



# *The Village of Biscayne Park*

600 NE 114th St., Biscayne Park, FL 33161

Telephone: 305 899 8000 Facsimile: 305 891 7241

**AGENDA**  
**WORKSHOP SWALE AREA**  
**Log Cabin - 640 NE 114th Street**  
**Biscayne Park, FL 33161**  
**Tuesday, February 26, 2019 7:00pm**

In accordance with the provisions of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in the proceedings should call Village Hall at (305) 899 8000 no later than four (4) days prior to the proceeding for assistance.

**DECORUM** - All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Commission, shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or in opposition to a speaker or his/her remarks shall be permitted. No signs or placards shall be allowed in the Commission Chambers. Please mute or turn off your cell phone or pager at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chamber shall do so quietly.



*Indicates back up documents are provided.*

**1 Call to Order**

**2 Roll Call**

Mayor Truppmann

Vice-Mayor Johnson-Sardella

Commissioner Samaria

Commissioner Tudor

Commissioner Wise

**3 Pledge of Allegiance**

**4 Public Comments Related to Agenda Items / Good & Welfare**

*Comments from the public relating to topics that are on the agenda, or other general topics.*

**5 Information / Updates**

Discussion on Swale

## **6 Announcements**

Wednesday, February 27, 2019 7:00pm Public Safety Advisory Board

Monday, March 4, 2019 6:30pm Planning & Zoning Advisory Board

**Our next Regular Commission Meeting will be held on Tuesday, March 5, 2019 at 7:00pm**

## **7 Adjournment**

## **Development of Standards for Swales: Parking, Landscape & Maintenance**

### **Goals**

1. Develop codes that maintain the function and use of the swales as the public right of way.
2. Allow flexibility of use without creating any additional safety and liability issues for the Village and property owners.

### **Objectives**

1. Obtain input from the work done by the Code Review Board as presented by Gage Hartung.
2. Review and build a consensus as to the three main areas of the proposed ordinance from the work of the last commission:
  - Development of the swale portion of the public right of way as a parking surface and maintenance;
  - Regulations and enforcement of vehicles parking in the swales;
  - Landscaping and maintenance of the swales.

### **Categories for Discussion**

#### **I. Development of the Swale: Parking Standards**

##### **A. Determination of Need for Development of the Swale for Parking**

###### **a. Criteria**

1. Currently property owner has existing driveway on private property and needs additional visitor or residential parking.
2. Current property owner has existing tandem driveway on private property but wants location to park resident or visitor vehicle when needed. .
3. Current property owner does not have existing driveway on private property but does not have the lot configuration or has other issues that requires the use of the swale for parking.
4. Current property owner does not have existing driveway on private property but prefers to park on the existing swale parking surface. (Should we allow or not?)

###### **b. Process**

- Permit process only (items 1 and 2 above)
  - Must be reviewed and comply with all affected Village Departments (e.g. public works, building, police, etc.)
  - Must be approved by Village Manager or his/her designee (Public Works Manager) so as to comply with all safety and regulatory issues.
- Administrative variance followed by permit process (items 3 and 4 above)

##### **B. Design specification**

###### **a. Size of swale parking surface**

- Up to forty percent (40%) of swale area of rights-of-way may be developed for parking.

###### **b. Location of swale parking surface**

- If the parcel has a front yard and a corner side yard, off-street parking spaces may be on either the front yard or corner side yard, but not both.

- c. Permitted materials
    - Concrete, pavers, brick, gravel (per section 5.6.2(f)), and cut stone or turf block
  - d. Materials in relation to existing driveway design
    - Swale parking surfaces (applied for after passage of this ordinance) shall be constructed of the same material as the off-street parking surfaces, unless the off-street parking surface is asphalt, in which case another complementary approved material shall be used. incorporated in the design of both the off-street and swale parking.
- C. Maintenance of parking surfaces**
- a. Criteria for allowable repairs (less than 50% deterioration)
  - b. Criteria for replacement of parking surface and/or apron (more than 50% deterioration)

## II. Swale Parking Regulations

### a. Components

1. All vehicles parked on the swale shall meet vision clearing per code and violations shall be determined by the Village Manager or designee (e.g. Police, Code Enforcement Officer, and Public Works Manager).
2. Storage of vehicles on the swale is not permitted.
3. Property owners with swales contiguous to their properties have owner's rights concerning swale parking abutting their property.
4. Police/emergency vehicles, Village utility and Village staff vehicles, or municipal contract service vehicles may park on any of the village's rights-of-way, including the swales, when performing the duties on behalf of the Village and without the consent of the abutting property owner.
5. Commercial vehicles shall only be allowed to park temporarily the swale abutting the property owner while servicing the property owner. No commercial vehicles shall be allowed to park on the swale overnight.
6. All vehicles parked in the swale shall be parked parallel to the street and on an approved surface.

## III. Development of the Swale: Landscaping and Maintenance Standards

### a. Components

1. Property owners are responsible for maintaining all landscaping material in/on the swale area abutting their property (e.g. removal of dead trees, plants, and limbs). Landscaping material in the swale shall be maintained and free of debris by the property owner.
2. Landscape material in the swale shall not constitute a safety hazard or limit access to utilities.
3. No new plantings are permitted in the swales other than sod or other approved ground cover. However, the Village Administration will work with property owners regarding landscape solution for corner lots who demonstrate reoccurring damage from vehicles to the sod and rutting associated with turn radius.

