SUPPLEMENT NO. 7
September 1994

CODE OF ORDINANCES

Village of

BISCAYNE PARK, FLORIDA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 286, adopted May 3, 1994.

See the Code Comparative Table for further information.

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SUPPLEMENT NO. 6
December 1991

CODE OF ORDINANCES

Village of

BISCAYNE PARK, FLORIDA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 266, adopted June 4, 1991.

See the Code Comparative Table for further information.

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SUPPLEMENT NO. 5
February, 1991

CODE OF ORDINANCES

Village of

BISCAYNE PARK, FLORIDA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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See the Code Comparative Table for further information.

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SUPPLEMENT NO. 4
June, 1989

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Village of

BISCAYNE PARK, FLORIDA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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SUPPLEMENT NO. 3

CODE OF ORDINANCES

Village of

BISCAYNE PARK, FLORIDA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 244, adopted July 5, 1988.

See Code Comparative Table, page 1531.

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MUNICIPAL CODE CORPORATION

Tallahassee, Florida

September, 1988

Note—An updated checklist of pages in Code is included, following Table of Contents.

SUPPLEMENT NO. 2

CODE OF ORDINANCES

Village of

BISCAYNE PARK, FLORIDA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

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See Code Comparative Table, page 1531.

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MUNICIPAL CODE CORPORATION

Tallahassee, Florida

December, 1987

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SUPPLEMENT NO. 1

CODE OF ORDINANCES

Village of

BISCAYNE PARK, FLORIDA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 228, adopted May 7, 1985.

See Code Comparative Table, page 1531.

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Insert this instruction sheet in front of volume. File removed pages for reference.

MUNICIPAL CODE CORPORATION

Tallahassee, Florida

July, 1985

Note—A new checklist of pages in Code is included, following Table of Contents.

CODE OF ORDINANCES

VILLAGE OF

BISCAYNE PARK, FLORIDA

Published by Order of the Village Commission

MUNICIPAL CODE CORPORATION

Tallahassee, Florida 1985

OFFICIALS

of the

VILLAGE OF BISCAYNE PARK, FLORIDA

AT THE TIME OF THIS CODIFICATION

Edward J. Burke
Mayor

Peter H. Hinck
Harold W. Hopkin Jr.
Daniel B. Keys
James A. Reeder
Village Commission

Jeanette Horton
Village Clerk

Michel Anderson
Village Attorney

PREFACE

This Code is a codification of the ordinances of the Village of Biscayne Park, Florida, of a general and permanent nature.

Source materials used in the preparation of the Code were the ordinances adopted by the commission. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the Comparative Tables appearing in the back of this volume, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been catchlined to facilitate usage. Footnotes which tie related sections of the Code together and which refer to relevant state laws have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this volume.

Numbering System

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the first section of Chapter 10 is numbered 10-1 and the fifth section of Chapter 9 is 9-5. Under this system, each section is identified with its chapter and at the same time new sections or even whole chapters can be inserted in their proper place simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between Sections 6-3 and 6-4 is desired to be added, such new sections would be numbered 6-3.1, 6-3.2 and 6-3.3 respectively. New chapters may be included in the same manner. If the new material is to be included between Chapters 7 and 8, it will be designated as Chapter 7.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new

divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Indices

The indices of the Code have been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by municipal officials and employees. There are numerous cross references within each index which stand as guideposts to direct the user to the particular item in which he is interested.

Looseleaf Supplements

A special feature of this Code to which the attention of the user is especially directed is the looseleaf system of binding and supplemental servicing for the Code. With this system, the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the Code, with instructions for the manner of inserting the new pages and deleting the obsolete pages. Each such amendment, when incorporated into this Code, may be cited as a part hereof.

The successful maintenance of this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publishers that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

The publication of this Code was under direct supervision of George R. Langford, President, and Alyce A. Whitson, Supervising Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the pub-

lisher's staff for their sincere interest and able assistance throughout the project.

The publishers are most grateful to Mayor Edward J. Burke, Michel Anderson, Village Attorney and Jeanette Horton, Village Clerk, for their cooperation and assistance during the progress of the work on this Code. It is hoped that their efforts and those of the publishers have resulted in a Code of Ordinances which will make the active law of the Village readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the Village's affairs.

MUNICIPAL CODE CORPORATION

Tallahassee, Florida

ORDINANCE NO. 228

An Ordinance Adopting and Enacting a New Code for the Village of Biscayne Park, Florida; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be It Ordained by the Village Commission of the Village of Biscayne Park, Florida:

Section 1. That the Code of Ordinances, consisting of Chapters 1 to 18, each inclusive, is hereby adopted and enacted as the "Code of Ordinances of the Village of Biscayne Park, Florida," which Code shall supersede all general and permanent ordinances of the Village passed before May 1, 1985, to the extent provided in section 2 hereof.

Section 2. All provisions of the Code shall be in full force and effect from and after June 14, 1985, and all ordinances of a general and permanent nature of the Village, enacted on final passage on or before May 1, 1984, and not included in the Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of the Code.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, a violation of any provision of such Code, or any provision of any rule or regulation adopted or issued pursuant thereto, shall be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than sixty (60) days or both fine and imprisonment, as provided in section 1-11 of such Code.

Section 5. Any and all additions and amendments to the Code, when passed in the form as to indicate the intention of the Village to make the same a part of the Code, shall be deemed to be

incorporated in the Code, so that reference to the Code shall be understood and intended to included the additions and amendments.

Section 6. In case of the amendment of any section of the Code for which a penalty is not provided, the general penalty as provided in section 4 of this ordinance and in section 1-11 of such Code shall apply to the section as amended, or in case the amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in the other section shall be held to relate to the section so amended, unless the penalty is specifically repealed therein.

Section 7. Any ordinance adopted after May 1, 1984, which amends or refers to ordinances which have been codified in such Code, shall be construed as if they amend or refer to like provisions of such Code.

Section 8. This ordinance and the Code adopted hereby shall become effective June 14, 1985.

The Foregoing Ordinance upon being put to a Vote, the Vote was as Follows:

P. Hinck—Aye
H. Hopkin—Aye
D. Keys—Aye
J. Reeder—Aye
E. Burke—Aye

Passed and Adopted, by the Commission of the Village of Biscayne Park, Florida, This 4th Day of June, 1985.

/s/ _____
Edward J. Burke
Mayor

/s/ _____
Daniel B. Keys
Vice Mayor

ATTEST:

/s/ _____
Jeanette Horton
Village Clerk

First Reading May 7, 1985
Second Reading June 4, 1985

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Checklist of Up-to-Date Pages

(This checklist will be updated with the printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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Part I

CHARTER*

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Art. IV. [Officers and Employees], §§ 1–3
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Art. VI. Bonds, §§ 1–5
Art. VII. Revenue and Taxation, §§ 1–14
Art. VIII. Roads and Pavements, §§ 1–8
Art. IX. Miscellaneous, §§ 1–5

ARTICLE I. [GENERAL PROVISIONS]

Section 1. [Creation of municipality and boundary description.]

The municipal corporation now existing and known as the Town of Biscayne Park, in Dade County, Florida be and the same is hereby abolished; and a new municipality to be known as the Village of Biscayne Park in Dade County, Florida, is hereby created and established to succeed such former municipality of the Town of Biscayne Park. The Village of Biscayne Park hereby created and established shall embrace and include all the territory in Dade County, Florida, described as follows, to-wit:

Beginning at the Northeast corner of Lot 4, Block 9, Bellevue Biscayne Subdivision as recorded in the Public Records of Dade County, Florida, in Plat Book 17, page 29; said

*Editor's note—Printed herein is the Charter of the village adopted as Chapter 16319 Laws of Fla., 1933. Editor's notes have been included for obsolete provisions and those which have been superseded by state general law. The title and enacting clauses have been deleted and catchlines have been added. Grammatical and spelling errors have been corrected without notation. The word "that" before every section was deleted. Style and capitalization ~~has~~ been made uniform.

beginning point being further described as the intersection of the Southeasterly right of way line of the Dixie Highway and the Southwesterly right of way line of Biscayne Canal, as now laid out and platted; thence Easterly on a straight line to the intersection of the center line of Griffing Boulevard and Eighth Street (NE 121st Street) as shown on a plat of Biscayne Park Estates, recorded in Plat Book 5, page 107, Public Records of Dade County, Florida, thence east along the center line of Eighth Street (NE 121st Street) as shown on the following recorded plats: Biscayne Park Estates, Plat Book 8, page 18, Biscayne Park Estates, Plat Book 15, page 53, Biscayne Park Estates, Plat Book 8, page 21; Biscayne Park Estates, Plat Book 7, page 129, Biscayne Park Estates, Plat Book 35, page 44, Palomar, Plat Book 7, page 158, and Palomar, Plat Book 35, page 43, thence continuing east along NE 121st Street, produced in a straight line, to its intersection with the Westerly right of way line of the Florida East Coast Railroad; thence Southwesterly along the Westerly right of way line of the Florida East Coast Railroad to its intersection with the center line, produced east in a straight line, of First Street (NE 107th Street) as shown on a plat of Biscayne Park Estates, recorded in Plat Book 14, page 1; thence west along aforesaid produced center line of NE 107th Street, and as shown on aforesaid plat of Biscayne Park Estates, Plat Book 14, page 1, to its intersection with the Westerly right of way line of Biscayne Canal; thence Northwesterly along the Westerly right of way line of the Biscayne Canal to its intersection with a line thirty-five (35) feet east of and parallel to the west line of the NE¼ of Sec. 31-Twp. 52 South-Rgs. 42 East; thence North across Biscayne Canal along aforesaid line thirty-five (35) feet east of and parallel to the west line of the NE¼ of Sec. 31-52-42 to its intersection with the Easterly right of way line of Biscayne Canal; thence Northwesterly along the Easterly right of way line of Biscayne Canal 500 feet; thence Southwesterly across Biscayne Canal and at right angles thereto to the Westerly right of way line of Biscayne Canal; thence Northwesterly along the Westerly right of way line of Biscayne Canal to the Point of Beginning.

State law reference—Boundaries may be redefined by ordinance, § 166.031(3).

Section 2. [Powers.]

Said corporation shall have perpetual succession and by the name of the Village of Biscayne Park may sue, be sued and defend, plead and be impleaded, in all courts and places and in all matters and proceedings; may have and use a common seal and alter the same at pleasure, may acquire by gift, grant, devise, bequest, purchase or in any other manner, similar or dissimilar, receive, own, lease, hold, use and enjoy, or sell and dispose of, real and personal property or any interest therein; may take by devise, bequest, gift or donation, or otherwise, any property, real or personal, in trust for public, charitable or other purposes, and do all acts and things necessary or appropriate to effectuate such trusts, with power to manage, sell, lease or otherwise dispose of said property in accordance with the terms of said trusts; may purchase, acquire and use any real property, whether within or without the territorial limits of such municipality, for parks, play grounds, roads, cemeteries and the erection, maintenance and operation of municipal buildings, works and constructions of every character, including offices, schoolhouses, municipal buildings, houses of detention and correction, hospitals, infirmaries, asylums, dispensaries, poor houses, crematories, markets, lighting and power houses and water works, to supply light, power and water for public purposes or to be sold for profit, and buildings, works and constructions for all other purposes that said municipality through its commission may deem necessary or proper for the welfare of said municipality or the inhabitants thereof, and may contract or be contracted with, and may exercise all other powers herein expressly conferred or reasonably implied.

State law reference—Municipal home rule powers, F.S. Ch. 166.

Section 3. [Rights of other municipality preserved.]

The title, rights and ownership of property, uncollected taxes, dues, claims, demands, decrees and choses in action held or owned by the municipality of the Town of Biscayne Park shall pass to and vest in the municipal corporation hereby created and established to succeed such municipality.

Section 4. [Ordinances, contracts, etc. of former municipality.]

The ordinances of the former Town of Biscayne Park shall be and remain in the ordinances of the Village of Biscayne Park hereby organized and established until altered, amended, modified or repealed by the Commission of the Village of Biscayne Park hereby created and established, and all of the valid obligations, contracts, acts and resolutions of the said Town of Biscayne Park shall be and remain in full force and effect until rescinded or modified.

Section 5. [Election and powers of commission.]

A general municipal election shall be held in the Village of Biscayne Park on the first Tuesday in December, A.D. 1935, and biennially thereafter.

Within ten (10) days after the passage of this act and the same becomes a law, a special election shall be called and held in the Village of Biscayne Park for the purpose of electing five (5) commissioners, one (1) of whom shall be selected by the commission as mayor, the other four (4) shall be simply designated as commissioners. Three (3) of such commissioners shall be elected for two (2) years and the other two (2) commissioners shall be elected for four (4) years and shall serve until their successors are elected and qualified. The commissioners elected at such special election shall hold office until the first general election to be held on the first Tuesday in December, 1935.

On the Friday next following such village election, the commissioners shall meet and proceed to canvass the returns thereof and ascertain the results as they appear from such returns, of which the village clerk shall forthwith give notice and certify to the persons so elected. Provided, however, that the terms of office of all officers for the Village of Biscayne Park heretofore elected, irrespective of the terms for which they shall have been elected, shall terminate when their respective successors shall be elected and qualified as hereinbefore provided, but not prior to the first Tuesday in December 1935.

Each commissioner, before entering upon the discharge of the duties of his office, shall take and subscribe the following oath before some officer authorized to administer oaths, viz:

"I do solemnly swear (or affirm) that I will support, protect and defend the constitution and government of the United States and of the State of Florida, against all enemies, domestic or foreign, and that I will bear true faith, loyalty and allegiance to the same, and that I am entitled to hold office under the Constitution and that I will faithfully perform all the duties of the office of _____ on which I am about to enter, so help me God."

The territory incorporated by this act as the Village of Biscayne Park shall not be annexed to, or by, any other municipality without the consent of a two-third majority of the qualified electors of the Village at a special election to be held for that purpose.

The commissioners may, if deemed necessary, appoint for a term of two (2) years and fix their respective salaries, a village clerk, village attorney, village engineer, chief of fire department, chief of police, health commissioner, tax assessor, tax collector and such officers as the commission shall designate and appoint, provided that the office of village clerk and tax collector may be held by one and the same person. Any appointive officer may be removed at any time by the commission. All of the appointive officers shall hold their respective offices until their successors respectively shall have been appointed and qualified, subject to right of removal by the commission.

The commission may appoint a village manager whenever a majority of the qualified electors of the village shall so determine at a general election or special election called for that purpose, as hereinafter provided, and shall also by ordinance fix the salary and define the powers and duties of such manager.

Whenever a petition signed by qualified electors equal in number to forty (40) percent of the last preceding vote cast for all candidates for commissioner shall be submitted to the commission, asking that an election be held for that purpose of determining whether the commission shall appoint a village manager, such question shall be submitted to a vote by the qualified electors of the village at a general or special election called for that purpose.

ARTICLE II. MUNICIPAL POWERS

Section 1. [Enumerated.]

The commission shall within the limitations of this act, have the power by ordinance:

1st. To levy and collect taxes upon all property, businesses and professions taxable by law for state purposes;

2nd. To make their own assessed valuation for the purpose of municipal taxation;

Editor's note—Assessment of property has been preempted by the county by state law, F.S. Ch. 193, et seq.

3rd. To appropriate money for the payment of debts and the expenses of the village;

4th. To make regulations to prevent the introduction and spread of infectious and contagious diseases in the village, and to make quarantine laws for the purpose, and to enforce the same within five (5) miles of the village limits when the same are not in conflict with the quarantine laws and regulations of this state or the United States;

5th. To establish hospitals, jails, houses of detention and correction, and to make regulations for the government thereof;

6th. To make rules and regulations to secure the general health of the inhabitants and to prevent and remove nuisances whether affecting the health or morals of the community or otherwise wrongful;

7th. To provide the village with a water supply for the use of the village and its inhabitants, and for that purpose to acquire, build, construct, lease, maintain, or permit others to acquire, build, construct, lease or maintain water works and a water system within or without the limits of said village as public necessity may require, and shall have the right to sell water from the water system with or without profit;

8th. To provide for the prevention and extinguishment of fires, and organize, establish, and maintain a fire department;

9th. To provide for the lighting of the village by electricity, gas or other illuminating material and to sell gas or electricity

to others for profit within or beyond the boundaries of the municipality;

10th. To appoint a health officer and sanitary inspector, and to define his powers and duties by ordinances, not inconsistent with the laws of the State of Florida and this Charter. The position of health inspector and sanitary officer may be held by one and the same person;

11th. To appoint a village planning board and to define its powers and duties by ordinances. This board shall consist of not more than three (3) members;

12th. To fix the salaries of all of the elective and appointive officers of the village, as well as the wages of all employees of the village;

13th. To authorize and make appropriations to alter, open, extend, abolish, widen, establish, grade, pave or otherwise improve, clean and keep in repair, streets, alleys and sidewalks and to erect and keep in repair bridges, culverts, sewers and gutters;

14th. To make appropriations for lighting the streets and public buildings, and for the erection and maintenance of all buildings necessary to the use of the village;

15th. To license, tax and regulate hotels, boarding houses, restaurants, theatres, halls, exhibitions and shows and entertainments of all kinds, dances and dance halls, billiard and pool rooms, bowling alleys and other similar places and the proprietors and keepers thereof, auctioneers and public auctions, pawn brokers, intelligence and employment offices and agents, second hand stores, junk shops and the owners and managers thereof, hawkers, and peddlers, or any other occupation or business;

16th. To license, tax, and regulate hackney carriages, cars, vehicles, motors, omnibuses, wagons and drays, and to fix the rates to be charged for the carriage of persons and property within the village limits, and to the public works and property without the village limits, not inconsistent with the laws of the state;

17th. In the interest of public safety and health, to license, regulate, inspect and restrain vendors or dealers in in-

flammable oils, and substances, firearms, fireworks, and all other combustibles, explosives and inflammable material;

18th. To prohibit and suppress gambling houses, bawdy houses and disorderly houses, and any show, circus, exhibition or any amusement detrimental to good morals, and all obscene pictures and literature;

19th. To regulate, retrain and prevent the carrying on of manufactures of a nature tending to increase or produce fires, bad odors or offensive noises, and to restrain any person or corporation from polluting the soil, streets, sewers, lakes or streams within or without the village limits;

20th. To license, or prohibit the use of lights, candles, lamps, electric light or power wires and steam pipes in dwellings, stables, shops and all other places;

21st. To license, regulate, inspect and restrain vendors or dealers in vegetables, meats, fish, milk, butter, poultry, flour, meal and all other provisions, oil and other spirits;

22nd. To regulate the vending of milk, meat, poultry, fish, fruit and vegetables;

23rd. To regulate and establish markets;

24th. To provide for the arrest and imprisonment, punishment of all vagrants and of riotous and disorderly persons, within the village, by day or by night, by warrant or otherwise;

25th. To provide for the punishment of all breakers of the peace;

26th. To disperse all disorderly assemblies on the Sabbath or secular days;

27th. To enact all ordinances necessary to the public health;

28th. To impose penalties on the owners, occupants or agents of any house, walk or sidewalk or other structure or place or thing which may be dangerous or detrimental to persons or property;

29th. To regulate, control, tax, license, prevent or prohibit the keeping or running at large of all animals, fowls or domestic birds within the village, and to pass ordinances therefor;

30th. To provide for the enclosing, improving and regulating of public grounds, belonging to the municipality within or without the corporate limits;

31st. To provide for the organizing and maintaining of a police force and to impose fines, forfeitures and penalties and terms of imprisonment at hard labor or otherwise for a breach of village ordinances, but no penalty shall exceed five hundred dollars ($500.000) and no term of imprisonment shall be for a longer period than three (3) months for one and the same offense;

32nd. To provide for the imprisonment of offenders against the ordinances at hard labor on the streets or other public work of the village, to be designated by ordinance, until the fines and cost adjudged against them by the judicial authority of the municipality are paid, the amount to be credited against such persons on account of fines and cost of each day's work performed to be fixed by ordinance;

33rd. To regulate and provide for the construction of streets and paving the same, and for the construction and repair of sidewalks and foot pavements;

34th. To grant the right of way through the streets, avenues and public grounds of the village for the purpose of street or other railways; provided that nothing in this section shall be so construed as to deprive any abutting owner from recovering for any damage that he may suffer or be put to by the granting of such right of way;

35th. To construct and provide for the construction of sewers and drains and for keeping them in repair and to assess the expense on the property especially benefited thereby in proportion to the amount of the benefit or upon abutting property owners in proportion to frontage and upon all lands drained thereby and which received the benefit, and the commission shall be the judge of the public necessity therefor. The commission shall ascertain and determine the cost of such construction and improvements and shall levy the total amount of such cost against each lot, part or

parcel of land in proportion to the benefits deemed conferred thereon.

36th. To take and appropriate private property (excepting the plant of a public utility holding a franchise of said village) within the village limits or adjacent thereto, in a manner and form provided by law, by condemnation, for widening streets or parts thereof, or for extending of new streets, avenues, squares, parks or promenades, sewers or drains, when the public convenience and necessity may require, or for the construction or maintenance thereon of any municipal plants, works or any other necessary public purpose, and to assess the cost and expense pro rata for such improvements upon the property especially benefited thereby;

37th. To require parties or their agents owning property within the village to bring the same to a grade or topographical level by filling or excavating, as shall be necessary, or the village may do the same and the amount expended therefor shall be a lien on said property, and may be enforced by the municipality as provided in case of pavements, sidewalks and sewers;

38th. To enlarge the boundaries of such municipality by accepting and annexing additions thereto whenever the owner or owners of property contiguous to the then existing boundaries of said village shall petition the commission to accept such proposed addition and shall have submitted a map or plat thereof to the commission, which map or plat shall, if such addition be accepted by the commission, be filed with the clerk of the circuit court, of the County of Dade, Florida. If the owner or owners of three-fourths of any platted land contiguous to the boundaries of the village of Biscayne Park shall request by petition that all of said platted land be annexed to and included within the limits of said village, the commission may accept such addition and annex all such platted land and include the same within the corporate limits of said village;

38-A. The territory incorporated as the Village of Biscayne Park by this Act, shall not be annexed to or by any other

municipality without the consent of a two-thirds majority of the qualified electors of the Village of Biscayne Park at a special election to be held for that purpose;

39th. Deleted;

40th. Deleted;

Editor's note—Sections 39 and 40 on segregation were deleted as unconstitutional.

41st. To provide for the punishment of any person or corporation that shall sell or dispose of any article, commodity or thing by weight or measure and shall deliver to the purchaser a smaller quantity for the consideration agreed upon between the seller and the purchaser. All instruments of weight or measure shall be kept within the tolerance as established by the U.S. Bureau of Standards;

42nd. To regulate the construction, alteration, removal and repair of all structures, and to provide for the safety of the occupants of all structures and all property in the vicinity thereof against danger from fire or panic or from methods of construction or installation detrimental to life, health or property, and to prohibit the use of buildings or parts of buildings when dangerous to life from collapse, fire or panic;

43rd. To prescribe, contract or extend the limits within which wooden buildings or buildings of other materials that shall not be considered as fire proof shall not be repaired, placed or erected, to direct that all and any buildings within the limits prescribed shall be made and constructed of fire proof materials; to prohibit the rebuilding of wooden buildings within the fire limits when the same shall have been damaged to the extent of forty (40) percent of the value thereof, and to prescribe the manner of ascertaining such damage;

44th. To prescribe the limits within which all roofs shall be covered by non-combustible material;

45th. To compel the installation in all structures of devices, appliances and arrangements for the preservation of life and health;

46th. To regulate the storage and handling of all combustible or other substance, articles, equipment or devises affecting the fire hazard;

47th. To license, regulate, prohibit and suppress the erection and maintenance of signs, sign boards, bill boards and fences;

48th. To establish and enforce building lines, and to regulate the measurement and inspection of building materials;

49th. To regulate the location of stock yards, slaughter houses, rendering plants, soap factories, tanneries, stables, privies and other unwholesome or nauseous houses or places;

50th. To designate and set apart certain thoroughfares as parkways, boulevards or white ways and regulate the use of the same and prohibit hauling heavy loads thereon;

51st. To pass all ordinances necessary or expedient for the preservation of health and to the suppression of disease, to prevent the introduction of infectious or contagious diseases in the village and to make and enforce quarantine laws. The jurisdiction of said village shall extend to and be enforced over any land within the County of Dade and purchased or used by said village for the purpose of quarantine, for police and sanitary regulations;

52nd. To provide by ordinance for the laying out and platting of subdivisions or additions within the present, or future, limits of the village;

53rd. To provide, construct and maintain jails, workhouses or other houses of detention, either within or without the territorial limits of the village;

54th. To designate certain streets, avenues and boulevards as white ways, so called, and to provide and designate a system of lighting of the same and that the cost of installing said system of lighting, or so much thereof as the commission may determine, shall be borne, met and paid for by the levy of assessment or assessments therefor, upon the abutting property benefited thereby;

55th. To license and regulate the keeping of dogs and other animals;

56th. To pass any other ordinances and resolutions necessary to carry out the intent and provisions of this Charter.

ARTICLE III. MUNICIPAL ORGANIZATIONS AND OFFICERS

Section 1. [Departments; commissioners head of departments; absence of commissioners.]

For the purpose of systematically and conveniently handling the village government and its affairs, the commission shall create the following departments, and one (1) commissioner shall have general charge of each department subject to the direction of the commission as exercised by ordinance or otherwise;

Executive department: The commissioner in charge shall be the mayor.

Department of public works, public utilities, play grounds and public buildings and matters incidental thereto, shall be in charge of one (1) commissioner to be designated by the commission.

In the absence or disability of the mayor, the vice-mayor shall perform all the duties of his office, and in the absence or disability of both the mayor and the vice-mayor, the commissioner of finance shall act as mayor and perform the duties of said office.

Department of finance: Shall be under the immediate charge of the commissioner of finance, who shall perform all and several, the usual duties of village treasurer in addition to such other provisions and duties as shall be conferred and required of him by the commission. Whenever in a law of the State or in any ordinance of the Village of Biscayne Park, any duty is imposed upon the village treasurer, by name, that duty shall be performed by said commissioner of finance.

Section 2. [Disbursement and deposit of funds.]

Except as otherwise provided in this act or by the laws of the state, all moneys payable to the village or any department thereof shall be payable only to the commissioner of finance and the

commissioner of finance shall deposit daily to the credit of the village all moneys or funds belonging to the village or any department thereof, in such bank or depositories as the commission shall from time to time direct; and shall furnish bond to the Village of Biscayne Park for the faithful performance of his duty in such amount as the commission shall require and approve. No money or securities of the village shall ever be loaned in any manner save as the deposit of money in bank or the temporary investment of same under the order and approval of the commission. The moneys and funds of the village shall only be disbursed, paid out or withdrawn by the commissioner of finance in the form and manner provided by ordinance and resolution adopted by the commission.

Section 3. [Powers established by ordinance.]

The several powers and duties of the mayor, vice-mayor and commissioner of finance, the officers in charge of the executive department, department of public works and department of finance, respectively, shall be defined, enumerated and expressed by ordinance enacted by the village from time to time, but the commission may require of said officers in charge of the said department, or any of them, certain duties to be performed and may confer special powers upon them or any of them by resolution or other action of the commission not inconsistent, however, with this act or of the ordinances of the village.

Section 4. [Mayor's court—Established.]

The mayor shall have the jurisdiction to try, hear and determine all offences against the city ordinances. He shall have power by his warrant to have brought before him any person, persons or corporations charged with the violation of any city ordinance, and to take bail for the appearance of the accused.

Editor's note—Mayor's courts were abolished by Art. V, § 20(d)(4) of the Fla. Const.

Section 5. [Same—Witnesses.]

The mayor shall have power to require the attendance of witnesses for the village and for the accused; to administer oaths, to inquire into the truth or falsity of all charges preferred, to decide

upon the guilt or innocence of the accused; to fix and enforce by penalty the sentence prescribed according to law; to suspend sentence; to release on order of the commission persons convicted by or before him by mandate in writing to any policeman, and to have all the powers, incident and usual to the due enforcement of his jurisdiction.

The mayor shall keep or cause to be kept, a record of his official acts, substantially setting forth the charges preferred against persons or corporations brought before him and of the judgments rendered in each case and shall require the clerk to make and preserve such record by regular minutes, and all fees, fines, penalties and forfeited bail money shall be paid into the village treasury and become a part of the general funds of the village.

Editor's note—Mayor's courts were abolished by Art. V, § 20(4)(d) of the Fla. Const.

Section 6. [Electors.]

The qualification of electors and the rules and regulations of the registration of voters and the rules, laws and regulations for holding and certifying general and special elections shall be prescribed by the ordinances of said village, the same not to be in conflict with the Constitution of the State of Florida and this Charter.

Editor's note—Qualification and registration of electors preempted by F.S. §§ 97.041, 98.041.

Section 7. [Commission rules; quorum; meetings.]

The commission may enact rules of procedure and may prescribe penalties for the non-attendance or disorderly conduct of its members and enforce the same. A majority of the members of the commission shall be necessary to constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time and under the provisions of ordinances or rules of procedure, may compel the attendance of absent members by imposition of fines and penalties. The commission shall hold at least one (1) regular meeting each month in such building as shall be designated by them at a fixed day and hour. Special meetings may be held upon the call of any commissioner.

Section 8. [Bond—Fund.]

All moneys derived from the sale of municipal bonds shall be received by the commissioner of finance and kept by him on deposit in a special fund in the name of the village in a bank to be designated by the commission, and shall be disbursed in the form and manner provided by ordinance or resolution of the commission. Accurate books of accounts of all moneys received and disbursed in all departments of the municipality shall be kept and audited and approved by the commission, and a quarterly statement thereof shall be published.

Section 9. [Same—Surety.]

The commission may require that any bond shall be made by a responsible surety company duly authorized to do business in the State of Florida, and may pay the premium thereof from the moneys of the village.

ARTICLE IV. [OFFICERS AND EMPLOYEES]

Section 1. [Suspension and removal.]

The mayor shall have power to suspend any officer or employee of the village, except commissioners, for misconduct in office, for neglect of duty, reporting his actions in writing, with the reasons thereof, to the next regular meeting of the commission, for its approval or disapproval. And the commission shall have power, by a majority vote, to remove or reinstate any such officer or employee after a fair and impartial hearing of the facts. The commission shall also have power to suspend or remove any of the members of the commission for misconduct or neglect of duty. Provided, however, that no member of the commission shall be removed until he has had a fair and impartial hearing before the commission and if after such hearing, the facts and circumstances, if the judgment of the commission warrant the removal of such member, then he may be so removed and a vacancy declared and such vacancy filled by a majority vote of the remaining commission.

Section 2. [Appointments.]

The commission shall have the right and authority to appoint policemen, including a chief of police, and to prescribe their duties and fix their salaries. Each of the policemen shall have the power and authority to immediately arrest, with or without warrant, and take into custody any person who shall commit, threaten or attempt to commit in his presence or within his view, or whom he has reasonable grounds to believe, has committed an offense, prohibited by the ordinances of the village, and shall without unnecessary delay upon making such an arrest, bring the offender before the mayor to be dealt with according to law. The duties of the chief of police in addition to those herein prescribed, shall be such as may be prescribed by the ordinances of the village.

Section 3. [Creation of offices.]

The commission shall have the power, and is hereby authorized, to create such offices, and to provide by ordinance or resolution for the appointment of all such officers and employees as may in their judgment be necessary for the good government of the village. The commission shall have the power at any time to abolish any office created by it. All employees, officers and officials of the village shall be appointed by the commission, shall hold office during the pleasure of the commission, at such salaries as may be fixed by it, and may be removed from office and discharged by the commission at any time, with or without cause. The commission shall have power to prescribe the powers and duties of all officers and employees of the village, except those prescribed by this act. Employees of the village may be required to give such bond as the commission may prescribe by ordinance or resolution and may be required to take oath to faithfully discharge their several duties.

ARTICLE V. [ORDINANCES]

Section 1. [Adoption.]

The commission shall have the right to adopt such ordinances, authorized by the powers granted by and under this act, as are deemed necessary or advisable for the government of said village.

Except in case of grave emergency therein declared, each ordinance shall be introduced and read in full at a regular meeting or at a special meeting called for that purpose, and shall not be adopted until a regular meeting held at least ten (10) days thereafter, when it shall be read in full and may be amended or modified and passed. An ordinance may be passed by the vote of a majority of the commission. It shall be the duty of at least two members of the commission to sign an ordinance when the same is adopted and to immediately cause the same to be published once a week for four successive weeks in a newspaper published in the City of Miami, Florida, or to be posted at the front door of the Village Hall. Except as provided in Article II hereof, all ordinances shall go into effect ten days after the passage thereof.

Ordinances making a tax levy or appropriation in respect to a parking or paving district, and ordinances for the immediate preservation of the public peace, health or safety which contain a statement of the urgency of such ordinance, may be passed at the meeting at which they are introduced and shall become effective immediately if so provided therein.

