may be levied against the affected properties and, if not timely paid in full, may be placed on a non-ad  
30 valorem assessment roll at the next available opportunity. All actions taken by Village officials and  
31 employees to that end are ratified and confirmed herewith.

32 **Section 3.** **Severability.** Should any section, provision, paragraph, sentence, clause or word of  
33 this Ordinance or portion hereof be held or declared by any court of competent jurisdiction to be  
34 unconstitutional or invalid, in part or application, it shall be considered as eliminated and shall not affect the  
35 validity of the remaining portions or applications of this Ordinance.



1 Approved as to form:

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Village Attorney