# DRAFT

## 5.3.4 *Landscaping and objects in the swale area of 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 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 that are so located so as not to create a traffic hazard.
  - (c) **Paving and drainage.** ~~Parking surfaces. 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, parking 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.
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- (e) A combination of an approved parking approach and sodding of swale area of rights-of-way shall be permitted. Up to forty percent (40%) of swale area of rights-of-way may be developed for parking. The parking surface driveway approach is included in the forty percent (40%) limit. Other than the parking surface driveway approach, any other development of swale area for parking must consist of pervious materials (see Section 5.6.2 of Code). ~~provide the impervious section does not exceed forty (40) percent of the total area and such paved areas shall be kept in good condition.~~
  - (f) **Removal of obstructions by the village.** In the event any object or tree placed in the swale creates an emergency situation involving potential danger to the health, safety and welfare of the community, the village may perform removal operations immediately, thus eliminating the emergency, and may assess the cost of such removal against the adjacent property owner.
  - (g) **Removal of trees in the swale by the abutting property owner.** Property owners must obtain a permit from the village and Miami-Dade County re remove trees in the swale.

- (h) ***Property owner/resident responsibilities for maintenance.*** The property owner or resident living in the property shall be jointly and severally responsible for the maintenance of the swale area contiguous to their property. Maintenance shall include, but not be limited to, mowing the sod and performing general edging, weeding, trimming, pruning and cleanup activities. The landscaping and sod shall be maintained in good plant health. The landscaping shall be kept free of dead limbs and branches. No swale landscaping shall be maintained in such manner as to constitute a nuisance.
- (i) Property owners shall also be responsible for the maintenance of the swale area contiguous to their property as well as for the removal and costs of dead, diseased and/or fallen trees on the swale area contiguous to their property and any trees that may interfere with the right-of-way or otherwise pose a danger to the health, safety and welfare of the community.

5.6.1 DEFINITIONS – ADD LATER

**5.6.2 Residential parking.**

**5.6.2(1) Parking surfaces – applicability.**

- (a) Effective upon enactment of this ordinance, all dwellings are required to: (1) have and properly maintain an approved parking surface; and (2) park vehicles on an approved parking surface, subject to the design standards set forth in section 5.6.2(2). All vehicles must be parked on an approved parking surface subject to the design standards set forth in section 5.6.
- (b) Nonconforming residential properties that do not have an approved off-street parking surface, including an approved approach, will be required to install a parking surface and approach upon new dwelling construction on the property or for renovations that result in a twenty-five percent (25%) increase/change to residential structures located on the property. requirements are as follows.
- (c) Property owners who do not have approved off-street parking surfaces but do have developed and previously ~~permitted~~ allowed and existing non-conforming swale parking surfaces will not be required to provide off-street parking if the following four requirements are met:
  - (1) Existing developed swale parking surface is constructed of concrete, pavers, brick, asphalt, gravel, or turf block; and
  - (2) Swale-only parking provides sufficient parking surface to meet parking needs of the current resident's vehicles; and ~~does not exceed the maximum number of vehicles in section 5.6.3(2);~~ and

- (3) Existing parking surface on the developed swale is not beyond fifty percent (50%) deterioration; and
  - (4) Parking on the swale does not create sight line or other road safety issues.
- (d) Property owners that do not have either a conforming or existing non-conforming parking surface, either off-street or on the swale, shall have ~~six (6)~~ twelve (12) months from the date of enactment of this ordinance to install an approved parking surface and pass final inspection pursuant to the requirements in Section 5.6. ~~When special circumstances that require a special exception to the parking surface requirements, the property owner due to the lot size, lot shape, and/or setback configurations that make compliance impractical~~ may apply for the minimal administrative variance as provided for in section 5.7.
- (e) When an approved parking surface exists, all vehicles shall park on said approved parking surface effective upon enactment of this ordinance. Swale driveways developed with gravel surface prior to passage of Ordinance 2015-04 may be required to conform to section 5.6.2(2)(f), if the gravel swale parking surface is not properly maintained to prevent the gravel from entering the roadways.
- (a) ~~Effective upon enactment of this ordinance, all dwellings are required to: (i) have and properly maintain an approved parking surface; and (2) park vehicles on an approved parking surface, subject to the design standards set forth in section 5.6.2(2).~~
- (b) ~~Non-conforming residential property requirements are as follows:~~
- ~~(i) Property owners shall have six (6) months from the date of enactment of this ordinance to install an approved parking surface and passed final inspection pursuant to the requirements in Chapter 5, Section 5.6, for residential properties that do not have an approved parking surface (e.g., driveway), either off-street or on the swale. Special circumstances that require special exceptions due to the lot size, lot shape, and/or setback configurations that prevent compliance may apply for the minimal administrative variance necessary to adhere to the legislative intent of section 5.6.2(2) set forth in section 5.7.~~

If these four (4) requirements are not met, the property owner must (i) bring the swale area up to code pursuant to section 5.6.4; or (2) install an approved parking surface (driveway) pursuant to section 5.6.2(1)(i).

- (f) Property owners with existing swales at the time this ordinance is enacted may obtain a permit to improve their existing swale parking surface prior to 50% deterioration if it has not deteriorated over fifty percent (50%) and meets the design standards set forth in this section. as long as the improvement plan does not exceed two contiguous spaces (totaling 40 feet by 12 feet) inclusive of the approach, replaces asphalt or other unsightly and deteriorated surface, and meets a minimum width of 10 feet from the roadway.