Editor's note—Uniform procedure for adoption of ordinances, F.S. § 166.041.

Section 2. [Franchises.]

No public franchise of any description shall be granted except by ordinances. The commission may, by ordinance give or grant to any person or persons, firm or firms, corporation or corporations, the right or privilege to erect, construct, operate or maintain a street railway, electric light plant or system, gas plant or system, water works or system, telegraph or telephone system within the village and to use the streets and alleys of the village for such purposes. Whenever such ordinances have been passed upon the first reading by the commission, the commission shall have the same posted, publicly, in full, or published at least once in a newspaper published in the City of Miami, entitled "A proposed ordinance of the Village of Biscayne Park, granting a public franchise", before the commission shall take further action thereon. If such ordinance is amended after such posting or publication, it shall be considered as again up for the first reading. Upon passage, the ordinance shall again be posted or published as herein required. But no such franchise shall be for a

longer period than thirty (30) years and shall in every respect comply with the provisions of Section 1016 of the General Statutes of Florida of 1916.

Section 3. [Record.]

It shall be the duty of the village clerk to keep a record of all ordinances adopted by the commission in a book kept for that purpose. A copy of any ordinance therefrom certified to by the clerk, under the seal of said village, shall be taken and considered in all courts of this state as prima facie evidence that such ordinance was duly passed and posted or published as required by law.

ARTICLE VI. BONDS

State law reference—Bond authority, F.S. § 166.101 et seq.

Section 1. [Issuance.]

Whenever it shall be deemed advisable to issue bonds of the Village of Biscayne Park for any purpose or purposes hereinafter named, namely: for raising money to be used in purchasing, constructing, extending or improving water works, or electric light plants, or for the constructing, purchasing or improving gas works, or other illuminating works, or for the purpose of constructing or extending or improving a system of sewers, or otherwise promoting the health of the village; for the purpose of opening, widening or paving the streets and sidewalks of the village, and for the acquiring of grounds and the opening and constructing and maintaining parks, promenades or play grounds; for the purpose of establishing and maintaining a fire department in said village; for the purpose of erecting public buildings for the use of said village, and for any one or more of said purposes and for any other purpose deemed necessary for the public good. Provided that the same is not in conflict with the constitution and laws of the State of Florida. The commission in their corporate capacity are hereby authorized to issue the bonds of the said village under the seal of the municipality, the total of

such bonds to be issued and outstanding at any time never to exceed fifteen (15) percent of the total assessed valuation of all taxable property both personal and real within the corporate limits of said village, and provided further, that no bonds shall be issued by the village until the question of issuing the same shall have been decided, by majority of qualified electors, in favor of the bond issue by an election held for that purpose in the manner now or hereafter provided by law. Provided, however, that the commission may without the vote of the people borrow not to exceed the sum of twenty-five thousand dollars ($25,000.00) in aggregate amount during any one year, pledging the credit of the village therefor whenever a special emergency or need therefor shall arise. Every such obligation of the village shall mature and by payable within one year from date of issue. Bonds issued under the provisions of this article and limited to the amount of such percentage of the valuation, shall be used only for the purpose for which the bonds were issued, provided that any unexpended balance shall become a part of the funds of the village.

Section 2. [Execution.]

Said bonds shall be signed by the commissioners and countersigned by the treasurer, and may bear interest coupons to be signed with the facsimile signature of the treasurer, and shall be of denominations to be determined by the commissioners, bearing interest at the rate not exceeding six (6) percent per annum payable either annually or semiannually and to be due not less than two years nor more than twenty-five (25) years from the date thereof said commission may determine.

Section 3. [Issuance.]

Prior to the issue of any bonds, the commissioners shall adopt an ordinance fixing the aggregate amount of the proposed issue, the rate of interest, the purposes for which the moneys to be derived therefrom shall be expended, the time when said bonds shall be payable, and providing for and creating a sinking fund and interest assessment for meeting and discharging the principal and interest of said bonds.

Section 4. [Form.]

The commissioners shall prescribe the form and denomination of said bonds. The bonds shall be sold by the commissioners at not less than ninety-five (95) percent on the dollar. The treasurer shall not sign any of such bonds until he shall have given a bond, payable to the village, properly conditioned, with sufficient surety to be approved by the commissioners and in an amount equal to the par value of such bonds, that he will faithfully perform the duties of treasurer with respect thereto.

No member of said commission or officer, agent or employee of the village shall be directly or indirectly interested in any contract under the charge of the commission, and any such contract shall be non-enforceable.

Section 5. [Accounts.]

The treasurer shall keep a separate account of each bond issued, showing the number and amount of bonds issued, the receipts therefrom and the disbursement of the proceeds thereof.

ARTICLE VII. REVENUE AND TAXATION

Editor's note—All taxation, except ad valorem taxation is preempted to the state unless authorized by general law pursuant to Art. VII, § 1(a), Fla. Const. Procedure for the assessment and collection of ad valorem taxes is preempted by F.S. Ch. 193 et seq. Therefore, this article is superseded by F.S. Ch. 193.

Section 1. [Ad valorem taxation.]

The commission shall have the power to raise by tax and assessment upon all real and personal property within said village all sums of money which may be required for the improvement and government of the village and for the carrying out of the powers and duties herein granted and imposed. The commission shall also have the power to levy annually such special tax on taxable property within limits of said village, as may be necessary to provide funds for the payment of interest on its bonds of indebtedness and to provide for the payment of said bonds at maturity, and the same shall be deposited in such interest paying bank or trust company as shall be designated by the commission.

Section 2. [Assessments.]

The commission may make its own assessments of property for taxation, but the assessed valuation of property by the municipality shall not exceed its market value. The assessed valuation on unplatted lands within the corporate limits of the village shall not exceed the assessed valuation placed thereon by the county and state for like purposes. All property, real and personal, in the said Village of Biscayne Park, not expressly exempt by the laws of the state shall be subject to taxation for the purposes mentioned in this Charter. All assessments of property for the taxation shall be as nearly as practicable, in the manner now provided by law for the assessment for state and county taxation. It shall not be necessary to describe personal property assessed for taxation and the term "personal property" shall be sufficient description to sustain any listing and assessment of the personal property of any person, firm or corporation.

Editor's note—Assessment of taxes is done by the county pursuant to F.S. § 193.116.

Section 3. [Returns.]

All persons or corporations owning property, whether real or personal, subject to taxation by said Village of Biscayne Park, may be required to make return of the same to the village clerk before the first day of May of each year.

Section 4. [Forms.]

Such returns shall be made upon and in compliance with blanks prepared therefor and furnished by the Village of Biscayne Park and shall contain a complete list of all the property taxable by the municipality belonging to such person, firm or corporation, on the first day of January in the year for which said return is made, giving separately an intelligible description and the full cash value of each separate lot or parcel of real estate. The description and valuation thus returned may be considered by the tax assessor in making assessments, but he shall not be bound thereby. Should any person, firm or corporation omit to make return as above required, the tax assessor shall assess the property not thus returned in the name of the owner, if the name

of such owner shall be known to him and where the name of the owner is not known to him the tax assessor may assess it as belonging to an unknown owner, and in no case where the real owner has failed to make return on his property as required shall the assessment thereof be declared invalid or unlawfully made or the enforced payment of taxes thereon be resisted, by reason of such property being assessed otherwise than in the name of the real owner.

Section 5. [Railroads.]

Railway and railroad companies shall be subject to taxation on all real estate and personal property owned by them within the limits of the village, in the same manner and at the same rate of valuation as other property. The property of street railway companies whose lines or tracks lie within the corporate limits of said village, as well as the property of other public utilities within the limits of the village, shall be assessed at the full value of the entire property owned by such companies within the said village.

The description, assessments and valuations shall be subject to be changed and corrected and fixed by the commission sitting as an equalizing board as in cases of other property.

Section 6. [Enforcement.]

That for enforcing the collection of taxes due to said village, it shall have all the rights by way of sale and purchase that the state would have, were such taxes due the state, and the said rights may be exercised in a similar manner to be fixed by ordinance of the commission; but the valuation placed upon real or personal property by said village may exceed the valuation by the state and county and shall not exceed the market value of such property.

Section 7. [Preparation of tax rolls.]

The village assessment roll shall be prepared in substantial conformity with the laws of the state governing state and county assessments. The commission shall be the board of equalization.

Village tax sales shall be substantially and in conformity with the laws governing state and county tax sales and certificates; and tax sales redemptions and the issuance of deed upon tax sale certificates shall be in substantial conformity with the general laws governing redemptions and the issuance of tax deeds; all of which matters shall be prescribed by village ordinances.

Section 8. [Limitation on collection.]

That where property has escaped municipal taxation taxes thereon may be collected and levied for three (3) years back, and where tax assessment or sale has been adjudged invalid for any cause other than the want of power to levy such tax, the tax may be reassessed and collected the following year in addition to the taxes levied for that year.

Section 9. [Assessment roll, tax sales.]

The assessment roll shall constitute notice to the public of a village tax lien upon all land and property assessed for any taxes. A copy of the same shall be filed with the Clerk of the Circuit Court of Dade County and one (1) copy shall be filed with the village clerk. The report of every village tax sale shall in like manner, as provided by law for state and county tax sale, be recorded within thirty (30) days from the date of the sale by the clerk of the circuit court aforesaid.

Section 10. [Millage limitation.]

The village is hereby empowered to levy and collect an annual tax for general municipal purposes not to exceed [ten (10)] mills on the dollar on the assessed valuation of all property within the village. It may also levy and collect in addition to the amount already stated in this section, such taxes as may be necessary for the payment of interest on bonds now outstanding or hereafter issued in accordance with law or to create or continue a sinking fund or funds for the payment of the principal of said bonds at their maturity.

Editor's note—The millage is limited to ten (10) mills by Art. VII of the Florida Constitution.

Section 11. [Assessments.]

The tax assessor shall make the annual assessments of all property within the Village of Biscayne Park, subject or liable to municipal taxation in the manner prescribed by law and by the ordinances of the village.

Section 12. [Collection of taxes.]

The tax collector shall collect all municipal taxes due on real and personal property and all license fees imposed upon occupations, professions or business, and shall pay over the same to the treasurer.

Section 13. [Equalization.]

The commission shall act as a board of equalization and shall by ordinance fix the time when it will sit for such purpose and it may adjourn from day to day while sitting as such board. After raising the assessment upon any property, the commission shall give notice thereof by one publication in a legal newspaper in said village or by posting at the village hall, and shall meet at a subsequent date for the purpose of hearing any complaints against the same, the time of the holding of which meeting shall be stated in such notice.

Section 14. [Liens.]

All the taxes shall be a lien against the property upon which they are levied or assessed from the first day of January of the year in which such levy or assessment is made and shall be due and payable on the first day of November in such year, or as soon thereafter as the assessment roll may come into the hands of the collector, of which the collector shall give notice by publication in one (1) issue of a legal newspaper published in the City of Miami, or by posting at the door of the village hall. Unless such taxes are paid on or before the first day of the following April, the property against which the same are a lien may be sold for such taxes and interest at the rate of twenty-five (25) percent per annum from the first day of April, together with all costs of making the sale, as allowed by the state law to county tax collectors.

ARTICLE VIII. ROADS AND PAVEMENTS

Section 1. [Road district.]

The territory contained within the corporate limits of the Village of Biscayne Park is hereby declared to be and the same is hereby constituted an independent road district.

Section 2. [Control of roads.]

The commission shall have complete control and supervision of all the streets, roads and alleys within the corporate limits of the village and shall by ordinance prescribe the method and manner of keeping up and working the same, not to be inconsistent with the laws of the State of Florida.

Section 3. [Duty.]

Persons subject to road duty under the laws of the State of Florida may, when deemed necessary and advisable, be made subject to road and street duty within the corporate limits of said Village of Biscayne Park, provided they reside within the corporate limits of said village, and have resided therein for six (6) months.

Section 4. [Street tax.]

The commission shall have authority when deemed necessary or advisable to levy in each year an extra street tax of not to exceed three dollars ($3.00) on each male resident of said village over the age of twenty-one (21) years and under the age of fifty-five (55) years and shall have authority to enforce the collection of the same.

Editor's note—All taxes except ad valorem have to be authorized by general law pursuant to Article VII, § 1(a) Fla. Const.

Section 5. [Street improvements.]

Whenever the commission of the Village of Biscayne Park shall decide to open, establish, alter, extend, widen, grade, pave, repair or otherwise improve any street, boulevard or whiteway,

play ground or golf course for public use, avenue, alley or other public way or thoroughfare, or to build, construct, repair or improve any curb, sidewalk or gutter, or to build, construct, repair or improve any sewer or drain within said village, said commission shall pass and adopt a resolution therefor, which said resolution shall state in a general way the limits within which said work is to be done, the materials to be used and the width of paving, if a street, public way or thoroughfare is to be paved. Thereupon said commission shall cause the said work to be done by contract or otherwise, and said commission may in its discretion enter into separate contracts for any grading, curbing or paving or for any portion of either; or the said commission may in its discretion perform all or any portion of any public work under its own supervision under a foreman or other agency, employing such labor as may be necessary, and not let the same under contract, as may in its opinion best serve the interest of the public. When such work has been completed the said commission may pay the expense of the same out of any funds belonging to the city not otherwise appropriated, or it may pay for the same with certificates of indebtedness authorized by Chapter 6864 of the laws of Florida, approved June 4th, 1915. The commission may assess the expense of the work on the property benefited by the improvement, or upon the abutting property in proportion to the frontage or the commission may pay any portion of the expense thereof from any funds belonging to the village not otherwise appropriated and assess the remainder of such expense against the property benefited thereby or against the abutting property in proportion to the frontage.

After the completion of said work, said commission shall adopt a resolution assessing the expense of said work or such portion thereof as it may determine against the property benefited thereby or against the abutting property in proportion to the frontage and thereupon said commission shall cause to be published a notice of the completion of said work, which notice shall contain a statement of the total cost of the work and the amount assessed against each lot, parcel or tract of land, but in such notice the name of the owner or owners or other persons or corporations interested in said lands need not appear, but only a sufficient description of the lot, parcel or tract of land, to make it capable of

identification shall be necessary, and the said notice shall fix a time not less than ten (10) days from the first publication or posting of the said notice when the commission will hear complaints of the owner or owners, or other persons or corporations interested in said lands against the amount or justice of the said assessment. The said notice shall be published once a week in a legal newspaper published in the said Village of Biscayne Park; but if there should be no newspaper published in the said village, then the notice shall be posted at the front door of the village hall.

The owner or owners or any person or corporation interested in any land or lands against which such assessment is made may appear before the commission at the time named in said notice and present any complaint which he, she or it may have against the said assessment; and the commission shall have power if they deem it just or right to adjust and correct the amount of such assessment, but no such assessment shall be increased against any land after the assessment has once been made. Any person or corporation owning or interested in any land against which any such assessment has been made who shall fail to make complaint to the commission at the time named in the aforesaid notice, shall be deemed and held to have consented to the assessment, and any such person, persons, or corporations owning or interested in any land against which such assessment is made who presents his, her or its complaint at said meeting against the said assessment, and is dissatisfied with the action of the commission at said meeting, may, within sixty (60) days apply to any court of competent jurisdiction for an injunction against the collection or enforcement of the said assessment; and unless such application for such injunction is made within said time such person, persons or corporation shall not thereafter be heard in any proceeding in any court either at law or in equity as plaintiff or defendant, to question or contest the legality of such assessment.

Such assessment shall constitute and be a lien upon the land against which the same is made from the date of the meeting of the commission held to hear complaints against the said assessment, which lien shall be prior and superior in dignity to all other liens thereon except liens for taxes; and the amount of such assessment shall bear interest from the date of making of such

assessment at a rate to be fixed by the village commission, which shall not exceed twelve (12) percent per annum.

The said commission shall cause to be prepared and kept by the village clerk a "Village Improvement Lien Book," in which shall be entered the date of the making of each assessment, the amount of the assessment against each lot, parcel or other tract of land, the general purposes for which the assessment was made, and such other information as may be deemed advisable by the commission. The entry of the same in the "Village Improvement Lien Book" shall be and constitute notice to the public of said lien against said land and no other record or notice thereof shall be necessary to any person or corporation. The owner, owners or any other persons or corporations interested in any land against which such assessment is made may pay the said lien and have the same satisfied by the clerk at any time prior to suit thereon by paying the amount of such assessment and the interest and penalties thereon to the date of such payment.

The commission may at any time after such assessments are made, issue and dispose of certificates of indebtedness upon the said assessments under the provisions of Chapter 6864 of the Laws of Florida, approved June 4th, 1915. Said assessments may be made due and payable in such installments and at such times as the commission may by resolution prescribe.

Any lien provided for in this section may be enforced and collected by suit at law or in equity or the village may maintain a personal action against the owner to recover the same, or it may enforce its lien and maintain its personal action at the same time, until actually paid the amount due; and in any suit by the village either at law or in equity, the village shall be entitled to recover a reasonable attorney's fee not exceeding twenty-five dollars ($25.00) for the institution of suit and the sum of ten (10) percent of the amount of recovery, together with the costs of the proceedings which attorney's fees and cost shall also become a lien upon the said lands.

Section 6. [Drainage assessments.]

If at any time the commission shall deem it necessary or expedient for the preservation of the public health or for any other good reason, that any lot, parcel or tract of vacant land then lying

and being within said village, which may be lower than any street, streets, avenues or public way adjoining the same or the grade established therefor, or which may be subject to overflow or to the accumulation thereon of water, should be filled in or ditched or drained, the commission shall have power to direct and require the owner or owners of said lot, parcel or tract of vacant land to fill in the same to such grade, or to ditch or drain the same in such manner as the commission may direct. Such notice shall be given by resolution of the commission, a copy of which shall be served upon the owner or owners of such lot, parcel or tract of vacant land or upon the agent of such owner, or if the owner is a non-resident or cannot be found within the village, and has no known agent within the village, a copy of such resolution shall be published once each week, for two (2) weeks, in some newspaper published in the village, a copy thereof posted upon such lot, parcel or tract of land, or if no newspaper is published in the village such posting upon such lot, parcel or tract of vacant land shall be deemed sufficient. If the owner or owners shall not within such time as such resolution shall prescribe, fill in , ditch or drain the lot, parcel or tract of vacant land as therein directed, it shall be lawful for the commission to cause the same to be done and to pay therefor and to charge, assess and collect the expense thereof against the said lot, parcel or tract of vacant land and against the owner or owners thereof.

Section 7. [Applicability.]

All the provisions of section 5 of this article relative to the making of the said assessment and proceedings subsequent thereto, notice to hear complaints and action thereon and the effect thereof, decrease the amount of assessment, contesting legality of the assessment, acquisition by the village of lien and effect thereof, rate of interest, entry in Village Lien Book, effect of such entry, payment of lien, issuance of certificates of indebtedness, the enforcement and collection of the lien and attorney's fees, shall be applicable to and may be followed in enforcing the assessments authorized by this section.

Section 8. [Implementation.]

In making or correcting the assessment or correcting the lien for any work referred to in either the preceding sections which

has heretofore been commenced or completed, the commission is hereby vested with power and may at its option adopt the procedure thereof laid down and prescribed in said sections 5, 6, and 7 of this article.

The commission may, by ordinance, make such further regulations as it may deem necessary to carry out the provisions of this article.

ARTICLE IX. MISCELLANEOUS

Section 1. [State law.]

All laws now in force for the government of cities and towns, except insofar as they conflict with the provisions of this act, shall apply to the said Village of Biscayne Park and the officers thereof.

Section 2. [Contracts.]

Neither the commission or any officers or employee of said village shall have authority to make any contract involving the expenditure of public money or impose upon said village any liability to pay money unless and until a sufficient amount of money shall have been appropriated for the liquidation of all pecuniary liability of said village under such contract or in consequence thereof to mature during the period covered by the appropriation. Such contract shall be ab initio null and void as to said city for any other or further liability; provided, first that nothing herein contained shall prevent the commission from providing for payment of any expense the necessity of which is caused by any casualty, accident, or unforeseen contingency arising after the passage of the ordinance, making such appropriations; and second, that the provision of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness or moneys to be collected by special assessment for local improvements.

Section 3. [Advertising.]

In addition to any other tax authorized to be levied and collected under this act, the commission may levy and collect, not to exceed one (1) mill on the dollar of the assessed value of all

property in said village, as a publicity fund for advertising the same village.

Section 4. [Conflicting provisions repealed.]

All laws and parts of laws in conflict with the provisions of this act are hereby repealed insofar as they affect the Village of Biscayne Park.

Section 5. [Severability.]

If any section, part or portion of this Charter be held invalid by any court of competent jurisdiction, it shall not render the remaining portions invalid.

Section 6. [Effective date.]

This act shall not be effective until the same has been submitted to the legally qualified voters of the said Village of Biscayne Park, in Dade County, Florida, and approved by a majority of the voters voting at the said election.

[The next page is 83]

Part II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters, articles, divisions and sections shall constitute and be designated "The Code of Ordinances, Village of Biscayne Park" and may be so cited. Such Code may also be cited as the "Biscayne Park Code."

Sec. 1-2. Definitions and rules of construction generally.

In the construction of this Code, and of all ordinances, the following definitions, unless such definitions would be inconsistent with the manifest intent of the village commission:

Charter. The word "Charter" shall mean the Charter of the Village of Biscayne Park as printed in Part I of this volume.

Code. Reference to "this Code" or "the Code" shall mean the Code of Ordinances, Village of Biscayne Park, Florida, as designated in section 1-1.

Commission. The words "commission," "village commission" or "governing body" shall mean the village commission of the Village of Biscayne Park.

Computation of time. In computing any period of time prescribed or allowed by this Code the day of the act, event or default from which the designated period of time beginning to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate

Saturdays, Sundays and legal holidays shall be excluded in the computation.

State law reference—Similar provisions, Florida Rules of Civil Procedure, § 1.090(a).

County. The words "the county" or "this county" shall mean Dade County, Florida.

State law reference—Boundaries of Dade County, F.S. § 7.13.

Delegation of authority. Whenever a provision appears requiring the head of a department or officer of the village to do some act or make certain inspections, it is to be construed to authorize the head of the department or officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

F.S. The abbreviation "F.S." shall mean the latest edition or supplement of the Florida Statutes.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Interpretation. In the interpretation and application of any provisions of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Keeper and *proprietor* shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

Month. The word "month" shall mean a calendar month.

Name of officer, department, board, etc. The naming of an officer, department, board, etc., shall be construed as if followed by the words "of the Village of Biscayne Park."

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the

language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be submitted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to individuals, children, associations, firms, joint adventures, estates, trusts, business trusts, syndicates, fiduciaries, partnerships and bodies politic and corporate, and all other groups and combinations.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Real property shall include lands, tenements and hereditaments.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

State. The words "the state" or "this state" shall mean the State of Florida.

Street. The word "street" shall embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the village and shall include the entire width of the right-of-way thereof if the sense so requires or admits.

Tenant. The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral

lease of or who occupies, the whole or a part of such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Village. The words "the village" or "this village" shall mean the municipal corporation of Biscayne Park, Florida, or any of its officers, agents or departments, as the sense shall require or admit.

Written or *in writing* shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year, unless otherwise specified.

State law reference—Construction of Florida Statutes, F.S. § 1.01 et seq.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Sec. 1-5. Code does not affect prior offenses, rights, etc.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contact or right established or accruing, before the effective date of this Code.

Sec. 1-6. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinances repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

State constitutional law reference—No bill of attainder, ex post facto law or law impairing the obligation of contracts shall ever be passed, Fla. Const. Art. I, § 10.

Sec. 1-7. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

(1) Any ordinance promising or guaranteeing the payment of money by the village, or authorizing the issuance of any bonds of the village, or any evidence of the village's indebtedness, or any contract agreement, lease, deed or other instrument or obligation assumed by the village;

(2) Any right or franchise permit, or other right granted by any ordinance;

(3) Any personnel regulations;

(4) Any ordinance establishing positions, classifying positions or setting salaries of village officers and employees;

(5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing or vacating any street, alley or other public way in the village;

(6) Any ordinance establishing and prescribing the street grades in the village;

(7) Any appropriation ordinance or any ordinance levying or imposing taxes;

(8) Any ordinance providing for local improvements and assessing taxes therefor;

(9) Any ordinance dedicating or accepting any plat or subdivision in the village;

(10) Any ordinance establishing the official plat of the village, the zoning map or any amendments thereof;

(11) Any easements, land uses, rezoning or zoning ordinance;

(12) Any ordinance prescribing traffic and parking regulations for specific streets and locations;

(13) Any ordinance annexing territory or excluding territory from the village;

(14) Any temporary or special ordinance;

(15) Any provisions of Chapter 16319, 1933, Special Acts of Florida Legislature, as amended by special law or otherwise, which have been converted to ordinances by F.S. Ch. 166 and have not been superseded or repealed;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Sec. 1-8. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code of Ordinances, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of Ordinances, Village of Biscayne Park, Florida, is hereby amended to read as follows: _____." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Village of Biscayne Park, Florida, is hereby amended by adding a section to be numbered _____, which section

reads as follows: _____." The new section may then be set out in full as desired.

(d) All sections, divisions, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

State law reference—Minimum procedural requirements for adoption of ordinances and resolutions, F.S. § 166.041.

Sec. 1-9. Supplementation of Code.

(a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the commission. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the commission or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the

supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-10. Severability of parts of Code.

It is hereby declared to be the intention of the commission that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-11. General penalty; continuing violations.

(a) Whenever in this Code or in any ordinance of the village any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be

punished by a fine not to exceed five hundred dollars ($500.00), or imprisonment for a term not exceeding sixty (60) days, or by both a fine and imprisonment. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

(b) In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a public nuisance and may be, by the village, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

Cross reference—*Code enforcement, § 2-101 et seq.*

State law references—Fines and forfeitures in County Court payable to municipality, F.S. § 34.191; punishment for misdemeanors, F.S. §§ 775.082, 775.083.

Chapter 2

ADMINISTRATION*

Art. I. In General, §§ 2-1—2-15
Art. II. Village Commission, §§ 2-16—2-30
Art. III. Commissions, Boards and Committees, §§ 2-31—2-45
Art. IV. Officers and Employees, §§ 2-46—2-60
Art. V. Elections, §§ 2-61—2-75
Art. VI. Finance, §§ 2-76—2-100
Art. VII. Code Enforcement, §§ 2-101—2-110

ARTICLE I. IN GENERAL

Secs. 2-1—2-15. Reserved.

ARTICLE II. VILLAGE COMMISSION†

Sec. 2-16. Meetings.

The regular meetings of the commission shall be held at 7:00, p.m., on the first Tuesday of each month at the village hall in the Village of Biscayne Park. The meeting time may be changed by resolution if approved by majority of the commission.
(Ord. No. 63, § 1, 1-17-40; Res. No. 801, 4-7-92)

Sec. 2-17. Compensation to mayor and commissioners.

(a) *Mayor.* The mayor of the village shall receive annual compensation which shall be set forth in the budget and which shall be paid in four (4) quarterly installments. This sum is a flat sum to reimburse the mayor for expenses while acting in his or her official capacity as mayor. The mayor shall receive no salary; and

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***Cross references**—Animals, Ch. 3; buildings and building regulations, Ch. 4; fire prevention and control, Ch. 6; garbage and refuse, Ch. 7; health and sanitation, Ch. 8; noise, Ch. 10; retirement and pensions, Ch. 17; zoning, Ch. 18; cable televisions systems, Ch. 5; offenses, Ch. 11; taxation, Ch. 16; peddlers and solicitors required to register, § 11-21.

†**Charter references**—Election and powers of commission, Art. I, § 5; commissioners head of departments, Art. III, § 1.

State law references—Code of ethics for public officers and employees, F.S. § 112.311 et seq.; public meetings, F.S. § 286.011; public records, F.S. § 119.01 et seq.

shall not be responsible to provide the village with an accounting of expenses.

(b) *Commissioners.* The commissioners of the village shall receive annual compensation which shall be set forth in the budget and which shall be paid in four (4) quarterly installments. This sum is a flat sum to reimburse the commissioners for their expenses while acting in their official capacity as commissioners. The commissioners shall receive no salary; and shall not be responsible to provide the village with an accounting of expenses. (Ord. No. 285, §§ 1, 2, 3-1-94)

Editor's note—Ord. No. 285, §§ 1, 2, adopted Mar. 1, 1992.

Secs. 2-18—2-30. Reserved.

ARTICLE III. COMMISSIONS, BOARDS AND COMMITTEES‡

Secs. 2-31—2-45. Reserved.

ARTICLE IV. OFFICERS AND EMPLOYEES*

Secs. 2-46—2-60. Reserved.

ARTICLE V. ELECTIONS†

Sec. 2-61. Special procedures for filling vacant commission seats.

Any vacancy of a commission seat caused by a commissioner's death, resignation or removal from office shall be filled (within forty-five (45) days) until the next regular village commission election by a majority vote of the remaining commissioners; pro-

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‡Cross reference—Planning board appointed, § 12-16.

***Charter reference**—Officers and employees, Art. IV, § 1 et seq.

Cross reference—Retirement and pensions, Ch. 13.

†Charter reference—Election of commissioners, Art. I, § 5.

State law reference—Florida election laws, F.S. Ch. 98 et seq.

vided, however, that if the commission cannot fill said vacant seat in the aforesaid manner one hundred thirty-five (135) days prior to a regularly scheduled election, the village shall hold a special election to fill the commission seat within forty-five (45) days after failing to appoint a new commissioner. If a vacancy occurs within ninety (90) days of the next regularly scheduled election, the commission seat shall remain vacant until the next regularly scheduled election.

In the event of a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate(s) following the end of the qualifying period which leaves fewer candidates for the commission than vacant commission seats, the remaining candidates shall be elected to office and the remaining vacant position(s) shall be filled by special election held within forty-five (45) days of the vacancy.
(Ord. No. 264, § 1, 2-5-91)

Secs. 2-62–2-75. Reserved.

ARTICLE VI. FINANCE‡

Secs. 2-76–2-100. Reserved.

ARTICLE VII. CODE ENFORCEMENT**

Sec. 2-101. Civil offenses and penalties; hearing officers.

The violation of any village ordinance shall constitute a civil offense punishable by civil penalty in the amount prescribed in section 2-110 and as modified by section 2-104 of this article. Accordingly, there is hereby created and established a code enforcement position to be filled by a hearing officer to enforce the ordinances and codes of the Village of Biscayne Park.
(Ord. No. 257, § 1, 6-5-90)

Sec. 2-102. Qualifications of hearing officers; term; removal, compensation.

(a) Hearing officers shall be residents of the village who possess outstanding reputations for civic pride, interest, integrity,

‡**Charter reference**—Revenue and Taxation, Art. VII, § 1 et seq.
State law reference—Municipal finance and taxation, F.S. § 166.101 et seq.

****Editor's note**—Ord. No. 257, §§ 1–10, adopted June 5, 1990, did not specify manner of codification; hence, such provisions have been designated by the editor as Art. VII, §§ 2-101–2-110.

responsibility, and business or professional ability. Appointments shall be made by the village commission.

(b) Appointments shall be made for a term of one (1) year. A hearing officer may be reappointed at the discretion of the village commission. There shall be no limit on the number of reappointments that may be given to any individual hearing officer. The village commission shall have authority to remove a hearing officer with or without cause. Appointment to fill any vacancy shall be for the remainder of the unexpired term.

(c) Hearing officers shall not be village employees but shall be compensated at a rate to be determined by the village commission.
(Ord. No. 257, § 2, 6-5-90)

Sec. 2-103. Enforcement procedures.

(a) For the purposes of this article, a "code inspector" is defined to be any agent or employee of the Village of Biscayne Park whose duty it is to assure code compliance.

(b) Code inspectors shall have the authority to initiate enforcement proceedings as provided below. No hearing officer shall have the power to initiate such proceedings.

(c) For the purposes of this article, "violators" shall be deemed to be those persons or entities legally responsible for the violation of any ordinances, or codes of the village.

(d) A code inspector who finds a violation of those ordinances or codes shall determine a reasonable time period within which the violator must correct the violation. Such determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent, and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed.

(e) A code inspector who finds such a violation may issue a civil violation notice to the violator. Service shall be effected by delivering the civil violation notice to the violator or his agent, or by leaving the civil violation notice at the violator's usual place of

abode with any person residing therein who is eighteen (18) years of age or older and informing that person of its contents. If such service cannot be effected, the civil violation notice may be sent by certified mail, return receipt requested, or by posting of the civil violation notice in a conspicuous place on the premises or real property upon which the violation has been observed. Such posting of the civil violation notice shall be deemed proper service, and the time for compliance, stated in the notice, shall commence with the date such notice is posted.

