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2 **ORDINANCE 2013-05**
3

4 AN ORDINANCE OF THE VILLAGE
5 COMMISSION OF THE VILLAGE OF
6 BISCAYNE PARK, FLORIDA AMENDING
7 CHAPTER 6 OF THE VILLAGE'S LAND
8 DEVELOPMENT CODE, ENTITLED "PUBLIC
9 FACILITIES AND SERVICES", TO PROVIDE
10 REGULATIONS FOR DUMPSTERS AND TO
11 ADD CERTAIN DEFINITIONS; PROVIDING
12 FOR SEVERABILITY; PROVIDING FOR
13 CODIFICATION; PROVIDING FOR
14 EFFECTIVE DATE
15
16

17 WHEREAS, the Village Commission, from time to time, reviews its Code of Ordinances
18 and directs City staff and its advisory boards to recommend certain changes to its provisions; and

19 WHEREAS, the Code Review Board has suggested the regulation of dumpsters in the
20 Village and added definitions for domestic trash and garden/bulky waste; and

21 WHEREAS, the Village Commission finds it to be in the best interests of its citizenry to
22 amend the Village's Land Development Code to provide regulations for dumpsters and to add
23 certain definitions to Chapter 6 pertaining to public facilities and services; now, therefore
24

25 **BE IT ORDAINED BY THE MAYOR AND THE VILLAGE COMMISSION OF**
26 **THE VILLAGE OF BISCAYNE PARK, FLORIDA:**
27

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

1 **Section 2.** Chapter 6 of the Village of Biscayne Park Land Development Code,
2 entitled “Public Facilities and Services”, is hereby amended to read as follows:

3
4 **CHAPTER 6. PUBLIC FACILITIES AND SERVICES.**

5 **6.1 Generally.**

6
7 6.1.1 *Purpose of chapter.* The purpose of this chapter is to provide criteria for basic
8 utilities, to provide for a village solid waste management program, and establish the standards for
9 stormwater management.

10
11 **6.2 Utilities.**

12
13 6.2.1 *Utilities.* The criteria for basic utilities for the village are listed below:

- 14
15 (a) *Electricity.* Every lot shall have available to it a source of electric power adequate
16 to accommodate the reasonable needs of the principal use on the lot.
17
18 (b) *Water.* Every lot shall have central potable water hookup.
19
20 (c) *Telephone.* Every lot shall have available to it a telephone service cable adequate
21 to accommodate the reasonable needs of the principal use.
22

23 **6.3 Solid waste.**

24
25 6.3.1 *Local government solid waste responsibilities.* The municipality of Biscayne
26 Park is responsible for collecting and transporting solid waste from its jurisdiction to a solid
27 waste disposal facility operated by the county or operated under a contract with the county. The
28 county may charge reasonable fees for the handling and disposal of solid waste at their facilities.
29

30 6.3.2 *Containers.*

- 31
32 (a) Each residential unit shall have a sufficient number of garbage cans or approved
33 containers, not to exceed ~~forty (40)~~ forty (40) gallons in capacity, to accommodate
34 all garbage, leaves and grass cuttings. Garbage cans shall be kept tightly closed at
35 all times and easily accessible to collectors. Collection service may be
36 discontinued where the garbage cans or containers are determined to be unfit for
37 receptacles by the public works department. Failure of the property owner to
38 provide proper garbage cans or containers which results in a discontinuance of
39 service shall subject the property owner to the penalty provisions of this Code.
40
41 (b) Garbage cans and trash receptacles must be placed behind the face of the building
42 and screened from view except when properly placed out for pickup.
43

1 (c) Dumpsters.
2

- 3 (1) *Intent.* It is the intent of this section to regulate the location and
4 construction of bulk container enclosures in a manner that promotes the
5 public health and safety, and lessens or otherwise mitigates the visual
6 impact of such bulk containers upon the community. A bulk container is
7 a receptacle with a capacity of greater than one (1) cubic yard which
8 purpose is for the disposal and storage of garbage, trash and any form of
9 waste materials, not including hazardous or infectious waste
10
- 11 (2) *Domestic trash.* Every refuse accumulation of animal, fruit or vegetable
12 matter that attends the preparation, use, cooking and dealing in the storage
13 of edibles, and any other matter of any nature whatsoever which is subject
14 to decay, purification and degeneration of noxious or offensive gases or
15 odors.
16
- 17 (3) *Garden/bulky waste.* Items of household refuse, tree cutbacks and
18 shrubbery cuttings, and other refuse attending the care of lawns, boxes and
19 like articles.
20
- 21 (4) *Enclosure.* Wheeled bulk containers for the disposal of solid waste shall
22 be enclosed in a fence or wall fully screening it from view. Chain link
23 fencing is not permitted for enclosure or gate. Containers are to be
24 positioned upon a hard surface pad and a hard surface roll-away from the
25 pad to the servicing area is provided to facilitate servicing. Wheeled bulk
26 containers shall only be placed curbside for collection and shall remain
27 curbside for a reasonable amount of time in order to facilitate collection.
28 In no case shall wheeled bulk containers remain overnight at curbside or
29 street side.
30
- 31 (5) *Size requirement.* Each enclosure shall provide a minimum of eighteen
32 (18) inches of clear space between each side of each bulk container
33 (including lifting flanges) and the adjacent wall surface of that enclosure,
34 or other containers within the same enclosure. The height of each
35 enclosure shall be six (6) inches greater than the highest part of the bulk
36 container therein.
37
- 38 (6) *Placement.* The placement of containers and enclosures shall be planned
39 and constructed in a manner that allows unobstructed access to each
40 container and the unobstructed opening of the gates during the emptying
41 process. Containers shall not be located in such a manner that the service
42 vehicle will block any intersection during the emptying process.
43 Containers shall be located to the rear of the property, no closer than ten
44 (10) feet to a property line.
45
- 46 (7) *Gates.* All enclosures shall have gates and their construction shall be of
47 sturdy metal frame and hinges with an opaque facing material. Servicing

