



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

**AGENDA**  
**REGULAR COMMISSION MEETING**  
**Log Cabin - 640 NE 114th Street**  
**Biscayne Park, FL 33161**  
**Tuesday, October 01, 2019 7:00 pm**

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 Truppman

Vice-Mayor Samaria

Commissioner Johnson-Sardella

Commissioner Tudor

Commissioner Wise

**3 Pledge of Allegiance**

**4 Additions, Deletions or Withdrawals to the Agenda**

*At this time, any member of the Village Commission or the Village Manager may request to add, change, or delete items from the agenda.*

**5 Presentation**

- Proclamation - Red Ribbon Week
- Proclamation - Hispanic Heritage Month
- Javier Betancourt, Executive Director - CITT

## 6 Public Comments Related to Agenda Items / Good & Welfare

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

## 7 Information / Updates

- Code Compliance Board vacancies

## 8 Consent Agenda

*Items listed under Consent Agenda are viewed to be routine, and the recommendation will be enacted by ONE MOTION in the form listed below. If discussion is desired, then the item(s) will be removed from the Consent Agenda and will be considered separately.*

### 8.a Acceptance of Commission Minutes

- Regular Commission Meeting August 06, 2019
- Special Commission Meeting August 30, 2019
- First Budget FY 2019-2020 Hearing Meeting September 10, 2019 6:30 pm
-  • Regular Commission Meeting September 10, 2019 7:00 pm
- Workshop Discussion on Meetings Policies and Procedures September 18, 2019
- Second Budget FY 2019-2020 Hearing Meeting September 20, 2019 6:30 pm
- Special Commission Meeting September 20, 2019 7:00 pm
- Workshop Communication September 24, 2019 6:30 pm

### 8.b Acceptance of Board Minutes

- Biscayne Park Foundation minutes May 13, 2019
-  • Biscayne Park Foundation minutes July 08, 2019
- Biscayne Park Foundation minutes August 12, 2019
- Public Art Advisory Board minutes September 11, 2019
- Public Safety Advisory Board minutes June 26, 2019
- Public Safety Advisory Board minutes August 28, 2019
- Public Safety Advisory Board minutes September 25, 2019

### 8.c Resolution # 2019-24 - MOA - Memorandum of Agreement with the City of North Miami - Landscape on median at 121st Street

### 8.d Resolution # 2019-25 - MOA - Mutual Aid Agreement with the City of North Miami Beach Police Department

## 9 Ordinances

*None*

## 10 Resolutions

*None*

## 11 Old Business



**11.a** Discussion of Mayor - Change of Leadership - by Dan Samaria



**11.b** Village Attorney Invoices and Future Role - by Dan Samaria

## 12 New Business

**12.a** Discussion - draft Ordinance regarding Special Magistrate

**12.b** Discussion - draft Ordinance regarding Commission procedures

**12.c** Discussion - Vacation Rental Concerns - by Mayor Truppman

**12.d** Discussion - Whistleblower protection - by Vice-Mayor Samaria

## 13 Request for placement of items on next meeting agenda

*Through general consensus a member of the Commission may request an item be placed on the next agenda for discussion (New Business) or as a Resolution/Ordinance.*

## 14 Reports

**14.a** Village Attorney

**14.b** Village Manager

**14.c** Board / Committee Reports

**14.d** Commissioners Comments:

- Mayor Truppman
- Vice Mayor Samaria
- Commissioner Johnson-Sardella
- Commissioner Tudor
- Commissioner Wise

## 15 Announcements

Charter Review Advisory Board, Thursday, October 3, 2019 6:00 pm

Planning & Zoning Board, Monday, October 7, 2019 6:30 pm

Biscayne Park Foundation, Monday, October 7, 2019 7:00 pm

Public Art Advisory Board, Wednesday, October 9, 2019 6:00 pm

Planning & Zoning Board, Monday, October 15, 2019 6:30 pm

Parks & Parkway Advisory Board, Thursday, October 17, 2019 5:30 pm

Public Safety Advisory Board, Wednesday October 23, 2019 6:00 pm

**Regular Commission Meeting, Tuesday, November 05, 2019 7:00 pm**

**All Village Departments will be closed - Monday, October 14, 2019 - Columbus Day  
Workshop Communication, Thursday October 17, 2019 6:30 pm  
Oktoberfest - Biscayne Park Foundation - Saturday October 19, 2019 7:00 pm  
Halloween, Thursday, October 31, 2019**

**16 Adjournment**

# *Proclamation*

## Red Ribbon Week

**WHEREAS**, communities across America have been plagued by the numerous problems associated with illicit drug use and those that traffic them; and

**WHEREAS**, there is hope in winning the war on drugs, and that hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Young Marines of the Marine Corps League to foster a healthy, drug-free lifestyle; and

**WHEREAS**, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs in our communities; and

**WHEREAS**, the red ribbon has been chosen as a symbol commemorating the work of Enrique “Kiki” Camarena, a Drug Enforcement Administration agent who was murdered in the line of duty, and represents the belief that one person can make a difference; and

**WHEREAS**, the Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and reduction efforts; and

**WHEREAS**, October 23 - 31 has been designated National Red Ribbon Week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment; and

**NOW, THEREFORE**, I, Tracy Truppman, Mayor of the Village of Biscayne Park, Florida, joined by the entire Commission, do hereby proclaim October 23 - 31 as **RED RIBBON WEEK** in Biscayne Park, and urge all citizens to join me in this special observance.



Dated this 1<sup>st</sup> day of October, 2019  
**VILLAGE OF BISCAYNE PARK, FLORIDA**

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Mayor Tracy Truppman

# *Proclamation*

## Hispanic Heritage Month

### *“Hispanic Americans: A History of Serving Our Nation”*

**WHEREAS**, during National Hispanic Heritage Month (September 15 to October 15) we recognize the contributions made and the important presence of Hispanic and Latino Americans to the United States and celebrate their heritage and culture; and

**WHEREAS**, Hispanics have had a profound and positive influence on our country through their strong commitment to family, faith, hard work, and service. They have enhanced and shaped our national character with centuries-old traditions that reflect the multiethnic and multicultural customs of their communities; and

**WHEREAS**, the term Hispanic or Latino, refers to Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race. On the 2010 Census form, people of Spanish, Hispanic and/or Latino origin could identify themselves as Mexican, Mexican American, Chicano, Puerto Rican, Cuban, or “another Hispanic, Latino, or Spanish origin”; and

**WHEREAS**, today 55 million people or 17% of the American population are of Hispanic or Latino origin. This represents a significant increase from 2000, which registered the Hispanic population at 35.3 million or 13% of the total U.S. population; and

**NOW, THEREFORE**, be it resolved that, I, Tracy Truppman, Mayor of the Village of Biscayne Park, Florida, joined by the entire Commission, do hereby proclaim September 15, 2019 to October 15, 2019 as

## Hispanic Heritage Month

and encourage observation of this special annual tribute by learning and celebrating the generations of Hispanic and Latino Americans who have positively influenced and enriched our nation and society.



Dated this 1<sup>st</sup> day of October, 2019  
VILLAGE OF BISCAYNE PARK, FLORIDA

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Mayor Tracy Truppman



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

**Item # 7**

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**TO:** Honorable Mayor & Members of the  
Village of Biscayne Park Commission

**FROM:** Roseann Prado, Village Clerk

**DATE:** October 1, 2019

**TITLE:** Vacancies on Village Code Compliance Board

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Section 2-30 of the Village Code requires:

The village clerk shall notify the village commission, in writing, of upcoming vacancies on the boards or committees. The village clerk shall also post such vacancies on the village's web page and outside Village Hall.

Please be advised there are currently four (4) board member vacancies on the Village Code Compliance Board. There are also two (2) alternate position vacancies on the Village Code Compliance Board.

Village staff will post these vacancies on the Village's website and outside Village Hall. As of the date of this memorandum Village staff has not received any resident applications to fill these vacancies.

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Roseann Prado, Village Clerk

October 1, 2019  
Item # 7

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**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

**Item # 8.a**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Roseann Prado, Village Clerk

**DATE:** October 1, 2019

**TITLE:** Acceptance of Commission Minutes

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**Background**

The minutes as listed below are being provided for the Commissioner's review and acceptance.

**Recommendation**

Acceptance at Consent Agenda.

**Attachment**

- Regular Commission Meeting 08 06 2019
- Special Commission Meeting August 30, 2019
- First Budget Workshop FY 2019-2020 Hearing Meeting September 10, 2019
- Regular Commission Meeting September 10, 2019
- Workshop Policies and Procedures Meeting September 18, 2019
- Second Budget FY 2019-2020 Hearing Meeting September 20, 2019
- Special Commission Meeting September 20, 2019
- Workshop Communication September 24, 2019

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Prepared by: Roseann Prado, Village Clerk



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

### **MINUTES**

**Regular Commission Meeting  
Log Cabin - 640 NE 114th Street  
Biscayne Park, FL 33161  
Tuesday, August 06, 2019 at 7:00 pm**

**1 Call to Order**

Mayor Tracy Truppmann called the meeting to order at 7:02 pm.