(f) The civil violation notice shall include but not be limited to the following:

(1) Date of issuance;

(2) Name of code inspector;

(3) Name and address of the violator;

(4) Section number of the code section that has been violated;

(5) Brief description of the nature of the violation, including location, date, and time of violation;

(6) Amount of the civil penalty for which the violator may be liable;

(7) Instructions and due date for paying the civil fine or filing for an administrative hearing before a hearing officer to appeal the civil fine;

(8) Time within which the violation must be corrected;

(9) Notice that each day of continued violation after the time period for correction has run shall be deemed a continuing violation subject to additional penalty in the same amount, without the need for additional notices of violation.

(10) Notice that the filing of a request for an administrative hearing will toll the accrual of continuing violation penalties;

(11) Notice that failure to request an administrative hearing within twenty (20) days after service of the civil violation notice shall constitute a waiver of the violator's right to an

administrative hearing before the hearing officer, and that such waiver shall constitute an admission of violation.

(12) Notice that the violator may be liable for the reasonable costs of the administrative hearing should he be found guilty of the violation.

(Ord. No. 257, § 3, 6-5-90)

Sec. 2-104. Civil penalties and related terms construed.

(a) Penalties for violations of the ordinances to be enforced by this article shall be in the amount as prescribed in the schedule of civil penalties in section 2-110.

(b) "Continuing violations" are those violations which remain uncorrected beyond the reasonable time period for correction contained in the civil violation notice. For each day of continued violation after the time for correction has run, an additional penalty in the same amount as that prescribed for the original violation shall be added.

(c) A "repeat violation" is a recurring violation of an ordinance or code by a violator who has previously been guilty of the same violation. A repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation, the amount of the civil penalty shall be double the amount of penalty prescribed for the original violation by section 2-110. The amount of civil penalty due for each subsequent repeat violation shall be double the amount of penalty due for the first day of the immediately preceding violation, provided that the maximum penalty payable for the first day of any one repeat violation shall be five hundred dollars ($500.00).

(d) A repeat violation which remains uncorrected beyond the time prescribed for correction in the civil violation notice shall be treated as a continuing violation, and the additional penalty for each day of continued violation shall be equal to the doubled amount due for the first day of the repeat violation.

(e) Continuing violation penalties shall accrue from the date of correction given in the civil violation notice until the correction is made or until a request for administrative hearing is filed, whichever comes first. If the named violator requests an administrative

hearing and loses his appeal, the hearing officer shall determine a reasonable time period within which correction for the violation must be made, based on the considerations set forth in section 2-103(d). If correction is not made within the period set by the hearing officer, continuing violation penalties shall begin to accrue again after the time for correction has run.

(f) Civil penalties assessed pursuant to this chapter are due and payable to the village on the last day of the period allowed for the filing of an appeal from the hearing officer's decision, or, if proper appeal is made, when the appeal has been finally decided adversely to the named violator.
(Ord. No. 257, § 4, 6-5-90)

Sec. 2-105. Rights of violators; payment of fine; right to appeal; failure to pay and correct, or to appeal.

(a) A violator who has been served with a civil violation notice shall elect either to:

(1) Pay the civil penalty in the manner indicated on the notice, and correct the violation within the time specified on the notice; or

(2) Request an administrative hearing before a hearing officer to appeal the decision of the code inspector which resulted in the issuance of the civil violation notice.

(b) Appeal by administrative hearing of the notice of violation shall be accomplished by filing a request in writing to the address indicated on the notice, not later than twenty (20) calendar days after the service of the notice.

(c) If the named violator after notice fails to pay the civil penalty and correct the violation (within the time specified) or to timely request an administrative hearing before a hearing officer, the hearing officer shall be informed of such failure by report from the code inspector. Such report shall be by affidavit of the code inspector. Failure of the named violator to appeal the decision of the code inspector within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the hearing officer. A waiver of the right to ad-

ministrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly.
(Ord. No. 257, § 5, 6-5-90)

Sec. 2-106. Scheduling and conduct of hearing.

(a) Upon receipt of a named violator's timely request for an administrative hearing, the hearing officer shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as possible.

(b) The hearing officer shall send a notice of hearing by first class mail to the named violator at his last known address. The notice of hearing shall include but not be limited to the following:

(1) Name of the code inspector of alleged violation;

(2) Factual description of alleged violation;

(3) Date of alleged violation;

(4) Section of the code allegedly violated;

(5) Place, date and time of the hearing;

(6) Right of violator to be represented by a lawyer;

(7) Right of violator to present witnesses and evidence;

(8) Notice that failure of violator to attend hearing may result in civil penalty being assessed against him;

(9) Notice that requests for continuances will not be considered if not received by the hearing officer at least ten (10) calendar days prior to the date set for hearing.

(c) The hearing officer shall call hearings on a monthly basis or upon the request of the clerk. No hearing shall be set sooner than twenty (20) calendar days from the date of service of the notice of violation.

(d) A hearing date shall not be postponed or continued unless a request for continuance, showing good cause for such continuance, is received in writing by the hearing officer at least ten (10) calendar days prior to the date set for the hearing.

(e) All hearings of the hearing officer shall be open to the public. All testimony shall be under oath. Assuming proper notice, a hearing may proceed in the absence of the named violator.

(f) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript.

(g) The clerk shall provide clerical and administrative personnel as may be reasonably required by the hearing officer for the proper performance of his duties.

(h) Each case before a hearing officer shall be presented by the code enforcement official.

(i) The hearing need not be conducted in accordance with the formal rules relating to evidence and witnesses. Any relevant evidence shall be admitted if the hearing officer finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.

(j) Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.

(k) The hearing officer shall make findings of fact based on evidence of record. In order to make a finding upholding the code inspector's decision, the hearing officer must find that a preponderance of the evidence indicates that the named violator was responsible for the violation of the relevant section of the code as charged.

(l) The time for correction given by the code inspector to the named violator and contained in the civil violation notice is rebuttably presumed to have been a reasonable time for correction. Upon presentation of relevant evidence by the named violator that the time for correction was not reasonable, however, the hearing officer may make a redetermination as to the reasonabless of the time for correction contained in the civil violation notice. The hearing officer may not make a determination that the time given for correction in the civil violation notice was

too long unless the time given for correction has not yet run at the time the hearing officer makes his decision. If the hearing officer determines that the time given for correction was insufficient, the penalty for a continuing violation shall be calculated from the date determined by the hearing officer to be the reasonable date for correction, provided that a request for administrative hearing was not filed before the reasonable date for correction set by the hearing officer.

(m) If the named violator is found guilty of the violation, he may be held liable for the reasonable costs of the administrative hearing, at the discretion of the hearing officer.

(n) The fact-finding determination of the hearing officer shall be limited to whether the violation alleged did occur and, if so, whether the person named in the civil violation notice can be held responsible for that violation. Based upon this fact-finding determination, the hearing officer shall either affirm or reverse the decision of the code inspector as to the responsibility of the named violator for the code violation. The hearing officer may also modify the decision of the code inspector as to the time for correction contained in the civil violation notice, subject to the provision of subsection (l). If the hearing officer reverses the decision of the code inspector and finds the named violator not responsible for the code violation alleged in the civil violation notice, the named violator shall not be liable for the payment of any civil penalty, absent reversal of the hearing officer's findings pursuant to section 2-108(a). If the decision of the hearing officer is to affirm, then the following elements shall be included:

(1) Amount of civil penalty.

(2) Administrative costs of hearing.

(3) Date by which the violation must be corrected to prevent resumption of continuing violation penalties.

(o) The hearing officer shall have the power to:

(1) Adopt procedures for the conduct of hearings.

(2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served by the Biscayne Park Police Department.

(3) Subpoena evidence.

(4) Take testimony under oath.

(5) Assess and order the payment of civil penalties as provided herein.

(p) [Appeal stays action; decision of county board(s) binding.]

(1) A hearing officer shall postpone and shall not conduct a hearing if the named violator, prior to the scheduled hearing date, files with the duly authorized county board of appropriate jurisdiction an administrative appeal concerning the interpretation or application of the code provisions on which the alleged violation was based. However, once an issue has been determined by a hearing officer in a specific case, that issue may not be further reviewed by a county board in that specific case.

(2) Upon exhaustion of a timely filed administrative appeal and finalization of the administrative order by such board, the hearing officer may exercise all powers given to him by this article; the hearing officer shall not, however, exercise any jurisdiction over such alleged code violations until the time allowed for court appeal of the ruling of such board has lapsed or until such further appeal has been exhausted.

(3) The hearing officer shall be bound by the interpretations and decisions of duly authorized county boards concerning the provisions of the codes within their respective jurisdictions. In the event such a board decides that an alleged violation of the code is not in accordance with such board's interpretation of the code provision on which the violation is based, the hearing officer shall not be empowered to proceed with the enforcement of the violation.

(Ord. No. 257, § 6, 6-5-90)

Sec. 2-107. Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; foreclosure.

(a) The village may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties.

(b) A certified copy of an order imposing a civil penalty may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgement by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgement except for enforcement purposes. After one (1) year from the filing of any such lien which remains unpaid, the village may foreclose or otherwise execute on the lien.
(Ord. No. 257, § 7, 6-5-90)

Sec. 2-108. Review of order by circuit court.

(a) The violator or the village may seek to overturn the order of a hearing officer by making application to the Dade County Court for a trail de novo on the merits. Such application shall be filed within thirty (30) calendar days of the issuance of the order sought to be overturned. A violator shall have the right to a de novo proceeding provided that all administrative remedies have been exhausted. Failure to make such application within the prescribed thirty-day period shall render the findings of the hearing officer conclusive, binding, and final. All findings of the hearing officer shall be admissible in evidence at any de novo proceedings held pursuant to the section.

(b) Unless the findings of the hearing officer are overturned in a proceeding held pursuant to subsection (a), findings of the hearing officer shall be admissible in any proceeding to collect unpaid penalties.
(Ord. No. 257, § 8, 6-5-90)

Sec. 2-109. Provisions contained herein are supplemental.

Nothing contained in this article prohibits the village from enforcing its code by any other means. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of this code.
(Ord. No. 257, § 9, 6-5-90)

Sec. 2-110. Penalty for violation generally.

All violations will be assessed at twenty-five dollars ($25.00) per day penalty unless otherwise specified by ordinance.
(Ord. No. 257, § 10, 6-5-90)

Cross reference—General penalty (maximums) for ordinance violation, § 1-11.

Chapter 3

ANIMALS*

Art. I. In General, §§ 3-1–3-20
Art. II. Dogs, §§ 3-21–3-35
Art. III. Enforcement and Penalties, § 3-36

ARTICLE I. IN GENERAL

Sec. 3-1. Bird Sanctuary.

It is hereby declared that all territory embraced within the village shall be and is hereby declared to be a bird sanctuary.
(Ord. No. 1, § 1, 1-28-32)

Sec. 3-2. Killing or harming birds prohibited.

It shall be unlawful for any person to shoot, trap or in any manner kill or destroy birds within the village.
(Ord. No. 1, § 2, 1-28-32)

Sec. 3-3. Certain animals prohibited.

The raising or maintaining of poultry, rabbits, pigeons, goats, cows, horses, pigs, white mice, or any grazing animal in the village shall be prohibited, however, the commission is authorized to grant special exceptions to this section subject to the imposition of special conditions upon showing and finding that they are not detrimental to the environment.
(Ord. No. 95, § 1, 6-14-46; Ord. No. 266, § 1, 6-4-91)

Sec. 3-4. Limitation on number of dogs and cats.

The keeping of more than four (4) dogs or four (4) cats or any combination thereof totaling four (4) on any lot or at any home in the village is hereby prohibited. Open feeding that causes a gath-

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***Cross references**—Administration, Ch. 2; cruelty to police department dogs prohibited, § 11-3.

State law reference—Cruelty to animals, F.S. § 828.02 et seq.

ering of more than four (4) dogs or four (4) cats or combination thereof totaling four (4) is evidence of a violation of this section.
(Ord. No. 95, § 3, 6-14-46; Ord. No. 266, § 2, 6-4-91)

Sec. 3-5. Dog or cat kennels prohibited.

The maintaining of a dog kennel or cattery in the village shall be and is prohibited.
(Ord. No. 95, § 2, 6-14-46)

Secs. 3-6–3-20. Reserved.

ARTICLE II. DOGS*

Sec. 3-21. Barking of dogs.

It shall be unlawful for any person to allow in the village any excessive barking or howling of his dog which disturbs the peace.
(Ord. No. 103, § 1, 12-7-48)
Cross reference–Noise, Ch. 10.

Sec. 3-22. Prohibited in parks.

It is deemed in the best interests of the health, safety and welfare of the citizenry and visitors of Biscayne Park, Florida, that all necessary precautions be implemented to prevent cutaneous larva migrans (a frequently severe skin disorder caused by the infective larvae of a dog or cat hookworm which is transmitted by the contact of the human skin with soil contaminated by dog or cat feces), and visceral larva migrans (a disease caused by the ingestion of larvae dog roundworms which commonly occurs when young children swallow dirt). No party owning or having charge, care, custody or control of any dog (hereinafter referred to as responsible party) shall cause, permit or allow the dog into or upon any public park in the Village of Biscayne Park; provided, however, this provision shall not apply to parkways, and other park areas in which dogs are specifically authorized.
(Ord. No. 266, § 3, 6-4-91)

***State law reference**–Damage by dogs, F.S. Ch. 767.

Sec. 3-23. Defecating, etc., on public or common property prohibited.

It shall be unlawful for a responsible party to permit, either willfully or through failure to exercise due care or control, any such dog to commit any nuisance upon the sidewalk of any public street; or upon the floor of any common hall in any apartment house, tenement house, hotel or other multiple dwelling; or upon any entranceway, stairway or wall immediately abutting on a public sidewalk, or other building used in common by the public. "Nuisance," for the purposes of this section, shall be defined as defecation and/or urination.
(Ord. No. 266, § 4, 6-4-91)

Sec. 3-24. Public nuisance.

It shall be unlawful for any responsible party to fail to exercise proper care and control of his dog or dogs to prevent them from becoming a public nuisance. Molesting passersby, chasing vehicles, attacking other domestic animals, trespassing upon school grounds, or trespassing upon private property in such manner as to damage property shall be deemed a public nuisance.
(Ord. No. 266, § 5, 6-4-91)

Sec. 3-25. Allowing dogs to cause injury to person, property, or animal.

A responsible party shall be punished as provided in section 3-36, if the responsible party's dog causes injury, through physical contact, to person, property, or animal while the dog is at large on public property or on the property of another.
(Ord. No. 266, § 6, 6-4-91)

Secs. 3-26—3-35. Reserved.

ARTICLE III. ENFORCEMENT AND PENALTIES

Sec. 3-36. Penalties.

(a) Sections 3-1 through 3-24 are civil offenses with a base fee of twenty-five dollars ($25.00). Section 3-25 is a civil offense and assigned a base fee of two hundred fifty dollars ($250.00).

(b) Nothing herein prohibits the enforcement of this section [chapter] by any other legal means, nor does prosecution as a civil offense prevent any other action.
(Ord. No. 266, § 7, 6-4-91)

Editor's note—Ord. No. 266, § 7, adopted June 4, 1991, added penalty provisions designated as Art. III, § 3-26. Such section has been redesignated by the editor as § 3-36 in order to allow for future expansion of the chapter.

[The next page is 245]

Chapter 4

BUILDINGS AND BUILDING REGULATIONS*

(Reserved)

***Editor's note**—Ord. No. 256, § 2, adopted Apr. 17, 1990, provided that the land development regulations code, App. A, supersedes Ch. 4; hence, the substantive provisions of Ch. 4, §§ 4-16—4-23, 4-36—4-46, 4-61, 4-76 have been deleted. Formerly, such sections pertained to building construction standards; fences, walls and similar structures; permit fees; and excavations and were derived from the following local legislation:

Ord. No.	Date	Sec.	Ord. No.	Date	Sec.
14	2-18-32	1	166	3- 5-74	1, 2
100	3- 2-48	1	172	4- 1-75	1
108	7- 3-50		194	3- 6-79	1
134	7- 2-57	1, 2	207	6- 2-81	2, 3
136	5-16-58	1	221	12- 6-83	1, 2
157	6- 2-70	2—9	227	5- 7-85	1—3
160	7- 6-71	1, 2	244	7- 5-88	1, 2
163	6- 5-73	1			

Chapter 5

CABLE TELEVISION SYSTEMS*

Sec. 5-1. Rules of construction and definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Auxiliary services means any communications service in addition to "regular subscriber services", including, but not limited to pay TV, burglar alarm service, data transmission, facsimile service, home shopping service, etc.

Cable television system or *CATV system* is any facility that in whole or in part, receives directly, or indirectly, over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such service.

Channel is a band of frequencies six (6) magahertz wide in the electromagnetic spectrum capable of carrying either one (1) audio-visual television signal and a few nonvideo signals or a large number of nonvideo signals.

Commission is the commission of the Village of Biscayne Park.

Federal Communications Commissions or *FCC* is the present federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

Grantee is a holder of a cable television license issued by the village.

***Cross reference**—Administration, Ch. 2.

Gross revenues means revenues derived directly or indirectly by a grantee from both regular subscriber service and auxiliary services.

Gross subscriber revenues means those revenues derived directly or indirectly by a grantee from the supplying of regular subscriber service; that is, the installation fees, disconnect and reconnect fees, and fees for regular cable benefits including the transmission of broadcast signals and access and origination channels if utilized. It does not include revenues derived from auxiliary services or from any taxes whether or not passed on to users, per program or per channel charges, leased channel revenues, advertising revenues, or any other income derived from the system.

License is an authorization granted by the village which permits the construction, operation and maintenance of a cable television system within the license area under the terms of this chapter.

License area means that portion of the village for which a license is granted under the authority of this ordinance. The license area may or may not be conterminous with the corporate limits of the village.

License authority is the village commission of the Village of Biscayne Park, Florida.

License entity is the village as presently constituted and including any area henceforth added thereto during the terms of any license granted hereunder.

Major stockholder is a beneficial owner, directly or indirectly, or ten (10) percent or more of the issued and outstanding voting stock of any corporation.

Mayor means the mayor of the village or person designated by him, to act for his office in administrative matters relating to cable television.

Persons are any people, firms, corporations, associations, or other legally recognized entities.

Public street is the surface of and the space above and below any public street, avenue, highway, boulevard, concourse, drive-

way, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, alley, right-of-way, public utility easement, and any other public ground or water within or belonging to the village.

Regular subscriber service is that service regularly provided to all subscribers. It includes all broadcast signal carriage, FCC-required access channel carriage including origination programming. It does not include specialized programming for which a per-program or per-channel charge is made.

Subscriber means any person receiving regular subscriber service.
(Ord. No. 193, § 2, 12-11-78)

Sec. 5-2. License to operate necessary.

It shall be unlawful to commence or engage in the construction, operation or maintenance of a cable television system without a license issued under this chapter. The village may, by resolution, award a license to construct, operate and maintain a cable television system within all of any portion of the village to any person, whether operating under an existing license or not, who makes application for authority to furnish a cable television system which complies with the terms and conditions of this chapter. The grantee shall have the right to utilize the present and future highways, streets, alleys, rights-of-way, easements and public property in the village for the purpose of transmission and distribution by cable of audio and video signals by means of electrical impulses for sale to residents of the village. Provided, that this section shall not be deemed to require the grant of a license to any particular person or to prohibit the commission from restricting the number of grantees should it determine such a restriction would be in the public interest.
(Ord. No. 193, § 3, 12-11-78)

Sec. 5-3. Term of license.

(a) Any license granted by the commission shall be for a term of fifteen (15) years following the date such license is accepted by the grantee. Upon application of the grantee and review of the performance of grantee in a public proceeding, the commission may renew the license for successive ten (10) year periods, with

such modification of terms as the commission may determine in each instance.

(b) The commission may terminate any license in the event grantee shall refuse, or neglect to comply with any material requirement or limitation contained in this chapter.

(c) Should the commission determine that grantee is not, in its opinion, in compliance with this chapter and any license issued thereunder, it shall so notify grantee, and grantee shall, within thirty (30) days, bring the licensed system into compliance, reporting corrective action taken to the commission.

(d) If the commission is not satisfied that compliance has been achieved, or that good faith progress is being made toward compliance, it may schedule a public hearing to determine whether the license should be revoked. The grantee and the public shall be given at least thirty (30) days notice of such a hearing, and all interested parties shall be heard in open hearing. At the conclusion of the public hearing, the commission shall determine whether the license should be terminated and shall set forth, in writing, the facts and reasons upon which its decision is based.
(Ord. No. 193, § 4, 12-11-78)

Sec. 5-4. Limitations of license.

(a) Unless an exclusive license shall be expressly granted, any license granted under this chapter shall be nonexclusive and nothing herein shall be construed to prevent the commission from granting identical or similar licenses to more than one (1) person, within all or any portion of the village.

(b) A grantee shall, at all times during the life of its license, be subject to the lawful exercise of the village's police power and ordinances and such reasonable regulations the commission may subsequently promulgate thereunder. Nothing contained in this chapter shall be deemed to prohibit in any way the right of the village to levy nondiscriminat occupational license taxes on any activity conducted by grantee.

(c) All privileges prescribed by such a license shall be subordinate to any prior lawful occupancy of the public streets, and the

director of public works reserves the right to designate where a grantee's facilities are to be placed within the public ways.

(d) A license shall be a privilege which is personal to the original grantee. It shall not be sold, transferred, leased, assigned, or disposed of, in whole or in part, either by sale, merger, consolidation or otherwise, without prior consent of the commission expressed by resolution, and then only under such conditions as may therein be prescribed. Any such transfer or assignment shall be made only by an instrument in writing, which shall include an acceptance of all terms and conditions of the license by transferee, a duly executed copy of which shall be filed with the agency within thirty (30) days after any such transfer or assignment.

(e) Consent of the commission shall not be granted until it has examined the proposed assignee's legal, financial, technical, character and other qualifications to construct, operate and maintain a cable television system in the license entity and has afforded all interested parties notice and an opportunity to be heard on the question.

(f) Consent of the commission shall not be arbitrarily refused; provided, that the proposed assignee possesses the requisite qualifications and agrees, in writing, to comply with all provisions of the license and this chapter.

(g) Transfer of twenty (20) percent or more of the voting securities of a corporate grantee to a person not presently a stockholder shall be deemed to be a transfer of control.

(h) No such content shall be required for a transfer:

(1) In trust, of system assets by mortgage or by other hypothecation, to secure an indebtedness;

(2) To a parent or subsidiary of a corporate grantee;

(3) To a corporation whose stock is held by the same stockholders as grantee;

(4) Of less than twenty (20) percent of the voting securities of a corporate grantee unless such transfer also results in a transfer of voting control;

(5) Of stock from one present stockholder to another present stockholder unless such transfer also results in a transfer of voting control.

(Ord. No. 193, § 5, 12-11-78)

Sec. 5-5. Liability and indemnification.

(a) A grantee shall pay, and by its acceptance of a license specifically agrees to pay, any and all damages or penalties which the village may be legally required to pay as a result of grantee's installation, operation or maintenance of a licensed cable television system under this chapter whether or not the acts or omissions complained of are authorized, allowed or prohibited by the village.

(b) A grantee shall also pay all expenses incurred by the the village in defending itself with regard to any and all damages and penalties mentioned in (a), above. These expenses shall include all out-of-pocket expenses, including reasonable attorneys' fees and the reasonable value of services rendered by any employee of the village.

(c) The grantee shall maintain, throughout the term of the license, liability insurance insuring the village and the grantee with regard to all damages mentioned in (a) above caused by grantee or its agents, in the minimum amounts of:

(1) Workers' compensation insurance as provided by the laws of the state;

(2) One million dollars ($1,000,000.00) for bodily injury or death to any person, within the limit, however, of three million dollars ($3,000,000.00) for bodily injury or death resulting from any one accident;

(3) One million dollars ($1,000,000.00) for property damage resulting from any one accident. The insurance policies obtained by a grantee in compliance with this section shall be issued by a company or companies acceptable to the village and a current certificate or certificates of insurance, along with written evidence of payment of all re-

quired premiums, shall be filed and maintained with the agency during the term of the license. The policies shall name the village an additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage of the policy shall be delivered to the village thirty (30) days in advance of the effective date thereof.

(Ord. No. 193, § 6, 12-11-78)

Sec. 5-6. Technical requirements; channel capacity.

The CATV system to be constructed by grantee shall be installed, maintained, and operated at all time in full compliance with the technical and channel capacity standards of the Federal Communications Commission. The results of annual performance tests conducted in accordance with section 76.601(c), FCC Rules (or such other section of the rules as shall incorporate its substance) shall be retained for at least five (5) years and provided to the village.

(Ord. No. 193, § 7, 12-11-78)

Sec. 5-7. Safety requirements.

A grantee shall, at all times:

(1) Install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the South Florida Building Code and electrical safety ordinances, and in such manner that they will not interfere with any installations of the village.

(2) Keep and maintain in a safe, suitable, substantial condition, and in good order, appearance and repair acceptable to the mayor all structures, lines, equipment, and connections in, over, under, and upon the streets, sidewalks, alleys and public ways or places of the village wherever situated or located.

Sec. 5-8. Service standards; business office; resolution of complaints.

Throughout the life of its license, a grantee shall:

(1) Maintain all parts of its system in good condition and in accordance with standards generally observed by the cable

television industry. Sufficient employees shall be retained to provide safe, adequate and prompt service for all of its facilities.

(2) Maintain a conveniently located business office and service center to which subscribers may telephone without incurring added message units or toll charge. This office shall be open during all usual business hours, and be so operated that complaints and requests for repairs or adjustments may be received by telephone at any time when any television signals are being broadcast.

(3) Dispatch personnel to investigate all service complaints and equipment malfunctions within twenty-four (24) hours and strive to resolve such complaints as promptly as possible. Planned interruption of service shall be only for good cause. Insofar as possible, planned service interruptions shall be preceded by notice, be of brief duration, and occur during minimum viewing hours.

(4) Maintain a complete list of all complaints not resolved within seven (7) days received and the measures taken to resolve them in form to be approved by the mayor. This list shall be supplied to the village clerk on a monthly basis.

(5) Maintain a list of all complaints received, which will be available to the village clerk.

(6) Permit the mayor to inspect and test the system's technical equipment and facilities upon reasonable (twelve (12) to twenty-four (24) hours) notice.

(7) Responsibility for the administration of any license granted hereunder and for the resolution of all complaints against a grantee regarding the quality of service, equipment malfunctions, and similar matters, is hereby delegated to the mayor who is empowered, among other things, to adjust, settle, or compromise any controversy arising from operation of the grantee, either on behalf of the village, the grantee, or any subscriber, in accordance with the best interest of the public. In cases where request for service have been ignored or unfilled for whatever reason, the

mayor shall have the power to compel the grantee to provide service to all reasonable requests as the mayor may determine. Provided, that any person aggrieved by a decision of the mayor may appeal the matter to the commission for hearing and determination. The commission may accept, reject, or modify the decision of the mayor, and may adjust, settle, or compromise any controversy arising from the operation of the grantee under any license granted pursuant to this chapter. No adjustment, settlement, or compromise, whether instituted by the mayor or by the commission shall be contrary to the provisions of this ordinance or of the license agreement, and neither the mayor nor the commission in the adjustment, settlement, or compromise of any controversy shall have the right or authority to add to, modify, or delete any provision of this ordinance or of the license. The grantee shall notify subscribers at the time of initial subscription to the system of the procedure for reporting and resolving complaints.

(Ord. No. 193, § 9, 12-11-78)

Sec. 5-9. Conditions on street occupancy.

(a) Any pavements, sidewalks, curbing or other paved area taken up or any excavations other than installation made by a grantee shall be done under permits issued for work by the proper officials of the village, and shall be done in such manner as to give the least inconvenience to the inhabitants of the village. A grantee shall, at its own cost and expense, and in a manner approved by the director of public works replace and restore any such pavements, sidewalks, curbing or other paved areas in as good a condition as before the work involving such disturbance was done, and shall also make and keep full and complete plats, maps and records showing the exact locations of its facilities located within the public streets, ways, and easements of the village. These maps shall be available for inspection at any time during business hours by the director of public works of the village.

(b) A grantee shall, at its expense, protect, support, temporarily disconnect, relocate, or remove, any of its property when required by the village by reason of traffic conditions, public

safety, road construction, change of street grade, installation of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of municipal improvements; provided, however, that the grantee shall, in all such cases, have the privilege of abandoning any property in place with the approval of the mayor.

(c) A grantee shall, on the request of any person holding a building moving permit issued by the village, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

(d) A grantee shall have authority to trim the trees upon and overhanging the public streets so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, except that, at the option of the director of public works of the village, such trimming may be done by it or under its supervision and direction at the expense of the grantee.

(e) In all sections of the license area where the cable, wires, or all other similar facilities of public utilities are placed underground, the grantee shall place its cables, wires, or other like facilities underground.
(Ord. No. 193, § 10, 12-11-78)

Sec. 5-10. Construction.

(a) A grantee shall extend the installation of cables, amplifiers, and related equipment throughout the area covered by its license as rapidly as practicable, but, in any event, shall:

(1) Begin engineering studies within sixty (60) days after accepting its license;

(2) Begin awarding contracts within ninety (90) days after receiving certification from the FCC;

(3) Begin construction of its proposed system within six (6) months after receiving certification from the FCC;

(4) Begin rendering service to subscribers within one (1) year after receiving certification from the FCC;

(5) Complete construction of forty (40) percent of its proposed system (measured in terms of total linear strand miles) within two (2) years after receiving certification from the FCC, and complete an additional twenty (20) percent each year thereafter so that after five (5) years the entire system shall be substantially constructed and the grantee capable of providing service no more than sixty (60) days after receiving an application for service to every dwelling unit within the license area except to the extent that density of homes, adverse terrain, or other factors render making service available impracticable. For the purposes of determining compliance with the provisions of this paragraph (5), and to provide for a reasonable policy requiring extension of energized trunk lines of the cable system within the license area so as to achieve compliance with the obligations imposed by this section, grantee shall extend such lines to all areas of the license area;

(6) File a map and progress report with the village clerk at the close of each calendar year, showing the exact areas of the village being served by the cable television system and the location and identification of major component parts of the system;

(7) Failure on the part of the grantee to commence and diligently pursue each of the foregoing requirements and to complete each of the matters set forth herein, shall be grounds for termination of its license pursuant to the terms of section 5-3(b); provided, however, that the commission of the village may in its discretion extend the time for the commencement and completion of construction and installation for additional periods in the event the grantee, acting in good faith, experiences delays by reasons of circumstances beyond its control.

(b) In the event the operation of any part of a cable television system, excluding drops, is discontinued for a continuous period of three (3) months, or in the event such system has been in-

stalled in any public street without complying with the requirements of the grantee's license, the grantee shall promptly, upon being given ten (10) days' notice, remove from the streets or public places all such property and poles of such system. Any property which the grantee allows to remain in place sixty (60) days after having been notified by the village that it must be removed shall be considered permanently abandoned.

(c) Upon the failure of a grantee to satisfactorily complete any work upon the public streets as may be required by law or the terms of its license within the time prescribed the village at its option, may cause such work to be done and the grantee shall pay to the village the cost thereof within thirty (30) days after receipt of an itemized report.
(Ord. No. 193, § 11, 12-11-78)

Sec. 5-11. Indemnity bond.

(a) Concurrently with the acceptance of its license, a grantee shall file with the village clerk a bond with an acceptable surety or other guarantee acceptable to the mayor in the amount of five hundred thousand dollars ($500,000.00) until service is available to eighty (80) percent of the village, and thereafter in the amount of one hundred thousand dollars ($100,000.00), to indemnify the village against any losses it may suffer in the event the grantee fails to comply with one or more of the provisions of its license. The bond or guarantee shall be obtained at the sole expense of the grantee and remain in effect for the full term of the license or any renewal thereof plus an additional twelve (12) months thereafter. The grantee and its surety shall be jointly and severally liable under the terms of the bond or guarantee for any damages or loss suffered by the village as a result of the grantee's nonperformance, including the full amount of any compensation, indemnification or cost of removal of any property of the grantee in the event of default, plus a reasonable allowance for attorneys' fees and costs, up to the full amount of the bond. The bond or guarantee shall provide for thirty (30) days' prior written notice to the commission of the village of any intent on the part of the grantee to cancel, fail to renew, or otherwise materially alter its terms.

(b) Neither the filing of an indemnity bond or guarantee with the village clerk, nor the receipt of any damages recovered by the commission thereunder, shall be construed to excuse faithful performance by the grantee or limit the liability of the grantee under the terms of its license for damages, either to the full amount of the bond or otherwise.
(Ord. No. 193, § 12, 12-11-78)

Sec. 5-12. License payments.

(a) Any person awarded a license under this chapter shall pay to the village each year during the life of the license, a license fee in the amount of three (3) percent of its annual gross revenues derived from its operation of licensed cable television system within the license area limits. The amount of any application fee shall be a credit against the first year's license fee.