- (g) Existing nonconforming parking surfaces ~~previously permitted (licensed) by the village,~~ including parking surfaces on swales, may remain until a substantial portion – fifty percent (50%) or greater – requires repair or there is a change in parking surface material or the installation of a new off-street parking surface. At such time, the property owner shall comply with all subsections herein ~~and Section 5.6.~~ Special circumstances that require special exceptions due to the lot size, lot shape, and/or setback configurations may apply for the minimal administrative variance necessary to adhere to the legislative intent of section ~~5.6~~ 5.6.2(2) as outlined in Section 5.7. ~~This license exception to the property owner does not confer a property right of the swale to the property owner.~~
- (h) Swale ~~parking surfaces~~ driveways developed with gravel surface prior to passage of Ordinance 2015-04 may be required to conform to section ~~5.6.2(2)~~ 5.6.2(2)(f) if the gravel swale parking surface is not properly maintained to prevent the gravel from entering the roadways. Subsequent gravel surface parking must conform to section 5.6.2(2).
- ~~(f) Any new construction or construction that increases the number of bedrooms and/or undergoes substantial renovation that increases the dwelling's square footage by 25 percent or more must comply with the off-street parking requirements set forth in section 5.6.~~
- (i) Building permit applications, including demolition permits, to expand the square footage and/or increase the number of legal bedrooms will not be entertained by the village until such time that there is sufficient off-street parking pursuant to this ordinance as determined by the Village, that is either approved or denied by the Planning and Zoning Board. ~~This will ensure that the site development plan conforms with the off-street parking requirements listed in section 5.6 and conforms with the proposed increased footprint.~~

**5.6.2(2)      *Parking surfaces – 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 in accordance with the Miami-Dade County Code ~~and Public Works Manual, Miami-Dade County~~ Vehicles shall be parked on impervious or pervious surfaces, but impervious areas shall not exceed forty percent (40%) of the front yard or corner side yard, if applicable, excluding the right-of-way. If the parcel has a front yard and a corner side yard, off-street parking spaces may be on either the front yard or corner side yard, but not both. Off-street parking (within the lot lines of all properties) shall only be permitted on approved surfaces by the village ~~of Biscayne Park.~~ In no circumstances shall grass or sod be an approved surface.

- (a) All parking surfaces shall be of approved materials, except as otherwise provided below in this code.

- (b) All parking surfaces must have an improved approach across the swale which shall meet the minimum standards of gravel construction.
- (c) All parking surfaces for new dwelling construction or renovations that increase the square footage by 25 percent shall be no closer than thirty (30) inches from the side property line, unless exempted below in subsection (d)
- ~~(d) All nonconforming parking surfaces shall come into compliance when there is a change in parking surface material or the installation of a new off-street parking surface.~~
- (d) New parking surfaces shall only be constructed with the following materials: concrete, pavers, brick, gravel, ~~(per section 5.6.2(f))~~ cut stone or turf block. Asphalt shall no longer be an approved parking surface.
- (e) Gravel parking surfaces shall be built with a permanent perimeter border consisting of suitable material. The border shall be a minimum of four (4) inches below the surface, with the width of the border being sixteen (16) inches immediately adjacent to the road perimeter, and four (4) inches along the entire length of both edges of the parking surface. To facilitate percolation over time and control weeds, use of a geotextile fabric as an underlayment is recommended. Village staff and the Planning and Zoning Board will determine suitable border materials.
- (f) Gravel material exception: Florida crushed limestone shall be permitted as long as the rock sizes are no larger than #78 stone/nominal size ½” diameter (reference Florida Department of Transportation Standard Specification Section 901-1 Aggregate). Landscape rock, such as pea gravel and decomposed granite may not be used as a parking surface.
- ~~(g) Construction of a portion of a parking surface in the swale or right-of-way, such as the apron and parking surface approach, shall require the property owner to indemnify, hold harmless and defend the village from any and all actions, caused by, resulting from, or in any way associated with the proposed work within the village right-of-way on a form provided by the village.~~
- ~~(g) Any parking surface on the swale right-of-way must be compatible and harmonious with any parking surface driveway on the property.~~

**5.6.2(3) *Parking surfaces for parking in the right-of-way/swale – applicability.***

~~Property owners of single family detached dwellings or duplexes already constructed at the passage of this ordinance who currently do not have a previously permitted and approved parking surface on the swale contiguous to their property will be permitted to apply for a permit for one to two temporary visitor parking spaces (20’x12’ or 40’x12’) such that it: does not exceed forty percent (40%) of the swale including of the approach, is not used for permanent residential parking, and uses pavers, brick, gravel, cut stone or~~

turf block materials. However, if it is determined by the Building Department or Planning and Zoning that the off-street parking has not been adequately developed and the lot configuration allows for additional off-street parking, then the permit may be denied.

As allowed in section 5.3.4, up to forty percent (40%) of the swale area of rights-of-way may be developed for parking. The parking surface driveway approach is included in the forty percent (40%) limit. Other than the parking surface driveway approach, any other development of swale area for parking must consist of pervious materials.