**2 Roll Call**

Mayor Truppmann - present  
Vice Mayor Samaria - present  
Commissioner Johnson-Sardella - present  
Commissioner Tudor - present  
Commissioner Wise - absent

**Staff present:**

Village Manager Krishan Manners  
Village Attorney Rebecca Rodriguez  
Village Clerk Roseann Prado  
Sergeant of Arms Officer Paul Eppler  
Chief of Police Luis Cabrera  
Public Works Manager David Hernandez  
Finance Director Paul Winklejohn  
Recording: Cesar Hernandez

**3 Pledge of Allegiance**

**4 Additions, Deletions or Withdrawals to the Agenda**

- Vice-Mayor Samaria requested to table item 9.a. Vote was taken to remove item 9.a - Ordinance # 2019-02 on Second Reading as follows:  
Mayor Truppmann - No  
Vice-Mayor Samaria - Yes  
Commissioner Johnson-Sardella - No  
Commissioner Tudor - No  
Motion to remove item 9.a from agenda failed 1 - 3.
- Addition of item 12.d - Discussion on 9/11 Memorial Service and display of collection - by Vice-Mayor Samaria.

- Mayor Truppman gave permission to Village Clerk to distribute a note from resident Rosemary Wais on the dais. Note read into the record.

Item 11.b - Per the Commission's prior (3 to 1) majority vote on June 04, 2019 meeting, and (3 to 1) majority vote on July 09, 2019 meeting the Commission has tabled this agenda item pending a legal advisory opinion from the Florida's Attorney General's Office (AGO) providing guidance as to the proper authority and procedures.

- Mayor Truppman renewed her prior legal objections to the item proceeding before the Commission. The Village Attorney confirmed the opinion request remains pending with the AGO. No motion was presented on this proposed agenda item. Accordingly, Item 11.b was removed from the agenda per the Commission's prior votes to table to obtain the AGO opinion.
- Item 9.a Ordinance # 2019-02 - change from Public Comments to Public Hearing.

Commissioner Johnson-Sardella motioned to approve the agenda as amended. Commissioner Tudor seconded. Motion passed **3 - 1** (Vice-Mayor Samaria opposed)

**5 Presentations**

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

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

The following persons spoke on the record:

- Bob Anderson
- Barbara Kuhl
- Gary Kuhl
- Janey Anderson
- Dan Schneiger
- Mac Kennedy
- Rox Ross
- Chuck Ross
- Fred Jonas
- Virginia O'Halpin
- Rosemary Wais (letter approved by the Commission to be read into the record)

**7 Information / Updates**

**8 Consent Agenda**

**8.a Acceptance of Commission Minutes**

- Regular Commission Meeting 07 09 2019 7:00 pm
- First Budget Workshop FY 2019-2020 07 16 2019 7:00 pm
- Special Commission Meeting 07 24 2019 at 6:30 pm
- Workshop - Discussion on Commission Meetings Procedures and Village Code 07 24 2019 at 7:00 pm

**8.b Acceptance of Board Minutes**

- Planning & Zoning Board Meeting 06 03 2019
- Planning & Zoning Board Meeting 06 18 2019
- Planning & Zoning Board Meeting 07 02 2019
- Public Safety Advisory Board Meeting 05 22 2019
- Public Art Advisory Board Meeting 04 18 2019
- Code Compliance Board Meeting 12 10 2018
- Code Compliance Board Meeting 02 11 2019
- Code Compliance Board Meeting 03 28 2019
- Code Compliance Board Meeting 04 18 2019

**8.c Printer and Copier lease for Police Department**

**8.d Printer and Copier lease for Recreation Center**

Vice-Mayor Samaria motioned to approve Consent Agenda. Commissioner Tudor seconded. **Motion passed 4 - 0.**

**9 Ordinances**

**9.a Ordinance # 2019-02 - Budget Amendment - Second Reading**

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING FISCAL YEAR 2018-2019 BUDGET ORDINANCE 2018-06; AMENDING AND INCREASING THE PROFESSIONAL SERVICES BUDGET; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

- Public Hearing on Ordinance 2019-02.

*The following persons spoke on the record:*

Barbara Kuhl

Janey Anderson

Rox Ross

Chuck Ross

Gary Kuhl

Linda Dillon

Mac Kennedy

Mayor Truppman motioned to approve Ordinance # 2019-02 at second reading.

Commissioner Johnson-Sardella seconded. Commission voted as follows:

Mayor Truppman: Yes

Vice-Mayor Samaria: No

Commissioner Johnson-Sardella: Yes

Commissioner Tudor: Yes

**Motion passed 3 - 1.**

**10 Resolutions**

*None*

**11 Old Business**

**11.a** Cancelled Meeting of March 05, 2019 - by Vice-Mayor Samaria

**11.c** The Communication Branding Workshop held on April 16, 2019 - by Vice-Mayor Samaria

Consensus to schedule a Communication Workshop by Commissioner Tudor. Also Consensus to schedule a Branding Workshop with the results of the survey on Branding by Commissioner Wise.

**11.d** Charter Amendments - by Commissioner Tudor - Continuance

Consensus was given to reestablish the Charter Review Advisory Board and each Commission have an appointee board member with two other members appointed at large for the September Commission meeting.

**11.e** Risk Management - by Mayor Truppman - Continuance

Mayor Truppman motioned to the Village Manager liaison with staff and Police Chief to bring those items to each Commissioner individually.

**12 New Business**

**12.a** MDCMCA - Miami-Dade County Municipal Clerks Association - request to waive fee of Log Cabin for October 25, 2019 MDCMCA luncheon meeting. Consensus to waive the fee was granted.

**12.b Applications for Board Members**

Commissioner Tudor motioned to table Item 12.b to next Commission meeting at September 10, 2019. Commissioner Johnson-Sardella seconded. **Motion passed 3 - 1** (Mayor Truppman opposed).

**12.c** Special Magistrate Presiding over Code Enforcement proceedings - by Village Manager.

Commission directed the Village Manager to get cost analysis from other neighboring municipalities and also the cost of an attorney overseeing the Code Board meetings.

**13 Request for placement of items on next meeting agenda**

*Through general consensus a member of the Commission may request an item be placed on the next agenda for discussion (New Business) or as a Resolution/Ordinance.*

**14 Reports**

**14.a** Village Attorney

**14.b** Village Manager

**14.c** Board / Committee Reports - Barbara Kuhl from Parks & Parkway Advisory Board.

**14.d** Commissioners Comments:

- Mayor Truppman
  
- Commission had consensus to grant permission to Vice-Mayor Samaria to hold 9/11 Memorial Service on September 08, 2019 at the Recreation Center from 4:00 pm to 6:00 pm and also to display his 9/11 collection at the Recreation Center.
- Commissioner Johnson-Sardella
- Commissioner Tudor
- Commissioner Wise

**15 Announcements**

Biscayne Park Foundation, Monday, August 12, 2019 7:00pm

Code Compliance Board, Monday, August 12, 2019 7:00pm

Planning & Zoning Advisory Board, Monday, August 19, 2019 6:30pm

Parks & Parkway Advisory Board, Thursday, August 22, 2019 5:30pm

Public Safety Advisory Board, Wednesday, August 28, 2019 7:00pm

**Second Workshop Budget FY 2019-2020 on Wednesday, August 14, 2019, 7:00pm**

**First Budget FY 2019-2020 Hearing on Tuesday, September 10, 2019 6:30 pm**

**Next Regular Commission Meeting on Tuesday, September 10, 2019 at 7:00 pm**

**Second Budget FY 2019-2020 Hearing on Friday, September 20, 2019 6:30pm**

**16 Adjournment**

Commissioner Tudor motioned to adjourn and Commissioner Johnson-Sardella seconded. Meeting adjourned at 11:12 pm.

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Commission approved on September 10, 2019.