(b) A grantee shall file with the village clerk within ninety (90) days after the expiration of any calendar year or portion thereof during which its license is in force, a financial statement certified by a certified public accountant, showing the gross revenues, as defined herein, of the grantee during the preceding calendar year or portion thereof. It shall be the duty of the grantee to pay the village within fifteen (15) days after the time for filing such statement, the sum prescribed above or any unpaid balance thereof for the calendar year covered by such statements.

(c) The village shall have the right to inspect the grantee's records showing the gross subscriber revenues from which its license payments are computed and shall also have the right of audit and recomputation of any and all amounts paid under the chapter. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the village may have for further or additional sums payable under this chapter or for the performance of any other obligation hereunder; however, an accounting rendered to the village and to which no exception is made within three (3) years after receipt by the village shall be deemed to be accurate and shall not thereafter be subject to question or made the basis of any claim by the village against grantee.
(Ord. No. 193, § 13, 12-11-78)

Sec. 5-13. Rates charged to subscribers.

(a) Any license issued hereunder shall set forth the initial rates which grantee may charge its subscribers upon commencing service. Thereafter, these rates shall be changed when appropriate in accordance with the provisions of this section.

(b) Any rate established shall be reasonable, just, and fair to the public, and shall provide the grantee a return upon its investment reasonably sufficient to:

(1) Assure confidence in grantee's financial soundness;

(2) Support its credit and attract necessary capital under efficient and economical management;

(3) Provide a return to equity owners commensurate with current returns on investment in other enterprises having corresponding risks.

(c) No rate established shall afford any undue preference or advantage among subscribers, but separate rates may be established for separate classes of subscribers and rates may reflect the increased costs of providing service to isolated or sparsely populated areas.

(d) Should grantee desire to change any rate or rates, it shall notify each subscriber and the commission, in writing, of the intended change, at least sixty (60) days prior to the date the change is to be effective. The commission if it so elects, review any rate proposal at a public hearing of which all parties shall have at least thirty (30) days notice. At such a hearing, evidence shall be taken and received on all of the elements necessary to be considered in determining the reasonableness of the proposed rates, including the return experienced by the company on its involvement. Thereafter, the commission shall decide the matter by a majority vote and render a written decision approving, disapproving or modifying the proposed rate changes. The decision shall set forth complete findings of fact and conclusions regarding all of the basic elements considered in determining the rates, as set forth above.
(Ord. No. 193, § 14, 12-11-78)

Sec. 5-14. Removal of facilities upon request.

Upon termination of service to any subscriber, a grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.
(Ord. No. 193, § 15, 12-11-78)

Sec. 5-15. Public service requirements.

A grantee shall:

(1) Provide at least one (1) service outlet to all municipal facilities and public schools within its license area at no cost to the village or school involved, and shall charge only its time and material costs for any additional service outlets to such facilities.

(2) Make its facilities immediately available to the village upon request during the course of any emergency or disaster.

(3) Build its facilities in such a way as to facilitate interconnection with similar systems serving Dade and Broward County for the purpose of providing educational and cultural programming on a cost-sharing basis.

(Ord. No. 193, § 16, 12-11-78)

Sec. 5-16. Amendment of ordinance and franchises.

The commission shall amend this chapter, and any license issued hereunder, upon its own motion or the application of a grantee whenever amendment is necessary to enable a grantee to utilize new developments in television or radio signal transmission which would improve and update cable television service in the village, or to comply with any modifications in the rules of the FCC. No amendment shall be adopted except after full, open public hearing affording due process, and no amendment substantially amending the existing rights and obligations of the grantee shall be adopted without grantee's consent.
(Ord. No. 193, § 17, 12-11-78)

Sec. 5-17. Application procedures.

(a) This chapter itself grants no authority to operate a cable television system to any person. Such grants are only made by the adoption of a separate ordinance awarding a specific license

to an applicant who has complied with the provisions of this chapter.

(1) Any person interested in obtaining a license to operate a cable television system in the village shall submit a written application to the village clerk together with nonrefundable application fee of two hundred dollars ($200.00) which shall contain the following information:

a. The name, address and form of business of the applicant. If the applicant is a corporation, it shall also state the names, addresses and occupation of its officers, directors and major stockholders, and the names and addresses of any parent or subsidiary companies. If applicant is a corporation controlled by another corporation, the names, addresses and occupations of the officers, directors and major stockholders of the controlling corporation shall also be stated. If the applicant is a partnership or other unincorporated association the name and address of each member, whether active or inactive, shall be set forth, and if one or more partners are corporations, the names, addresses and occupations of such corporation's officers, directors and major stockholders shall also be stated;

b. A list of all other cable television systems, if any, in which the applicant (or any partner or major stockholder of applicant) has a substantial interest, stating the location, approximate number of homes served, and the name and address cf the local licensing body;

c. A thorough description of the proposed cable television system to be installed and operated; the manner in which the applicant proposes to construct, install, maintain and operate the same; and the extent and manner in which existing or future poles or other facilities of public utility companies will be used in the proposed system, together with a map or maps delineating proposed service areas if the applicant proposed to serve less than the entire village;

d. A schedule of proposed rates and charges to all classes of subscribers for both installation and monthly ser-

vice, and a copy of the proposed service agreement between the applicant and its proposed subscribers;

e. A copy of any contract which may exist between the applicant and any public utility providing for the use of such utility's property, such as poles, lines or conduits;

f. A statement setting forth all agreements and understandings, whether written, oral, or implied, between the applicant and any other person with respect to the proposed license or the proposed cable television operation. If a license should be granted to a person posing as a front or representative of another undisclosed person, such license shall be deemed void ab initio and of no force and effect whatsoever;

g. An estimate of the cost of constructing the applicant's proposed system, and a financial statement prepared in form satisfactory to the commission of the village showing applicant's financial status and its financial ability to meet these proposed costs;

h. A sworn statement acknowledging the applicant's familiarity with and eligibility under the provisions of this chapter and the rules of the FCC and its intention to abide by the same;

i. Any such supplementary information as the commission shall at any time demand in order to reasonably determine whether the requested license should be granted.

(b) No application for a license shall be accepted by the commission until it has published its intention to award such a license or licenses and solicited the filing of applications. Applications shall then be accepted from all interested parties for a period of sixty (60) days; but none shall be accepted thereafter.

(c) The commission shall then:

(1) Specify a date, not less than fifteen (15) days nor more than forty-five (45) days following the expiration of the filing period, upon which all bona fide applicants (those paying the prescribed fee, filing complete applications, and responding to all proper inquiries shall participate in a public hearing before the commission;

(2) Specify a public place where interested parties may inspect all such bona fide applications.

(d) After hearing the evidence, opinions and representations of all interested parties including members of the public commission of the village shall then render decision awarding a franchise to one or more applicants (rejecting all applicants if none is found qualified) based upon its findings as to the relative qualifications of the applicants to render satisfactory CATV service. The commission's decision on all applications shall be final and conclusive.
(Ord. No. 193, § 18, 12-11-78)

Sec. 5-18. Renewal procedures.

(a) A license may be renewed by the commission for a period of up to ten (10) years upon the written request of the grantee without soliciting additional applications. Such a renewal request shall be filed at least six (6), but not more than eighteen (18) months prior to the expiration of the franchise and shall be accompanied by a non-refundable application fee of one hundred dollars ($100.00). A renewal request may propose modifications in the terms of a grantee's license which shall be considered by the commission, but in any case, the commission may, upon its own motion, modify the terms of a grantee's license subject to the conditions set forth in (b), below.

(b) Upon receipt of a request for a renewal of a license, the commission shall schedule a public hearing on the matter, giving at least thirty (30) days' notice of such hearing and any license modifications proposed by either the grantee or the commission. After hearing all of the evidence, opinions and representations, the commission shall then render a decision to renew or not to renew the grantee's license, and if the former course is taken whether or not its license should be modified in any way. A grantee shall file its acceptance of a renewal license within thirty (30) days after it is offered by the commission and upon failure to do so shall be conclusively presumed to have consented to the expiration of its license.
(Ord. No. 193, § 19, 12-11-78)

Sec. 5-19. Tampering with cables or connection prohibited.

(a) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound within the village.

(b) It shall be unlawful for any person, firm or corporation to make or use any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a licensed cable television system within the village for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the owner of said system.
(Ord. No. 193, 12-11-78)

Sec. 5-20. Continued use of individual antennas protected.

It is not the commission's intention to prohibit the erection or continued use of individual television antennas, and no one is or will be required to receive cable television service or connect with a cable television system.
(Ord. No. 193, § 21, 12-11-78)

Sec. 5-21. Grantee may promulgate rules.

A grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable it to exercise its rights and perform its services under this ordinance and the rules of the FCC, and to assure uninterrupted service to each and all of its subscribers. Such rules and regulations shall not be deemed to have the force of law.
(Ord. No. 193, § 22, 12-11-78)

Sec. 5-22. Delegation of powers.

Any delegable right, power or duty of the commission, the village, the mayor, or any official of the village may be transferred or delegated by resolution to an appropriate officer, employee, or department of the village.
(Ord. No. 193, § 23, 12-11-78)

Sec. 5-23. Notices.

Every direction, notice, or order to be served upon a grantee shall be sent to the local office described in section, supra. Every notice to be served upon the village shall be delivered, or sent by certified mail to the village clerk at 640 N.E. 114th Street, Biscayne Park, Florida 33161. The delivery of such notice shall be deemed to have been at the time of receipt.
(Ord. No. 193, § 24, 12-11-78)

Sec. 5-24. Rights and remedies are cumulative.

The rights and remedies reserved to the parties by this chapter are cumulative and shall not add or subtract from any other rights or remedies which they may have with respect to the subject matter of this chapter, and a waiver thereof at any time shall not affect any other time.
(Ord. No. 193, § 25, 12-11-78)

Sec. 5-25. Right of village to intervene.

The village hereby reserves to itself the right to intervene in any suit, action, or proceeding involving any provision of this chapter.
(Ord. No. 193, § 26, 12-11-78)

Sec. 5-26. Regulation of basic service tier rates, installation and service charges.

(a) The village will follow the FCC Rate Regulations in its regulation of the basic service rates and charges of the company and any other cable television system operating in the village, notwithstanding any different or inconsistent provisions in the franchise.

(b) In connection with such regulation, the village will ensure a reasonable opportunity for consideration of the views of interested parties.

(c) The mayor, or his or her designee, is authorized to execute on behalf of the village and file with the FCC such certification forms or other instruments as are now or may hereafter be re-

quired by the FCC Rate Regulations in order to enable the village to regulate basic service rates and charges.

(Ord. No. 286, §§ 1–3, 5-3-94)

Editor's note–Ord. No. 286, §§ 1–3, adopted May 3, 1994, did not specify manner of codification; hence, such provisions pertaining to regulation of rates has been designated as § 5-26 by the editor.

Chapter 6

FIRE PREVENTION AND CONTROL*

Sec. 6-1. Use of dynamite.

It shall be unlawful for any person to use any dynamite or other high explosive for blasting within the village unless each blast is protected by blanket, or other device equally effective. (Ord. No. 3, § 1, 1-28-32)

State law reference—Dynamite and explosives, F.S. Ch. 552.

Sec. 6-2. Storage and placement of dynamite.

It shall be unlawful for any person to leave any dynamite loose or accessible in any place within the village where injury to persons or property might probably occur as a result thereof. (Ord. No. 3, § 2, 1-28-32)

***Cross references**—Administration, Ch. 2; Buildings and building regulations, Ch. 4.

State law reference—Fire Prevention and Control, F.S. § 633.01 et seq.

[The next page is 423]

Chapter 6.5

FLOOD DAMAGE PREVENTION*

ARTICLE I. IN GENERAL

Sec. 6.5-1. Purpose.

This chapter is adopted to ensure the continued availability of said flood insurance; to comply with federally imposed requirements; and to protect the public health, safety and general welfare, by minimizing flood losses in the flood hazard areas of Biscayne Park, and to require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction and substantial improvement; control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters; control filling, grading, dredging and other development which may increase erosion or flood damage, and to ensure that potential home buyers are notified that property is in a flood area.
(Ord. No. 277, § 1, 12-1-92)

Sec. 6.5-2. Definitions.

In construing the provisions of this chapter, where the context will permit and no definition is provided herein, the definitions provided in Chapter 403, Florida Statutes, as may be amended from time to time, and in the rules and regulations promulgated thereunder, as may be amended from time to time, shall apply. The following words and phrases when used in this chapter shall have the meanings ascribed to them in this section.

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*Editor's note—Ord. No. 277, §§ 1–12, adopted Dec. 1, 1992, enacted provisions pertaining to flood damage prevention. Such provisions did not specify manner of codification; hence, designation as Ch. 6.5, §§ 6.5-1–6.5-7, 6.5-16–6.5-18, and 6.5-26, 6.5-27 has been at the discretion of the editor. The user's attention is also directed to the history note following each section and to the Code Comparative Table at the back of this volume for derivation of specific sections in the chapter.

Cross reference—Land development code, App. A.

Accessory building shall mean a secondary residence, garage, or other building or structure on a lot or parcel subordinate to and not forming an integral part of the main or principal building but pertaining to the use of the main building. An accessory building may include a guest house or servant's quarters unless prohibited by existing deed restrictions or any applicable governmental regulation.

Addition (to an existing building) shall mean any walled and roofed lateral expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls in new construction.

Area of shallow flooding shall mean a designated AO, or AH zone on a community's flood insurance rate map (FIRM) with an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard shall mean the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

Base flood shall mean a flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement shall mean that portion of a building having its floor subgrade (below ground level) on all sides.

Below grade facilities shall mean off-street parking facilities constructed underground and other similar types of below grade areas within a building which are not habitable areas and, containing neither electrical nor mechanical equipment.

Building site shall mean the ground area of a property occupied by buildings and other enclosed structures.

Crown of road (center line) shall mean a line running parallel with the highway right-of-way which is half the distance between the extreme edges of the official right-of-way width as shown on a map approved by the department of public works.

Dade County Flood Criteria Maps shall mean those official maps of Dade County showing the required minimum finished grade elevation of the ground surface within a development site and as adopted by the board of county commissioners and recorded in Plat Book 120 at Page 13-1, 13-2, 13-3, 13-4 and 13-5 of the Public Records of Dade County, as the same may be amended from time to time.

Development shall mean any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

Elevated building shall mean a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation, perimeter walls, pilings, columns (posts and piers).

Existing manufactured home park or subdivisions shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 18, 1974, (the effective date of Dade County's adoption of floodplain management regulations).

Expansion to an existing manufactured home park or subdivision shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Finished grade as applied to a development site shall mean the established finished elevation after filling or grading of the ground surface at a certain point within a development site.

Flood or *flooding* shall mean a general and temporary condition of partial or complete inundation of normally dry land areas

from (1) the overflow of streams, rivers, or other inland water, or (2) abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes, or tsunamis.

Floodproofing shall mean structural and nonstructural additions, changes, or adjustments (other than elevating) to nonresidential structures and utilities, which reduce or eliminate flood damage to water supply and sanitary sewage facilities, structures, and contents of buildings. Floodproofing may be permitted in large residential structures such as condominiums provided it is limited to electrical and utility rooms only. Floodproofing includes by way of illustration, not limitation, the following measures:

(1) Anchorage to resist flotation and lateral movement.

(2) Installation of watertight doors, bulkheads, and shutters, or similar methods of construction to protect against winds, wave action, or floodwaters.

(3) Reinforcement of walls to resist water pressures.

(4) Use of paints, membranes, or mortars to reduce seepage of water through walls.

(5) Addition of mass or weight to structures to resist flotation.

(6) Installation of pumps to lower water levels in structures.

(7) Construction of water supply and waste water treatment and disposal systems to prevent the entrance of infiltration of flood waters.

(8) Pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressures.

(9) Construction to resist rupture or collapse caused by water pressure or flooding debris.

(10) Installation of valves or controls of sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.

(11) Location of all electrical equipments, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.

(12) Location of any structure, storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to the public health, safety, and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory protection elevation or are adequately floodproofed to prevent flotation of storage containers, or damages to storage containers which could result in the escape of toxic materials into flood waters.

Flood hazard boundary area shall mean an area within an official map of the community issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood Insurance Rate Map (FIRM) shall mean an official map of a community on which the Federal Emergency Management Agency has delineated the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study shall mean the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the water surface elevation of the base flood.

Floor shall mean the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Highest adjacent grade shall mean the highest finished grade elevation of the ground surface next to the proposed walls of a structure. [For the purposes of the NFIP this term shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.]

Historic structure shall mean any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the

Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or

(2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; or

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the secretary of the interior; or
b. Directly by the secretary of the interior in states without approved programs.

Lowest floor shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 4.(6)(a-c).

Manufactured home park or manufactured home subdivision shall mean a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Manufactured home (trailer) shall mean a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". However, park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer shall be regulated as manufactured homes.

Mean sea level shall mean average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within a floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Minimum finished grade shall mean the grade elevation established in the Dade County Flood Criteria Maps at a specific development site or the crown of an existing adjacent road, whichever is higher.

National Geodetic Vertical Datum (NGVD) (as corrected in 1929) shall mean a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction shall mean a structure for which the "start of new construction" commenced on or after the effective date of the first floodplain management regulation adopted by Dade County (June 18, 1974). The term includes any subsequent improvement to the structure.

New manufactured home park or new manufactured home subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by Dade County, June 18, 1974.

Physical start shall mean the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading, and filling; nor does it include the installation of streets, sheds not occupied as dwelling units or not part of the main structure.

Recreational vehicle shall mean a vehicle which is:

(1) Built on a single chassis; and

(2) Four hundred (400) square feet or less when measured at the largest horizontal projections; and

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory flood (also herein referred to as the 100-year flood) shall mean the level of flooding that is likely to be equaled or exceeded once in any one hundred-year period (i.e. that has one (1) percent [1%] chance of occurring in any year).

Residential or residence shall mean any lot, plot, parcel, tract, area, piece of land or building used exclusively for family dwelling purposes or intended to be so used, including concomitant uses as specified in Chapter 33, Code of Metropolitan Dade County, Florida.

Sand dunes shall mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Start of new construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348) shall mean the date the building permit was issued provided the physical start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the building permit date.

Structure shall mean a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

Substantial damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improve-

ments. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure shall be (1) the appraised value of the structure prior to the start of the initial repair or improvement; or (2) in the case of damage, the value of the structure prior to the damage occurring. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not include either:

(1) Any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are solely necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home, park or subdivision shall mean when the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance is a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.
(Ord. No. 277, § 2, 12-1-92)

Sec. 6.5-3. Application of chapter.

(a) This chapter shall apply to and be enforced in the incorporated areas of the Biscayne Park.

(b) Those maps referred to in section 6.5-2 as amended effective November 4, 1987, and as amended effective January 20, 1993, together with the flood insurance study therein, and any revisions thereto, are hereby adopted by reference and are declared to be a part of this chapter, and shall be kept on file, available to the public, in the offices of the municipal official.

(c) The provisions of this chapter shall constitute minimum standards throughout Biscayne Park.
(Ord. No. 277, § 6, 12-1-92)

Sec. 6.5-4. Effect of provisions on ordinances, building code, other regulations.

This chapter shall supersede any conflicting county ordinance, building code, or any other regulation to the extent that this chapter imposes more stringent requirements for the use or development of any lands or structures within SFH or CHH areas in the incorporated areas of Biscayne Park. It is not intended to repeal, modify, or change any such ordinance, building code or other regulation except as herein stated.
(Ord. No. 277, § 9, 12-1-92)

Sec. 6.5-5. Accessory buildings.

Nothing herein shall be construed to exclude accessory buildings from the provisions of this chapter.
(Ord. No. 277, § 5, 12-1-92)

Sec. 6.5-6. Interpretation.

The provisions of this chapter shall be liberally construed in favor of the governmental entities affected hereby in order to effectuate the purposes herein stated.
(Ord. No. 277, § 10, 12-1-92)

Sec. 6.5-7. Warning and disclaimer of liability.

The degree of flood protection required herein is considered reasonable for regulatory purposes and is based on scientific studies. Larger floods may occur.

This chapter shall not be deemed to imply that areas inside or outside designated flood hazard areas will be entirely free from flood or flood damages, and shall not create liability on the part of the village commission or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
(Ord. No. 277, § 12, 12-1-92)

Secs. 6.5-8–6.5-15. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 6.5-16. Enforcement.

The municipal official shall administer and enforce the provisions of this chapter within Biscayne Park.
(Ord. No. 277, § 7, 12-1-92)

Sec. 6.5-17. Rules for interpreting district boundaries.

The boundaries of the flood hazard areas shown on the official flood insurance rate map may be determined by scaling distances. Required interpretations of those maps for precise locations of said boundaries shall be made by the municipal official.
(Ord. No. 277, § 8, 12-1-92)

Sec. 6.5-18. Variances.

(a) The village commission shall have the authority and duty to consider and act upon applications for a variance from these regulations for properties located within the incorporated areas of Biscayne Park as hereinafter set forth. The village commission is hereby advised that in granting any variances hereunder, said official shall consider the purposes of the National Flood Insurance Program as specified in Title 44, Code of Federal Regulations. Furthermore, the village commission shall consider the fact that an annual report on variances granted shall be submitted to the National Flood Insurance Administration, which report is the basis for continued availability of flood insurance to the inhabitants of the incorporated areas of Biscayne Park, and therefore variances shall be granted with extreme caution.

(b) The village commission may grant variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions hereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the variance will be in harmony with the general purpose and intent of this chapter and that the same is the min-

imum variance that will permit the reasonable use of the premises. Upon receipt of all necessary information including a staff report, the village commission shall review the information and render a decision, either approving, modifying or denying the request. A copy of said decision shall be published in a newspaper of general circulation. All approvals or modifications shall not be effective until ten (10) days after the village commission's decision is published in a newspaper of general circulation. A courtesy notice containing the decision of the village commission may be mailed to adjacent and abutting property owners of record, their tenants or their agents, that are duly noted on the application. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder.

(c) Variances may be issued by the village commission for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section, except for subsection (d)(12), and provided the proposed reconstruction, rehabilitation, or restoration will not result in the loss of historic designation.

(d) In passing upon all such applications except those pursuant to subsection (c), the village commission, shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that material may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to be located on the waterfront;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the sites.

(11) Upon consideration of the factors listed above, and the purposes of this chapter, the village commission may attach such conditions, limitations, and restrictions to any variance as deemed necessary to further the purposes of this chapter.

(12) Criteria for variances:

a. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary in order not to destroy the historic character and design of the building;

b. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance [would result in hardship] upon or victimization of the public, or conflict with existing local laws or ordinances.

(13) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(14) The village commission shall maintain the records of all variance actions and report any variances to the Federal Emergency Management Agency upon request.

(15) Review and appeal. Review of any decision or action of the village commission pursuant to this chapter shall be to the Dade County Environmental Quality Control Board, in accordance with the procedures set forth in section 24-6 of the Code of Metropolitan Dade County, Florida. Any person aggrieved by any decision of the Dade County Environmental Quality Control Board on an appeal may seek judicial review in accordance with the Florida Rules of Appellate Procedure.

(Ord. No. 277, § 11, 12-1-92)

Secs. 6.5-19—6.5-25. Reserved.

ARTICLE III. DEVELOPMENT STANDARDS

Sec. 6.5-26. Standards for development in a special flood hazard (SFH) area, or area outside of a special flood hazard area.

The municipal official responsible for the administration and enforcement of this chapter shall:

(1) Require development permits for all proposed construction or other improvement within said areas; and

(2) Review permit applications for repairs within said areas to determine that the proposed repair:

a. Uses construction materials and utility equipment which are resistant to flood damage; and
b. Uses construction methods and practices which will minimize flood damage; and

(3) Review permit applications for new construction or substantial improvements within said areas to assure that the proposed construction (including prefabricated and manufactured homes):

a. Is protected against flood damage;
b. Is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure;

c. Uses construction materials and utility equipment which are resistant to flood damage, and also uses construction methods and practices which will minimize flood damage; and

d. Provides in the plans section of the development permit application the appropriate federal flood zone, base flood elevation, crown of road information, and Dade County flood criteria.

(4) Review subdivision proposals and other proposed new developments to assure that:

a. All such proposals are consistent with the need to minimize flood damage; and

b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, or constructed to minimize or eliminate flood damage; and

c. Adequate drainage is provided so as to reduce the exposure to flood hazards; and

(5) Require new or replacement water supply systems and treatment plants and sanitary sewage plants and systems to be designed to minimize or eliminate infiltration of flood waters and discharges from the systems and plants into flood waters, and require on-site waste water disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(6) Require a lowest floor elevation certification or floodproofing certification before tie-beam inspection and after the lowest floor is completed. Upon placement of the lowest floor, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the municipal official said as-built certification as built in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior

to submission of the certification shall be at the permit holder's risk. The municipal official shall review the elevation certification submitted, deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections shall be cause to issue a stop-work order for the project.

(7) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) include within such proposals base flood elevation data, existing grade and crown of adjacent road elevations, and Dade County flood criteria.

(8) Obtain, review and reasonably utilize any base flood elevation available from a federal, state, or other source, including data developed pursuant to subsection (7), as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FIRM meet the standards in this chapter.

(9) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, U.S.C. 1334.

(10) All records pertaining to the provisions of this chapter shall be maintained in the office of the municipal official and shall be open for public inspection.

(11) Review proposed development to assure that:

a. No use shall be made for other than crop, grove, nursery and grazing purposes, or similar uses, and no building of any type shall be constructed, erected upon or moved to any land below the elevation established by the county flood criteria map as adopted by the board of county commissioners, or the back of sidewalk elevation of the road fronting the property, or if there is no sidewalk, the elevation of the crown of road or street abutting such building site, whichever is higher.

b. For uses other than residential requiring a floor, the floor elevation shall be a minimum of four (4) inches above the elevation established by the county flood criteria map, or the back of sidewalk elevation, or if there is no sidewalk, the elevation of the highest crown of road or street abutting such building site, whichever is higher, or if the road has no crown, then the highest edge of cross section of the road shall apply. For all residential uses, the floor elevation shall be a minimum of eight (8) inches above the elevation established by the county flood criteria map, or the back of sidewalk elevation, or if there is no sidewalk, the elevation of the highest crown of road or street abutting such building site, whichever is higher, or if the road has no crown, then the highest edge of cross section of the road shall apply.

c. In all cases and for all uses, when the property is located in a special flood hazard area, as determined by the Flood Insurance Rate Map for Biscayne Park, Florida, the floor elevation obtained as above described, shall be compared against the base flood elevation shown on the flood insurance rate map and the higher of the two (2) shall be used for design and construction.

d. The provisions of this subsection shall not apply to off-street parking facilities constructed underground and other similar types of below grade areas within a building which are not lowest floor and contain neither electrical nor mechanical equipment. All such facilities constructed below grade shall be designed and constructed and contain essential equipment, if necessary, to prevent infiltration and accumulation of water or to provide for immediate and continuous elimination of water. A Florida registered engineer or architect shall submit data and a floodproofing certificate to assure that the design complies with all guidelines of section 6.5-4(b).

(12) If in the review of a development application within the incorporated area of Biscayne Park, it is determined that in the application of the provisions of this subsection the applicant would be otherwise required to provide flood pro-

tection in excess of the requirements of this chapter, then it shall be the responsibility and authority of the municipal official, or his designee, to review such plans and may grant a variance to the requirements of this subsection to provide flood protection which is no less than the flood protection required by this chapter based upon good engineering practice. Said decision shall be subject to appeal in accordance with section 6.5-18(d)(15).

Sec. 6.5-27. Standards for development within special flood hazard (SFH) areas.

(a) No new construction or substantial improvement of any residential structure or manufactured home shall be permitted in SFH areas, and no development permit referred to in section 6.5-26 of this chapter shall be issued therefor, unless said new construction or substantial improvement has the lowest floor (including basement) elevated to or above the level of the regulatory flood (100-year flood). Electrical, plumbing and other attendant utilities are prohibited below the base flood elevation.

(b) No new construction or substantial improvement of any nonresidential structure shall be permitted in SFH areas, and no development permit referred to in section 6.5-26 of this chapter shall be issued therefor, unless said development has the lowest floor (including basement) elevated to or above the level of the base flood (100-year flood). If the lowest permitted floor level of such nonresidential structure (including basement) is below the regulatory flood level then such nonresidential structure together with attendant utility and sanitary facilities shall be floodproofed to one (1) foot above the level of the base flood; provided that the lowest floor level of such nonresidential structure (including basement) shall be not more than ten (10) feet below the base flood level. Where floodproofing is utilized for a particular structure, a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depth, pressures, velocities, impact and uplift forces associated with the base flood, and a record of such certificates indicating the specific elevation (in relation to mean sea level) to which such structure is floodproofed shall be maintained with the designated official.

(c) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in new manufactured home parks, in substantially improved manufactured home parks, shall meet all of the requirements for "new construction", including elevation and anchoring as found in subsection (a).

(d) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision shall be elevated so that:

(1) The lowest flood of the manufactured home is elevated no lower than the level of the base flood elevation; or

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than thirty-six (36) inches in height above grade.

(3) The manufactured home shall be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) In an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved shall meet the standards of subsection (a).

(e) All recreational vehicles placed within this area shall either:

(1) Be fully licensed and ready for highway use; or

(2) The recreational vehicle shall meet all the requirements for new construction, including anchoring and elevation requirements of subsection (c).

(3) Be on the site for fewer than one hundred eighty (180) consecutive days. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by disconnect type utilities and security devices and has no permanently attached structures.

(f) Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundations and other exterior walls below the base flood elevation shall be designed to preclude finished living space except allowable uses i.e. parking, limited storage and building access and shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either meet the following minimum criteria or be certified by a professional engineer or architect:

(1) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(2) The bottom of all openings shall be no higher than one (1) foot above grade; and

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;

Electrical, plumbing, and other utility connections are prohibited below the base flood elevation.

Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), (standard exterior door), or entry to the living area (stairway or elevator); the interior portion of such enclosed area shall not be partitioned or finished into separate rooms or air conditioned.
(Ord. No. 277, § 4, 12-1-92)

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Chapter 7

GARBAGE AND REFUSE*

(Reserved)

***Editor's note**—Ord. No. 256, § 2, adopted Apr. 17, 1990, provided that the land use regulations code, App. A, supersedes Ch. 7; hence, such chapter has been deleted. Prior to deletion, substantive sections of Ch. 7, §§ 7-16—7-24, 7-36, pertained to garbage and refuse and were derived from Ord. No. 151, § 1, adopted May 8, 1968; Ord. No. 188, §§ 1—8, adopted Sept. 5, 1978; Ord. No. 202, § 1, adopted Sept. 2, 1980; and Ord. No. 230, §§ 1, 2, adopted Sept. 3, 1985.

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Chapter 8

HEALTH AND SANITATION*

(Reserved)

***Editor's note**—Ord. No. 256, § 2, adopted Apr. 17, 1990, provided that the land development regulations code, App. A to this volume, supersedes Ch. 8; hence, the substantive sections of Ch. 8, §§ 8-16—8-18 pertaining to weeds, wild growth and rubbish, derived from Ord. No. 85, §§ 1, 2, adopted Apr. 3, 1945, have been deleted.

Chapter 9

JUNKED, WRECKED ABANDONED PROPERTY*

Art. I. In General, §§ 9-1—9-15
Art. II. Abandoned Property, §§ 9-16—9-40
Art. III. Junked Property, §§ 9-41—9-43

ARTICLE I. IN GENERAL

Secs. 9-1—9-15. Reserved.

ARTICLE II. ABANDONED PROPERTY

Sec. 9-16. Definition of abandoned property.

As used in this article, abandoned property means any article of personalty which lacks evidence of ownership.
(Ord. No. 196, § 2(a), 9-20-79)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 9-17. Criteria to determine abandoned property.

(a) The following criteria shall be considered to determine if an article of personalty is abandoned property:

(1) The condition of the property; whether it has value other than nominal salvage value; whether it is in sufficient repair, able to perform its intended function and shall include derelict, inoperable, or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing and drying machines, plumbing fixtures, or any other similar article. With respect to a motor vehicle, evidence under

*Cross references—Garbage and refuse, Ch. 7; health and sanitation, Ch. 8; Streets, sidewalks and other public places, Ch. 14; traffic and vehicles, Ch. 17.

State law references—Seized, abandoned, wrecked or derelict property, F.S. Ch. 705; reporting of unclaimed motor vehicles, F.S. § 715.05.

this subsection shall include absence of current license tag, decal or registration;

(2) Evidence that the personalty has been involved in a collision or other incident during which physical damage was incurred to the property which has not been repaired;

(3) Evidence of being derelict and left for junk. With respect to a motor vehicle, evidence under this subsection shall include removed or flat tires, partial or complete dismantling or removal of parts, broken glass, missing major parts such as lights, doors, trunk covers, hoods, or motor parts essential for the lawful, safe operation of the vehicle, or other signs of substantial deterioration;

(4) Evidence that the personalty has been derelict and left unprotected from the elements. Evidence under this subsection shall include growth of vegetation about the personalty, direct exposure to the elements, the positioning of the personalty in other than an upright or operable manner, and vandalism;

(5) The length of time the personalty has remained in its present location.