1 gates shall incorporate gate stops and latches that are functional in the full
2 open and closed positions. Hinge assemblies shall be strong and durable
3 so that access and servicing gates function properly and do not sag.
4 Enclosure gates shall be closed at all times except for the time necessary
5 to service the bulk container(s).
6

7 (8) *Pad/hard surface.* All enclosures shall be placed on poured concrete,
8 solid or perforated interlocking concrete block paving (ICB), or any
9 existing hardened paving system. A service access drive for the purpose
10 of emptying the bulk container shall also be provided unless a hard surface
11 that provides access to the bulk container already exists.
12

13 (9) *Maintenance.* Approved enclosures shall be maintained in good condition
14 and appearance at all times. Gates and latches shall be kept fully operable
15 and shall be cleaned periodically to prevent noxious odors and unsanitary
16 conditions from occurring. Enclosure pads and access drives shall be
17 repaired or rebuilt whenever the pavement structure deteriorates.
18

19 6.3.3 *Owner/occupant responsibility.*
20

21 (a) It shall be the duty of each owner/occupant to prevent the continued, excessive
22 and unsightly accumulation of garbage, trash and other types of waste and
23 rubbish.
24

25 (b) Each owner/occupant shall place domestic trash at the property line in front of the
26 property the evening not more than twenty-four (24) hours before the scheduled
27 collection time. Each owner/occupant shall remove their trash container from the
28 front of the property within twenty-four hours after collection.
29

30 (c) Failure to comply with the provisions of this section shall constitute a violation of
31 this Code.
32

33 6.3.4 *Garden/bulky waste.* All tree trimmers and tree surgeons who are employed by a
34 resident or occupant of any residence or who may be employed by the village, or who may
35 otherwise pursue their occupation in the village shall be required to remove immediately to a
36 dump or other place designated for refuse, all refuse, cutting or debris resulting from their
37 operation. In no event shall any refuse, cuttings or debris remain overnight on any premises
38 where tree trimmers or tree surgeons have been engaged in their occupation. Each property
39 owner shall place tree and garden refuse at the property line no earlier than 6:00 a.m. of the day
40 preceding scheduled collection time and containers must be removed and placed out of sight by
41 6:00 a.m. the day following the scheduled day of collection.
42

43 6.3.5 *Recycling program.* The village may form cooperative arrangements with the
44 county for implementing recycling programs. The following requirements shall apply:
45

- 1 (a) Construction and demolition debris must be separated from the solid waste stream
2 and segregated in separate locations at a solid waste disposal facility or other
3 permitted site.
4
- 5 (b) The local government is encouraged to separate all plastic, metal, and all other
6 grades of paper for recycling prior to final disposal and is further encouraged to
7 recycle yard trash and other mechanically treated solid waste into compost
8 available for agricultural and other acceptable uses
9
- 10 (c) In developing and implementing recycling programs, the village is encouraged to
11 use for-profit organizations for the collection, marketing, and disposition of
12 recyclable materials.
13

14 6.3.6 *Solid waste franchise.* The village may enter into a written agreement with other
15 persons to undertake to fulfill some or all of the village's solid waste responsibilities.
16

17 6.3.7 *Determination and announcement of full cost for solid waste management.*
18

- 19 (a) The village shall determine the full cost for solid waste management within the
20 service area of the village for the one-year period beginning on October 1, 1988,
21 and shall update the full cost every year thereafter. The method to be used in
22 calculating full cost shall be according to the rule established by the Florida
23 Department of Environmental Regulation.
24
- 25 (b) The village shall establish a system to inform, no less than one a year, residential
26 and nonresidential users of solid waste management services within the village
27 service area of the user's share, on an average or individual basis, of the full cost
28 for solid waste management as determined pursuant to subsection 6.3.7(a) above.
29
- 30 (c) Additional/unscheduled trash removal. The village shall provide
31 additional/unscheduled trash removal for its residents. The cost for these services
32 shall be determined annually by resolution of the village commission.
33

34 6.3.8 *Litter.* Unless otherwise authorized by law or permit, it shall be unlawful for any
35 person to dump litter in any manner or amount as stipulated in the Florida Litter Law.
36