Attest:

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Tracy Truppman, Mayor

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Roseann Prado, Village Clerk



**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Tracy Truppmann, hereby disclose that on August 6, 20 19 :

(a) A measure came or will come before my agency which (check one or more)

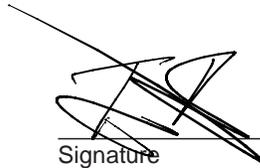
- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Per the Commission's prior 3 to 1 majority vote on June 4, 2019 meeting, and 3 to 1 majority vote on July 9, 2019 meeting, the Commission has tabled this agenda item pending a legal advisory opinion from the Florida's Attorney General's Office (AGO) providing guidance as to the proper authority and procedures. I renewed my prior legal objections to the item proceeding before the Commission. The Village Attorney confirmed the opinion request remains pending with the AGO. No motion was presented on this proposed agenda item. Accordingly, Item 11.b was removed from the agenda per the Commission's prior votes to table to obtain the AGO opinion. A conflict of interest could have arisen pending the outcome, as the Mayor's position earns \$2000 more than the other commissioners.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

9/12/19  
Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

**MINUTES  
SPECIAL COMMISSION MEETING  
Log Cabin - 640 NE 114th Street  
Biscayne Park, FL 33161  
Friday, August 30, 2019 5:30pm**

**1 Call to Order**

Mayor Truppman called the meeting to order at 6:30pm

**2 Roll Call**

Mayor Truppman - present  
Vice Mayor Johnson-Sardella - present  
Commissioner Samaria - present  
Commissioner Tudor - present  
Commissioner Wise - absent

Present from staff were:

Village Manager Krishan Manners  
Village Attorney Rebecca Rodriguez  
Chief of Police Luis Cabrera

**3 Pledge of Allegiance**

**4 Public Comments**

*The following persons spoke on the record:*

Chuck Ross  
MacDonald Kennedy  
Rox Ross  
David Raymond  
Barbara Kuhl  
Janey Anderson  
Brad Piper  
Fred Jonas  
Kate Eaton

**5 Consent Agenda**

**5.a Resolution # 2019-20 Debris Monitoring Services**

A RESOLUTION OF THE MAYOR AND VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, APPROVING THE SELECTION OF DEBRIS TECH, LLC TO PERFORM DISASTER DEBRIS MONITORING SERVICES IN ACCORDANCE WITH THE VILLAGE OF BISCAYNE PARK REQUEST FOR PROPOSALS NO. 2019-01 FOR DISASTER DEBRIS MONITORING SERVICES; FURTHER AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE PROVISION OF SERVICES; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

Commissioner Tudor motioned to approve Resolution # 2019-20 Debris Monitoring Services. Commissioner Johnson-Sardella seconded. **Motion passed 4 - 0.**

**6 Adjournment**

Commissioner Johnson-Sardella motioned to adjourn. Commissioner Tudor seconded. Meeting adjourned at 6:33 pm.

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Commission approved on Regular Commission Meeting of October 1, 2019.

Attest:

\_\_\_\_\_  
Tracy Truppman, Mayor

\_\_\_\_\_  
Roseann Prado, Village Clerk



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

### **MINUTES**

**1st Budget FY 2019-2020 Hearing**

**Log Cabin - 640 NE 114th Street**

**Biscayne Park, FL 33161**

**Tuesday, September 10, 2019 at 6:30 pm**

**1 Call to Order**

Mayor Tracy Truppman called the meeting to order at 6:30 pm.

**2 Roll Call**

Mayor Tracy Truppman - present

Vice Mayor Dan Samaria - present

Commissioner Jenny Johnson-Sardella - present

Commissioner William Tudor - present

Commissioner Betsy Wise - present

Present from staff were:

Village Manager Krishan Manners

Village Clerk Roseann Prado

Chief Luis Cabrera

Recreation Manager Issa Thornell

Public Works Manager David Hernandez

Recordings Cesar Hernandez

**3 Pledge of Allegiance**

Mayor called for one minute of silence for the victims of Hurricane Dorian in the Bahamas and for the victims of September 11, 2001.

**4 Ordinances**

**4.a Ordinance # 2019-03 First Reading**

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ESTABLISHING THE FISCAL YEAR 2019-2020 MILLAGE RATE AT 9.70 MILLS FOR EACH \$ 1,000 OF ASSESSED VALUATION UPON REAL AND PERSONAL PROPERTY WITHIN THE VILLAGE LIMITS OF THE VILLAGE OF BISCAYNE PARK; PROVIDING FOR AN EFFECTIVE DATE.

*Public hearing related to Ordinance 2019-03*

*The following person spoke on the record:*

Fred Jonas

Commissioner Wise motioned to approve Ordinance # 2019-03 on first reading.

Commissioner Johnson-Sardella seconded.

Commission voted as follows:

Mayor Truppman: Yes  
Vice-Mayor Samaria: No  
Commissioner Johnson-Sardella: Yes  
Commissioner Tudor: Yes  
Commissioner Wise: Yes

**Motion passed 4-1**

Commissioner Wise motioned to memorialize a Resolution for the Tentative Millage Rate being set at 9.70 Mills for the final hearing of Ordinance 2019-03. Commissioner Johnson-Sardella seconded. **Motion passed 5 - 0.**

#### **4.b Ordinance # 2019-04 First Reading**

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ADOPTING A BUDGET FOR FISCAL YEAR 2019-2020 FOR THE VILLAGE OF BISCAYNE PARK, FLORIDA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

*Public hearing related to Ordinance 2019-04*

*The following persons spoke on the record:*

Rox Ross  
MacDonald Kennedy  
Barbara Kuhl  
Janey Anderson  
Chuck Ross  
David Raymond  
Fred Jonas

Commissioner Wise motioned to approve Ordinance # 2019-03 on first reading. Mayor Truppman seconded.

Commission voted as follows:

Mayor Truppman: Yes  
Vice-Mayor Samaria: No  
Commissioner Johnson-Sardella: Yes  
Commissioner Tudor: Yes  
Commissioner Wise: Yes

**Motion passed 4-1**

#### **5 Adjournment**

Vice-Mayor Samaria motioned to adjourn and Commissioner Johnson-Sardella seconded. Meeting adjourned at 8:02 pm.

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Commission approved on October 01, 2019.

Attest:

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Tracy Truppman, Mayor

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Roseann Prado, Village Clerk



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

### **MINUTES**

**Regular Commission Meeting  
Log Cabin - 640 NE 114th Street  
Biscayne Park, FL 33161  
Tuesday, September 10, 2019 at 7:00pm**

**1 Call to Order**

Mayor Tracy Truppman called the meeting to order at 8:10 pm.

**2 Roll Call**

Mayor Truppman - present  
Vice Mayor Samaria - present  
Commissioner Johnson-Sardella - absent  
Commissioner Tudor - present  
Commissioner Wise - present

Staff present:

Village Manager Krishan Manners  
Village Attorney Rebecca Rodriguez  
Village Clerk Roseann Prado  
Sergeant of Arms Officer Paul Eppler  
Chief of Police Luis Cabrera  
Officer Johnny Bryant  
Public Works Manager David Hernandez  
Recreation Manager Issa Thornell  
Code Officer Christina Caserta  
Finance Director Paul Winklejohn  
Recording: Cesar Hernandez

Mayor Truppman held a minute of silence to the victims of Hurricane Dorian at the Bahamas.

**3 Pledge of Allegiance**

**4 Additions, Deletions or Withdrawals to the Agenda**

- Village Manager removed from agenda item 8.a - Consent Agenda, the Minutes of Regular Commission Meeting of August 06, 2019.
- Item 12.a - Mayor Truppman motioned to remove the item from the agenda. Commissioner Wise seconded. **Motion failed as 2 - 2** (Commissioner Tudor and Vice-Mayor opposed)

- Item 11.a - Per the Commission's prior (3 to 1) majority vote on June 04, 2019 meeting, and (3 to 1) majority vote on July 09, 2019 meeting the Commission has tabled this agenda item pending a legal advisory opinion from the Florida's Attorney General's Office (AGO) providing guidance as to the proper authority and procedures. Mayor Truppmann renewed her prior legal objections to the item proceeding before the Commission. The Village Attorney confirmed the opinion request remains pending with the AGO. Vice Mayor Samaria moved for the Commission to rescind its prior decision to table this agenda item, and proceed with the item in the current meeting without the AGO legal advisory opinion. The motion did not receive a second. Motion failed. This agenda item remains tabled until AGO opinion is issued to provide the requested guidance to the Commission.
- Commissioner Wise motioned to approve the agenda as amended. Commissioner Tudor seconded. Commission voted as follows:  
Mayor Truppmann - yes  
Vice-Mayor Samaria - No  
Commissioner Tudor - Yes  
Commissioner Wise - Yes  
**Motion passed 3 -1** (Vice-Mayor Samaria opposed)

## 5 Presentations

Proclamation - Remembrance of September 11, 2001 - read by Commissioner Tudor.