(b) All of the above criteria which are relevant to the particular personalty shall be considered in determining whether the property is abandoned; no one criterion being conclusive.

(c) Property which is abandoned shall also be deemed junk.

(d) Personalty in a garage or in a carport shall not be construed as abandoned.

(Ord. No. 196, § 2(a), 9-20-79)

Sec. 9-18. Abandoned property on public property; notice.

(a) Whenever the enforcement officer ascertains that an article of abandoned property is present on public property, he shall cause a notice to be placed upon such article in substantially the following form:

NOTICE TO THE OWNER OR THE AUTHORIZED AGENT OF THE OWNER OF THE ATTACHED PROPERTY.

This property, to wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief

description of location) and must be removed within ten (10) days from the date of this notice; otherwise it shall be presumed to be abandoned property and will be removed and destroyed by order of the Village of Biscayne Park. You may within ten (10) days from the date of this notice, request an opportunity to show cause for your failure to remove this property by writing to the mayor, Village of Biscayne Park, 640 N.E. 114th Street, Biscayne Park, Florida 33161. Dated this: (setting forth the date of posting of notice). Signed: (setting forth name, title, address and telephone number of enforcement officer).

(b) Such notice shall be not less than eight (8) inches by ten (10) inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition, at the time of posting, the enforcement officer shall make a reasonable effort to ascertain the name and address of the last owner of said personalty. If the name and address is obtained by the officer, he shall mail, via certified mail, a copy of such notice to the last owner. (Ord. No. 196, § 2(d), 9-20-79)

Sec. 9-19. Failure to remove; hearing.

(a) If at the end of ten (10) days after posting such notice or in the case where notice is mailed ten (10) days after mailing, the owner or the authorized agent of the owner of the abandoned article described in such notice has not removed the article from public property or requested an opportunity to show reasonable cause for failure to do so, the enforcement officer may cause the article of abandoned property to be removed and destroyed, and the salvage value, if any, of such article may be retained by the village to be applied against the cost of removal and destruction thereof.

(b) Reasonable cause shall be determined by the mayor or his designee, at a hearing on the matter if requested in writing by the owner within ten (10) days after notice has been posted on the article or mailed to the last owner, whichever is later. The request shall make reference to the number on the notice which was posted on the personalty. The hearing shall be conducted pursuant to the procedures set forth in Section 19-6 of the Code of

Metropolitan Dade County except that written request for the hearing must be made within the time herein set forth.

(c) If reasonable cause for failure to remove the article has been demonstrated, the article shall not be subject to removal and destruction as abandoned property.
(Ord. No. 196, § 2(d), 9-20-79)

Sec. 9-20. Abandoned property on private property.

Whenever the enforcement officer finds an article of abandoned property on private property, he shall institute proceedings under Chapter 19 of the Code of Metropolitan Dade County. In addition, the enforcement officer shall cause a notice to be placed upon such article in the form prescribed in section 9-18. In addition, he shall make reasonable efforts to ascertain the name and address of the last owner and the owner of the private property on which the personalty is found. If the name and address is obtained by the officer, he shall mail, via certified mail, a copy of such notice to the last owner.
(Ord. No. 196, § 2(e), 9-20-79)

Sec. 9-21. Failure to remove, notice.

If within ten (10) days after posting or in the case where notice is mailed ten (10) days after mailing, the owner of the personalty or the authorized agent of the owner of the personalty other than the owner of the private property on which the personalty is located, notifies the mayor in writing, pursuant to the notice, proceedings under Chapter 19 shall cease and hearings to show reasonable cause shall commence as set forth in section 9-19(b).
(Ord. No. 196, § 2(e)(1), 9-20-79)

Sec. 9-22. Enforcement.

The chief of police shall be the enforcement officer who shall be responsible for the removal of abandoned property. He shall cooperate with the building and zoning inspector in his efforts to require owners of public nuisances to cease violation of applicable zoning provisions.
(Ord. No. 196, § 2(b), 9-20-79)

Sec. 9-23. Obstruction of enforcement prohibited.

Whoever opposes, obstructs or resists the enforcement officer or other person authorized by the enforcement officer in the discharge of his duty as provided in this chapter is prohibited.
(Ord. No. 196, § 2(b), 9-20-79)

Sec. 9-24. Removal assistance.

If the enforcement officer is unable to successfully remove any property subject to seizure under this chapter, the enforcement officer may secure the assistance of the police department to effect the removal of the property.
(Ord. No. 196, § 2(f), 9-20-79)

Sec. 9-25. Compliance.

Upon a showing of good cause, and demonstration of a plan for compliance with the provisions of this chapter being violated or with provisions of Florida Statutes being violated, the enforcement officer may extend the time for compliance or removal, provided the enforcement officer finds that the granting of any such extension of time will not in any way endanger the health, safety, welfare and morals of the public at large, or of the owners and occupants of the property upon which such abandoned vehicles are located.
(Ord. No. 196, § 2(g), 9-20-79)

Secs. 9-26—9-40. Reserved.

ARTICLE III. JUNKED PROPERTY*

Sec. 9-41. Definition of junk.

The word "junk" is hereby defined to mean old and dilapidated automobiles, trucks, tractors and other such vehicles and parts thereof, wagons, and other kinds of vehicles and parts thereof,

*State law reference—Automobile junk yards, F.S. § 339.241.

scrap building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, etc., piping, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed within the village.
(Ord. No. 13, § 1, 2-18-32)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 9-42. Junk on lots prohibited.

It shall be unlawful for any person to store, place, keep, handle or display any articles of junk on any lot in any yard or upon any premises or in or on any place within the village.
(Ord. No. 13, § 2, 2-18-32)

Sec. 9-43. Rules and regulations.

The mayor is hereby authorized and empowered to prescribe in conjunction with the director of public works such rules and regulations to carry out and put in full force and effect the intent and purpose of this article, and such rules and regulations as may be necessary to safeguard the public health, peace, welfare and safety of the citizens of the village against any nuisance or damage to life or property which may arise in the storing, placing, keeping, handling or displaying of any kind of junk.
(Ord. No. 13, § 4, 2-18-32)

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Chapter 10

NOISE*

Sec. 10-1. Offensive noise prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be loud, excessive, unnecessary or unusual noises in violation of this chapter, but this enumeration shall not be deemed to be exclusive:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street or public place of the village, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.

(2) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntarily listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

***Cross references**—Administration, Ch. 2; health and sanitation, Ch. 8; streets, sidewalks and other public places, Ch. 14; subdivisions, Ch. 15; zoning, Ch. 18.

State law reference—Motor vehicle noise, F.S. §§ 403.415, 316.293.

(3) *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(4) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

(5) *Other noises.* Any noise between the hours of 11:00 p.m. and 7:00 a.m. which disturbs the peace and quiet of the neighborhood; any continuous noise that is plainly audible at a distance of one hundred (100) feet shall be prima facie evidence of a violation of this section.

(Ord. No. 138, § 1, 2-3-59)

Cross reference—Excessive barking of dogs prohibited, § 3-21.

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Chapter 11

OFFENSES AND MISCELLANEOUS PROVISIONS*

Art. I. In General, §§ 11-1—11-20
Art. II. Registration of Certain Persons, §§ 11-21—11-24

ARTICLE I. IN GENERAL

Sec. 11-1. Adoption of state law misdemeanors.

It shall be unlawful to commit within the village any act which is or shall be recognized by the laws of the State of Florida as a misdemeanor, and the commission of such acts is hereby forbidden.
(Ord. No. 4, § 1, 1-28-32)

Case annotation—A municipality may enact an ordinance creating an offense against municipal law for the same act constituting an offense in state law. *Jaramella v. City of Homestead,* 322.So.2d 496 (1975).

A municipality may adopt by ordinance state law misdemeanor statutes by specific or general reference. Rd.

Adoption of state law misdemeanors by reference includes laws both in existence at the time and those later adopted by the state legislature, *State v. Smith,* 189.So.2d 846.

Sec. 11-2. Posting on or defacing trees, poles or traffic signs prohibited.

It shall be unlawful for any person to post, paint, print, nail, stick or tack advertising matter, signs, pictures, et cetera, upon trees, utility poles or traffic signs or to deface them in any manner whatsoever.
(Ord. No. 5, § 1, 1-28-32)

Cross references—Signs, Ch. 18, art. VI; streets, sidewalks and other public places, Ch. 14; traffic and vehicles, Ch. 17.

Sec. 11-3. Cruelty to police department dogs prohibited.

It shall be unlawful for any person to willfully or maliciously tease, torture, torment, injure, disable or kill any dog used by the police department of the village in the performance of the func-

*Cross reference—Administration, Ch. 2.

tions or duties of such department or to meddle with or interfere with any such dog while being used by the department or any member thereof in the performance of any of the functions or duties of the department.
(Ord. No. 147, § 1, 7-1967)

Cross reference—Animals, Ch. 3.

Sec. 11-4. Injuring public property prohibited.

It shall be unlawful to wantonly, wilfully or maliciously mar, deface, injure or mutilate the village hall or any other municipal building, the fence, trees or grounds, or cause the same to be done.
(Ord. No. 26, 2-26-36)

Cross reference—Streets, sidewalks and other public places, Ch. 14.

Secs. 11-5—11-20. Reserved.

ARTICLE II. REGISTRATION OF CERTAIN PERSONS*

Sec. 11-21. Peddlers and solicitors required to register.

All peddlers and solicitors are required to register prior to engaging in soliciting in the village in a book of registration to be kept by the chief of police and to be fingerprinted and photographed.
(Ord. No. 104, § 1, 12-7-48)

Sec. 11-22. Cards to be issued.

Identification cards shall be issued to each such person so registering, which identification card shall be renewed by the holder thereof each twenty-four (24) months thereafter by reregistration as above set forth.
(Ord. No. 104, § 2, 12-7-48)

Sec. 11-23. Fee.

For the purpose of defraying the expense of enforcement, a sum as set by resolution on file in the clerk's office shall be paid for each such identification card or renewal thereof.
(Ord. No. 104, § 3, 12-7-48)

***Cross reference**—Administration, Ch. 2.
State law reference—Registration of felons, F.S. § 775.13.

Sec. 11-24. Notice of change of address.

All holders of identification cards shall notify the police department of a change of address within twenty-four (24) hours. (Ord. No. 104, § 4, 12-7-48)

Secs. 11-25—11-40. Reserved.

ARTICLE III. GARAGE SALES*

Sec. 11-41. Compliance required.

No garage sale, as defined in section 11-42, shall be held within the limits of the village except as provided in this article. (Ord. No. 258, § 1, 5-1-90)

Sec. 11-42. Defined.

A "garage sale" is defined as the sale of the owners' or lessees' used personal property from a residence, apartment, or other parcel of property upon which a structure is located, as zoned in accordance with the applicable zoning ordinances of the village, provided this article shall not apply to the following:

(1) Sale of items of the owner's or lessee's personal property not in excess of five (5) in number, which items are specifically named or described in the advertisement thereof.

(2) Sale of items by nonprofit organizations.

(3) Sale of the owner's or lessee's personal property pursuant to an order or process of court of competent jurisdiction.

(Ord. No. 258, § 2, 5-1-90)

Sec. 11-43. Permit required.

No garage sale shall be conducted until the person desiring to conduct the same shall obtain a permit from the village clerk.

***Editor's note**—Ord. No. 258, §§ 1—8, adopted May 1, 1990, enacted provisions pertaining to garage sales. Such provisions have been included herein as Art. III, §§ 11-41—11-48, at the discretion of the editor.

Only the owner, lessee of the property, and nonprofit organizations may obtain such permit.
(Ord. No. 258, § 3, 5-1-90)

Sec. 11-44. Application for permit.

Before such permit shall be issued, the applicant shall file with the village clerk a written statement containing the following information:

(1) Property address where sale is to be conducted.

(2) Date(s) of sale.

(3) Hour(s) of sale.

(4) Example of sign proposed.
(Ord. No. 258, § 4, 5-1-90)

Sec. 11-45. Permit issuance, fee.

Upon verification of the right of applicant to conduct such sale in compliance with this article, the village clerk shall issue a permit which shall designate the day(s) on which such sale(s) shall be made, upon payment of a fee of five dollars ($5.00).
(Ord. No. 258, § 5, 5-1-90)

Sec. 11-46. General restrictions.

The following restrictions shall apply to all garage sales:

(1) During such sale, no personal property may be exhibited or displayed beyond the front property line of the property as established by applicable building and zoning regulations of the village.

(2) No sale shall be held prior to 9:00 a.m. or extend beyond 5:00 p.m. of the day of sale.

(3) [Signs shall be] removed within twenty-four (24) hours of sale and in accordance with sign ordinance.

(4) No more than three (3) garage sales shall be held by the same owners or lessees from the same property within any calendar year.

(5) No more than two (2) consecutive days shall be permitted for the one (1) garage sale.

(6) The permit to conduct the garage sale shall be prominently displayed from the front of the building from which such sale is conducted. Upon the request of any police officer or the building official of the village, the owner or lessee of the property shall exhibit such permit.

(Ord. No. 258, § 6, 5-1-90)

Sec. 11-47. Authority to enter.

By making application for a garage sale permit, accepting such permit and conducting such sale, the owner(s) or lessee(s) of the property to whom such permit is granted, authorizes any police officer or building official of the village to enter upon the property for the purpose of determining that such sale is being conducted in accordance with the provisions of this article and of enforcing the same.

(Ord. No. 258, § 7, 5-1-90)

Sec. 11-48. Penalty for violation of article.

Violation of this article shall be punishable by a fine not to exceed two hundred fifty dollars ($250.00).

(Ord. No. 258, § 8, 5-1-90)

Secs. 11-49–11-55. Reserved.

ARTICLE IV. AUTOMATIC ALARM SYSTEMS

DIVISION 1. GENERALLY

Secs. 11-56–11-65. Reserved.

DIVISION 2. BURGLAR ALARMS*

Sec. 11-66. Definitions.

[As used in this division, the following words and terms shall have the meaning ascribed thereto:]

Alarm system means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of illegal entry or other activity requiring urgent attention and to which the police department is expected to respond, but does not include alarms installed in conveyance of fire alarms.

Alarm user means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof wherein an alarm system is maintained.

False alarm means an alarm signal eliciting a response by the police when a situation requiring a response by the police does not in fact exist, but this definition does not include an alarm signal caused by unusually violent conditions of nature nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user.
(Ord. No. 259, § 1, 5-1-90)

Sec. 11-67. Information required by police department; failure to file and maintain.

(a) A burglar alarm user shall file the following information with the Biscayne Park Police Department:

(1) Name of an individual authorized to enter the premises and deactivate the alarm;

(2) Emergency telephone numbers;

(3) Name and telephone number of the alarm company monitoring the alarm;

***Editor's note**—Ord. No. 259, §§ 1–7, adopted May 1, 1990, pertaining to burglar alarm systems, did not specify manner of codification, but has been included by the editor as Div. 2, §§ 11-66–11-72.

(4) Name and telephone number of the alarm company that installed the system; and

(5) Name and address of the alarm user.

(b) This information must be kept current and failure to update this information within forty-eight (48) hours of any change constitutes a violation of this section.
(Ord. No. 259, § 2, 5-1-90)

Sec. 11-68. Equipment required.

A burglar alarm system must be equipped with:

(1) A backup power supply in the event of power failure; and

(2) A device that automatically silences the alarm within fifteen (15) minutes after activation.
(Ord. No. 259, § 3, 5-1-90)

Sec. 11-69. Automatic reset.

All alarm systems will have an automatic reset which silences the annunciator within fifteen (15) minutes after activation and which will not sound again as a result of the same event that resulted in the original activation.
(Ord. No. 259, § 4, 5-1-90)

Sec. 11-70. Response by police department; report of false alarm.

(a) Whenever an alarm is activated in the village, thereby requiring response to the location by the police department, and the police department does respond, a police officer on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

(b) If the police officer at the scene of the activated alarm system determines the alarm to be false, the officer shall make a report of the false alarm, a notification of which shall be mailed or de-

livered to the alarm user, at the address of the alarm system installation location, advising the alarm user of the false alarm.
(Ord. No. 259, § 5, 5-1-90)

Sec. 11-71. False alarms prohibited.

No burglar alarm user shall cause, allow, or permit its burglar alarm system to give four (4) or more false alarms in any calendar year.
(Ord. No. 259, § 6, 5-1-90)

Sec. 11-72. Penalties for violations.

(a) For the first violation of section 11-67 or 11-68 there shall be a fine of twenty-five dollars ($25.00).

(b) For the second and each additional violation of section 11-67 or 11-68 the fine shall be fifty dollars ($50.00).

(c) For the fourth false burglar alarm in one (1) calendar year, there shall be a fine of twenty-five dollars ($25.00).

(d) For the fifth false burglar alarm in one (1) calendar year, the fine shall be fifty dollars ($50.00).

(e) For the sixth and each additional false burglar alarm in one (1) calendar year, the fine shall be one hundred dollars ($100.00).

(f) An alarm user shall not be fined more than one hundred dollars ($100.00) for false alarms that occur at the same premises in any twenty-four (24) hour period.
(Ord. No. 259, § 7, 5-1-90)

Chapter 12

PLANNING AND DEVELOPMENT*

(Reserved)

***Editor's note**—Formerly, Ch. 12, planning and development, contained substantive provisions designated as Art. II, planning board, §§ 12-16—12-20; derived from Ord. No. 23, §§ 1, 2, adopted Feb. 20, 1935; and Art. III, local planning agency, §§ 12-36—12-40, derived from Ord. No. 177, §§ 1—6, adopted June 1, 1976. Such provisions have been deleted pursuant to Ord. No. 256, § 2, adopted Apr. 17, 1990, which provided that the land use development regulation code (App. A to this volume) supersedes Ch. 12.

Chapter 13

RETIREMENT AND PENSIONS*

Art. I. In General, §§ 13-1—13-15
Art. II. Federal Old Age and Survivor's Insurance, §§ 13-16—13-35
Art. III. Florida Retirement System, §§ 13-36—13-41

ARTICLE I. IN GENERAL

Secs. 13-1—13-15. Reserved.

ARTICLE II. FEDERAL OLD AGE AND SURVIVOR'S INSURANCE†

Sec. 13-16. Adopted.

It is hereby declared to be the policy and purpose of the village to extend, effective as of August 1, 1973, or on such other date as the village's membership in the Florida Retirement System shall become effective to the employees thereof not excluded by law nor excepted herein, and whether employed in connection with a governmental or proprietary function, the benefits of the system of Old Age and Survivor's Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734 of 81st Congress, and by F.S. Chapter 650, and to cover by such plan all services which constitute employment as defined in section 650.02, performed in the employ of the village by employees thereof, except:

(1) Service of an emergency nature;

(2) Service in all classes of elective positions;

(3) Service in part-time positions; and

(4) Service in positions the compensation for which is on a fee basis.

(Ord. No. 122, § 1, 1-4-55; Ord. No. 164, § 1, 7-3-73)

***Cross reference**—Administration, Ch. 2; officers and employees, Ch. 2, art. IV.

†**State law reference**—Social security for public employees, F.S., Ch. 650.

Sec. 13-17. Agreements.

The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the State Department of Administration, Division of Retirement, as state agency for the purpose of extending the benefits provided by the system of Old Age and Survivor's Insurance to the employees of the village as provided in section 13-16 hereof, which agreement shall provide for such methods of administration of the plan by the village as are found by the state agency to be necessary for the proper and efficient administration thereof, and shall be effective with respect to services in employment covered by such agreement performed after the 1st day of August 1973, or on other such date as the village's membership in the Florida Retirement System shall become effective.
(Ord. No. 122, § 2, 1-4-55; Ord. No. 164, § 2, 7-3-73)

Sec. 13-18. Withholding.

Withholdings from salaries, wages, or other compensation of employees for the purpose provided in section 13-16 hereof are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by the laws or regulations to receive such amounts.
(Ord. No. 122, § 3, 1-4-55)

Sec. 13-19. Appropriation.

There shall be appropriated from available funds, derived from general ad valorem taxation, such amounts, at such times, as may be required to pay promptly the contributions and assessments required of the village as employer by applicable state or federal laws or regulations, which shall be paid over to the lawfully designated state agency at the times and in the manner provided by law and regulation.
(Ord. No. 122, § 4, 1-4-55)

Sec. 13-20. Records.

The village shall keep such records and make such reports as

may be required by applicable state or federal laws or regulations, and shall adhere to the regulations of the state agency.
(Ord. No. 122, § 5, 1-4-55)

Sec. 13-21. Adoption of terms.

The village does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining, of Title II of the Social Security Act as amended by Public Law, No. 734, 81st Congress, for and on behalf of all employees thereof and of its departments and agencies, save and except any of such employees now covered or authorized to be covered by any retirement system provided by law, and further excepting any employee who occupies any position, office, or employment not authorized to be covered by applicable state or federal laws or regulations, or whose service is specifically excepted in section 13-16.
(Ord. No. 122, § 7, 1-4-55)

Sec. 13-22. Custodian of funds.

The village clerk is hereby designated the custodian of all sums withheld from the compensation of employees and of the appropriated funds for the contribution of the village, and is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purposes of this article.
(Ord. No. 122, § 8, 1-4-55)

Secs. 13-23—13-35. Reserved.

ARTICLE III. FLORIDA RETIREMENT SYSTEM

Sec. 13-36. Mandatory participation.

All officers and employees hired on and after the 14th day of May, 1973 shall be compulsory members of the Florida Retirement System as of the effective date of participation in the Florida Retirement System so stated herein.
(Ord. No. 165, § 1, 7-3-73)

Sec. 13-37. Agreements.

The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the department of administration for the purpose of extending the benefits provided by the Florida Retirement System to the employees and officials of the village as provided in section 13-36, which agreement shall provide for such methods of administration of the plan by the village as are found by the administrator of the Florida Retirement System to be necessary and proper, and shall be effective with respect to any employment covered by such agreement for services performed on and after the 1st day of August, 1973.
(Ord. No. 165, § 2, 7-3-73)

Sec. 13-38. Appropriation.

There shall be appropriated from available funds derived from general ad valorem taxation such amounts and at such times as may be required to pay promptly the contributions and assessments required of the village which shall be paid over to the lawfully designated administrator of the Florida Retirement System at the times and in the manner provided by law and regulation.
(Ord. No. 165, § 4, 7-3-73)

Sec. 13-39. Records.

The village shall keep such records and make such reports as may be required by applicable state laws or regulations, and shall adhere to all law and regulations relating to the Florida Retirement System.
(Ord. No. 165, § 5, 7-3-73)

Sec. 13-40. Adoption of terms.

The village does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges and other conditions thereunto appertaining of the Florida Retirement System for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement.
(Ord No. 165, § 6, 7-3-73)

Sec. 13-41. Custodian of funds.

The village clerk is hereby designated the custodian of all sums appropriated for the employer's contributions as provided in section 13-38 hereof. The village clerk is hereby designated the withholding and reporting agent and charged with the duty of maintaining records for the purposes of this article.
(Ord. No. 165, § 7, 7-3-73)

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Chapter 14

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

(Reserved)

***Editor's note**—Ord. No. 256, § 2, adopted Apr. 17, 1990, provided that the land development regulations code, App. A, supersedes Ch. 14; hence, substantive provisions of such chapter, §§ 14-16—14-19 which pertained to streets, have been deleted. Prior to deletion, such sections were derived from Ord. No. 159, §§ 2, 3, adopted May 4, 1971, and Ord. No. 162, §§ 1, 3, adopted July 3, 1973.

Chapter 15

SUBDIVISIONS*

(Reserved)

***Editor's note**—Ch. 15, subdivisions, formerly contained substantive §§ 15-1—15-3, derived from Ord. No. 86, §§ 1, 2, adopted May 1, 1946. Such provisions have been deleted pursuant to Ord. No. 256, § 2, adopted Apr. 17, 1990, which provided that the land development regulations code, App. A, supersedes Ch. 15.

Chapter 16

TAXATION*

Art. I. **In General, §§ 16-1–16-10**
Art. II. **Public Service Taxes, §§ 16-11–16-24**
Div. 1. Generally, §§ 16-11–16-15
Div. 2. Electricity, Metered and Bottled Gas, §§ 16-16–16-30
Div. 3. Telecommunications, §§ 16-31–16-36

ARTICLE I. IN GENERAL

Secs. 16-1–16-10. Reserved.

ARTICLE II. PUBLIC SERVICE TAXES†

DIVISION 1. GENERALLY

Secs. 16-11–16-15. Reserved.

DIVISION 2. ELECTRICITY, METERED AND BOTTLED GAS

Sec. 16-16. Levy; billing.

(a) There is hereby levied and imposed by the village upon each and every purchase of electricity, metered gas and bottled gas, to the purchaser and a tax not in excess of ten (10) percent of the payment received by the seller of the taxable item from the purchaser of such service. The initial rate shall be eight (8) percent. Thereafter, such tax shall be set by commission resolution after a public hearing.

(b) The tax imposed shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on

*Cross reference—Administration, Ch. 2.

State law references—Ad valorem taxation, F.S. Ch. 193 et seq.; public service tax, F.S. § 166.231 et seq.; occupational license tax, F.S. Ch. 205.

†State law reference—Public service taxes, F.S. § 166.231 et seq.

each bill. The term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.
(Ord. No. 155, § 1, 9-2-69; Ord. No. 156, § 5, 10-8-69; Ord. No. 161, § 2, 9-5-72; Ord. No. 273, § 1, 7-7-92)

Sec. 16-17. Payment of tax.

(a) The purchaser is hereby required and it shall be his duty hereunder to pay such excise tax to the seller as agent for the village at the time of the payment of each such bill.

(b) If the purchaser shall fail, neglect or refuse to pay such excise tax to the seller when such bill becomes due and payable, the seller is hereby empowered to discontinue forthwith to make any further sales or to render any further service to the purchaser until the amount including such excise tax, shown upon such bill shall have been paid in full.

(c) The seller is hereby authorized and required and it shall be his duty hereunder to collect such excise tax from such purchaser at the time of the payment of each such bill and to remit the same to the clerk of the village.

(d) The seller shall have the right and privilege of assuming and paying such excise tax himself in lieu of collecting the same from the purchaser.

(e) Whenever the seller shall fail or neglect to collect such excise tax from the purchaser as hereinbefore provided, the seller shall be deemed to have assumed such excise tax himself and shall thereupon become liable for the payment of the amount thereof to the village to the same extent as if such excise tax had been collected from the purchaser. The seller shall not be liable for the payment of such tax upon uncollected charges.
(Ord. No. 156, § 2, 10-8-69)

Sec. 16-18. Reserved.

Editor's note—Formerly, § 16-18 pertained to tax on local telephone service, as derived from Ord. No. 156, § 3, adopted Oct. 8, 1969. Such section has been deleted as being superseded by provisions of Ord. No. 272, set forth as Div. 3, §§ 16-31 et seq., of this chapter.

Sec. 16-19. Exemptions.

Excise tax shall be excluded on any agency or instrumentality of the United States Government, State of Florida, Dade County, or the village or those governmental bodies exempt by general law. In addition, any recognized church in the state shall be exempt when the purchase is used exclusively for church purposes. (Ord. No. 156, § 6, 10-8-69; Ord. No. 273, § 1, 7-7-92)

State law reference—Exemptions, F.S. § 166.231(3)–(5).

Sec. 16-20. Sworn statement by seller.

Every seller is hereby required to execute and file not later than the 20th day of each month at the office of the clerk of the village, a sworn statement on a form prescribed by that office, setting forth the amount of such excise tax to which the village becomes entitled under the provisions of this article on account of bills paid by purchasers during the preceding fiscal month, and contemporaneously with the filing of the statement, shall pay the amount of such excise tax to the clerk to be deposited to the credit of the general fund of the village for utilization for such legal purposes as the commission may from time to time determine. (Ord. No. 155, § 2, 9-2-69)

Sec. 16-21. Accounting.

Every seller is hereby required to establish and to maintain appropriate accounts and records showing in such detail as the commission may prescribe the amount of such excise tax payable to the village under the provisions of this article, and such accounts and records shall be open to inspection by the commission or its authorized agent at all reasonable times.

Sec. 16-22. Rules and regulations.

The commission is hereby authorized and empowered to promulgate from time to time such rules and regulations with respect to the establishment and maintenance of the accounts and records as he may deem necessary to carry into effect the purpose and intent of the provisions of this article. (Ord. No. 155, § 3, 9-2-69)

Sec. 16-23. Expenses of collection.

All reasonable expense incurred by a seller in making the collections and remittances and in fulfilling the duties prescribed by sections 16-16 et seq. is hereby declared to be and to constitute an operating establishment of rates and charges for rendering electric, metered gas or bottled gas, in the village.
(Ord. No. 155, § 4, 9-2-69)

Sec. 16-24. Refusal to pay unlawful.

It shall be unlawful and a violation of this article for any purchaser to evade the payment of such excise tax or of any part thereof or to fail or neglect to pay such excise tax within thirty (30) days after the same has become due and payable or for any seller to fail or refuse to pay to the village all amounts of excise tax payable to the village by the seller hereunder; to fail or refuse to file the monthly sworn statement; to set forth any erroneous or false information therein with intent to defraud the village or to refuse to permit the commission or their duly authorized agent to examine the accounts and records to be kept as required by section 16-21.
(Ord. No. 155, § 5, 9-2-69)

Secs. 16-25–16-30. Reserved.

DIVISION 3. TELECOMMUNICATIONS*

Sec. 16-31. Definitions.

(a) *Telecommunication services* means purchases within the village of telecommunication services, as defined in Section 203.012 (5) Florida Statutes, which originate and terminate in the State of Florida, excluding public telephone charges collected on site, access charges, any customer access, line charges paid to a local telephone company, and interstate toll charges billed to a telephone company other than the originating or terminating telephone number located within the municipality, provided pur-

*Editor's note—Ord. No. 272, § 1, adopted July 7, 1992, enacted provisions pertaining to a telecommunications tax. Such provisions have been designated by the editor as Div. 3, §§ 16-31–16-36.

chases of cellular mobile telephone or telecommunication service specialized mobile radio and pager and paging service, including but not limited to "beeper" and any other forms of mobile and portable one-way or two-way communications within Village of Biscayne Park of telecommunications services, as defined by said Section 203.012 (5) (b) of Florida Statutes 1988, shall be taxed only on the monthly recurring customer service charges excluding variable usage charges.

(b) *Purchase within Village of Biscayne Park* means a purchase is within Village of Biscayne Park if the communication originates or terminates within Village of Biscayne Park and is billed to a purchaser telephone or telephone number or telecommunications number or device, or a customer whose billing address is within Village of Biscayne Park.
(Ord. No. 272, § 1, 7-7-92)

Sec. 16-32. Levy, collection.

The tax hereby levied and imposed by Village of Biscayne Park upon every purchase in Village of Biscayne Park of telecommunications services and comparable services, which tax shall be determined as follows:

(1) The tax shall be levied only upon purchases within Village of Biscayne Park in the amount of seven (7) percent of the payments received by the seller of the taxable telecommunication services from the purchaser for the purchase of such service within the Village of Biscayne Park. Services comparable with these enumerated above shall be taxed on a comparable basis at the same rates.

(2) When the seller, in accordance with its rules and regulations, renders a bill to the purchaser for purchases made during the period of time to which the bill is applicable, the amount of the tax shown on the bill shall be exclusive of other governmental charges and taxes, shown only on such purchases, for the total amount.

(3) The purchaser is required to pay the public utility tax to the seller, as agent for Village of Biscayne Park, at the time of the payment of each such bill. The seller is required

to collect the public utility tax from such purchaser at the time of the payment of each such bill and to remit the same to Village of Biscayne Park pursuant to this section.

(4) The seller shall render to each purchaser bills covering all such purchases made, which shall show the amount of this tax as a separate item on each bill and which amount shall become due and payable to the Village of Biscayne Park whenever such bill becomes due and payable under the rules and regulations of the seller, provided and to the extent that such bills are subsequently paid.

(e) Revenue derived from this tax on the purchase of telecommunications services shall be deposited with the general funds of the Village of Biscayne Park and used with other general funds for such purposes as may be set forth in the annual operating budget.
(Ord. No. 272, § 1, 7-7-92)

Sec. 16-33. Exemptions.

Purchases of telecommunication services by the United States Government, the State of Florida, the county, a municipal corporation, a recognized church in this state if used exclusively for church purposes; and purchases of local telephone service or other telecommunication services for hire or otherwise for resale are exempt from taxation imposed by this section.
(Ord. No. 272, § 1, 7-7-92)

Sec. 16-34. Compensation of collector.