37 6.3.9 *Violations of this section; enforcement procedures available to village; schedule*
38 *of fines and penalties.* Any violation or repeat violation of this section may be pursued by the
39 village by appropriate remedy either in court, through code enforcement by the imposition of a
40 fine as set forth below, or by any other means available at law or in equity, at the option of the
41 village. If it is the first violation, a warning may be given. Any person violating this section
42 shall be punished by a fine of not more than thirty dollars (\$30.00) per violation. Each day, or
43 portion thereof, that a violation occurs is considered a separate and additional violation.
44

45 **6.4 Septic tanks.**
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1 6.4.1 *Septic tank requirements.* All septic tank requirements, inspections and
2 permitting shall comply with the regulations of ~~Metre~~ Miami-Dade County's Department of
3 Environmental Resources Management.
4

5 **6.5 Stormwater.**
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7 6.5.1 *Stormwater management requirements.* All stormwater management systems
8 shall comply with applicable state regulations (Chapter 17-25, Florida Administrative Code) or
9 rules of the South Florida Water Management District (Chapter 40E-4). In all cases the strictest
10 of the applicable standards shall apply.
11

12 6.5.2 *Flooding and drainage.* On the basis of the Stormwater Rule (Chapter 17-25,
13 F.A.C.) of the Florida Department of Environmental Regulation (DER) and Rule 17-40 F.A.C.,
14 flood and drainage considerations of any proposed development shall comply with Dade County
15 Code Regulations Chapter 11C and Chapters 24.58, Dade County Public Works Manual Chapter
16 28, and the South Florida Water Management District's (SFWMD) criteria in their "Management
17 and Storage of Surface Water; Permit Information Manual, Volume IV". All nonexempt
18 development shall require appropriate permits from the DER and SFWMD before a development
19 order is issued by the local government. Except development includes the construction of a
20 single-family or duplex residential dwelling and accessory structures on a single parcel of land.
21

22 **6.6 Water emergency.**
23

24 6.6.1 *Water emergency restrictions.*
25

26 (a) *Intent and purpose.* It is the intent and purpose of this section to protect the water
27 resources of the Village of Biscayne Park from the harmful effects of over-
28 utilization during periods of water shortage and allocate available water supplies
29 by assisting the South Florida Water Management District in the implementation
30 of its water shortage plan.
31

32 (b) *Definitions.* For the purpose of this section, the following terms, phrases, words
33 and their derivatives shall have the meaning given herein. When not inconsistent
34 with the context, words used in the present tense include the future, words in the
35 plural include the singular, and words in the singular include the plural. The word
36 "shall" is always mandatory and not merely directory:
37

38 (1) *District* means the South Florida Water Management District.
39

40 (2) *Person* means any person, firm, partnership, association, corporation,
41 company or organization of any kind.
42

43 (3) *Water resource* means any and all water on or beneath the surface of the
44 ground, including natural or artificial watercourses, lakes, ponds, or
45 diffused surface water, and percolating, standing, or flowing beneath the
46 surface of the ground.
47

1 (4) *Water shortage condition* means that situation when sufficient water is not
2 available to meet the present or anticipated needs of persons using the
3 water resource, or when conditions are such as to require temporary
4 reduction in total water usage within a particular area to protect the water
5 resource from serious harm. A water shortage usually occurs due to
6 drought.

7
8 (5) *Water shortage emergency* means that situation when the powers which
9 can be exercised under Florida Administrative Code, Ch. 40E-21, Pt. II,
10 are not sufficient to protect the public health, safety, or welfare, or the
11 health of animals, fish or aquatic life, or a public water supply, or
12 commercial, industrial, agricultural, recreational or other reasonable uses.

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14 * * * * *

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

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

24 **Section 5.** **Conflicts.** That all Ordinances or parts of Ordinances, Resolutions or parts
25 thereof in conflict herewith, are and the same are hereby repealed to the extent of such conflict.

26 **Section 6.** **Effective Date.** This Ordinance shall become effective immediately upon its
27 passage and adoption.

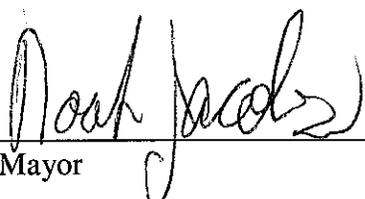
28
29 The foregoing Ordinance was offered by Commissioner Ross, who moved its adoption.
30 The motion was seconded by Commissioner Anderson and upon being put to a vote, the vote
31 was as follows:

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PASSED AND ADOPTED upon first reading this 7th day of May, 2013.

PASSED AND ADOPTED upon second reading this 9th day of July, 2013.

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



Noah Jacobs, Mayor

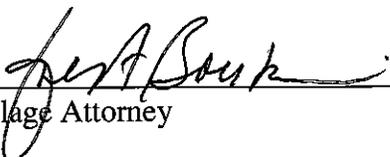
Mayor Jacobs: Yes
Vice Mayor Anderson: Yes
Commissioner Cooper: Yes
Commissioner Ross: Yes
Commissioner Watts: Yes

Attest:



Maria C. Camara, Village Clerk

Approved as to form:



Village Attorney