Public Works update - David Hernandez, PW Manager

Davida Caserta and Senator Jason Pizzo

Vice-Mayor motion to direct the Village Manager to pursue funding opportunity with the EMPG program. Commissioner Wise seconded. **Motion passed 4-0.**

## 6 Public Comments Related to Agenda Items / Good & Welfare

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

The following persons spoke on the record:

Rox Ross

MacDonald Kennedy

Barbara Kuhl

Janey Anderson

Chuck Ross

Judith Gersten

## 7 Information / Updates

## 8 Consent Agenda

### 8.a Acceptance of Commission Minutes

- Second Budget FY 2019-2020 Workshop August 14, 2019

### 8.b Acceptance of Board Minutes

- Public Safety Advisory Board minutes June 26, 2019

- Parks & Parkway Advisory Board minutes May 16, 2019
- Planning & Zoning Board minutes July 29, 2019
- Planning & Zoning Board minutes August 19, 2019

**9 Ordinances**

**10 Resolutions**

**10.a Resolution # 2019-21 - Appointing Board Members**

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RATIFYING THE SELECTION AND APPOINTMENT OF MEMBERS TO THE VILLAGE PLANNING BOARD AND THE VILLAGE PARKS AND PARKWAY ADVISORY BOARD; PROVIDING FOR AN EFFECTIVE DATE.

Vice-Mayor Samaria motioned to approve Resolution # 2019-21. Commissioner Wise seconded. **Motion passed 4 - 0.**

Parks and Parkway Advisory - Commission voted as follows:

Mayor Truppman - David Raymond

Vice-Mayor Samaria - David Raymond

Commissioner Tudor - David Raymond

Commissioner Wise - David Raymond

Mr. David Raymond was selected unanimously for Parks & Parkway Advisory Board **4 - 0.**

Planning & Zoning Board - Commission voted as follows:

Mayor Truppman - Laura Graves

Vice-Mayor Samaria - Virginia O'Halpin

Commissioner Tudor - Laura Graves

Commissioner Wise - Laura Graves

Mrs. Laura Graves was selected for Parks & Parkway Advisory Board **3 - 1.**

**10.b Resolution # 2019-22 Reestablishing the Charter Review Board and Appointing Board**

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RATIFYING THE SELECTION AND APPOINTMENT OF MEMBERS TO REESTABLISH THE CHARTER REVIEW ADVISORY BOARD; PROVIDING FOR AN EFFECTIVE DATE.

Vice-Mayor Samaria motioned to approve Resolution # 2019-22. Mayor Truppman seconded. **Motion passed 4 - 0.**

Commission appointed (5) five members as follows:

Mayor Truppman - Judith Gersten

Vice-Mayor Samaria - Roxanna Ross

Commissioner Johnson-Sardella - Kate Eaton

Commissioner Tudor - Louis Rogers

Commissioner Wise - Rachamin Cohen

Commission voted for the (2) two members at large applicants as follows:

Daniel Keys - Vice-Mayor Samaria / Commissioner Tudor

Manny Espinoza - Mayor Truppman / Commissioner Wise

Victoria Hernandez - Mayor Truppman / Commissioner Tudor / Commissioner Wise

MacDonald Kennedy - Vice-Mayor Samaria

**Victoria Hernandez** - with (3) three votes, was selected **at large member 1**.

Daniel Keys and Manny Espinoza were tied with (2) two votes each. Another Commission vote was scheduled for a Special Commission meeting on Friday, September 20, 2019.

**10.c Resolution # 2019-23 CRS Program**

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, TO AUTHORIZE THE VILLAGE TO SIGN A LETTER OF INTEREST TO PARTICIPATE IN THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S NATIONAL FLOOD INSURANCE COMMUNITY RATING SYSTEM PROGRAM. **DRAFT**

Commissioner Betsy Wise motioned to draft and adopt Resolution # 2019-23 . Vice-Mayor Samaria seconded. **Motion passed 4 - 0.**

**11 Old Business**

**11.a** Item removed from agenda.

**11.b Review of branding proposal**

Commission moved to schedule a workshop to discuss branding proposal results. With that motion, Commission also directed staff to schedule (3) workshops on this order:

- 1) Meetings Policies and Procedures
- 2) Communication
- 3) Branding results

Vice-Mayor Samaria motioned to schedule the three (3) workshops. Commissioner Tudor seconded. **Motion passed 4 - 0.**

**11.c Special Magistrate**

Commission moved to draft an ordinance to establish a Special Magistrate.

Commissioner Wise motioned. Commissioner Tudor seconded. **Motion passed 3 - 1.** Vice-Mayor Samaria opposed.

**12 New Business**

**12.a Attorneys billing**

Vice-Mayor Samaria motioned to table Item 12.a to next Commission meeting on October 1, 2019. Mayor Truppman seconded. **Motion passed 4 - 0.**

**13 Request for placement of items on next meeting agenda**

*Through general consensus a member of the Commission may request an item be placed on the next agenda for discussion (New Business) or as a Resolution/Ordinance.*

**14 Reports**

**14.a** Village Attorney

Updates:

- FEMA
- Hurricane Irma relief

**14.b** Village Manager

**14.c** Board / Committee Reports

**14.d** Commissioners Comments:

- Mayor Truppman
- Vice-Mayor Samaria
- Commissioner Johnson-Sardella
- Commissioner Tudor
- Commissioner Wise

**15 Announcements**

Public Art Advisory Board, Wednesday September 11, 2019 6:00 pm

Planning & Zoning Board, Monday September 16, 2019 6:30 pm

Parks & Parkway Advisory Board, Thursday September 19, 2019 5:30 pm

Public Safety Advisory Board, Wednesday September 25, 2019 7:00 pm

Second Budget FY 2019-2020 Hearing Friday, September 20, 2019 6:30 pm

Regular Commission Meeting, Tuesday October 1, 2019 7:00 pm

**16 Adjournment**

Mayor Truppman motioned to adjourn and Commissioner Wise seconded. Meeting adjourned at 10:30 pm.

---

Commission approved on October 01, 2019.

Attest:

---

Tracy Truppman, Mayor

---

Roseann Prado, Village Clerk



**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Tracy Truppman, hereby disclose that on September 10, 20 19 :

(a) A measure came or will come before my agency which (check one or more)

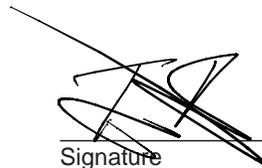
- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Per the Commission's prior 3 to 1 majority vote on June 4, 2019 meeting, and 3 to 1 majority vote on July 9, 2019 meeting, the Commission had tabled this agenda item pending a legal advisory opinion from Florida's Attorney General's Office (AGO) providing guidance as to the proper authority and procedures. I renewed my prior legal objections to the item proceeding before the Commission. The Village Attorney confirmed the legal opinion requested remains pending with the AGO. Vice Mayor Samaria moved for the Commission to rescind its prior decision to table this agenda item and proceed with the item in the current meeting without the AGO legal advisory opinion. The motion did not receive a second and the motion failed. This agenda item remains tabled until AGO opinion is issued to provide the requested guidance to the Commission. A conflict of interest could have arisen pending the outcome, as the Mayor's position earns \$2000 more than the other commissioners.

If disclosure of the nature of the interest in such a way as to provide the public with notice of the conflict.

9/12/19  
Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



**MINUTES  
WORKSHOP  
DISCUSSION ON COMMISSION MEETINGS PROCEDURES  
AND VILLAGE CODE**

**Log Cabin - 640 NE 114th Street  
Biscayne Park, FL 33161  
Wednesday, September 18, 2019**

**1 Call to Order**

Mayor Truppman called the meeting to order at 6:30 pm.

**2 Roll Call**

Mayor Tracy Truppman - present  
Vice-Mayor Dan Samaria - present  
Commissioner Jenny Johnson-Sardella - absent  
Commissioner William Tudor - present  
Commissioner Betsy Wise - present

Present from staff were:

Village Manager Krishan Manners  
Village Attorney Rebecca Rodriguez  
Village Clerk Roseann Prado  
Sergeant of Arms Paul Eppler  
Chief of Police Luis Cabrera

**3 Pledge of Allegiance**

**4 Public Comments Related to Agenda Items**

The following persons spoke on the records:

Rox Ross  
Chuck Ross

**5 Information / Updates**

**5.a** Discussion on Commission Meetings Policies & Procedures

**6 Adjournment**

Vice-Mayor Samaria motioned to adjourn. Commissioner Tudor seconded. Meeting adjourned at 10:14 pm.

---

Commission approved on October 1, 2019

Attest:

---

Tracy Truppman, Mayor

---

Roseann Prado, Village Clerk





## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

### **MINUTES**

**2nd Budget FY 2019-2020 Hearing**

**Log Cabin - 640 NE 114th Street**

**Biscayne Park, FL 33161**

**Friday, September 20, 2019 at 6:30 pm**

**1 Call to Order**

Mayor Tracy Truppman called the meeting to order at 6:30 pm.