For the purpose of compensating the seller, the seller shall be allowed one (1) percent of the amount of the tax collected due to Village of Biscayne Park in the form of a deduction from the amount collected for remittance. The deduction is allowed as compensation for keeping of records and collection and remittance of the tax.
(Ord. No. 272, § 1, 7-7-92)

Sec. 16-35. Filing statement of amount; remittance.

Every seller is hereby required to execute and file not later than the twentieth day of each month, at the office of the village,

a statement setting forth the amount of this tax to which Village of Biscayne Park became entitled under this section on account of bills paid by purchasers during the preceding month together with payment of the amount due. Annual adjustments will be made at the anniversary of this agreement and any funds due to Village of Biscayne Park will be made at that time.
(Ord. No. 272, § 1, 7-7-92)

Sec. 16-36. Accounts and records.

Every seller is required to establish and maintain appropriate accounts and records in such manner as to enable the Village of Biscayne Park to ascertain from such records the amount due to the Village of Biscayne Park pursuant to this section; provided, however, that those records shall be consistent with the requirements of the Federal Communications Commission and the public service commission. Such books and records shall be open to the inspection of the clerk of the village, or her designee, upon reasonable notice to seller, at the location where such records are maintained by the seller.
(Ord. No. 272, § 1, 7-7-92)

[The next page is 955]

Chapter 17

TRAFFIC AND VEHICLES*

(Reserved)

*Editor's note—Ord. No. 256, § 2, adopted Apr. 17, 1990, provided that the land development regulations code, App. A of this volume, supersedes Ch. 17; hence, substantive §§ 17-16—17-18, pertaining to parking of trucks, boats and unused vehicles, have been deleted. Prior to deletion, such sections were derived from Ord. No. 171, §§ 1—3, adopted Dec. 3, 1974.

Chapter 18

ZONING*

(Reserved)

***Editor's note**—Formerly, Ch. 18 contained the zoning provisions for the village. Such provisions have been deleted pursuant to Ord. No. 256, § 2, adopted Apr. 17, 1990, which provided that the land development regulations code, App. A of this volume, supersedes Ch. 18, substantive sections thereof being §§ 18-1—18-6, 18-20, 18-21, 18-36—18-39, 18-51, 18-66, 18-91, 18-92, 18-106, 18-107, 18-121, 18-122, 18-136, 18-147—18-155, 18-155.5—18-158, 18-171—18-174, 18-186—18-191. Such chapter was derived from the following:

Ord. No.	Date	Sec.	Ord. No.	Date	Sec.
84	11-21-44	Art. II, § 1	92	1-22-46	
		Art. III, § 1	97	6- 3-47	
		Art. IV, §§ 2—8	109	6- 5-51	1, 2
		Art. V, §§ 1—3	120	11- 2-54	1
		Art. VI, §§ 1—11,	130	1- 8-57	1
		13—15	144	7- 5-66	
		Art. VII, § 1	216	6- 7-83	1—8
		Art. VIII, §§ 1—5	250	4- 4-89	1, 2
		Art. IX, § 1			
		Art. X, § 1			

APPENDIX A

LAND DEVELOPMENT CODE*

Pt. I. Explanations

Ch. 1. General Provisions, § 1.1–1.15
Ch. 2. Definitions, §§ 2.1, 2.2

Pt. II. Elements

Ch. 3. Future Land Use, §§ 3.1–3.5
Ch. 4. Housing, §§ 4.1–4.4
Ch. 5. Transportation, §§ 5.1–5.6
Ch. 6. Public Facilities and Services, §§ 6.1–6.6
Ch. 7. Recreation and Open Space, §§ 7.1–7.4
Ch. 8. Environmental Management, §§ 8.1–8.5
Ch. 9. Adopted Levels of Service, §§ 9.1–9.3
Ch. 10. Design and Improvement Standards, §§ 10.1–10.5
Ch. 11. Accessory Structures, §§ 11.1–11.9
Ch. 12. Signs, §§ 12.1–12.3

Part III. Administration

Ch. 13. Planning Board and Local Planning Agency, §§ 13.1–13.3
Ch. 14. Enforcement, §§ 14.1–14.5
Ch. 15. Procedures, §§ 15.1–15.5
Ch. 16. Permits and Certificates, §§ 16.1–16.13
Ch. 17. Fees, Bonds and Charges, §§ 17.1–17.5
Table A.
Residential Sectors Map

ORDINANCE NO. 256

AN ORDINANCE BY THE VILLAGE COMMISSION ADOPTING THE LAND DEVELOPMENT REGULATIONS CODE PURSUANT TO RULE 9J-24 F.A.C.

WHEREAS, land development regulation code was developed to fulfill the requirement of Rule 9J-24 F.A.C.; and

WHEREAS, which Rule was promulgated by the State of Florida Department of Community Affairs; and

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***Editor's note**—Appendix A contains the land development regulations code, parts I through III, adopted by Ord. No. 256, passed April 17, 1990. The numbering system of the land development code has been maintained. Subsequent amendments to such code will be included in the text and indicated by a history note(s) following the affected section(s). Capitalization and references have been standardized; words enclosed in brackets [ ] have been added by the editor for clarity; and obvious misspellings have been corrected without comment.

WHEREAS, the land development regulations code is in essence, a compilation of existing and new regulations pertinent to implementation of specific policies contained in the Village's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:

Section 1. This ordinance is enacted pursuant to and in accordance with provision of Chapter 163. of Florida Statutes (The Land Development Regulation Act).

Section 2. That this Land Development Regulation Code supersedes Chapters 4, 7, 8, 12, 14, 15, 17, 18 of the General Code of Biscayne Park.

Section 3. Pursuant to and in accordance with Rules 9J-24 F.A.C. The Land Development Regulation Code is hereby adopted.

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. This ordinance and the code adopted hereby shall become effective May 1, 1990.

THE FOREGOING ORDINANCE UPON BEING PUT TO A VOTE, THE VOTE AS FOLLOWS:

P. Hinck	– Aye
H. Huffman	– Aye
D. Keys	– Aye
J. Lomazzo	– Aye
J. Reeder	– Aye

PASSED AND ADOPTED, BY THE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, This 17th day of April, 1990.

/s/ _____
James A. Reeder
Mayor

/s/ _____
Peter H. Hinck
Vice Mayor

PART I.

EXPLANATIONS

CHAPTER 1. GENERAL PROVISIONS

1.1. Title.

1.1.1 *Entitlement of code.* This code shall be entitled the "Biscayne Park Land Development Code" and may be referred to as "land development code" and may also be cited as "this code".

1.2. Authority.

1.2.1 *Enactment of code.* This Land Development Code is enacted pursuant to the requirements and authority of section 163.3203, Florida Statutes, (the Local Government Comprehensive Planning and Land Development Regulation Act), the Village Charter effective 1933, and the general powers in Chapter 166/125, Florida Statutes (City Government).

1.3. Findings.

1.3.1 *Statutory requirement.* Chapter 163, Florida Statutes, requires each Florida local government to enact a single land development code which implements and is consistent with the local comprehensive plan, and which contains all land development regulations for the village.

1.3.2 *General public need.* The control of the location, design, and construction of development within the village is necessary to maintain and improve the quality of life in Biscayne Park.

1.4. Intent.

1.4.1 *General intent.* The provisions of this land development code shall be construed and implemented to achieve the following intentions and purposes of the village commission:

(a) To foster and preserve public health, safety, comfort and welfare, to aid in the harmonious, orderly, aesthetically pleasing and socially beneficial development of the village in accordance with the comprehensive plan.

(b) To implement the village comprehensive plan as required by the Local Government Comprehensive Planning and Land Development Regulation Act.

(c) To establish the regulations, procedures and standards for review and approval of all proposed development in the village.

(d) To provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet the level of service requirements (concurrency).

1.4.2 *Specific intent.* The provisions of this code dealing with the following specific subject areas shall be construed and implemented to achieve the intentions and purposes of the comprehensive plan and § 163.3202 (2), Florida Statutes.

(a) Future land use, including historic sites;

(b) Housing;

(c) Transportation, including parking;

(d) Public Facilities and Services, including stormwater management;

(e) Recreation and open space;

(f) Environmental management, including tree protection;

(g) Adopted levels of service;

(h) Design and improvement standards, including subdivision of land;

(i) Accessory structures;

(j) Signs;

(k) Planning board and local planning agency;

(l) Enforcement;

(m) Procedures;

(n) Permits and certificates;

(o) Notices;

(p) Fees, bonds, and charges.

1.5. Relationship to the comprehensive plan.

1.5.1 *Implements the comprehensive plan.* The adoption of a unified land development code implements the goals, policies and objectives of the comprehensive plan.

1.5.2. *Consistency with the comprehensive plan.* A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities in the comprehensive plan and if it meets all other criteria enumerated by the local government (F.S. § 163.3194(3)(b)).

1.6. Applicability.

1.6.1 *General applicability.* Except as specifically provided herein, the provisions of this code shall apply to all development in the village, and no development shall be undertaken without prior authorization pursuant to this code.

1.6.2 *Exceptions.* The provisions of this code and amendments thereto shall not affect the validity of any lawfully issued and effective building permit provided the activity authorized by the permit has been commenced prior to the effective date of this code or any amendment thereto, or will be commenced after the effective date of this code but within six (6) months of issuance of the building permit.

1.6.3 *Consistency with the comprehensive plan.* Nothing in this section shall be construed to authorize development that is inconsistent with the village comprehensive plan.

1.7. Rules of interpretation.

1.7.1 *General rules.* In the interpretation and application of this code all provisions shall be liberally construed in favor of the objectives and purposes of the village and deemed neither to limit nor repeal any other powers granted under state statutes.

1.7.2 *Responsibility of interpretation.* In the event that any question arises concerning the application of regulations, definitions, or any other provision of this code, the planning board shall be responsible for interpretation and shall look to the village comprehensive plan for guidance. Responsibility for interpretation by the planning board shall not be construed to include interpretation of any technical codes adopted by reference in this code, nor be construed to override the responsibilities given to any commission, board, or official named in other sections of this code.

1.7.3 *Minimum requirements.* In interpreting and applying the provisions of this code, the planning board shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare of the community. Where this code imposes a higher standard upon the use of buildings or premises, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements the provisions of this code shall control.

1.8. Repeal of prior provisions.

1.8.1 *Effect of repeal of ordinances.*

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinances repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

State constitutional law reference—No bill of attainder, ex post facto law or law impairing the obligation of contracts shall ever be passed, Florida Constitution, Article I, § 10.

1.8.2 *Certain ordinances not affected by code.* Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this code:

(a) Any ordinance promising or guaranteeing the payment of money by the village, or authorizing the issuance of any

bonds of the village, or any evidence of the village's indebtedness, or any contract agreement, lease, deed or other instrument or obligation assumed by the village;

(b) Any right or franchise permit, or other right granted by any ordinance;

(c) Any personnel regulations;

(d) Any ordinance establishing position, classifying positions or setting salaries of village officers and employees;

(e) Any ordinance establishing and prescribing the street grades in the village;

(f) Any appropriation ordinance or any ordinance levying or imposing taxes;

(g) Any ordinance providing for local improvements and assessing taxes therefor;

(h) Any ordinance dedicating or accepting any plat or subdivision in the village;

(i) Any ordinance establishing the official plat of the village, the future land use or residential sectors map or any amendments thereof;

(j) Any easements, or land uses ordinance;

(k) Any ordinance prescribing traffic and parking regulations for specific streets and location;

(l) Any ordinance annexing territory or excluding territory from the village;

(m) Any temporary or special ordinance;

(n) Any provisions of Chapter 16319, 1933, Special Acts of Florida Legislature, as amended by special law or otherwise, which have been converted to ordinances by F.S. Chapter 166 and have not been superseded or repealed;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

1.8.3 *Code and prior offenses, penalties, rights, etc.* Nothing in this code or the ordinance adopting this code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this code.

1.8.4. *Abrogation.* This land development code is not intended to repeal, annul, or interfere with any existing easements, covenants, or deed restrictions duly recorded in the public records.

1.9. Amendments.

1.9.1 *Amendments to code; effect of new ordinances; amendatory language.*

(a) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the code by omission from reprinted pages.

(b) Amendments to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language:

"That section _____ of the Land Development Code of Ordinances, Village of Biscayne Park, Florida, is hereby amended to read as follows: _____."

The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the code is to be added, the following language may be used:

"That the Land Development Code of Ordinances, Village of Biscayne Park, Florida, is hereby amended by adding a section to be numbered _____, which section reads as follows: _____."

The new section may then be set out in full as desired.

(d) All sections, divisions, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

State law reference—Minimum procedural requirements for adoption of ordinances and resolutions, F.S. § 166.041.

1.10. Supplements.

1.10.1 *Supplementation of code.*

(a) By contract or by village personnel, supplements to this code shall include all substantive permanent and general parts of ordinances passed by the commission or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the code, but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

1.11. Severability.

1.11.1 *Severability of parts of code.* It is hereby declared to be the intention of the commission that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

1.12. Section catchlines.

1.12.1 *Catchlines of sections.* The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

1.13. Reference sources.

1.13.1 *History notes.* The history notes appearing in parenthesis or footnotes of sections of this code are not intended to have

any legal effect but are merely intended to indicate the source of matter contained in the section.

1.14. Incorporation by reference.

1.14.1 *Technical construction standards manuals.*. The South Florida Building Code and the Public Works Manual, Metro-Dade County are hereby incorporated into this code by reference.

1.14.2 *Map.* The map showing the residential sectors is incorporated into this code by reference.

1.14.3 *Table.* The table of residential sectors is incorporated into this code by reference.

1.15. Effective date.

1.15.1 *Effective date of land development regulations.* These regulations shall be effective on May 1, 1990.

CHAPTER 2. DEFINITIONS

2.1. Generally.

2.1.1 *Establishment of definitions.* In the construction of this code, and of all ordinances, the following are the definitions adopted, unless such definitions would be inconsistent with the manifest intent of the village commission.

2.2. Meanings.

2.2.1 *Accessory use:* A building or structure, the use of which is incidental to the main building or structure, and is located on the same lot, and the use of which is manifestly incidental to that of the main building.

2.2.2 *Addition:* An extension or increase in floor area or height of a building.

2.2.3 *Adult Congregate Living Facility (ACLF):* A type of residential care facility, defined in Chapter 400, Part 2, Florida Statutes.

2.2.4 *Alley:* A narrow thoroughfare dedicated or used for public passageway up to twenty-five (25) feet in width, upon which usually abut the rear of the premises, or upon which service entrances or buildings abut, and not generally used as a thoroughfare by both pedestrians and vehicles, which is not used for general traffic, and is not otherwise officially designated as a street.

2.2.5 *Alteration:* Any change or modification of construction, space arrangement and/or occupancy of a building, or decreasing or increasing the area thereof.

2.2.6 *Building:* Anything constructed or erected, the use of which demands a permanent location on the land or anything attached to a building.

2.2.7 *Business* or *commercial:* Any use or activity designed or used for gainful purposes.

2.2.8 *Carport:* A covered area for sheltering a motor vehicle.

2.2.9 *Charter:* The word "charter" shall mean the Charter of the Village of Biscayne Park as printed in Part I of the General Code of the village.

2.2.10 *Code:* Reference to "this code" shall mean the Land Development Code of Ordinances, Village of Biscayne Park, Florida, as designated in chapter 1, section 1.1.

2.2.11 *Commission:* The words "commission," "village commission" or "governing body" shall mean the village commission of the Village of Biscayne Park.

2.2.12 *Community residential home:* A community residential home means a dwelling unit licensed to serve clients of the department of health and rehabilitative services, which provides a living environment for seven (7) to fourteen (14) unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

2.2.13 *Comprehensive plan:* A plan that meets the requirements of Section 163.3177 and Section 163.3178, F.S.

2.2.14 *Computation of time:* In computing any period of time prescribed or allowed by this code the day of the act, event or default from which the designated period of time beginning to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

State law reference—Similar provision, Florida Rules of Civil Procedure, § 1.090(a).

2.2.15 *County:* The words "the county" or "this county" shall mean Dade County, Florida.

State law reference—Boundaries of Dade County, F.S. § 7.13.

2.2.16 *Delegation of authority:* Whenever a provision appears requiring the head of a department or officer of the village to do some act or make certain inspections, it is to be construed to authorize the head of the department or officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

2.2.17 *Developer:* Any person, including a governmental agency, undertaking any development as defined in Section 380.04, F.S.

2.2.18 *Development:* Any of the following activities: Building, installing, enlarging, replacing or substantially restoring a structure; a minor replat; alteration of a historic property for which authorization is required under this code; tree removal for which authorization is required under this code.

2.2.19 *Development order:* Any order granting, denying, or granting with conditions an application for a development permit.

2.2.20 *Development permit:* This includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

2.2.21 *Dish antenna:* A dish antenna intended for the purpose of receiving communications from orbiting satellites and other

extraterrestrial sources, a low noise amplifier (L.N.A.) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals, a coaxial cable for the purpose of carrying signals to the interior of a building.

2.2.22 *Domestic and commercial building material waste:* This type of waste includes sand, earth, wood, stone, brick, concrete construction blocks, roofing materials, metals, cardboard products and any other waste material accumulated after construction, renovation, remodeling, repair projects or removal of buildings.

2.2.23 *Dwelling, one-family:* A private residence building used or intended to be used as a home or residence in which all living rooms are accessible to each other from within the building and in which the use and management of all sleeping quarters, all appliances for sanitation, cooking, ventilating, heating or lighting are for the use of one (1) family only.

2.2.24 *Dwelling, duplex:* A residence building designed for, or used as the separate home or residence of two (2) separate and distinct families, but having the appearance of a single family dwelling house. Each individual unit in the duplex shall comply with the definition for a one-family dwelling.

2.2.25 *Family:* One (1) person, or a group of two (2) or more persons living together and interrelated by blood, marriage or legal adoption, occupying a dwelling unit designed as a single-family use, as a separate housekeeping unit with a single set of kitchen facilities. The persons thus constituting a family may also include gratuitous guests and domestic servants.

2.2.26 *F.S.:* The abbreviation "F.S." shall mean the latest edition or supplement of the Florida Statutes.

2.2.27 *Garage, private:* A structure not larger than five hundred (500) square feet in area for the private use solely for the owner or occupant of the principal building on a lot or of his family or domestic employees for the storage of motor vehicles, and which has no public shop or mechanical service in connection therewith.

2.2.28 *Gender:* A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

2.2.29 *Gross density:* The total number of dwelling units divided by the total site area plus half the width of the public right-of-way.

2.2.30 *Gross floor area:* The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, or any space where the floor-to-ceiling height is less than six (6) feet.

2.2.31 *Hedge:* A dense row of shrubs or low trees in excess of eight (8) feet in length which constitutes a barrier. (Ord. No. 283, § 1, 10-5-93)

2.2.32 *[Reserved.]*

2.2.33 *Highway (street):* Any public thoroughfare wider than twenty-five (25) feet including streets, which afford primary access to abutting property, and any thoroughfare of less width which is not classed as an alley.

2.2.34 *Keeper* and *proprietor:* These terms include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

2.2.35 *Land:* The earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

2.2.36 *Land use:* The development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under an adopted comprehensive plan or element or portion thereof, land development regulations, or land development code, as the context may indicate.

2.2.37 *Lot:* A parcel of land fronting on a street, place, way or waterway which is or may be occupied by a building and its accessory units including the open spaces required by the terms of this code and which parcel or land is a matter of record in the public records of Dade County, Florida. A lot having two (2) such

frontages shall be known as a dual frontage. The word "lot" includes the words "plot" and "tract."

2.2.38 *Lot, corner:* Any lot situated at the junction of and abutting on two (2) or more intersections or intercepting streets or public highways. If the angle of intersection of the direction lines of two (2) highways is more than one hundred thirty-five (135) degrees, the lot fronting on said intersection is not a corner lot.

2.2.39 *Lot lines, front:* In the case of a lot abutting upon only one (1) street, the front line is the line separating such lot from the public right-of-way. In the case of a corner lot not occupied by a building that part of the lot having the narrowest frontage on any street shall be considered the front lot line. In the case of a corner lot occupied by a building the front lot line shall be determined by the location of the front door of the dwelling. In the case of any other lot, one (1) such line shall be elected to be the front line for the purposes of this code, provided it is so designated by the building plans which meet the approval of the planning board.

2.2.40 *Lot line, rear:* The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, or any odd-shaped lot, the rear lot line shall be determined by the planning board.

2.2.41 *Lot line, side:* A side lot line is any boundary lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street is an exterior side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

2.2.42 *Manufactured home:* A structure, transportable in one (1) or more sections, which is built on a permanent chassis, designed to be used with or without a permanent foundation, and connected to the required utilities.

2.2.43 *Minor replat:* The subdivision of a single lot or parcel of land into two (2) lots or parcels, or the subdivision of a parcel into two (2) or more lots solely for the purpose of increasing the area of two (2) or more adjacent lots or parcels of land, where there are no roadway, drainage or other required improvements, and where the resultant lots comply with the standards of this code.

2.2.44 *Mobile home (trailer):* A non-self-propelled vehicle or conveyance, permanently equipped to travel upon the public highways, that is used either temporarily or permanently as a residence or living quarters.

2.2.45 *Month:* The word "month" shall mean a calendar month.

2.2.46 *Name of officer, department, board, etc.:* The naming of an officer, department, board, etc., shall be construed as if followed by the words "of the Village of Biscayne Park."

2.2.47 *Nonconforming use:* Use of any property or premises in any manner which does not comply with the regulations provided for the residential sector in which the property or premises are situated, if such use was originally legally established.

2.2.48 *Nontechnical and technical words:* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

2.2.49 *Number:* A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

2.2.50 *Oath:* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be submitted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

2.2.51 *Owner:* The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

2.2.52 *Person:* The word "person" shall extend and be applied to individuals, children, associations, firms, joint ventures, estates, trusts, business trusts, syndicates fiduciaries, partnerships and bodies politic and corporate, and all other groups and combinations.

2.2.53 *Planning board:* The Village of Biscayne Park Planning Board.

2.2.54 *Preceding, following:* The words "preceding" and "following" means next before and next after, respectively.

2.2.55 *Real property:* Land, and generally whatever is erected or growing upon or affixed to land. Also rights issuing out of, annexed to, and exercisable with or about land.

2.2.56 *Recreation vehicle:* A vehicular-type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreation, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

2.2.57 *Setback:* The minimum horizontal distance between the street, rear or side lines of a lot and the front, rear or side lines of the building. When two (2) or more lots under one (1) ownership are used, the exterior property line so grouped shall be used in determining setbacks.

2.2.58 *Shall:* the word "shall" is mandatory and not directory [discretionary].

2.2.59 *Sidewalks:* Any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

2.2.60 *Singular:* The singular includes the plural, and the plural includes the singular.

2.2.61 *Solid waste management:* The process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way, according to an orderly purposeful, and planned program.

(a) *Solid waste* includes garbage, refuse, yard trash, clean debris, white goods, special waste, ashes, sludge, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic or governmental operations.

(b) *Yard trash* means vegetative matter resulting from landscaping maintenance and land-clearing operations.

(c) *Clean debris* means any solid waste which is virtually inert and which is not a pollution threat to groundwater or surface waters and is not a fire hazard, and which is likely to retain its physical and chemical structure under expected conditions of disposal or use. The term includes uncontaminated concrete, including embedded pipe or steel, brick, glass, ceramics, and other wastes designated by the department of environmental regulation.

(d) *White goods* includes inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

(e) *Special wastes* means solid wastes that require special handling and management, including but not limited to, white goods, whole tires, used oil, mattresses, furniture, lead-acid batteries, and biological wastes.

(f) *Sludge* includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility; and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

State law reference—Environmental control, resource recovery and management, definitions, F.S. § 403.703.

2.2.62 *State:* The words "the state" or "this state" shall mean the State of Florida.

2.2.63 *Stormproof:* Requires compliance with the latest adopted methods or codes.

2.2.64 *Structural alterations:* Any change in the shape, size of any portion of a building or of the supporting members of a building or structure such as walls, columns, beams, arches, girders, floor joists or roof joists.

2.2.65 *Structure:* Anything constructed or erected the use of which requires rigid location on the ground, or attachment to something having a permanent location on the ground, including buildings, walls, fences, signs, light standards, towers, tanks, etc.

2.2.66 *Tenant:* The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease of or who occupies, the whole or part of such a building or land, either along or with others.

2.2.67 *Tense:* Words used in the past or present tense include the future as well as the past and present.

2.2.68 *Village:* The words "the village" or "this village" shall mean the municipal corporation of Biscayne Park, Florida, or any of its officers, agents or departments, as the sense shall require or admit.

2.2.69 *Written* or *in writing:* This shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

2.2.70 *Yard:* An open space on the same lot with a building, said space being unoccupied and unobstructed from the ground upward, except as otherwise permitted herein. A front, rear, or side yard shall be defined as that open space adjoining a front, rear, or side lot line respectively.

2.2.71 *Year:* The word "year" shall mean a calendar year, unless otherwise specified.

State law reference—Construction of Florida Statutes, F.S. § 1.01 et seq.

PART II.

ELEMENTS

CHAPTER 3. FUTURE LAND USE

3.1. Generally.

3.1.1 *Purpose of chapter.* The purpose of this chapter is to describe the specific uses and restrictions that apply to the land use district in the land use element of the comprehensive plan. These regulations are intended to allow development and use of property only in compliance with the goals, objectives, and policies of the village as expressed in the village of Biscayne Park's Comprehensive Plan.

3.2. Land use district.

3.2.1 *Land use district instituted.* The land use district for the village is instituted in the comprehensive plan, future land use element, including a map. The land use district and classifications defined in the future land use element of the Biscayne Park Comprehensive Plan and delineated in the future land use map shall be the determinants of permissible activities on any parcel in the jurisdiction. Allowable uses are described in section 3.3 below to safeguard the compatibility of adjacent land use activities with the land use district and address the location and extent of nonresidential land uses.

3.2.2 *Land use district; established residential.* The established residential land use district is provided to supply appropriate standards for the protection of the district consistent with the established development in the fully developed village. Appropriate uses are limited to residential development at existing densities, parks, public open spaces and outdoor recreation uses, and defined public service uses.

3.2.3 *Residential sectors instituted.* The village is hereby divided into residential sectors as shown on the official sector map made by the planning board and hereby made a part of this chapter. The original map is on file in the village clerk's officer

and a copy is included [following this appendix]. The sectors are designated and shall be subject to regulations as herein provided.

Cross reference—Adopted levels of service shall not be degraded, § 9.2.

3.3. Uses allowed.

3.3.1 *Types of uses allowed in the established residential land use district.*

(a) Residential. The category of residential uses includes one-family dwellings and two-family dwellings. Certain areas or sectors of the village are limited to one (1) or more housing types in order to preserve the established character of the area.

(b) Public open space and outdoor recreational. These uses include public parks, street medians and parkways, and areas for outdoor recreational activities. Permissible uses shall include parks, public playgrounds, tennis courts, and similar recreational uses. No land or buildings shall be used for any use inconsistent with the rights of the public. Owners of property desiring to convey or dedicate areas to public or quasi-public use shall file an application with the planning board.

Cross reference—Adopted levels of service, § 9.3.

(c) *Public service.* The public service category provides for institutional, such as churches, and public utility uses such as emergency service activities and maintenance facilities.

3.3.2 *Allowable uses within each residential sector.*

(a) The following uses are allowed in sectors A, B, and C in the established residential land use district. All other uses are prohibited.

(1) Residential;
(2) Public open space and outdoor recreational;
(3) Public service.

(b) The following uses are allowed in sector D. All other uses are prohibited.

(1) Community residential home;

(2) Public open space;

(3) Temporary parking (unpaved surface).

(c) Refer to Table A for the regulations applicable to each residential sector.

3.4. Nonconforming uses.

3.4.1 *Prohibited uses.* The following uses are specifically prohibited and declared unlawful, but the enumeration of these specific uses shall not by implication grant the right to make any use not permitted by the terms of Ordinance 84 (11-21-1944).

(a) Garage apartment, tourist tent, trailers or trailer camps, truck trailers, mobile homes, amusement parks, bungalow courts, chicken houses, private or commercial dog kennels, rabbit hutches, night clubs, beer gardens, house boats, commercial boat houses or any use defined as commercial.

(b) Any use not consistent with the residential sector regulations (Table A).

(Ord. No. 283, § 2, 10-5-93)

3.4.2 *Nonconforming use discontinued.* The lawful use of land or improvements existing at the time of the adoption of this code, although such use does not conform to the provision hereof, may be continued, but if discontinued for a period of six (6) months such nonconforming use shall not thereafter be re-established and the future use of such land or improvements shall be in conformity with the provisions of this code.

3.5. Historic sites.

3.5.1 *Historic preservation ordinance.* To protect, enhance and perpetuate properties of historic value and architectural merit in the village the Metropolitan Dade County Historic Preservation Ordinance is hereby incorporated by reference into this code.

3.5.2 *Building permit for designated historic sites.* No building permit for alteration, restoration or renovation will be issued by the village for a building or structure which is designated by the Dade County Historic Preservation Board prior to the approval of a certificate of appropriateness by the historic preservation board.

Reference—County Ord. No. 81-13, § 1, 2-17-81.

CHAPTER 4. HOUSING

4.1. Minimum housing standards.

4.1.1. *Applicability of the Dade County Code.* The provisions of the Dade County Code Chapters 17, Housing and 17A, Vacant Housing Structures Standards, Minimum, are incorporated herein by reference and shall be applicable as a minimum standard in the village to, among other things, prevent blight and decay and to safeguard public health, safety, morals and welfare.
(Ord. No. 283, § 3, 10-5-93)

4.2. Structural recertification of existing buildings forty (40) years or older.

4.2.1 *Applicability of the Dade County Ordinance.* The provisions of the Metropolitan Dade County Ordinance shall be applicable for structural recertification of existing buildings forty (40) years and older in the village.

Reference—County Ord. No. 75-34, § 5-21-75.

4.3. Dwelling types.

4.3.1 *Dwelling types allowed.* Dwelling types allowed in each residential sector of the village shall be only as described in Table A, Residential Sectors.

4.3.2 *Dwelling types prohibited.* Mobile homes are prohibited.

4.4. Community residential homes.

4.4.1 *Community Residential Homes Act.* The state requirements for siting of community residential homes are hereby incorporated into this code by reference.

4.4.2 *Designated site for a community residential home.* A site for a community residential home is designated as residential sector D in the established land use district.

Cross reference—Allowable use within each residential sector, § 3.3.2(b).

State law reference—Community residential homes, F.S. § 419.001 et seq.

CHAPTER 5. TRANSPORTATION

5.1. General provisions.

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

5.1.2 *Compliance with technical construction standards manual.* All required elements of the transportation system shall be provided in compliance with the engineering design and construction standards of the Public Works Manual, Metro-Dade County.

5.2. Streets.

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

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

(a) Residential access street. This is the lowest order street in the hierarchy. A residential access street is a frontage street which provides direct access to abutting properties and should not carry more traffic than is generated on the street

itself. Residential access streets may take access from any higher order street type. Both ends of a residential loop street must take access from a single higher order street. Residential access streets shall have a maximum ADT of five hundred (500). Loop streets shall have a maximum of four hundred (400). Cul-de-sacs shall have a maximum ADT of two hundred (200).

(b) Residential subcollector street. This is the middle order street in the residential street hierarchy. It will collect traffic from residential access streets and provide direct access to abutting properties. Residential subcollector streets may take access from any higher order street type and may give access to residential access streets and may provide direct access to nonresidential uses. Residential subcollector streets shall have a maximum ADT of one thousand (1,000).

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

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

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

5.2.5 *Special purpose roadways.*

(a) Alley. Alleys are not considered part of the street hierarchy system as they are generally unpaved thoroughfares for the purpose of service to adjacent properties.

(b) Divided streets. Divided streets are for the purpose of protecting environmental features or avoiding excessive grading. In such a case, the standards shall be applied to the aggregate dimensions of the two (2) street segments.

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

5.3. Rights-of-way.

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

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

(a) No encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the village.

(b) Use of the right-of-way for public or private utilities, including, but not limited to, potable water, telephone wires, cable television wires, gas lines, sanitary sewer, or electricity transmission, shall be allowed subject to the placement specifications in the Public Works Manual, Metro-Dade County, and other applicable county regulations.

(c) All vehicles of any type parked on any street, alley, or public right-of-way in the Village of Biscayne Park shall have at all times attached a current license plate.

(d) Sidewalks and bicycle ways shall be placed within the right-of-way.

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

(a) It shall be unlawful to park or cause to be parked upon any public street or in the public right-of-way in the village any truck, trailer, semitrailer, bus (public or private owned) except while loading or unloading or when such vehicle is

parked in connection with and in the aid of the performance of a service to or on the property being serviced.

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

(c) It shall be unlawful to park or store any boat, boat trailer, air boat, any self-propelled or nonself-propelled mobile home, motor home or camper upon any public street or in the public right-of-way in the village.
Cross reference—Truck overnight parking permit, § 16.11.