**5.6.2(4) *Parking surfaces design standards for parking on the right-of-way/swale.***

- (a) New parking surfaces shall only be constructed with the following materials: concrete, pavers, brick, gravel, (per Section 5.6.2(2)(f)) cut stone or turf block. Swale parking surfaces (applied for after passage of this ordinance) shall be constructed of the same material as the off-street parking surfaces, unless the off-street parking surface is asphalt, in which case another complementary approved material shall be used.
- (b) Gravel parking surfaces shall be built with a permanent perimeter border consisting of suitable material, as approved by village staff a minimum of four (4) inches deep with the width of the border being sixteen (16) inches immediately adjacent to the road perimeter and four (4) inches along the entire length of both edges of the parking surface. To facilitate percolation over time and control weeds, use of a geotextile fabric as an underlayment is recommended.
- (c) Gravel material exception: Florida crushed limestone shall be permitted as long as the rock sizes are no larger than #78 stone/nominal size ½” diameter (reference Florida Department of Transportation Standard Specification Section 901-1 Aggregate). Landscape rock, such as pea gravel and decomposed granite may not be used as a parking surface.
- (d) Swale parking surfaces that will be used for either parallel, perpendicular or diagonal parking either partially or completely on the swale, shall have a minimum setback of three (3) feet to assure pedestrian safety.
- (d) — Construction of a portion of a parking surface in the swale or right-of-way, such as the apron and parking surface approach, shall require the property owner to indemnify, hold harmless, and defend the village from any and all actions, caused by, resulting from, or in any way associated with the proposed work within the village right-of-way on a form provided by the village.
- ~~(e) — The total area of impervious material used cannot exceed forty percent (40%) of the swale, inclusive of the approach.~~

~~(f) Other than any parking surface approach on the swale, any other development of the swale developed for parking must consist of pervious material.~~

**5.6.2(5) Abutting property owner's rights/obligations.**

- (a) Construction/maintenance of a portion of a parking surface in the swale or right of way, such as the apron and parking surface approach, shall require the abutting property owner to indemnify, hold harmless, and defend the village from any and all actions, caused by, resulting from, or in any way associated with the proposed work within the village right-of-way on a form provided by the village.
- (b) In consideration for the duty and obligation imposed by this section upon property owners to maintain all swale areas abutting and adjacent to their property, and the liability created by the provision hereof requiring the elimination of any dangerous conditions or safety hazards in such swale areas, owners of property abutting and adjacent to swale areas are hereby granted a preferential right to the usage of such swale areas as hereinafter set forth:
- (1) The preferential right herein conferred upon such property owners shall include all reasonable and justifiable usages of the swale areas, including but not limited to, the parking of automobiles and landscaping purposes consistent with the village code.
  - (2) The property owner may also permit others to utilize the subject swale areas for all reasonable and justifiable purposes.
  - (3) The property owner may enforce its preferential rights to the usage of such swale areas, by requesting that other parties utilizing such areas, without permission or authorization, cease and desist from the unauthorized use of such areas immediately. If the property owner's request to discontinue the unauthorized use is unsuccessful, the property owner may contact code enforcement or the police department for assistance in enforcing the preferential rights conferred by this section.
  - (4) The use of any such swale area by any party in contravention of the provisions of this section shall be subject to the code enforcement provisions and procedures set forth in the village's code and the provisions of the Miami-Dade County Code of Ordinances and state law applicable to such unauthorized use.

**5.6.3 *Parking regulations.***

**5.6.3(1) *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(2) Residential dwelling.** The table below specifies the required minimum number of off-street parking spaces and ~~maximum number of vehicles for resident parking.~~ The number of off-street parking spaces for uses not listed in the table shall be determined by the planning board.

**(NOTE: AS WE ARE NOT MOVING FORWARD WITH MAXIMUM VEHICLES, KEPT THE ORIGINAL CHART FROM CURRENT ORDINANCE)**

Use		Minimum Off-Street Parking Requirement	
(a)	Residential	Resident Parking	Visitor Parking
	Detached one-family		
	1, 2 and 3 bedrooms	2 spaces*	1 space**
	4 bedrooms	3 spaces*	1 space**
	Duplexes/attached and detached:		
	1, 2, 3 or more bedrooms	2 spaces/unit*	0.5 spaces/unit**
(b)	<b>Recreation area:</b>		
	Determined by the planning board.		
(c)	<b>Public assembly/service:</b>		
	Church: 1 space/3 seats or 1 space/35 square feet of gross floor area		
(d)	<b>Government buildings:</b>		
	1 space/300 square feet of gross floor area		

;sz=9;\* Resident parking spaces may be tandem

;sz=9;\*\* If on-street parking is not permitted or is restricted on the unit's street frontage, then one visitor parking space shall be required. The visitor space shall be located not more than one hundred (100) feet from the unit's street frontage. The maximum number of resident vehicles allowed to park per dwelling does not preclude property owners from parking additional vehicles

~~in fully enclosed garages or parking a recreational vehicle, travel trailer or boat/watercraft on a trailer as per section 7.4.~~

**5.6.3(3) Temporary parking accommodations for special events.**

- (a) For special events other than national holidays (holidays, e.g., birthday parties, funerals, etc.), property owners shall be allowed to obtain a temporary parking permit for passenger vehicles to ensure no damage to the median and notification to the police. The permit shall be visibly posted on the outside of the dwelling for the duration of the event, which shall be no more than eight (8) hours. No one property owner or tenant may obtain more than four (4) median parking permits per calendar year and the number of passenger vehicles permitted to park temporarily on the median shall be determined by the building department. Residents utilizing the medians will be responsible for any damages caused by the overflow parking.
- ~~(a) When there is insufficient space to accommodate excess visitors and/or service vehicles on an approved surface, temporary parking shall be permitted on unapproved surfaces for no more than twelve (12) hours for the purpose of hosting special events (holidays, birthday parties, funerals, etc.) and resident services with primary parking held on the property and overflow parking on the swale contiguous to the property~~
- (b) If additional parking is required beyond the off-street and swale parking for special events (holidays, birthday parties, funerals, etc.), property owners shall be allowed to request obtain a permit for temporary parking of passenger vehicles on the median to ensure no damage to the median and notification to the police pursuant to section 5.6.5. The issuance of the permit is at the sole discretion of the village.
- (c) Visitors and service vehicles (excluding construction vehicles) shall be permitted to park only on the swale contiguous to the property that is being serviced or visited. Property owners shall repair and maintain any and all landscaping affected by temporary vehicular parking.
- (d) Police/emergency vehicles, utility vehicles, or municipal contract service vehicles may park on any of the village's rights-of-way.
- (e) Parking in median may be allowed during Village-sponsored events.