**2 Roll Call**

Mayor Tracy Truppman - present

Vice Mayor Dan Samaria - present

Commissioner Jenny Johnson-Sardella - present

Commissioner William Tudor - present

Commissioner Betsy Wise - present

Present from staff were:

Village Manager Krishan Manners

Village Clerk Roseann Prado

Chief Luis Cabrera

Recreation Manager Issa Thornell

Public Works Manager David Hernandez

Recordings: Cesar Hernandez

**3 Pledge of Allegiance**

**4 Ordinances**

**4.a Ordinance # 2019-03 First Reading**

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ESTABLISHING THE FISCAL YEAR 2019-2020 MILLAGE RATE AT 9.70 MILLS FOR EACH \$ 1,000 OF ASSESSED VALUATION UPON REAL AND PERSONAL PROPERTY WITHIN THE VILLAGE LIMITS OF THE VILLAGE OF BISCAYNE PARK; PROVIDING FOR AN EFFECTIVE DATE.

*Public hearing related to Ordinance 2019-03*

*No comments from the public.*

Commissioner Wise motioned to approve Ordinance # 2019-03 on second reading.

Commissioner Johnson-Sardella seconded.

Commission voted as follows:

Mayor Truppman: Yes

Vice-Mayor Samaria: No

Commissioner Johnson-Sardella: Yes

Commissioner Tudor: Yes

Commissioner Wise: Yes

**Motion passed 4-1**

Commissioner Wise motioned to memorialize a Resolution for the Tentative Millage Rate being set at 9.70 Mills for the final hearing of Ordinance 2019-03. Commissioner Johnson-Sardella seconded. **Motion passed 5 - 0.**

**4.b Ordinance # 2019-04 First Reading**

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ADOPTING A BUDGET FOR FISCAL YEAR 2019-2020 FOR THE VILLAGE OF BISCAYNE PARK, FLORIDA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

*Public hearing related to Ordinance 2019-04*

*The following persons spoke on the record:*

Rox Ross

David Raymond

Chuck Ross

Commissioner Wise motioned to approve Ordinance # 2019-04 on second reading.

Mayor Truppman seconded.

Commission voted as follows:

Mayor Truppman: Yes

Vice-Mayor Samaria: No

Commissioner Johnson-Sardella: Yes

Commissioner Tudor: Yes

Commissioner Wise: Yes

**Motion passed 4-1**

**5 Adjournment**

Vice-Mayor Samaria motioned to adjourn and Commissioner Tudor seconded.

Meeting adjourned at 6:57 pm.

---

Commission approved on October 01, 2019.

Attest:

---

Tracy Truppman, Mayor

---

Roseann Prado, Village Clerk



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

**MINUTES  
SPECIAL COMMISSION MEETING  
Log Cabin - 640 NE 114th Street  
Biscayne Park, FL 33161  
Friday, September 20, 2019 7:00 pm**

**1 Call to Order**

Mayor Truppman called the meeting to order at 7:00 pm

**2 Roll Call**

Mayor Truppman - present  
Vice Mayor Johnson-Sardella - present  
Commissioner Samaria - present  
Commissioner Tudor - present  
Commissioner Wise - present

Present from staff were:

Village Manager Krishan Manners  
Village Attorney Rebecca Rodriguez  
Chief of Police Luis Cabrera  
Sergeant of Arms Paul Epler  
Recordings: Cesar Hernandez

**3 Pledge of Allegiance**

**4 Public Comments**

*The following persons spoke on the record:*

Allen Markelson - 8000 East Drive, North Bay Village 33141  
Dan Keys  
Chuck Ross

**5 Consent Agenda**

**5.a Selection of (1) one Board Member at Large for Charter Review Board**

Equal votes at Regular Commission Meeting at September 10, 2019, Item 10.b:

- Daniel Keys - 2 votes (Vice-Mayor Samaria and Commissioner Tudor)
- Manny Espinoza - 2 votes (Mayor Truppman and Commissioner Wise)

Roll call was called as follows:

Mayor Truppman - Manny Espinoza  
Vice-Mayor Samaria - Daniel Keys  
Commissioner Johnson-Sardella - Manny Espinoza

Commissioner Tudor - Daniel Keys

Commissioner Wise - Manny Espinoza

**Manny Espinoza - 3 votes (2nd board member at large)**

**Daniel Keys - 2 votes**

Commissioner Tudor motioned to appoint (1) alternate. Commissioner Johnson-Sardella seconded.

**Motion passed 4 - 1.** Vice-Mayor Samaria opposed.

Commission voted on (1) one alternate member between: Daniel Keys and MacDonald Kennedy, as follows:

Mayor Truppman -Daniel Keys

Vice-Mayor Samaria -Daniel Keys

Commissioner Johnson-Sardella -Daniel Keys

Commission Tudor -Daniel Keys

Commission Wise -Daniel Keys

**Daniel Keys** appointed as an alternate board member **5 - 0.**

**6 Adjournment**

Commissioner Tudor motioned to adjourn. Commissioner Johnson-Sardella seconded. Meeting adjourned at 7:23 pm.

---

Commission approved on Regular Commission Meeting of October 1, 2019.

Attest:

\_\_\_\_\_  
Tracy Truppman, Mayor

\_\_\_\_\_  
Roseann Prado, Village Clerk



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

**MINUTES**  
**WORKSHOP ON COMMUNICATION**  
**Log Cabin - 640 NE 114th Street**  
**Biscayne Park, FL 33161**  
**Tuesday, September 24, 2019**

**1 Call to Order**

Vice-Mayor Samaria called the meeting to order at 6:30 pm.

**2 Roll Call**

Mayor Tracy Truppman - absent

Vice-Mayor Dan Samaria - present

Commissioner Jenny Johnson-Sardella - absent

Commissioner William Tudor - absent

Commissioner Betsy Wise - absent

Present from staff were:

Village Manager Krishan Manners

Village Clerk Roseann Prado

- Meeting adjourned at 6:32 pm due to lack of quorum. Rescheduled for October 17, 2019.

**3 Pledge of Allegiance**

**4 Public Comments Related to Agenda Items**

**5 Information / Updates**

**5.a Discussion on Communication**

**6 Adjournment**

Meeting adjourned at 6:32 pm.

---

Commission approved on October 1, 2019

Attest:

---

Tracy Truppman, Mayor

---

Roseann Prado, Village Clerk





**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Tracy Truppman, hereby disclose that on September 10, 20 19 :

(a) A measure came or will come before my agency which (check one or more)

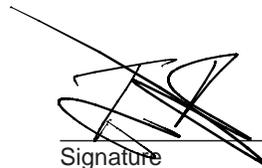
- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Per the Commission's prior 3 to 1 majority vote on June 4, 2019 meeting, and 3 to 1 majority vote on July 9, 2019 meeting, the Commission had tabled this agenda item pending a legal advisory opinion from Florida's Attorney General's Office (AGO) providing guidance as to the proper authority and procedures. I renewed my prior legal objections to the item proceeding before the Commission. The Village Attorney confirmed the legal opinion requested remains pending with the AGO. Vice Mayor Samaria moved for the Commission to rescind its prior decision to table this agenda item and proceed with the item in the current meeting without the AGO legal advisory opinion. The motion did not receive a second and the motion failed. This agenda item remains tabled until AGO opinion is issued to provide the requested guidance to the Commission. A conflict of interest could have arisen pending the outcome, as the Mayor's position earns \$2000 more than the other commissioners.

If disclosed by a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

9/12/19  
Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



**MINUTES  
WORKSHOP  
DISCUSSION ON COMMISSION MEETINGS PROCEDURES  
AND VILLAGE CODE**

**Log Cabin - 640 NE 114th Street  
Biscayne Park, FL 33161  
Wednesday, September 18, 2019**

**1 Call to Order**

Mayor Truppman called the meeting to order at 6:30 pm.

**2 Roll Call**

Mayor Tracy Truppman - present  
Vice-Mayor Dan Samaria - present  
Commissioner Jenny Johnson-Sardella - absent  
Commissioner William Tudor - present  
Commissioner Betsy Wise - present

Present from staff were:

Village Manager Krishan Manners  
Village Attorney Rebecca Rodriguez  
Village Clerk Roseann Prado  
Sergeant of Arms Paul Eppler  
Chief of Police Luis Cabrera

**3 Pledge of Allegiance**

**4 Public Comments Related to Agenda Items**

The following persons spoke on the records:

Rox Ross  
Chuck Ross

**5 Information / Updates**

**5.a** Discussion on Commission Meetings Policies & Procedures

**6 Adjournment**

Vice-Mayor Samaria motioned to adjourn. Commissioner Tudor seconded. Meeting adjourned at 10:14 pm.

---

Commission approved on October 1, 2019

Attest:

---

Tracy Truppman, Mayor

---

Roseann Prado, Village Clerk





## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

### **MINUTES**

**2nd Budget FY 2019-2020 Hearing**

**Log Cabin - 640 NE 114th Street**

**Biscayne Park, FL 33161**

**Friday, September 20, 2019 at 6:30 pm**

**1 Call to Order**

Mayor Tracy Truppman called the meeting to order at 6:30 pm.