5.3.4 *Objects in the right-of-way.*

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

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

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

(d) Other objects prohibited. It shall be unlawful to install, place or maintain within the dedicated right-of-way, parkway or swale area of the village any pointed concrete

or other unapproved hard materials such as rocks, stones, bricks, metal objects or other similar obstructions.

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

(a) The requested vacation is consistent with the traffic circulation element of the village comprehensive plan.

(b) The right-of-way does not provide the sole access to any property. Remaining access shall not be by easement.

(c) The vacation would not imperil the current or future location of any utility.

(d) The proposed vacation is not detrimental to the public interest, and provides a benefit to the village.

Cross references—Right-of-way permit, § 16-8.1; fees for right-of-way permits, § 17.5.1.

5.4. Street standards.

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

(a) For street intersections the clear visibility triangle shall be formed by a line along the street pavement edge fifteen (15) feet long from the street corner perpendicular, generally, to a second line of the street pavement edge of approaching traffic, connected by a third line that measures three (3) times the speed limit of the street.

(b) For driveways two (2) clear visibility triangles shall be formed by connecting, in each case, a point on the edge of the street pavement and a point on the edge of the driveway, each to be located at a distance of twenty (20) feet from the intersection of the street and driveway lines, and a third line joining the two (2) points.

(c) Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner so as to obstruct cross-

visibility at a level between three (3) feet and six (6) feet above the grade, measured at the centerline of the intersection. Trees or palms, however, having trunks and foliage trimmed in such a manner that no trunks or foliage extend into the cross-visibility area shall be allowed, provided they are so located so as not to create a traffic hazard.

5.5. Sidewalks and bikeways.

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

5.6. Off-street parking.

5.6.1 *Applicability.* Off-street parking facilities shall be provided for all development within the village pursuant to the requirements of this code. The facilities shall be maintained as long as the use exists that the facilities were designed to serve.

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

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

Use	*Minimum Off-Street Parking Requirement*	
(a) Residential	Resident Parking	Visitor Parking

Use	*Minimum Off-Street Parking Requirement*	
Detached one-family:		
1, 2, & 3 bedrooms	2 spaces/unit*	1 space/unit†
4 bedrooms	3 spaces/unit*	1 space/unit†
Detached two-family:		
2, 3 or more bedrooms	2 spaces/unit*	0.5 spaces/unit†
(b) Recreation, Parks, Club	Determined by the planning board	
(c) Public assembly		
Church	1 space/3 seats or 1 space/ 35 square feet of gross auditorium floor area	

* Resident parking spaces may be tandem.

† If on-street parking is not permitted or is restricted on the unit's street frontage, then one visitor parking space shall be required. The visitor space shall be located not more than 100 feet from the unit's street frontage.

5.6.4 *Handicapped parking spaces.* Any parking area to be used by the general public shall provide suitable, marked and paved parking spaces for handicapped persons. The number, design, and location of these spaces shall be consistent with the requirements of Sections 316.1955, 316.1956, F.S., or succeeding provisions. No parking spaces required for the handicapped shall be counted as a parking space in determining compliance with section 5.6.3, public uses, above, but optional spaces for the handicapped shall be counted. The parking and related features contained in the Department of Community Affairs, Florida Board of Building, Codes and Standards, Accessibility Requirements Manual are hereby incorporated by reference into the village code.

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

5.6.6 *Existing nonconforming minimum off-street parking requirements.* The number of off-[street] parking spaces existing on properties at the time of the adoption of this code, although such number does not conform to the minimum off-street parking requirements hereof, may be lawfully continued.

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

5.6.8 *Design standards for off-street parking.* Except as provided herein, all required off-street parking spaces and the use they are intended to serve shall be located on the same parcel. The size and layout of these spaces shall be according to the Dade County Code and Public Works Manual, Metro-Dade County. Vehicles shall be parked on impervious or pervious surfaces but impervious areas shall not exceed forty (40) percent of the front yard, excluding the right-of-way.

CHAPTER 6. PUBLIC FACILITIES AND SERVICES

6.1. Generally.

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

6.2. Utilities.

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

(a) Electricity. Every lot shall have available to it a source of electric power adequate to accommodate the reasonable needs of the principal use on the lot.

(b) Water. Every lot shall have central potable water hookup.

(c) Telephone. Every lot shall have available to it a telephone service cable adequate to accommodate the reasonable needs of the principal use.

6.3. Solid waste.

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

6.3.2 *Containers.*

(a) Each residential unit shall have a sufficient number of garbage cans or approved containers, not to exceed thirty (30) gallons in capacity, to accommodate all garbage, leaves and grass cuttings. Garbage cans shall be kept tightly closed at all times and easily accessible to collectors. Collection service may be discontinued where the garbage cans or containers are determined to be unfit for receptacles by the public works department. Failure of the property owner to provide proper garbage cans or containers which results in a discontinuance of service shall subject the property owner to the penalty provisions of this code.

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

6.3.3 *Owner/occupant responsibility.*

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

(b) Each property owner shall place domestic trash at the property line in front of his property not more than twenty-four (24) hours before the scheduled collection time. Each property owner shall remove his trash container from the front of his property within twenty-four (24) hours after collection.

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

6.3.4. *Tree and garden refuse.* All tree trimmers and tree surgeons who are employed by a resident or occupant of any residence or who may be employed by the village, or who may otherwise pursue their occupation in the village shall be required to remove immediately to a dump or other place designated for refuse, all refuse, cutting or debris resulting from their operation. In no event shall any refuse, cuttings or debris remain overnight on any premises where tree trimmers or tree surgeons have been engaged in their occupation.

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

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

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

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

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

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

(a) The village shall determine the full cost for solid waste management within the service area of the village for the one-year period beginning on October 1, 1988, and shall update the full cost every year thereafter. The method to be

used in calculating full cost shall be according to the rule established by the Florida Department of Environmental Regulation.

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

Cross reference—Local solid waste management fees, § 18.4.

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

State law references—Environmental control: Litter law, F.S. § 403. 413; resource recovery and management, F.S. § 403.702.

6.4. Septic tanks.

6.4.1 *Septic tank requirements.* All septic tank requirements, inspections and permitting shall comply with the regulations of Metro-Dade County's Department of Environmental Resources Management.

6.5. Stormwater.

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

6.5.2 *Flooding and drainage.* On the basis of the Stormwater Rule (Chapter 17-25, F.A.C.) of the Florida Department of Environmental Regulation (DER) and Rule 17-40 F.A.C., flood and drainage considerations of any proposed development shall comply with Dade County Code Regulations Chapter 11C and Chapters 24.58, Dade County Public Works Manual Chapter 28, and the South Florida Water Management District's (SFWMD) criteria in their "Management and Storage of Surface Water; Permit Information Manual, Volume IV". All nonexempt development shall require appropriate permits from the DER and SFWMD before a

development order is issued by the local government. Except development includes the construction of a single-family or duplex residential dwelling and accessory structures on a single parcel of land.
(Ord. No. 260, 7-23-90)

6.6. Water emergency.

6.6.1 *Water emergency restrictions.* When a water shortage is declared by the Board of the South Florida Water Management District the rules of the district's water shortage plan (Chapter 40E-21) shall apply.

Cross references—Environmental management, water pollution, § 8.2.2; landscaping (water conservation), § 8.3.1.

CHAPTER 7. RECREATION AND OPEN SPACE

7.1. Generally.

7.1.1 *Purpose of chapter.* The purpose of this chapter is to describe the conditions for the storage of boats and recreational vehicles in the village.

7.2. Boat storage.

7.2.1 *Conditions for the storage of boats.* Boats not more than twenty-six (26) feet in length, not more than eight (8) feet and six (6) inches beam, and thirteen (13) feet, six (6) inches in height, may be stored subject to the following conditions:

(a) Boats shall not be stored in the public right-of-way.

(b) No more than one (1) boat that will be visible from another property or from the street may be stored on any one premises.

(c) Boats and place of storage shall be kept in a clean, neat and presentable condition.

(d) No major repairs or overhaul work shall be made or performed on the premises.

(e) The boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.

(f) Boats shall be secured so that they will not be a hazard or menace during high winds or hurricanes.

(g) Boats shall be owned by the occupant of the property and the boat shall have a current registration and trailer tag where applicable.

(h) Any boat that exceeds the dimensions specified above shall be registered with the village within ninety (90) days of the effective date of this code. Such registered boat shall be allowed to remain until such time as the boat is sold.

7.3. Recreational and camping vehicles.

7.3.1 *Conditions for the storage of recreational vehicles.* Recreational and camping vehicles in the form of travel and camping trailers, truck trailers and motor travel homes, designed and used as temporary living quarters for recreation, camping or travel use may be parked in the open on sites containing a single-family or duplex residence, subject to the following conditions:

(a) No more than one (1) such vehicle that will be visible from another property or from the street shall be parked on such site.

(b) Such parking shall be limited to such vehicles owned or leased by the occupant-owner or occupant-lessee of the site concerned, or owned or leased by a bona fide out-of-Dade County house guest of the occupant-owner or occupant-lessee of the site concerned, with the parking of such vehicles by the guest not to exceed fourteen (14) days. Such vehicles must have a current license.

(c) Such parked vehicles shall not be stored in the public right-of-way.

(d) Such vehicles and the area of parking shall be maintained in a clean, neat and presentable manner and the vehicles shall be in a usable condition at all times.

(e) No major repairs or overhaul work on such vehicles shall be made or performed on the site, (or any other work per-

formed thereon which would constitute a nuisance under existing ordinances).

(f) When parked on the site, such vehicles shall not be used for living or sleeping quarters, or for housekeeping or storage purposes and shall not have attached thereto any service connections lines, except as may periodically be required to maintain the vehicles and appliances.

(g) Such vehicles shall not exceed the maximum length, width, height and weight permitted under applicable provisions of the motor vehicle laws of the State of Florida; provided, however, the maximum length shall not exceed thirty (30) feet and the maximum height shall not exceed ten (10) feet.

(h) Any vehicle that exceeds the dimensions specified in (g) above shall be registered with the village within ninety (90) days of the effective date of this Code. Such registered vehicles shall be allowed to remain until such time as the vehicle is sold.

(i) Such vehicle shall be secured so that it will not be a hazard or menace during high winds or hurricanes.

Cross references—Uses allowed, § 3.3.1; off-street parking for recreation area, § 5.6.3.

7.4. Open space.

Editor's note—Provisions designated as 7.4, open space, contained no substantive provisions; however, the user's attention is directed to the following references: Retention of existing open space, § 3.2.2; public open spaces and outdoor recreational uses allowed, § 3.3.1; rights-of-way protection, § 5.3.2; sidewalks and bikeways, § 5.5.1; landscaping, § 8.3; maintenance of public rights-of-way, § 8.4.1; adopted levels of service, § 9.3; fences, walls and hedges, § 11.6; prohibited and exempt signs, § 12.2.

CHAPTER 8. ENVIRONMENTAL MANAGEMENT

8.1. Generally.

8.1.1 *Purpose of chapter.* The purpose of this chapter is to provide measures to protect the air, water, habitat, and trees of the

village, and furnish standards for landscaping, property maintenance, and avoidance of fire and explosive hazards.

8.2. Protection of natural resources.

8.2.1 *Air pollution.* To protect and enhance the air quality of the village, all sources of air pollution shall comply with rules set forth by the Federal Environmental Protection Agency and the Florida Department of Environmental Regulation. No person shall operate a regulated source of air pollution without a valid operating permit issued by the department of environmental regulation.

State law reference—Department of environmental regulation, Florida Administrative Code, Ch. 17-2.

Reference—Federal environmental protection agency, Code of Federal Regulations, Title 40.

8.2.2 *Water pollution.* Standards are necessary to protect the quantity and quality of the principal source of water, the groundwater supply, to safeguard the health, safety and welfare of residents in the village and surrounding areas. The South Florida Water Management District's use rules and regulations shall apply.

State law reference—Water resources act, F.S. Ch. 373.

8.2.3 *Habitat protection.*

(a) Bird Sanctuary. It is hereby declared that all the territory embraced within the village shall be and is hereby declared to be a bird sanctuary.

(b) Killing or harming birds prohibited. It shall be unlawful for any person to shoot, trap or in any manner kill or destroy birds within the village.

Cross reference—Similar provisions, Code of Ordinances, §§ 3-1, 3-2.

8.2.4 *Tree protection.* It shall be unlawful for any person, unless otherwise permitted by the terms of Metro-Dade County Ordinance Number 89-8, and as may be amended, to do tree removal work or to effectively destroy any tree without first obtaining a permit from Metro-Dade County's Department of Environmental Regulation and Management. The following activities are exempt from tree removal permits:

(a) Removal of trees within the yard area of an existing residence, provided the trees are not specimen trees. This ex-

emption does not apply to trees which are growing on rights-of-way and other public property.

(b) Removal of any dead tree.

(c) Removal of tree species specified by the Dade County Code (section 24-60(4)(f)).

(d) Removal of other trees as described in the Dade County Code (section 24-60(4)).

Cross reference—Tree removal permit, § 16.10.

8.3. Landscaping.

8.3.1 *Approved plants.* As far as possible native species (including xeriscape plants) should be used for landscaping as these species are tolerant of and suited to the weather, insects, and soil conditions of the area, and need less water, fertilizer, and pesticides to ensure their survival. Lists of approved trees, shrubs and hedges, ground covers, and lawn grass, as well as prohibited plants, are designated in the Dade County Code and are hereby incorporated by reference into the village code.

8.4. Property maintenance.

8.4.1 *Lots and public rights-of-way.*

(a) It shall be the duty and obligation of all occupant-owners and occupant-lessees of lots in the village to maintain and keep in good condition their lots and the swale areas between the pavement edge and the property line which includes the sidewalk adjacent and contiguous to their lots. The duty hereby imposed upon such occupant-owners and occupant-lessees shall not extend to any property other than that included within the lot lines of the property as projected to include the swale area.

(b) Lots and public rights-of-way areas will be considered maintained if all the following requirements are met:

(i) Areas must be kept free from any accumulation of debris, decayed vegetable matter, filth, rubbish, trash, discarded building materials, glass, or any

other materials dangerous to the public health, safety, and welfare;

(ii) Areas must not be allowed to become overgrown with grass, weeds, or brush, and lawn and ground cover areas shall not exceed eight (8) inches in height.

(c) A combination of paving and sodding of lots and rights-of-way area shall be permitted provided the impervious section does not exceed forty (40) percent of the total area and such paved areas shall be kept in good condition.

(d) None of the above standards shall be construed to preclude property owners from landscaping with approved trees or other permitted materials the public right-of-way area.

8.4.2. *Unsightly and unused objects.* The storage and harboring of disused motor vehicles hereinafter sometimes referred to as junk vehicles and any other unused or unsightly personal property on any lot is prohibited and declared unlawful unless the same is stored in a suitable building erected on such lot in accordance with the building code and this code, or with respect to a vehicle, is covered by a material covering designed for such purpose.

For the purpose of determining whether a vehicle other than personalty is junk, the code enforcement officer shall employ the criteria set forth in Village Code section 9-17 (a) (1) through (5), and those criteria are specifically incorporated herein. All of the criteria which are relevant to the particular personalty shall be considered in determining whether the property is junk, no one criterion being conclusive.
(Ord. No. 283, § 4, 10-5-93)

8.4.3. *Violations and enforcement.*

(a) Fences and walls not maintained in a safe condition and permitted to deteriorate or become unsightly shall constitute a violation of this code.

(b) Whenever there is any excessive growth of weeds and undergrowth, fallen or dead trees, or rubbish, debris, brush and unsightly and unsanitary matters located on any lot or

public right-of-way in the village, it shall constitute a violation of this code.

(c) Any person owning land on which is stored any house car, camp car, trailer, unused or unsightly truck, wagon, buggy, boat, machinery or other unused or unsightly personal property, shall be considered in violation of this code.

(d) Enforcement of any of the above violations shall be through the civil citation procedure.

(Ord. No. 283, § 4, 10-5-93)

8.4.4 *Animals, etc., prohibited.* The following shall be prohibited.

(a) Bee hives or the breeding or rasing of any insects, reptiles or animals other than customary pets.

(b) The keeping, breeding, or maintaining of horses, cattle or goats.

(c) The raising of poultry or fowl.

8.5. Fire and explosive hazards.

8.5.1 *Fire and explosive standards.* The South Florida Fire Prevention Code, and as may be amended from time to time, is hereby incorporated into the village code. The storage, use, or manufacture of flammable or explosive materials in Biscayne Park is prohibited.

CHAPTER 9. ADOPTED LEVELS OF SERVICE

9.1. Generally.

9.1.1 *Purpose of chapter.* It is the purpose of this chapter to ensure that the adopted level of service standards in the village's comprehensive plan are not degraded.

9.1.2 *Consistency and concurrency.* As the Village of Biscayne Park is completely built-out the determination of consistency of proposed development projects with the comprehensive plan and

the meeting of concurrency requirements of the plan are not issues. A proposed development would be considered consistent with the comprehensive plan if the development conforms to the land development code as it is reasonable to presume that the code fully implements the comprehensive plan. Concurrency is a condition where specified facilities and services have or will have the necessary capacity to meet the adopted level of service standard at the time of impact of the development project.

State law reference—Land development code to be consistent with and implement the comprehensive plan, F.S. § 163.3202.

9.2. Adopted levels of service shall not be degraded.

9.2.1 *General rule.* All applications for development orders shall demonstrate that the proposed development does not degrade adopted levels of service in the village.

9.2.2 *Burden of showing compliance on developer.* The burden of showing compliance with the adopted level of service requirements shall be upon the developer. In order to be approvable, applications for development shall provide sufficient information showing compliance with these requirements.

9.3. Adopted levels of service.

9.3.1 *Incorporation of levels of service standards.* The following level of service standards were adopted in the village comprehensive plan (Table 8D) and are hereby incorporated into this code. Development activity shall not be approved unless there is sufficient available capacity to sustain these levels of service (LOS).

Element	*Facility*	*LOS Standard*
Traffic circulation	Local roads	Peak hour LOS A
	County and state roads	Peak hour LOS D
Solid waste	Garbage and trash generate rate	5.5 pounds per person per day
Potable water	Supply from the City of North Miami	105 gallons per person per day
Recreation and open space	Open space	4.5 acres per 1000 population

CHAPTER 10. DESIGN AND IMPROVEMENT STANDARDS

10.1. Subdivision.

10.1.1 *Minor plat.* As the village is completely platted and built-out, only minor plats, for which a development order is required, are possible.

10.2. Site design.

10.2.1 *Residential sector regulations.* No residential building or land shall be used and no residential building shall be erected, constructed, reconstructed or structurally altered for any specific use except according to the regulations contained in Table A, Residential Sectors.

10.2.2 *Lot areas and dimensions.* Lot areas or dimensions shall not be reduced or diminished so that the yards or open spaces, also called setbacks herein, shall be smaller than those provided by this code, nor shall the lot area per family be reduced in any manner except in conformity with the regulations hereby established for the sector in which the building is located.

10.2.3 *Nonconforming lots.* This code shall not be construed to prevent the construction of a building on any lot of record by an owner of record at the time of the passage of the ordinance from which this code was derived notwithstanding the fact that such lot may have a lesser area than is required in the particular sector; in which case yards may be made to conform to existing yards on the same street in the same block. Hereafter every building erected or structurally altered shall provide a lot of not less than seventy-five (75) feet front or width.

10.2.4 *Site location of buildings for public gatherings.* No building or land where public gatherings are to be held, such as schools, churches and playgrounds shall be located nearer than fifty (50) feet to adjacent property line.

10.3. Architectural design.

10.3.1 *Style and color of buildings.* All principal and accessory buildings shall be of an architectural style, character and appear-

ance, including exterior color, which will harmonize and blend in with the other buildings in the area.

Cross reference–Exterior painting permit, § 16.13.

10.3.2. *Roof design.*

(a) There shall be no houses constructed in the village with a single level roof known as a flat top roof.

(b) There must be two (2) or more roof levels with at least one (1) foot minimum difference in roof elevation when flat top roof construction is used.

(c) No air conditioning or other duct work shall be visible on any roof from ground level.

10.4. Building construction.

10.4.1 *Building code.* The South Florida Building Code, and as same may be amended from time to time, as published by the Board of County Commissioners, Dade County, Florida, is hereby adopted as and for the building code of the village. A copy of the code is on file in the village clerk's office.

10.4.2 *Applicable codes.* All construction in the public rights-of-way shall conform to the uniform standards established by the official Public Works Manual of Metro-Dade County.

10.4.3 *Minimum construction dimensions.* The establishment of minimum construction dimensions by this code shall not be deemed as permitting any deviation from the requirements of the building code. All buildings, including accessory buildings regardless of size and cost must comply with the provisions of the building code and must be so constructed as to be safe from all storm hazard.

10.4.4. *Material used in construction.* No material shall be used in the construction of buildings except stone, concrete blocks, tile, brick or brick veneer, frame, steel or any standard fabricated material. All buildings shall be constructed on concrete or tile foundations under all portions of main buildings.

10.4.5 *Roof material.*

(a) Roof material shall be of tile for roofs with an incline of more than two and one-half (2½) inches per foot, built-up tar and gravel for roofs with an incline less than two and one-half (2½) inches per foot unless the roof structure will not support the weight in which case wood or composition shingles may be used.

(b) No plain felt mopped-on roof shall be permitted on any pitched roof.

(c) All dwellings erected shall be consistently stormproof, according to the latest approved code and building methods.

(d) No three-tab shingles shall be permitted.

(Ord. No. 283, § 5, 10-5-93)

10.4.6 *Tile required on pitched roof.* Any building constructed in the village that has a pitched roof, shall have a roof finished with clay or cement tile.

10.4.7 *Roof repair or reroofing requirement and exception.* All buildings in the village which have roofs which are concrete or clay tile roofs must be repaired or reroofed only with clay or concrete tile. Shingles in reroofing shall be permitted only on existing roofs that had shingles on the effective date of this code. In all cases work shall conform with all requirements of the South Florida Building Code adopted herein for tile roofs.

Cross reference—Roof repair or reroofing permit, § 16.9.

10.4.8 *Removal of construction materials.*

(a) Any accumulated debris shall be deposited in an dumpster and surplus materials and construction equipment shall be removed from the premises if the job is abandoned. Any person causing the accumulation of building material waste is required to collect, convey and dispose of such material waste within ten (10) days of completion of the project or on notification from the building official. Failure to do so will be considered a violation of this code and all other related ordinances and governing laws and be subject to the penalties thereof.

(b) The village will not collect, convey or dispose of building material waste.

10.4.9 *Improvements to a nonconforming use.*

(a) Where an improvement being used for nonconforming use comes within the terms of subsection 3.4.2, no structural alterations shall be made except such as are required by ordinance, law or are ordered by an authorized officer to assure the safety of the building.

(b) Nothing in this code shall be constructed to prohibit the restoration and repair of a building destroyed or damaged to the extent of not more than fifty (50) percent of its reasonable value by fire, explosion, act of God or public enemy nor the continued use and occupancy of such building after such restoration. Any building damaged to the extent of more than fifty (50) percent of its reasonable value shall not be restored, but shall be demolished and removed.

10.4.10 *Construction work prohibited on Sunday.* No work on any construction job shall be performed on Sunday.

10.5. Landscape design.

10.5.1 *Landscaping of public areas.* All landscaping of public areas should conform to the following general design principles:

(a) Drainage systems and circulation systems for vehicles and pedestrians should be integrated into the landscaping plan.

(b) Landscaping should be used to minimize potential erosion through the use of ground covers or any other type of landscape material that aids in soil stabilization.

(c) Native vegetation should be preserved and used to meet landscaping requirements.

(d) Landscaping should enhance the visual environment through the use of materials that achieve variety with respect to species of living material selected textures, colors and size at maturity.

(e) Landscaping should consider the aesthetic and functional changes of vegetation, both when initially installed and when the vegetation has reached maturity.

(f) Landscaping should enhance public safety and minimize nuisances.

(g) Landscaping should maximize the shading of streets and vehicle use areas.

Cross reference—Landscaping, § 8.3.

CHAPTER 11. ACCESSORY STRUCTURES

11.1. Generally.

11.1.1 *Purpose.* It is the purpose of this chapter to regulate the installation, configuration, and use of accessory structures, in order to ensure that they are not harmful either aesthetically or physically.

11.1.2 *General standards and requirements.* Accessory structures may be located on a lot, provided that the following general standards and requirements are met:

(a) There shall be a permitted principal development on the lot, located in full compliance with all standards and requirements of this code.

(b) All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this code.

(c) Accessory structures shall not in general be located in a required setback area unless otherwise allowed herein.

11.2. Accessory buildings.

11.2.1 Permitted accessory buildings, which include private garages, storage buildings, private workshops, utility buildings, and greenhouses, shall:

(a) Maintain the same setbacks as the principal building.

(b) Comply with the general standards and requirements of subsection 11.1.2 above.

(c) Not be used as a place of abode.

(d) Not occupy in the aggregate more than thirty (30) percent of the area between the rear line of the main building and the rear property line except that a lot having a dual frontage shall have the same setback on each street property line.

11.3. Boat docks.

11.3.1 *Extension of boat dock, etc., into Biscayne Canal.* Unless otherwise provided for, no dock, wharf or other structure shall be built or extended into Biscayne Canal a distance greater than three (3) feet.

11.4. Carports.

11.4.1 *Carport material, size, and location.* Only one (1) carport, of aluminum or canvas only, is permitted per lot and shall be limited to twenty (20) feet by twenty (20) feet in size and shall be located at least five (5) feet from the front property line and five (5) feet from the side property line.

Cross reference—Carport permit, § 16.5.

11.5. Dish antennas.

Private noncommercial dish antennas may be permitted in the village provided:

11.5.1 *Location.* They are located in the rear yard.

11.5.2 *Setbacks.* They are placed no closer to any property boundary line than a distance equal to their height as measured from ground level to the top of the antenna but in no event closer than ten (10) feet to the property lines.

11.5.3 *Setbacks on corner properties.* No portion of the apparatus may extend beyond the imaginary extension of the line of the house structure.

11.5.4 *Roof-mounted dish antennas.* No roof-mounted dish antennas shall be permitted except on two-story buildings with a flat roof when the antenna cannot be viewed from the ground level.

11.5.5 *Dimensions.* The height of dish antennas shall not exceed fifteen (15) feet from ground level nor shall their diameter exceed twelve (12) feet.

11.5.6 *Number allowed and color.* Only one (1) dish antenna shall be allowed per single-family, duplex or apartment building, and such antenna shall be neutral in color.

11.5.7 *Anchorage.* All dish antennas shall be anchored securely to the ground in compliance with the requirements of the South Florida Building Code relative to structures.

11.5.8 *Maintenance.* Once installed, dish antennas and related appurtenances must be maintained in good and operable condition.

11.5.9 *Existing antennas.* All dish antennas that are legally existing at the time of the adoption of Ordinance No. 250 (4, 1989) shall be allowed to remain until such time that they may be replaced, at which time they shall conform in all respects to this section.

Cross reference—Dish antenna permit, § 16.6.

11.6. Fences, walls and hedges.

11.6.1 *Location.*

(a) All fences, walls and hedges may be located within any yard including upon the property line thereof. No such wall, fence or hedge shall extend beyond an official right-of-way line.

(b) When a fence, wall or hedge is placed on a property line, whether it be on an alley or a front property line, at least forty (40) square feet, a minimum of four (4) feet deep, of open space must be left for the storage of trash.

11.6.2 *Height.*

(a) The height of any hedge shall not exceed four (4) feet when located between the building and any paved street. When located between the building and other property lines,

fences and walls shall not exceed six (6) feet in height, and hedges shall not exceed eight (8) feet in height.

(b) The inside through lots on Northeast 11 Place from Northeast 119 Street to Northeast 121 Street shall be allowed the six-foot height from the building to and parallel to the rear property line.

(c) The existing hedges on Lot 30, Block 23 of Biscayne Park Estates amended shall not be affected by the height requirement only for so long as the garbage and trash trucks are parked there. When the trucks are no longer allowed there, the hedges shall conform to all the provisions of this chapter.

(Ord. No. 283, § 6, 10-5-93)

11.6.3 *Construction.* Fences and walls may be constructed of wood, concrete, or wire, and shall be constructed so as to be nonclimable.

(a) Wood fences shall be constructed according to the South Florida Building Code.

(b) Walls may be constructed of the following materials and must conform to the construction requirement of the South Florida Building Code.

(i) Coral rock.

(ii) Concrete block stuccoed on both sides with a concrete cap and combined with one (1) or more of the other construction materials listed in this subsection or ornamental wrought iron, ornamental aluminum, cast iron or cast aluminum or other stucco treatments designed to impact additional architectural interest.

(iii) Slump brick.

(iv) Used red bricks, limed red bricked or cement bricks appropriately painted.

(c) Wire fences shall be of chain-link or diamond weave of heavy galvanized material or material of equal strength and shall have top rails. All posts shall be set in concrete so as to be secure and safe.

(d) All parts of the fence, including uprights, posts and vertical and horizontal and structural supports shall be on applicant's side of the fence or wall. No part of the fence of wall shall protrude into the adjacent property or public right-of-way.

(e) Plans for fences shall be submitted with each application for building permit and must be so designed to be suitable and compatible with surrounding areas.

11.6.4 *Chain-link, wooden fences, and walls prohibited in certain areas.*

(a) Chain-link, wooden fences, and walls shall not be permitted when they extend farther toward the front street property line than the front corner of the building closest to the side property line.

(b) All fences that are existing at the time of adoption of Ordinance 244 (5, 1988) shall be allowed to remain until such time that they deteriorate.

11.6.5 *Electric or barbed wire prohibited.* No fence shall be constructed with barbed wire and no fence charged with electricity shall be erected.

Cross reference—Fence and wall maintenance violation, § 8.4.3.

11.7. Outdoor utility or storage sheds.

Utility or storage sheds shall be permitted upon the following conditions:

11.7.1 Building permits shall be required.

11.7.2 A utility shed may be attached to or separated from the main building and used only for the storage of property related to the premises which it serves and shall not be used as a place of abode.

11.7.3 Only one (1) utility shed shall be permitted per building site and shall not exceed one hundred (100) square feet in area and shall not have a height greater than nine (9) feet, and no utility service shall be connected thereto. (Ord. No. 283, § 6, 10-5-93)

11.7.4 Sheds shall be installed in accordance with standards and specifications established by the Products Control Division of Metro-Dade County.

11.7.5 All sheds shall be installed only to the rear of the existing building and shall conform to the side setback lines and in no event be nearer than three (3) feet to the rear property line. When attached to the building the shed shall be firmly and securely attached to the satisfaction of the building official.

11.7.6 In the case of corner lots, when there is not space in the rear to install a shed to conform with subsection 11.7.5 above, a shed may be installed attached to the side of the building that does not face a street, so installed that the shed shall be flush with and contiguous with the rear line of the building, and there shall be planted trees or shrubs at least three (3) feet in height and not more than one and one-half (1½) feet apart, of a fast growing variety so that eventually it will be seen or be visible from the street. When the shed is attached to the building and is constructed of the same materials as the house, planting shall not be required.

11.7.7 All utility sheds existing at the time of adoption of Ordinance 172 (1, 1975) that are located to the rear of the building line and are not a nuisance or a hazard shall be allowed to remain until such time that they deteriorate or are declared to be a nuisance or a hazard by the building inspector at which time they shall be made to conform with this section in all respects.

Cross reference—Utility or storage shed building permit, § 16.12.

11.8. Superimposed structures.

11.8.1 *Height limit.* Towers, aerials, tanks and other superimposed structures upon any building shall not exceed eight (8) feet in height.

11.9. Swimming pools.

11.9.1 A swimming pools, unless entirely screened in, must be surrounded by a protective fence and/or wall of a minimum height of four (4) feet.

11.9.2 The fence or wall shall be placed either around the swimming pool or the premises on which the pool is located.

11.9.3 The fence or wall shall be constructed of concrete block or two-inch chain link, galvanized wire with top rail. All gates shall be the spring local type (close automatically) and shall be equipped with a lock.

11.9.4 Final inspection and/or approval of construction of a swimming pool shall not be granted until such a fence or wall has been erected.

11.9.5 No overhead electric power line shall pass over any pool nor shall any power line be nearer than ten (10) feet horizontally or vertically from the pool's water edge.

CHAPTER 12. SIGNS

12.1. General provisions.

12.1.1 *Relationship to building code.* These sign regulations are intended to complement the requirements of the building code adopted by the village. Wherever there is inconsistency between these regulations and the building code, the more stringent requirement shall apply.