**5.6.3(4) Additional duplex dwelling parking requirements.**

- (a) All tenant-landlord leases shall designate a parking space for each tenant and provide proof if requested by the village.
- (b) The landlord shall supply an information packet with village services and code requirements to the tenant and return a signed copy of having received the requirements to the village.

- (c) The property owner shall be responsible for all fines and fees associated with any and all code violations prior to obtaining a yearly re-occupancy license.

**5.6.4 *Handicapped parking spaces.*** Any parking area to be used by the general public shall provide suitable, marked and paved parking spaces for handicapped persons. The number, design, and location of these spaces shall be consistent with the requirements of F.S. §§ 316.1955 and 316.1956, 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 supplemental spaces for the handicapped shall be counted. The parking and related features contained in the Department of Community Affairs, Florida Board of Building, Codes and Standards, Accessibility Requirements Manual are hereby incorporated by reference into the village code.

**5.6.5 *Parking in median prohibited.*** No vehicles are permitted to drive across the median open spaces or median parkways. ~~Exceptions include use:~~ No parking shall be allowed in median open spaces or median parkways unless as may be allowed in section 5.6.3.

(a) — For emergency and police vehicles; and

(b) — ~~For special events other than national holidays (e.g., birthday parties, funerals, etc.), property owners shall be allowed to obtain a temporary parking permit for passenger vehicles to ensure no damage to the median and notification to the police. The permit shall be visibly posted on the outside of the dwelling for the duration of the event, which shall be no more than eight (8) hours. No one property owner or tenant may obtain more than four (4) median parking permits per calendar year and the number of passenger vehicles permitted to park temporarily on the median shall be determined by the building department. (Cross reference section 5.6.2(1)(c)) Residents utilizing the medians will be responsible for any damages caused by the overflow parking.~~

(c) — ~~Residents only shall be allowed to use the medians for overflow visitor parking on national holidays, as needed. Residents utilizing the medians will be responsible for any damages caused by the overflow parking.~~

**5.6.6 *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.

**5.7 *Special exception from off-street parking requirements.***

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

5.7.2 *Grounds for a special exception.* In determining whether or not to grant a special exception, the planning board shall review the Village Manager's recommendation and shall determine whether:

- (a) There are special circumstances or conditions affecting the property, such as the unusual size and/or configuration of the lot that ~~would make~~ makes the installation of the ~~parking surface driveway impractical~~ a hardship; and
- (b) The granting of a special exception will not be detrimental to the public welfare or injurious to other adjacent properties; and
- (c) Any appropriate mitigation measures will be required to be implemented by the owner seeking a special exception.

If all three criteria are met, the planning board shall grant a special exception.

5.7.3 *Appeal.* An owner of property may appeal the planning board decision in writing to a ~~special magistrate~~ the Village Commission within ten (10) days of that decision. The ~~special magistrate~~ Village Commission shall review the determination of the planning board and may reverse that decision only upon a specific finding that the planning board erred in its determination. The cost of the ~~special magistrate~~ shall be paid by \_\_\_\_\_.

## CHAPTER 5. TRANSPORTATION (As amended as of August 2014)

### 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-Miami-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 (1) 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 references:** 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.~~

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

**(a) *Use of the swale area of the right of way:*** The swale area of the Village's right-of-way is public property. All objects and landscaping, with the exception of mailboxes, shall be considered the property of the Village whether existing at the time of the enactment of this ordinance or thereafter. No object or landscaping shall be allowed in the swale except as provided for in this section, with the exception of mailboxes.

**(b) *Minimum standard:*** Grass coverage that is well maintained shall be provided in the swale unless other plant materials or approved driveway surfaces are installed in accordance with this section.

**(c) *Markers:*** Only dome type markers may be placed within the swale 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 (24) inches apart. Markers placed in the swale shall not exceed twelve (12) inches in diameter nor be more than six (6) inches in height and shall be white in color.

**(d) *Mailboxes:*** May be located within the swale provided that they are placed not closer than five (5) feet to the nearest edge of the paved surface of the designated roadway. Non conforming mailboxes shall have one (1) year from date of enactment of this ordinance to come into compliance.

**(e) *Restrictions on the placement of landscaping in the swale:*** Landscaping in the swale shall conform to the following restrictions:

**(i) *Clear Zone:*** An area five (5) feet wide, parallel with and immediately adjacent to the edge of the paved road shall be maintained as a clear zone. No plant material other than grass is permitted in the clear zone. Approved Driveway Surface is also permitted within the clear zone in accordance with Section 5.6.8

**(ii) *Low Zone:*** Between five (5) feet and eight (8) feet from the edge of pavement plant materials not exceeding three (3) feet in height at maturity will be permitted such that they do not intrude in any way into the clear zone.

(iii) *High Zone*: The area that is more than eight (8) feet from the edge of pavement is considered the high zone. Plant materials of unlimited height shall be permitted such that they do not intrude in any way into the low zone at a height lower than eight (8) feet.