**2 Roll Call**

Mayor Tracy Truppman - present

Vice Mayor Dan Samaria - present

Commissioner Jenny Johnson-Sardella - present

Commissioner William Tudor - present

Commissioner Betsy Wise - present

Present from staff were:

Village Manager Krishan Manners

Village Clerk Roseann Prado

Chief Luis Cabrera

Recreation Manager Issa Thornell

Public Works Manager David Hernandez

Recordings: Cesar Hernandez

**3 Pledge of Allegiance**

**4 Ordinances**

**4.a Ordinance # 2019-03 First Reading**

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ESTABLISHING THE FISCAL YEAR 2019-2020 MILLAGE RATE AT 9.70 MILLS FOR EACH \$ 1,000 OF ASSESSED VALUATION UPON REAL AND PERSONAL PROPERTY WITHIN THE VILLAGE LIMITS OF THE VILLAGE OF BISCAYNE PARK; PROVIDING FOR AN EFFECTIVE DATE.

*Public hearing related to Ordinance 2019-03*

*No comments from the public.*

Commissioner Wise motioned to approve Ordinance # 2019-03 on second reading.

Commissioner Johnson-Sardella seconded.

Commission voted as follows:

Mayor Truppman: Yes

Vice-Mayor Samaria: No

Commissioner Johnson-Sardella: Yes

Commissioner Tudor: Yes

Commissioner Wise: Yes

**Motion passed 4-1**

Commissioner Wise motioned to memorialize a Resolution for the Tentative Millage Rate being set at 9.70 Mills for the final hearing of Ordinance 2019-03. Commissioner Johnson-Sardella seconded. **Motion passed 5 - 0.**

**4.b Ordinance # 2019-04 First Reading**

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ADOPTING A BUDGET FOR FISCAL YEAR 2019-2020 FOR THE VILLAGE OF BISCAYNE PARK, FLORIDA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

*Public hearing related to Ordinance 2019-04*

*The following persons spoke on the record:*

Rox Ross

David Raymond

Chuck Ross

Commissioner Wise motioned to approve Ordinance # 2019-04 on second reading.

Mayor Truppman seconded.

Commission voted as follows:

Mayor Truppman: Yes

Vice-Mayor Samaria: No

Commissioner Johnson-Sardella: Yes

Commissioner Tudor: Yes

Commissioner Wise: Yes

**Motion passed 4-1**

**5 Adjournment**

Vice-Mayor Samaria motioned to adjourn and Commissioner Tudor seconded.

Meeting adjourned at 6:57 pm.

---

Commission approved on October 01, 2019.

Attest:

---

Tracy Truppman, Mayor

---

Roseann Prado, Village Clerk



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

**MINUTES**  
**SPECIAL COMMISSION MEETING**  
**Log Cabin - 640 NE 114th Street**  
**Biscayne Park, FL 33161**  
**Friday, September 20, 2019 7:00 pm**

**1 Call to Order**

Mayor Truppman called the meeting to order at 7:00 pm

**2 Roll Call**

Mayor Truppman - present  
Vice Mayor Johnson-Sardella - present  
Commissioner Samaria - present  
Commissioner Tudor - present  
Commissioner Wise - present

Present from staff were:

Village Manager Krishan Manners  
Village Attorney Rebecca Rodriguez  
Chief of Police Luis Cabrera  
Sergeant of Arms Paul Epler  
Recordings: Cesar Hernandez

**3 Pledge of Allegiance**

**4 Public Comments**

*The following persons spoke on the record:*

Allen Markelson - 8000 East Drive, North Bay Village 33141  
Dan Keys  
Chuck Ross

**5 Consent Agenda**

**5.a Selection of (1) one Board Member at Large for Charter Review Board**

Equal votes at Regular Commission Meeting at September 10, 2019, Item 10.b:

- Daniel Keys - 2 votes (Vice-Mayor Samaria and Commissioner Tudor)
- Manny Espinoza - 2 votes (Mayor Truppman and Commissioner Wise)

Roll call was called as follows:

Mayor Truppman - Manny Espinoza  
Vice-Mayor Samaria - Daniel Keys  
Commissioner Johnson-Sardella - Manny Espinoza

Commissioner Tudor - Daniel Keys

Commissioner Wise - Manny Espinoza

**Manny Espinoza - 3 votes (2nd board member at large)**

**Daniel Keys - 2 votes**

Commissioner Tudor motioned to appoint (1) alternate. Commissioner Johnson-Sardella seconded.

**Motion passed 4 - 1.** Vice-Mayor Samaria opposed.

Commission voted on (1) one alternate member between: Daniel Keys and MacDonald Kennedy, as follows:

Mayor Truppman -Daniel Keys

Vice-Mayor Samaria -Daniel Keys

Commissioner Johnson-Sardella -Daniel Keys

Commission Tudor -Daniel Keys

Commission Wise -Daniel Keys

**Daniel Keys** appointed as an alternate board member **5 - 0.**

**6 Adjournment**

Commissioner Tudor motioned to adjourn. Commissioner Johnson-Sardella seconded. Meeting adjourned at 7:23 pm.

---

Commission approved on Regular Commission Meeting of October 1, 2019.

Attest:

\_\_\_\_\_  
Tracy Truppman, Mayor

\_\_\_\_\_  
Roseann Prado, Village Clerk



## *The Village of Biscayne Park*

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

Telephone: 305 899 8000 Facsimile: 305 891 7241

**MINUTES**  
**WORKSHOP ON COMMUNICATION**  
**Log Cabin - 640 NE 114th Street**  
**Biscayne Park, FL 33161**  
**Tuesday, September 24, 2019**

**1 Call to Order**

Vice-Mayor Samaria called the meeting to order at 6:30 pm.

**2 Roll Call**

Mayor Tracy Truppman - absent

Vice-Mayor Dan Samaria - present

Commissioner Jenny Johnson-Sardella - absent

Commissioner William Tudor - absent

Commissioner Betsy Wise - absent

Present from staff were:

Village Manager Krishan Manners

Village Clerk Roseann Prado

- Meeting adjourned at 6:32 pm due to lack of quorum. Rescheduled for October 17, 2019.

**3 Pledge of Allegiance**

**4 Public Comments Related to Agenda Items**

**5 Information / Updates**

**5.a Discussion on Communication**

**6 Adjournment**

Meeting adjourned at 6:32 pm.

---

Commission approved on October 1, 2019

Attest:

---

Tracy Truppman, Mayor

---

Roseann Prado, Village Clerk





**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 8.b**

**REGULAR MEETING**

---

**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Roseann Prado, Village Clerk

**DATE:** October 1, 2019

**TITLE:** Acceptance of Board Minutes

---

**Background**

The board/committee minutes as listed below are being provided for the commission's review and acceptance.

**Recommendation**

Acceptance on Consent Agenda

**Attachment**

- Biscayne Park Foundation minutes May 13, 2019
- Biscayne Park Foundation minutes July 08, 2019
- Biscayne Park Foundation minutes August 12, 2019
- Public Art Advisory Board minutes September 11, 2019
- Public Safety Advisory Board minutes June 26, 2019
- Public Safety Advisory Board minutes August 28, 2019
- Public Safety Advisory Board minutes September 25, 2019

---

Prepared by: Roseann Prado, Village Clerk



## *The Village of Biscayne Park*

640 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

# **MINUTES BISCAYNE PARK FOUNDATION**

**MONDAY, MAY 13, 2019**

**7:00 p.m.**

### BISCAYNE PARK FOUNDATION

Jorge Marinoni  
Marie Smith  
Laura Graves  
David Goehl

**Meeting called to order at 7:05 p.m.**

**ROLL CALL: Jorge Marinoni, Marie Smith, Laura Graves.**

**IN ATTENDANCE: Krishan Manners**

**ABSENT: David Goehl.**

**APPROVAL OF THE MINUTES: Motion by Laura Graves seconded by Marie Smith to approve the Minutes of April 8 , 2019. Motion passed.**

**PUBLIC COMMENT: On the subject of the lightening in front of the Rec. Center, Krishan reported that the estimate received was too high, \$12,000. A suggestion was made that Moody Electric be contacted for an estimate. Krishan to report at next meeting.**

**BARK IN THE PARK: Laura reported on her continued research. It was agreed by the board that January 11, 2020 , 12:00 noon to 4:00 p.m. should be designated. Laura has a list of tentative vendors including a veterinarian, photographer, dog aura reader, adoptions, training sessions, and the inclusion of an obstacle course. Krishan to have this date confirmed and the use of the Rec. Center for this event.**

**OKTOBERFEST: This event will be held Saturday ,October 5, 2019, 7:00-9:00 p.m. at the Rec. Center. Jorge would work on a flyer for distribution.**