12.1.2 *Maintenance.* All signs, including their supports, braces, and anchors, and all painted and display areas, shall be maintained in accordance with the building code adopted by the village, and shall present a neat and clean appearance. The vegetation around, in front of, behind, and underneath the base of ground signs for a distance of ten (10) feet shall be neatly trimmed and free of unsightly weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

12.2. Prohibited and exempt signs.

12.2.1 *Prohibited signs.* It shall be unlawful to construct or maintain any sign on any property in the village except campaign signs and those exempted below. All other signs are prohibited.

12.2.2 *Illuminated signs prohibited.* No signs shall be illuminated or lighted in any way.

12.2.3 *Exempt signs.*

(a) Real estate sign. One (1) real estate sign, not exceeding one hundred twenty (120) square inches fixed to metal posts not to exceed one (1) inch by one (1) inch in size, advertising property for sale, rent or lease may be installed upon such property, so advertised, at least fifteen (15) feet from the roadway. There shall be one (1) dangler, which shall have indication of zoning, which shall be three (3) inches in height and not exceed the width of the real estate sign.

(b) Signs on premises or building during construction. One (1) sign on a premises or building during construction, to give the public warning or to advertise the architect, builder or the materials used in the construction, must be erected. The sign is to include on it the permit, contractor's name and telephone number, state certificate number, and is not to exceed three (3) square feet in area and four (4) feet in height fixed to metal posts not to exceed one (1) inch by one (1) inch in size, at no less distance than five (5) feet from the property line and shall be removed on completion of building.

(c) Accessory signs on apartment houses. Signs indicating the name, address, may be erected as an accessory to building or structures erected as apartment houses.

(Ord. No. 283, § 7, 10-5-93)

12.3. Campaign signs.

12.3.1 *Permitted signs.* Candidates election campaign signs shall be permitted on private property by the owner or lessee thereof in village election years from the first Tuesday in November to five (5) days after election day.

12.3.2 *Responsibility.* For purpose of this section, each candidate is responsible for each sign advertising his or her candidacy regardless of who posted the sign. The person posting a candidate's sign shall be regarded as an agent of the candidate.

12.3.3 *Removal.* If all the candidates signs have not been removed five (5) days after the village election day, on the sixth day the village shall remove the sign or signs and the candidate shall forfeit his bond. The forfeiture shall be automatic without notice.

12.3.4 *Number.* Not more than twenty-five (25) signs in the village, excluding the headquarters sign, and not more than one (1) sign on any one property, shall be displayed by any candidate.

12.3.5 *Size.* Signs shall not exceed four (4) square feet in area and such measurement shall be taken on only one (1) face of the sign, and the top of the sign shall not extend more than four (4) feet above the ground level. However, printed matter may be displayed on both sides of the permitted sign.

12.3.6 *Setbacks.* No sign shall be placed less than five (5) feet from the property line.

12.3.7 *Headquarters sign.* A candidate for village public office may display one (1) sign not to exceed sixteen (16) square feet on only one (1) property in Biscayne Park and designate it as headquarters. Such sign shall conform to the setback requirements of subsection 12.3.6 above.

12.3.8 *Signs on motor vehicles permitted.* Campaign signs may be displayed on moving motor vehicles or on licensed operable motor vehicles parked on private property.

Cross reference—Campaign sign bond, § 18.3.

PART III.

ADMINISTRATION

CHAPTER 13. PLANNING BOARD AND LOCAL PLANNING AGENCY

13.1. Generally.

13.1.1 *Purpose of chapter.* The following board and agency are created to administer the provisions of this code under the authority prescribed by this code and Florida law.

13.2. Planning board.

13.2.1 *Appointed.* There is hereby appointed and created a village planning board hereinafter called the board to review and recommend to the village commission approval or denial of development applications submitted under this code and any other matter that may be referred to the board by the commission.

13.2.2 *Term.* The planning board shall be appointed for a term of two (2) years.

13.2.3 *Membership.* The board shall be composed of three (3) members. Each member shall reside in the village. When a position becomes vacant before the end of the term, the village commission shall appoint a substitute member to fill the vacancy for the duration of the vacated term.

13.2.4 *Chair.* The members shall designate one of them as chair of the planning board.

13.2.5 *Meetings.* The board shall meet in the village hall or at such other place or places as the members thereof may decide and at such times as the members of the board may decide.

13.2.6 *Quorum.* A majority of the members of the planning board shall constitute a quorum for all purposes.

13.2.7 *Procedures.* The board shall follow rules of procedure that conform to this code, the village charter and other ordinances, and state law. Minutes of the board's proceedings shall be

kept, indicating the attendance of each member, and the decision on every question. Each decision of the board must be approved by majority vote. All meetings of the board shall be public meetings and all board records shall be public records.

13.2.8 *Finances.* The village commission shall appropriate funds to permit the planning board to perform its prescribed functions. Members shall not be compensated, but may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the village commission.

13.2.9 *Application fees.* The village commission shall adopt by resolution a schedule of application fees for functions performed by the planning board in response to applications submitted by any person, corporation, organization or governmental entity.

13.3. Local planning agency.

13.3.1 *Designation and Establishment of Local Land Planning Agency.* Pursuant to and in accordance Section 163.3174, F.S., the village planning board is hereby designated and established as the local planning agency for the incorporated territory of Biscayne Park, Florida.

13.3.2 *Duties and responsibilities of the local planning agency.* The local planning agency, in accordance with the Local Government Comprehensive Planning and Land Development Act of 1985, F.S. Section 163.3174(4), shall:

(a) Be the agency responsible for the preparation of the comprehensive plan and shall make recommendations to the governing body regarding the adoption of such plan or element or portion thereof.

(b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including preparation of the periodic reports required by Section 163.3191, F.S. (evaluation and appraisal of the comprehensive plan once every five (5) years).

(c) When the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission, review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan or portion thereof.

(d) Perform any other functions, duties, and responsibilities assigned to it by the governing body or general or special law.

13.3.3 *Organization, rules and procedures of the agency.* Members of the local planning agency shall continue to be appointed and follow such rules of procedure, methods of choosing officers, setting of public meetings, providing of financial support, and accomplishing its duties as provided in the Charter.

13.3.4 *Public meetings and records.* All meetings of the local planning agency shall be public meetings and all agency records shall be public records. The local planning agency shall encourage public participation.

13.3.5 *Funds.* The commission shall appropriate funds at its discretion to the local planning agency for expenses necessary in the conduct of its work. The local planning agency may, in order to accomplish the purposes and activities required by the Local Government Comprehensive Planning and Land Development Act of 1985 Act, expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; provided acceptance of loans or grants must be approved by the commission.

CHAPTER 14. ENFORCEMENT

14.1. Generally.

14.1.1 *Enforcement of land development code.* The planning board shall enforce this code according to procedures set out in chapter 15 herein.

14.2. Building official.

14.2.1 *Designation.* The building official shall be designated by the appointing authority, whatever the official title, to enforce the provisions of the South Florida Building Code and other applicable laws; provided, the official may act with the aid and through authorized assistants.

14.2.2 *Authority.* The building official is hereby authorized and directed to interpret and enforce all of the provisions of this code subject to the powers vested in the planning board.

14.3. Campaign sign removal enforcement.

14.3.1 *Authority to remove campaign signs.* Authority is hereby given to the chief of police or an officer under his direction to remove or cause to be removed any and all campaign signs constructed or maintained in the village in violation of this code.

14.4. Violations and general penalty.

14.4.1 *General penalty.* Whenever in this code or in any ordinance of the village any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this code or any ordinance shall be punished by a fine not to exceed five hundred dollars ($500.00), or imprisonment for a term not exceeding sixty (60) days, or by both a fine and imprisonment. Each day violation of any provision of this code or of any ordinance shall continue shall constitute a separate offense.

14.4.2 *Continuation of violation.* In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this code or any ordinance shall be deemed a public nuisance and may be, by the village, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

14.5. Other penalties and remedies.

14.5.1 *Planning board determination.* If the planning board determines that the code enforcement process would otherwise be an inadequate response to a given violation, it may pursue the following penalties and remedies, as provided by law.

14.5.2 *Civil remedies.* If any building or structure is erected, constructed, reconstructed, altered, repaired, or maintained or any building, structure, land, or water is used in violation of this code, the planning board, through the village attorney, may institute any appropriate civil action or proceedings in any court to prevent, correct, or abate the violation.

14.5.3 *Civil citation.* For any violation against this code and to enforce any provisions of this code, civil citation procedures may be used along with a fine of twenty-five dollars ($25.00).

14.5.4 *Criminal penalties.* Any person who violates any provisions of this code shall be deemed guilty of a misdemeanor and shall be subject to fine and imprisonment as provided by law.

CHAPTER 15. PROCEDURES

15.1. Generally.

15.1.1 *Purpose.* This chapter sets forth procedures for enforcement of this code, for the consideration of variances from this code, for amending this code or the comprehensive plan, and for appealing decisions.

15.2. Enforcement of code provisions.

15.2.1. *Enforcement procedures.* The planning board shall enforce this code according to the procedures set forth below.

(a) When the planning board or its duly authorized agent has reason to believe that the provisions of this code are being violated, the board shall initiate enforcement proceedings.

(b) The planning board or its duly authorized agent shall notify the alleged violator of the nature of the violation and provide a reasonable time to eliminate the violation.

(c) If the violation is not eliminated within the time specified, the planning board or its duly authorized agent shall issue the alleged violator a civil citation.

15.3. Variances.

15.3.1. *Variances recommended by the planning board.* The planning board may recommend to the commission a variance from the strict application of any provision of this code, except provisions of the adopted levels of service (chapter 9).

15.3.2 *Determination of proposed variances.* The planning board shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, or other physical or environmental conditions that are unique to the specific property involved. If so, the board shall make a required finding based on the recommendation of the variance for that site alone.

15.3.3 *Required findings by the planning board.* The planning board shall not recommend variance from the requirements of any provision of this code unless it makes a positive finding, based on substantial competent evidence, on each of the following:

(a) There are practical or economic difficulties in carrying out the strict letter of the regulation.

(b) The variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public.

(c) The variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.

(d) The effect of the variance is in harmony with the general intent of this code and the specific intent of the relevant subject area(s) of the code.

15.3.4 *Imposition of conditions.* In recommending a development approval involving a variance, the planning board may also recommend such conditions and restrictions upon the premises benefitted by a variance as may be necessary to allow a positive

finding to be made on any of the factors in subsection 15.3.3 above, or to minimize the injurious effect of the variance.

15.3.5 *Historic properties.* Special variances may be granted for the reconstruction, rehabilitation or restoration of structures listed or classified in the national or county register of historic places. The special variance shall be the minimum necessary to protect the historic character and design of the structure. No special variance shall be granted if the proposed construction, rehabilitation, or restoration will cause the structure to lose its historical designation.

15.4. Procedure for amending this code or the comprehensive plan.

15.4.1 *State law.* The procedures for amending this code or the comprehensive plan shall adhere to state law in all respects.

15.4.2 *Applications.* Any affected person or affected local government may apply to the local planning agency to amend this code or the comprehensive plan in compliance with procedures prescribed by the agency.

15.4.3 *Local planning agency recommendation.* The local planning agency shall hold a legislative hearing on each application to amend this code or the comprehensive plan and thereafter submit to the village commission a written recommendation which:

(a) Identifies any provisions of the code, comprehensive plan, or other law relating to the proposed change and describes how the proposal relates to them.

(b) States factual and policy considerations pertaining to the recommendation.

15.4.4 *Decision by the village commission.* The village commission shall hold a legislative hearing on the proposed amendment and may enact or reject the proposal, or enact a modified proposal that is within the scope of matters considered at the hearing.

15.4.5 *Legislative hearing.* Each legislative hearing shall conform to the following requirements:

(a) Notice. Notice that complies with the requirements of state law shall be given.

(b) Hearing. The public hearing shall as a minimum:

(i) Comply with the requirements of state law.
(ii) Present the local planning agency's analysis of the proposed decision.
(iii) Present the local planning agency's summary of reports by other agencies.
(iv) Permit any affected person or affected local government to submit written recommendations and comments before or during the hearing.
(v) Permit a reasonable opportunity for interested persons to make oral statements.

15.5. Appeals.

15.5.1 *Submission of appeal.* Appeals as to any provision of this code or regulations may be made to the commission by any aggrieved resident or property owner of the area affected, and upon receipt of such appeal it shall be referred to the local planning agency for investigation.

15.5.2, *Local agency evaluation.* Such appeals may concern general provisions of the plan and regulations or their effect in application to specific pieces of property. The local planning agency shall determine whether or not relief may be granted without substantial detriment to the public good and without impairing the intent and purpose of the plan and code, and shall report its findings and recommendations as to change and amendments, if any, to the commission.

15.5.3 *Final action.* Final action on appeals shall be taken by the commission after receipt of such report, and the commission may overrule the local planning agency.

15.5.4 *Local planning agency failure to act.* Failure of the local planning agency to act on any appeal within thirty (30) days after its official submission to it shall be deemed approval unless a longer period is requested and granted by the commission.

15.5. *Certification.* Changes in the adopted comprehensive plan and land development code, or amendments thereto, originated

by the local planning agency may be certified through the commission at any regular meeting and adopted as amendments to this code in the regular manner.

CHAPTER 16. PERMITS AND CERTIFICATES

16.1. Generally.

16.1.1 *Purpose.* This chapter sets out the development, building and other permits and the certificate of occupancy required by this code.

16.2. Development permit.

16.2.1 *Development permit required.* No development activity may be undertaken unless the activity is authorized by a village development permit. Except as provided in subsection 16.2.4 below, a development permit may not be issued unless the proposed development activity is authorized by a development order issued pursuant to this code.

16.2.2 *Development permit description.* For the purposes of this code a development permit is that official village document which authorizes the commencement of construction or land alteration without need for further application and approval. Development permits include: All types of construction permits (the building permit itself, and in addition, plumbing, electrical, foundation, mechanical permits, and so forth), septic tank permits, tree removal permits, grading and clearing permits, sign permits, etc.

16.2.3 *Post-permit changes.* After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the village.

16.2.4 *Exceptions to requirement of a development order.* A village development permit may be issued for the following development activities in the absence of a development order issued

pursuant to this code. Unless otherwise specifically provided, the development activity shall conform to this code.

(a) The construction or alteration of a one- or two-family dwelling on a lot in a valid residential sector.

(b) The alteration of an existing building or structure so long as no change is made to its gross floor area, or its use.

(c) The construction or alteration of an accessory structure provided all the applicable regulations of chapter 11 of this code have been met.

(d) The erection of a sign.

(e) The alteration, restoration, or renovation of a historic structure provided a certificate of appropriateness has been issued by the Metro-Dade Historic Preservation Board.

(f) The removal of protected trees, provided a Metro-Dade County permit has been issued or the tree removal is exempt under subsection 8.2.4 of this code.

16.3. Building permits.

16.3.1 *Building permits required.* It shall be unlawful to construct, enlarge, alter, repair, move, remove or demolish any building, structure, or any part thereof; or any equipment, device or facility therein or thereon; or to change the occupancy of a building from one use group to another requiring greater strength, means of egress, fire and sanitary provisions; or to change to an unauthorized or prohibited use; or to install or alter any equipment for which provision is made or the installation of which is regulated by the South Florida Building Code; without first having filed application and obtained a permit therefor, from the building official, validated by payment thereof. Permits shall be required for the specific operations listed in the South Florida Building Code.

16.3.2 *Building permit exception.* No permit shall be required for general maintenance or repairs which do not change the occupancy and the value of which does not exceed one hundred dollars ($100.00) in labor and material determined by the building official.

16.3.3 *Form.* Any qualified applicant desiring a permit to be issued by the building official as required, shall file an application therefor in writing on a form furnished by the building official for that purpose and application for permit will be accepted only from qualified applicants, as defined in the South Florida Building Code.

16.3.4 *Plans and specifications.* All applications for building permits must be accompanied by a complete set of plans and specifications to be approved by the planning board.

16.3.5. *Conditions, inspections, cleanup of site.* Conditions of permit, including permit card, compliance, time limitation, revocation of permit, and in addition inspections and cleanup of site, shall all be in accordance with the provisions of the South Florida Building Code.

Cross reference—Building permit fees, § 18.2.

16.4. Certificate of occupancy.

16.4.1 *Certificate of occupancy required.* No building hereafter erected, altered or enlarged, nor existing building involving a change of occupancy shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the building official, certifying that he reasonably believes the building and occupancy are in accordance with the provisions of the South Florida Building Code and laws applicable thereto. If the building official reasonably believes the building or part thereof complies with the provisions of all pertinent laws and regulations, he shall issue the certificate of occupancy. A certificate of occupancy for places of assembly shall indicate thereon and make record of the number of persons for which such certificate is issued.

16.4.2 *Existing buildings; revocation, temporary and/or partial certificates of occupancy, connection of services.* Existing buildings that do not comply with the South Florida Building Code, authority to revoke a certificate of occupancy, issuance of temporary and/or partial certificate of occupancy, and conditions regarding connection of services shall all be in accordance with the provisions of the South Florida Building Code.

16.4.3 *Records.* A record of all certificates of occupancy shall be kept on file in the office of the village clerk and a copy shall be

furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

16.5. Carport permit.

16.5.1 *Permits required.* Carport permits shall be required and the applicant shall submit a plot plan and drawing showing approved construction.

Cross reference—Carports, § 11.4.

16.6. Dish antenna permit.

16.6.1 *Permits required.* No dish antenna shall be erected until a permit has been issued by the village. All applications for a permit shall be accompanied by a site plan showing the proposed location of the antenna, the type, color, height and diameter of the antenna.

Cross reference—Dish antennas, § 11.5.

16.7. Fence and wall permit.

16.7.1 *Permits required.* Permits shall be required for all walls and fences.

16.7.2 *Permit approval.* The planning board shall not approve any permit for a fence or wall if in its opinion the design is not suitable or compatible to the area, taking into consideration the proposed location of the fence with reference to other structures and vegetation on the lot, the color of the proposed fence and other buildings located on the lot, and other fences in the area.

16.7.3 *Issuance of permit.* The building official shall not issue any permit for a fence which does not comply with the structural requirements of the South Florida Building Code adopted herein.

Cross reference—Fences, walls, and hedges, § 11.6.

16.8. Right-of-way and easement permit.

16.8.1 *Permit Required for utilities and paving in right-of-way.* It shall be unlawful for any person to construct utilities or other public works or lay paving in the roads and street rights-of-way and easements located within the village without first having obtained a permit.

Cross reference—Objects in right-of-way, § 5.3.4.

16.9. Roof repair or reroofing permit.

16.9.1 *Permit issuance condition.* No building permit shall be issued for the substantial repair or reroofing of any roof except where such roofing meets all the requirements of the South Florida Building Code adopted herein.

Cross reference—Roof repair or reroofing, § 10.4.7.

16.10. Tree removal permit.

16.10.1 *Permit required for removal of nonexempt trees.* A village tree removal permit shall be issued provided a Metro-Dade County tree removal permit has been issued previously for the same tree.

Cross reference—Tree protection, § 8.2.4.

16.11. Truck etc., overnight parking permit.

16.11.1 *Special permit required.* Any truck, trailer, semitrailer, or bus in the performance of a service shall not remain parked in the public right-of-way overnight without a special permit issued by the chief of police.

Cross reference—Parking of trucks, § 5.3.3.

16.12. Utility or storage sheds buildings permit.

16.12.1 *Permit required.* Building permits shall be required and the applicant shall submit a plot plan and drawing showing approved construction.

Cross reference—Utility or storage sheds, § 11.7.

16.13. Exterior painting permit.

16.13.1 *Permit required.* Permits shall be required for any exterior painting and the applicant shall submit a sample of the desired paint color. Said color shall be approved or disapproved by the planning board in accordance with section 10.3.1. Trim color shall not exceed thirty (30) percent of the total square footage of all vertical surface areas.

(Ord. No. 283, § 8, 10-5-93)

16.14. Double fee permits.

16.14.1 *Double fee.* Any person beginning work before obtaining a required permit shall pay double the required permit fee.

(Ord. No. 283, § 9, 10-5-93)

CHAPTER 17. FEES, BONDS, AND CHARGES*

17.1. Generally.

17.1.1 *Purpose.* It is the purpose of this chapter to establish the fees and bonds required and charges that may be made by the village.

17.2. Building permit fees.

17.2.1 *Permit fees established.* The village shall charge and collect permit fees for building, plumbing, electrical, mechanical work and for work in the public rights-of-way at the rates listed in the fee schedule on file in the village clerk's office and made a part hereof and no work shall be commenced until the fees have been paid.

Cross reference—Building permits, § 16.3.

17.3. Campaign sign bond.

17.3.1 *Cash bond required.* No political campaign signs shall be placed until the candidate has posted a one hundred dollar ($100.00) cash bond with the village clerk. The bond shall be refunded after the election, provided a village inspection verified that all the candidate's signs have been removed.

17.3.2 *Bond not required for certain signs.* The requirement of subsection 18.3.1 above does not apply to signs as [on] car tops or bumper stickers affixed to or placed in licensed operable motor vehicles.

Cross reference—Campaign signs, § 12.3.

17.4. Local solid waste management fees.

17.4.1 *Schedule of fees.* The current schedule for solid waste collection, transportation, separation and disposal service is established by a separate ordinance, copies of which are available at the office of the village clerk.

***Editor's note**—The village has advised that former Ch. 17, notices, was deleted in its entirety, and the user's attention is directed to § 8.4.3 of this appendix. Additionally, provisions which were designated as Ch. 18, fees, bonds and charges, were redesignated as Ch. 17 herein set out.

17.4.2 *Local solid waste management fees.*

(a) In order to assist in achieving the village solid waste reduction goal and the recycling provisions of Section 403.706(4), F.S., the village is authorized to charge solid waste disposal fees which may vary based on a number of factors, including, but not limited to, the amount, characteristics, and form of recyclable materials present in the solid waste that is brought to the village facility for processing or disposal.

(b) In addition to all other fees required or allowed by law, the village, at the discretion of its governing body, may impose a fee for the services the county or village provides with regard to the collection, processing, or disposal of solid waste, to be used for developing and implementing a recycling program. For such fees, the local governing body may use the non-ad valorem levy, collection, and enforcement method as provided for in Chapter 197, F.S.

(c) The county, village, or other person is not prohibited from providing grants, loans, or other aid to low-income persons to pay part or all of the costs of such persons' solid waste management services.

17.4.3 *Fee payment liability.* The property owner of each lot, tract or parcel of land having a residential unit or units thereon shall pay or cause to be paid the fee for each residential unit as set forth in the schedule of fees. Temporary residential vacancies, regardless of duration, shall not constitute an authorization for a refund nor excuse the nonpayment of any fee. Waste collection may be discontinued from premises for which the fee has not been paid and the owner or occupants thereof may be subject to the provisions of the section on special assessment liens against all improved real property.

17.4.4 *Solid waste fee shall constitute special assessment liens against all improved real property.* All owners of improved real property in the village are required to have accumulations of garbage, refuse, and yard trash removed and disposed of by the public works department, and for such governmental service of solid waste collection and disposal, or the availability of such

service, all such improved real property shall be liable for the payment of the waste fees set forth in subsection 17.5.1. All solid waste fees becoming due and payable on and after the effective date of the ordinance from which this section was derived, shall constitute, and are hereby imposed as, special assessment liens against the real property aforesaid, and until fully paid and discharged, or barred by law, shall remain liens equal in rank and dignity with the lien of county ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such solid waste fees shall become delinquent if not fully paid within thirty (30) days after due date. Thereafter, delinquent fees, and penalty assessments shall accrue interest at the rate of eighteen (18) percent per annum (one and one-half (1½) percent per month). Annual rates are payable only during the month of May, thereafter, semiannual rates will apply. Unpaid and delinquent solid waste fees, together with all penalties, additional costs, and attorney's fees imposed thereon, shall remain and constitute special assessment liens against the real property involved. Such special assessment liens for solid waste fees and penalties may be enforced by any of the methods provided in Chapter 85, F.S., or in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of Chapter 173, F.S., or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law.

17.4.5 *Yard trash, extra charge.* If the total accumulation of all yard trash placed on the property line for a single collection pickup exceeds two (2) cubic yards prior to loading, a charge for the excess over two (2) cubic yards will be levied in accordance with the schedule of solid waste management fees.

17.4.6 *Extra charge may be waived.* In the event of accumulation of yard trash is caused by tornado, hurricane, hail, or high winds the village may elect to waive the extra charge in subsection 17.4.5 above for collection, conveyance and disposal.

Cross reference—Solid Waste, § 6.3.

17.5. Public right-of-way permit fees.

17.5.1 *Fees.* All standards and permit fees regarding public rights-of-way shall be on file in the clerk's office.

Cross reference—Rights-of-way, § 5.3.

TABLE A RESIDENTIAL SECTORS

Regulations	*RESIDENTIAL SECTORS* *A*	*B*	*C*	*D*
Density (Dwelling units per gross acre[1])	=<2.0	2.1–6.0	2.1–6.0	2.1–6.0
Minimum lot size (square feet[2])	8,500	8,500	6,000	8,500
Dwelling type allowed	Detached one-family	Detached one-family	Detached one-family two-family[4]	Detached community res. home
Minimum dwelling size (gross horizontal floor area, square feet)	1,900	1,400	(a) 1,400 (b) 2,000	1,400
Maximum lot coverage (percent)	50	50	50	50
Maximum dwelling units per single lot	1	1	1	1
Maximum building height (stories)	2	2	2	2
Minimum setbacks (feet)				
Street property line	50	30[3]	30	30
Rear	10	10	10	30
Sides	10	10	10	10

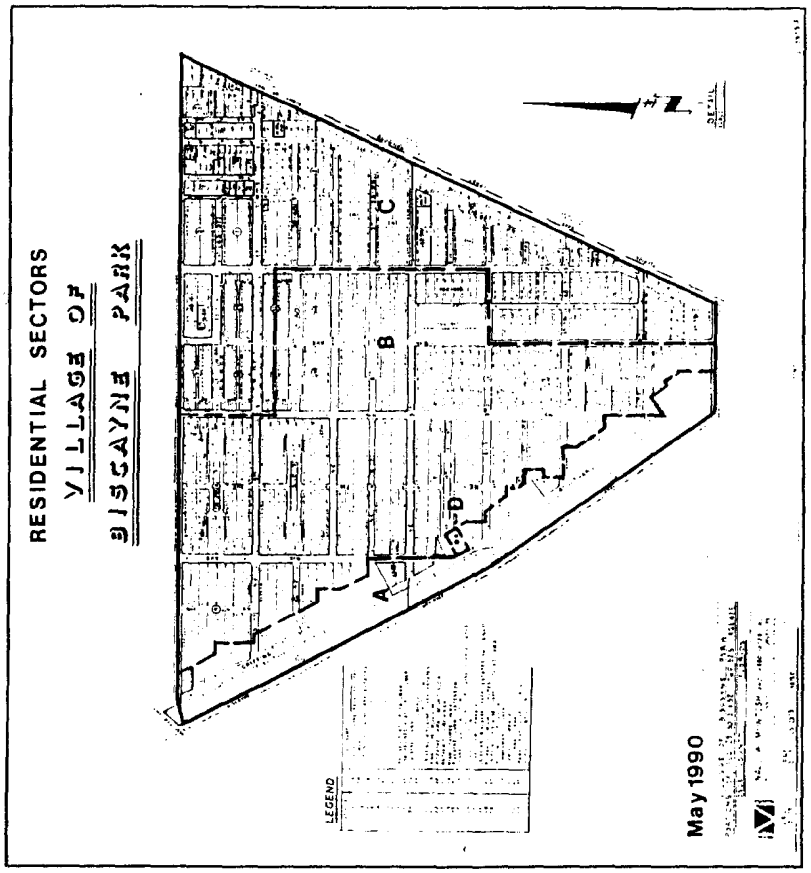
Notes:

[1]Gross acre is the lot area plus half the width of the adjacent road.

[2]And in any case not less than the area of any lot of record.

[3]Except north side of 116th Street between 6th Avenue to 8th Avenue where the present setback shall be maintained; except on all 60-foot lots facing NE 9th Avenue between 118th Street and 120th Street where the setback shall be 20 feet from the NE 9th Avenue property line and said lots shall be subject to existing setback requirements of the streets on which they abut.

[4]Two-family or duplex dwellings are prohibited on lots with a frontage of 50 feet or less.


RESIDENTIAL SECTORS
VILLAGE OF
BISCAYNE PARK
A
B
C
D
E
LEGEND
May 1990

CODE COMPARATIVE TABLE

ORDINANCES

This is a numerical listing of the ordinances of the village used in this Code. Repealed or superseded laws and any omitted materials are not reflected in this table.

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1	1-28-32	1	3-1
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3	1-28-32	1	6-1
		2	6-2
4	1-28-32	1	11-1
5	1-28-32	1	11-2
13	2-18-32	1	9-41
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14	2-18-32	1	4-76
23	2-20-35	1	12-16, 12-17
		2	12-18—12-20
26	2-26-36		11-4
63	1-17-40	1	2-16
84	11-21-44	Art. II, § 1	18-1
		Art. III, § 1	18-3, 18-4
		Art. IV, § 2	18-91
		Art. IV, § 3	18-92
		Art. IV, § 4	18-106
		Art. IV, §§ 5, 6	18-107
		Art. IV, § 7	18-121
		Art. IV, § 8	18-122
		Art. V, § 1	18-172
		Art. V, § 2	18-173
		Art. V, § 3	18-174
		Art. VI, § 1	18-150
		Art. VI, § 2	18-151
		Art. VI, § 3	18-152
		Art. VI, § 4	18-153
		Art. VI, § 5	18-21
		Art. VI, § 6	18-171
		Art. VI, § 7	18-154
		Art. VI, § 8	18-155
		Art. VI, § 9	18-136
			18-156
		Art. VI, § 10	18-157
		Art. VI, § 11	18-158
		Art. VI, § 13	18-186
		Art. VI, § 14	18-5

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		Art. VI, § 15	18-6
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		Art. VIII, §§ 2, 3	18-38
		Art. VIII, § 4	18-37
		Art. VIII, § 5	18-39
		Art. IX, § 1	18-2
		Art. X, § 1	18-66
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		2	8-17, 8-18
86	5- 1-46	1	15-1, 15-2
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		4	11-24
108	7- 3-50		4-21
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		7	13-21
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130	1- 8-57	1	18-51
134	7- 2-57	12	4-46
136	5-16-58	1	4-16
138	2- 3-59	1	10-1
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160	7- 6-71	1	4-18
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162	7- 3-73	1	14-16
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163	6- 5-73	1	4-19
164	7- 3-73	1	13-16
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165	7- 3-73	1	13-36
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171	12- 3-74	1	17-16
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		5	5-4
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		2(d)	9-18, 9-19
		2(e)	9-20
		2(e)(1)	9-21
		2(f)	9-24
		2(g)	9-25
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228	5- -85	1–8	Adopting Ordinance, p. ix
230	9- 3-85	1, 2	7-22, 7-23
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		2	4-43
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258	5- 1-90	1–8	11-41–11-48
259	5- 1-90	1–7	11-66–11-72
260	7-23-90		App. A, 6.5.2
264	2- 5-91	1	2-61
266	6- 4-91	1, 2	3-3, 3-4
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		2	App. A, § 3.4.1(a)
		3	App. A, § 4.1.1
		4	App. A, §§ 8.4.2, 8.4.3(b)
		5	App. A, § 10.4.5(d)
		6	App. A, §§ 11.6.2(a), 11.7.3
		7	App. A, § 12.2.3(a)
		8, 9	App. A, §§ 16.13, 16.14

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16319(1933)		Charter (note)
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STATUTORY REFERENCE TABLE

This table shows the location within this Charter and Code, either in the text or notes following the text, of references to the state law or related matters.

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VII		Char., Art. VII, § 10
	1(a)	Char., Art. VII (note)
		Char., Art. VIII, § 4
		App. A

Florida Administrative Code

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17-25	App. A, 6.5.1, 6.5.2
17-40	App. A, 6.5.2

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97.041	Char., Art. III, § 6
Ch. 98	Ch. 2, Art. V(note)
98.041	Char., Art. III, § 6
112.311	Ch. 2, Art. II(note)
119.01	Ch. 2, Art. II(note)
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Ch. 163	App. A
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163.3174	App. A, 13.3.1, 2
163.3177	App. A, 2.2.13
163.3178	App. A, 2.2.13
163.3191	App. A, 13.3.2(c)
163.3194	App. A, 1.5.2
163.3202	App. A, 1.2.1, App. A, § 9.1(note)
163.3202(2)	App. A, 1.4.2
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166.101	Char., Art. VI(note)
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166.231	Ch. 16(note)
	Ch. 16, Art. II(note)
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	Char., Art. VII(note)
	Ch. 16(note)
193.116	Char., Art. VII, § 2
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286.011	Ch. 2, Art. II(note)
316.293	Ch. 10(note)
316.1945	Ch. 17, Art. II(note)
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403.415	Ch. 10(note)
403.702	App. A, § 6.3(note)
403.703	App. A, 2.2.61
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