(iv) Nothing shall be erected, placed, parked, planted or allowed to grow in such a manner that it would restrict visibility above a height of three (3) feet above grade, measured at the centerline of the intersection within the area of the visibility triangles (Section 5.4.1).

(v) *Installation of trees in the swale*: The installation of trees within the swale shall require a permit from the Village. A dimensional plan and indication of the proposed species, grade and size of the proposed tree(s) shall be submitted. Trees installed in the public right-of-way without a permit shall be subject to immediate removal after a thirty (30) day written notice to the property owner.

(vi) *Mulch*: Organic mulch shall be permitted with the exception of cypress and red mulch if made from recycled wood.

(e) *Visitor and temporary service vehicle parking*: Each property shall provide a clear area, free of plant material with the exception of grass or an approved driveway surface in accordance with Section 5.6.8, a minimum of eight (8) feet wide parallel to the edge of pavement and twenty (20) feet long for visitor and service vehicle parking where the width of the lot and existing paved parking allows. ~~This space is not to be considered as a permanent parking space for residents of the property or contribute to the required parking within the property line of the residence.~~

(f) A combination of paving and sodding of rights-of-way shall be permitted provided the impervious section does not exceed forty (40) percent of the total area and such paved areas shall be kept on good condition.

(g) *Removal of obstructions by the Village*: In the event any object placed in the swale creates an emergency situation involving potential danger to the health, safety, and welfare of the community, the Village may perform removal operations immediately, thus eliminating the emergency, and may assess the cost of such removal against adjacent property.

(h) *Removal of trees in the swale by the abutting property owner*: Property owners must obtain a permit from Biscayne Park and Miami-Dade County to remove trees in the swale.

(i) *Existing nonconforming plants and trees in the swale*: Within one (1) year of the enactment of this code, properties owners shall remove plants, with the exception of trees, which violate the clear zone. Plant materials in the low zone may remain, but not be replaced when they die, nor will it be required to remove plants until they die in the low zone to provide for a temporary/visitor parking space.

(j) *Property owner's responsibilities for maintenance*: The property owner or resident living in the property shall be jointly and severally responsible for the maintenance of the Swale area contiguous to their property. Maintenance shall include but not be limited to

mowing the grass and performing general edging, weeding, trimming and cleanup activities. The landscaping and grass shall be maintained in good plant health. The landscaping shall be kept free of dead limbs and branches. No Swale landscaping shall be maintained in such manner as to constitute a nuisance.

(i) *Tree pruning*: Major pruning of trees in the swale shall only be performed by the Village, a qualified tree trimming company or an arborist.

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.

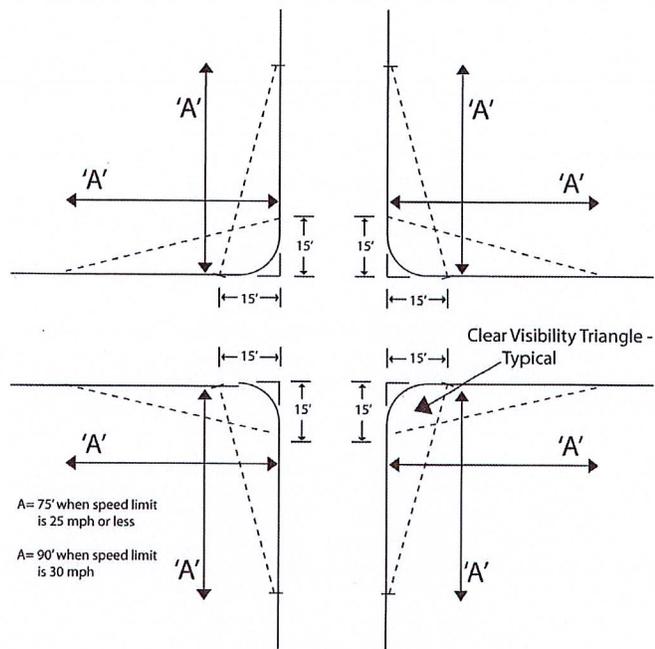
#### 5.4. Street standards.

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~~

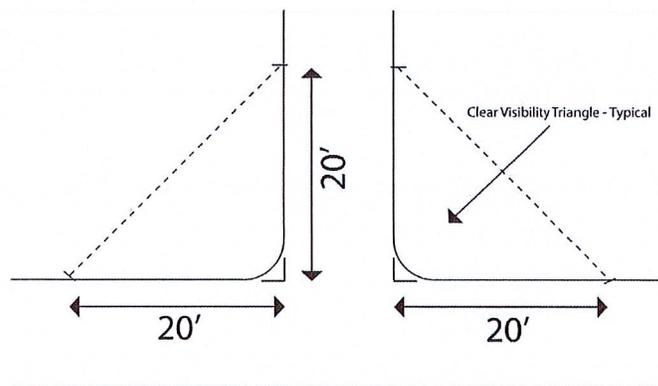
~~the street pavement edge fifteen (15) feet long from the street corner perpendicular, generally, to a second line of the street pavement edge of approaching traffic, connected by a third line that measures three (3) times the speed limit of the street.~~

(a) For street intersections the clear visibility triangle shall be formed by connecting points on the edge of each street and the intersection point. Beginning at point one, the intersection, point two shall be located Fifteen (15) feet from the intersection on one street and point three on the second street shall be located at a distance from the intersection, measured in feet equal to Three (3) times the streets speed limit. A line connecting the three points shall create the triangle. This triangle applies to both directions from the intersection. See Diagram 5.4.1 (a)



Clear Visibility Triangle at Road Intersections  
Diagram 5.4.1(a)

- (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. See Diagram 5.4.1 (b)



Clear Visibility Triangle at Driveways  
Diagram 5.4.1(b)

- (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-Miami-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.