**BRICK CAMPAIGN: Laura to make inquiries on the use of PayPal. Krishan to contact Richard Heifenbottle, landscape architect, re proposed brick area in front of the Log Cabin.**

**TREASURY REPORT: Jorge submitted report, ending balance as of 04/30/2019 \$13,232.39.**



***The Village of Biscayne Park***

640 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

**Meeting adjourned 8:15 p.m.**

**Jorge Marinoni, President** \_\_\_\_\_

**Marie Smith, Secretary:** \_\_\_\_\_

**Next Meeting:        Monday, JUNE 10, 2019 @ 7:00 p.m.**



## *The Village of Biscayne Park*

640 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

# **MINUTES BISCAYNE PARK FOUNDATION**

**MONDAY, JULY 8, , 2019**

**7:00 p.m.**

### BISCAYNE PARK FOUNDATION

Jorge Marinoni  
Marie Smith  
Laura Graves  
David Goehl

**Meeting called to order at 7:05 p.m.**

**ROLL CALL: Jorge Marinoni, Marie Smith, Laura Graves.**

**IN ATTENDANCE: Krishan Manners, Jeffrey Jones.**

**ABSENT: David Goehl.**

**APPROVAL OF THE MINUTES: Motion by Laura Graves seconded by Marie Smith to approve the Minutes May 13, 2019. Motion passed. Because a quorum was not present at the June 10 meeting, the approval of the Minutes was carried over to the July 8 meeting.**

**PUBLIC COMMENT: It was noted by the board that David Goehl has been absent for the past four meetings. Jorge will contact David. It was noted by the board that board members are needed to help with our fund raising projects.**

**CONCERT METAL STAGE: Jorge spoke on the necessity of purchasing a metal portable stage for our events and set aside up to \$2,000.00 A discussion followed. Motion by Marie and seconded by Laura to purchase a portable metal stage. Motion passed.**

**BARK IN THE PARK: Laura reported on her continued research. January 11, 2020 , 12:00 noon to 4:00 p.m. at the Rec. Center has been confirmed. Laura has a list of tentative vendors including veterinarians, photographer, dog aura reader, adoptions, training sessions by canine officer, two chefs will provide doggie treats and the registration of Village dogs will take place.**

**OKTOBERFEST: This event will be held Saturday ,October 5, 2019, 7:00-9:00 p.m. at the Rec. Center. Jorge would work on a flyer and obtain the permit. Food trucks will be contacted and Dan Samaria will be asked if he wants to sell hot dogs & popcorn. Jorge will arrange the music.**



## *The Village of Biscayne Park*

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**BRICK CAMPAIGN:** Krishan to contact Richard Heifenbottle, landscape architect, re proposed brick area in front of the Log Cabin. Laura has contacted Erica regarding links and setting up of a video. Krishan suggested an area to place bricks and when donations are made, permanent replacement, with donor information. At our outdoor events the bricks should be displayed. Twelve bricks have been sold and donors are inquiring as to when they will be placed.

**REC. CENTER ENTRANCE - LIGHTING:** Krishan reported that he received a quote of \$9,000, \$3,000 less than the previous quote. The maximum amount that the Foundation can contribute is \$4,500. Krishan said he would research how the additional funds can be procured. Jorge suggested that an additional electric outlet was needed in the area.

**TREASURY REPORT:** Jorge submitted report, balance as of 06-28-2019 is \$12,857.39.

Meeting adjourned 8:15 p.m.

Jorge Marinoni, President \_\_\_\_\_

Marie Smith, Secretary: \_\_\_\_\_

Next Meeting: Monday, August 12, 2019 @ 7:00 p.m.



## *The Village of Biscayne Park*

640 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

### **MINUTES BISCAYNE PARK FOUNDATION**

**MONDAY, AUGUST 12, 2019**

**7:00 p.m.**

**BISCAYNE PARK  
FOUNDATION**

Jorge Marinoni  
Marie Smith  
David Goehl

**Meeting called to order at 7:05 p.m.**

**ROLL CALL: Jorge Marinoni, Marie Smith, David Goehl**

**IN ATTENDANCE: Krishan Manners.**

**APPROVAL OF THE MINUTES: Motion by Jorge Marinoni seconded by Marie Smith to approve the Minutes July 8, 2019. Motion passed.**

**PUBLIC COMMENT: Jorge reported receiving a letter of resignation from Laura Graves. A vacancy on the Building & Zoning board had occurred and Laura had to resign from the Foundation in order to apply. The board wished her success and will miss her energy and input. It will be necessary to recruit new applicants to the Foundation board.**

**CONCERT METAL STAGE: Jorge reported on the purchase of the metal stage at a cost of \$1,890.00, with a savings of \$110.00. The stage will improve the safety of musicians and dancers.**

**OKTOBERFEST: Although the board, at a previous meeting, had selected Saturday October 5, 2019, 7:00-9:00 p.m. to celebrate OKTOBERFEST, a discussion followed, and it was agreed to move the date to Saturday, October 19.**

**REC. CENTER ENTRANCE - LIGHTING: Krishan reported he had been approached by Parks & Parkways board to use the funding to light the entrance to the Log Cabin instead of the Rec. Center. He assured the board that the Rec. lighting will take precedence and the project should be completed by the end of September. Marie suggested an invitation be extended to the residents to come to the event. Jorge reiterated the need for a new updated electrical outlet at the site.**

**Jorge reported submitting the annual report to the State of Florida and receiving the Letter of Compliance.**



## *The Village of Biscayne Park*

640 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
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**TREASURY REPORT: Jorge submitted report, balance as of 07-31-2019 is \$12,957.39.**

**Meeting adjourned 8:15 p.m.**

**Jorge Marinoni, President** \_\_\_\_\_

**Marie Smith, Secretary:** \_\_\_\_\_

**Next Meeting: Monday, September 9, 2019 @ 7:00 p.m.**



## *The Village of Biscayne Park*

600 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

### **MINUTES**

#### **PUBLIC SAFETY ADVISORY BOARD MEETING**

#### **LOG CABIN**

**640 NE 114 ST – Biscayne Park, FL  
Wednesday, June ,26 at 7:00 p.m.**

#### **1. CALL TO ORDER**

The meeting was called to order at 7:05pm

#### **2. ROLL CALL**

Louis Rogers – Present  
Gavin McKenzie – Absent  
Russel Ely – Present  
Michael Redmond – Present

#### **Also present:**

Krishan Manners Village manager  
David Hernandez Publics works director

#### **3. AGENDA ADDITIONS AND DELETIONS**

*None*

#### **4. APPROVAL OF MINUTES**

- Approved Minutes of our May meeting were not available for approval

#### **5.**

Received an update on the commission approval for the public works dept. to purchase a speed table to be installed by our public works employees to further our understanding on the cost and installation of the speed table for our pilot testing program on their effect on traffi

We also had Mrs. Jessica Way from Representative Fredricka Wilsons local Office. Mrs. Way is her Municipal liaison representative and is looking forward helping the village needs from our federal and state governments

David Hernandez gave us updates on the streetlight testing and on fpl's underground lines they are planning on installing on the east side of the village. David also mentioned that they are also going to do the underground lines along Griffing Blvd.

Our public works is also in the process of purchasing a towable aerial man lift so public works can trim trees back, so they won't topple over in a storm like our ficus tree at the rec center recently did.

#### **6. The next meeting was approved for July 24, 2019 at 7:00pm.**



## *The Village of Biscayne Park*

600 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

### 7. ADJOURNMENT

Louis Roger made the motion to adjourn and was seconded by Mike Redmond  
Meeting was adjourned at 7:53pm

Minutes approved on: May 18, 2018

By: Louis Rogers  
Louis Rogers, Chair of Public Safety Advisory Board



**MINUTES**  
**PUBLIC ART ADVISORY BOARD**  
**Village Hall, 600 N.E. 114 St.**  
**Wednesday, September 11, 2019 at 6:00PM**

1. CALL TO ORDER AND ROLL CALL – The meeting was called to order at: 6:05 P.M. Amy Raymond, Susan Weiss, Karen Marinoni, Barbara Watts. Patrice Bertin had an excused absence.
2. AGENDA ADDITIONS AND DELETIONS –  
Barbara Watts added ideas for a project or other: Use the felled Australian pine trees for an artistic creation such as house number slabs or playground use. Change name of Board to include culture and cultural projects, and BP history. Possible collaboration with Moca for a public sculpture. Possible approach to Robert Chambers for loan of a public sculpture.
3. PUBLIC COMMENT (PERMITTED FOR EACH AGENDA ITEM) Charley Easton, Jorge Marinoni, Manager Manner were in attendance.
4. APPROVAL OF MINUTES – Yes
5. NEW BUSINESS-

**A. Mangofest 2019**

1. Changes for 2020- charge to enter or charge for each item .
2. Organize the recipe book, must enter the contest with a recipe and photo?