**(a) all vehicles must be parked on a approved driveway surface.**

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.

TABLE INSET:

Use		Minimum Off-Street Parking Requirement	
		Resident Parking	Visitor Parking
(a)	Residential		
	Detached one-family:		
	1, 2 and 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, Clubs: determined by the planning board.		
(c)	Public assembly.		

Church: 1 space/3 seats or 1 space/35 square feet of gross auditorium floor area
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\* 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 one hundred (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 F.S. §§ 316.1955, and 316.1956, or succeeding provisions. No parking spaces required for the handicapped shall be counted as a parking space in determining compliance with subsection 5.6.3, public uses, above, but 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 subsection 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 Miami~~-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. **Off-street parking shall only be permitted on approved surfaces by the Village of Biscayne Park. In no circumstances shall grass be an approved surface.**

(a) All driveways shall be of a uniform material and design including approach.

(b) All driveways shall be no closer than thirty (30) inches from side property line.

(c) Driveways shall only be constructed with the following materials; concrete, paver, brick, gravel, asphalt, cut stone or turf block.

(d) Gravel driveways shall be built with a permanent perimeter border and shall be a minimum of four (4) inches deep.

(e) Road rock shall not be used as a finished driveway material.

(f) No more than forty (40) percent of swale to be covered in impervious material.

5.6.9 Non conforming properties shall have one (1) year from date of enactment of this ordinance to come into compliance.

**MEMORANDUM**

Item#11.a

**TO:** The Honorable Mayor and Village Commission

**CC:** Krishan Manners, Village Manager  
Marlen D. Martell, Village Clerk

**FROM:** John J. Hearn, Village Attorney

**RE:** Off-Street Parking Ordinance

**DATE:** November 29, 2017

---

This memorandum shall review the direction and consensus that has been provided by the Village Commission at Commission meetings held over the last several months addressing requirements for off-street parking and parking in the public rights-of-way.

**A. The following changes have been made based on Commission direction at the November 7, 2017 Commission meeting:**

1. Removed special magistrate from appeal process. Instead, allow an owner of property to appeal the planning board decision in writing to the Village Commission within ten (10) days of that decision. The Village Commission shall review the determination of the planning board and may reverse that decision only upon a specific finding that the planning board erred in its determination.
2. Amended language in Section 5.3.4(c) to read: "Parking surfaces shall be adequately drained to prevent the buildup of stormwater in the right-of-way."
3. Changed the word "driveway" to "parking surface" throughout.
4. Clarified language in Section 5.3.4(i) regarding the responsibility of property owners as it relates to the removal and costs of dead, diseased and/or fallen trees on the swale area contiguous to their property and any trees that may interfere with the right-of-way or otherwise pose a danger to the health, safety and welfare of the community.
5. Consistent with the direction of the Commission, changed the word "impractical" to "hardship" in Sections 5.6.2(1)(d) and 5.7.2(a).
6. Removed subsections (e) and (f) of Section 5.6.2(4). Standard already articulated in Section 5.6.2(3) and in Section 5.3.4.

7. Deleted the phrase “right-of-way” in Section 5.6.2(5)(a) reference construction/maintenance of a portion of a parking surface in the swale.

8. Included the words “off-street parking” in Section 5.6.2(1)(b) reference non-conforming residential properties that do not have an approved parking surface.

**B. The following items are issues that still need to be addressed:**

1. Staff to provide information on whether or not the 3’ is a sight line issue and how many properties in the Village it affects (see Section 5.6.2(1)(d)).

2. Staff to provide information on how to distinguish between landscape rock and parking surface rock.

3. Staff to provide information on how many properties are affected by the language contained in Section 5.6.2(2) reference front yard and corner side yard parking surfaces.

**C. The following amendments have received general support from the Commission:**

1. New dwelling construction and renovations that increase the square footage of a residential structure by 25% or more requires the development of an off-street driveway;

2. Up to 40% of the swale area may be developed for parking. The 40% includes any driveway approach.

3. Other than the driveway approach on the swale, any other development of the swale for parking must be pervious.

4. Any material on the swale area used for parking must be compatible/harmonious with any driveway on the property.

5. Existing, non-conforming parking services on the swale may be allowed to remain as non-conforming structure/use until 50% or more of surface requires repair (applies whether or not expressly permitted). Conversations with staff revealed that the Village does not have accurate records of what driveways are permitted.

6. Provide abutting property owners rights/obligations concerning swale parking.

7. Agreed to keep special exception provisions for those properties where due to the unusual nature of property would make off-street parking a hardship.

8. Allows parking in swale during national holidays and allows for a permitting process to park in swale during special events (i.e., birthdays).

9. Removed requirements providing a maximum number of vehicles allowed in residential areas.

10. Provided corner side yard clarification.

11. Deleted minimum setback for renovations increasing square footage of off-street parking surface by 25% or more. Kept requirement for all new parking surfaces to be no closer than 30 inches.

12. Allow parking on the medians under limited circumstances for special events.

Once I am given direction to move forward with first reading of the ordinance, all of the language and deletions will be provided. As always, if you have any questions or comments, please do not hesitate to contact me concerning same.



# Village of Biscayne Park

640 NE 114<sup>th</sup> Street  
Biscayne Park, FL 33161  
(305) 899-8000

Code Review Board  
MEMBERS

Gage Hartung  
Chairman

David Coviello  
Vice Chairman

Dale Blanton  
Carmen DeBernardi  
Judi Hamelberg  
Gary Kuhl

## MINUTES

### CODE REVIEW BOARD MEETING Ed Burke Recreation Center 11400 NE 9th Court Wednesday, April 17, 2013- 6:30 pm.

Joint meeting with Path and Parkways Board

Call to Order 6:30 pm

Present: Gary Kuhl, Gage Hartung, Judi Hamelberg, David Coviello,  
Dale Blanton – Carmen DeBernardi Absent

P&P: Danny Keys, Barbara Kuhl, Randy Wagoner,

Review draft changes to 5.3.4 - Landscape and objects in the swale area of the right of way:

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

**(a) Use of the swale area of the right of way:** The swale area of the Village's right-of-way is public property. All objects and landscaping, with the exception of mailboxes, shall be considered the property of the Village whether existing at the time of the enactment of this ordinance or thereafter. No object or landscaping shall be allowed in the swale except as provided for in this section, with the exception of mailboxes.

**(b) Minimum standard:** Grass coverage shall be provided in the swale unless other plant materials or approved driveway surfaces are installed in accordance with this section.

**(c) Markers:** Only dome type markers may be placed within the swale 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 (24) inches apart. Markers placed in the swale shall not exceed twelve (12) inches in diameter nor be more than six (6) inches in height and shall be white in color.

**(d) Restrictions on the placement of landscaping in the swale:** Landscaping in the swale shall conform to the following restrictions:

- **Clear Zone:** An area five (5) feet wide, parallel with and immediately adjacent to the edge of the paved road shall be maintained as a clear zone. No plant material other than grass is permitted in the clear zone. Approved Driveway Surface is also permitted within the clear zone in accordance with ~~xxxxx~~ **Section 5.6.8**

(ii) **Low Zone:** Between five (5) feet and eight (8) feet from the edge of pavement plant materials not exceeding three (3) feet in height at maturity will be permitted such that they do not intrude in any way into the clear zone.

(iii) *High Zone*: The area that is more than eight (8) feet from the edge of pavement is considered the high zone. Plant materials of unlimited height shall be permitted such that they do not intrude in any way into the low zone at a height lower than eight (8) feet.

(iv) Nothing shall be erected, placed, parked, planted or allowed to grow in such a manner that it would restrict visibility above a height of three (3) feet above grade, measured at the centerline of the intersection within the area of the visibility triangles (Section 5.4.1).

(v) *Installation of trees in the swale*: The installation of **trees** within the swale shall require a permit from the Village. A dimensional plan and indication of the proposed species, grade and size of the proposed tree(s) shall be submitted. Trees installed in the public right-of-way without a permit shall be subject to immediate removal after a thirty (30) **day** written notice to the property owner.

(vi) *Mulch*: Organic mulch shall be permitted with the exception of cypress and red mulch if made from recycled wood.

(e) *Visitor and temporary service vehicle parking*: Each property shall provide a clear area, free of plant material with the exception of grass or an approved driveway surface in accordance with ~~xxxxx~~ **Section 5.6.8**, a minimum of eight (8) feet wide parallel to the edge of pavement and twenty (20) feet long for visitor and service vehicle parking where the width of the lot and existing paved parking allows. ~~This space is not to be considered as a permanent parking space for residents of the property or contribute to the required parking within the property line of the residence.~~ **Note: Cross reference this to section to 8.4.1(c)**

(f) A combination of paving and sodding of rights-of-way shall be permitted provided the impervious section does not exceed forty (40) percent of the total area and such paved areas shall be kept on good condition.

(g) *Removal of obstructions by the Village*: In the event any object placed in the swale creates an emergency situation involving potential danger to the health, safety, and welfare of the community, the Village **shall may** perform removal operations immediately, thus eliminating the emergency, and may assess the cost of such removal against adjacent property.

(h) *Removal of trees in the swale by the abutting property owner*: Property owners must obtain a permit from Biscayne Park and Miami-Dade County to remove trees in the swale.

(i) *Existing nonconforming plants and trees in the swale*: Within one (1) year of the enactment of this code, properties owners shall remove plants, with the exception of trees, which violate the clear zone. Plant materials in the low zone may remain, but not be replaced when they die, nor will it be required to remove plants until they die in the low zone to provide for a temporary/visitor parking space.

(j) *Property ~~or resident's owner's~~ responsibilities for maintenance*: The property owner or resident living in the property shall be jointly and severally responsible for the maintenance of the Swale area contiguous to their property. Maintenance shall include but not be limited to mowing the grass and performing general edging, weeding, trimming and cleanup activities. The landscaping and grass shall be maintained in good plant health. The landscaping shall be kept free of dead limbs

and branches. No Swale landscaping shall be maintained in such manner as to constitute a nuisance.

(i) *Tree pruning*: Major pruning of trees in the swale shall only be performed by the Village, a qualified tree trimming company or an arborist.

Motion to Approve as amended: Gary Kuhl / Second: Gage Hartung

Yes: Hartung, Coviello, Blanton, Hamelberg, Gary Kuhl, Wagoner, Barbara Kuhl

No: Dan Keys

Approved: 7-1

Adjourned 7:50

Minutes Approved 05/01/2013 – 4-0 vote

Motion: Judi / Second: Gary

Present: Gage Hartung, Judi Hamelberg, Gary Kuhl, Dale Blanton