**B. Mosaic Bench Project-**

1. The new bench is complete and ready to install.  
Jorge will make more benches in the new year.

C. Art Show 2020 has been cancelled for this year in an attempt to do other projects throughout the year.

D. Possible collaboration with Rec Manager on monthly social events.

1. The Art Board would coordinate an evening of a cultural art event, art activity, speakers, refreshments, etc. for adults and including children at some events.



## *The Village of Biscayne Park*

640 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
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E. An idea for a yearly event to showcase residents gardens with refreshments provided at each participating home. Possible sharing of knowledge and cuttings.

NEXT MEETING DATE – Wednesday, October 9, 2019 at 6:00pm. All future meetings will take place at Village Hall

7. ADJOURNMENT – Meeting was adjourned at 7:30 p.m.
8. \_\_\_\_\_.

Minutes approved on \_\_\_\_\_ June 20, 2019 \_\_\_\_\_.

**TWO OR MORE MEMBERS OF THE VILLAGE OF BISCAYNE PARK COMMISSION AND OTHER VILLAGE BOARD MEMBERS MAY BE IN ATTENDANCE.**

**DECORUM** - Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Committee, shall be barred from further audience before the Committee by the presiding officer, unless permission to continue or again address the Committee is granted by the majority vote of the 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 Board 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.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accomodation 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.



**MINUTES**  
**PUBLIC SAFETY ADVISORY BOARD MEETING**  
**LOG CABIN**  
**640 NE 114 ST – Biscayne Park, FL**  
**Wednesday, August 28, 2019 at 7:00 p.m.**

**1. CALL TO ORDER**

The meeting was called to order at 7:02pm

**2. ROLL CALL**

Louis Rogers – Present  
Russell Ely – Present  
Michael Redmond – Present

**Also present:**

Village Manager Krishan Manners  
Commissioner William Tudor

**3. AGENDA ADDITIONS AND DELETIONS**

*None*

**4. APPROVAL OF MINUTES**

- Approved Minutes of May 22<sup>nd</sup> and June 26, 2019 meetings.

- 5.** A motion was made and approved to move the Public Safety Advisory Board Meeting to the Village Hall from the Log Cabin since it is lightly attended with the Provision that if needed do to do to attendance can be move at that time back to Log Cabin as needed. This was approved by the board.

Another motion was made to move the meeting time from 7:00pm to 6:00pm  
This too was approved by the board.

Discussion opened with the pilot test of speed tables and the first one being Installed on 11<sup>th</sup> and 112st. The board asked if there has been any formal or Just verbal complaints or suggestions made to the village hall. So far none have Been received.

The board moved onto the streetlight test project from FPL. So far we found out None have been placed in the Village yet. This was news to the board, we had Under the impression that a few had been placed around the village and we just Couldn't locate them. We did find there were some placed on the North Miami Side of 121<sup>st</sup> between 8<sup>th</sup> ave and 11<sup>th</sup> ave.

The board received clarification of our state of Florida legislators urging of FPL to put lines underground. Its not mandated but just urged to.

Board member Mike Redmond, is still out looking at hidden and unmaintained Powerlines behind homes and or in difficult areas to get to.



## *The Village of Biscayne Park*

600 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
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The Board moved to a new discussion with the village manager about Bulk pick up days, along with a program to drop off old out of date, or no Longer needed medications for proper disposal. Which then lead to the Question about household chemicals and paints. We will revisit this in the Future.

- 6. The next meeting was approved for September 25th, 2019 at 6:00pm.  
At the VILLAGE HALL**

**7. ADJOURNMENT**

Louis Roger made the motion to adjourn and was seconded by Mike Redmond  
Meeting was adjourned at 7:36pm

Minutes approved on: \_\_\_\_\_

By: \_\_\_\_\_  
Louis Rogers, Chair of Public Safety Advisory Board



**MINUTES**  
**PUBLIC SAFETY ADVISORY BOARD MEETING**  
**Village Hall**  
**640 NE 114 ST – Biscayne Park, FL**  
**Wednesday, September 25th, 2019 at 6:00 p.m.**

**1. CALL TO ORDER**

The meeting was called to order at 6:02pm

**2. ROLL CALL**

Louis Rogers – Present  
Russell Ely – Present  
Michael Redmond – Present  
Gavin McKenzie and Sandor Scher excused

**Also, present:**

Village Manager Krishan Manners  
Chief Luis Cabrera  
David Hernandez public works director

**3. AGENDA ADDITIONS AND DELETIONS**

*None*

**4. APPROVAL OF MINUTES**

- Approved Minutes of August 28, 2019 meeting.

**5. Discussions**

Started our meeting with the NEW pilot program speed tables installed last week by our public works department. It took a couple days to get the tables down, reflectors and signs installed. These are a different design than those on 11<sup>th</sup>, and we have been told some adjustments to those on 10<sup>th</sup> ave will be needed.

David Hernandez also informed us that the new equipment purchased for trimming trees high up near the lights and signs is working well and safely.

David would also like some input on the new FPL installed led lights along 10<sup>th</sup> Ave. about half of the lights have been changed between 121<sup>st</sup> and 109<sup>th</sup> streets.

Chief Cabrera informed us that our dept will be placing barricades around the Perimeter of our village to cut down on thru traffic on HALLOWEEN. Our kids will be safer for the added police presence that night.

Chief Cabrera under his leadership is well along the way to becoming an ACCREDITED POLICE DEPT. lets give them any support we can in getting this.

Thank you Chief!



## *The Village of Biscayne Park*

600 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

6. **The next meeting was approved for October 23th, 2019 at 6:00pm.  
At the VILLAGE HALL**

7. **ADJOURNMENT**

Louis Roger made the motion to adjourn and was seconded by Mike Redmond  
Meeting was adjourned at 7:00pm

Minutes approved on: \_\_\_\_\_

By: \_\_\_\_\_  
Louis Rogers, Chair of Public Safety Advisory Board



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 8.c**

**REGULAR MEETING**

---

**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Krishan Manners, Village Manager

**DATE:** October 1, 2019

**TITLE:** Memorandum of Agreement with N. Miami for Median on 121<sup>st</sup> Street

**Recommendation**

Staff recommends the Village enter into this MOA with the City of N. Miami to divide the responsibilities for maintaining the median on 121<sup>st</sup> Street.

**Background**

The median on 121<sup>st</sup> Street from Griffing Blvd. to 10<sup>th</sup> Avenue is shared between N. Miami on the north side and Biscayne Park on the south side. This Landscape and Maintenance agreement defines the roles expected from each municipality to maintain this median. This provides a clear delineation of which municipality is responsible for maintaining, landscaping, tree trimming, etc.

**Resource Impact**

As the Village's role in this is similar to the service we already provide on this median, there is no expected budget increase.

---

Prepared by: Krishan Manners

1  
2  
3 **RESOLUTION NO. 2019-24**  
4

5 **A RESOLUTION OF THE VILLAGE COMMISSION OF THE**  
6 **VILLAGE OF BISCAYNE PARK, FLORIDA; APPROVING THE**  
7 **LANDSCAPE AND MAINTENANCE MEMORANDUM OF**  
8 **AGREEMENT (MMOA) BETWEEN THE VILLAGE OF**  
9 **BISCAYNE PARK AND THE CITY OF NORTH MIAMI FOR**  
10 **THE MEDIANS LOCATED ALONG NORTHEAST 121 STREET**  
11 **FROM GRIFFING BOULEVARD TO 10<sup>th</sup> AVENUE; PROVIDING**  
12 **FOR AN EFFECTIVE DATE.**  
13

14 **WHEREAS**, the Village of Biscayne Park, Florida (the “Village”) and the City of  
15 North Miami (“North Miami”) have mutual jurisdiction over certain medians located along  
16 Northeast 121 Street from Griffing Boulevard to 10<sup>th</sup> Avenue (the “Mutual Medians”); and

17 **WHEREAS**, the Village and North Miami are both desirous to coordinate their  
18 respective maintenance efforts to the Mutual Medians, including beautification improvements  
19 such as landscaping and sod replacement; and

20 **WHEREAS**, the Village and North Miami have reached a proposed memorandum of  
21 maintenance agreement (the “MMOA”) regarding maintenance of the Mutual Medians; and

22 **WHEREAS**, the Village Commission has determined it is in the best interests of  
23 Village residents to enter into the MMOA with North Miami to ensure the Mutual Medians are  
24 properly maintained;

25 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COMMISSION**  
26 **OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, that:**

27 **Section 1.** The Village Commission approves the Landscape and Maintenance  
28 Memorandum of Agreement with the City of North Miami for the medians located along  
29 Northeast 121 Street from Griffing Boulevard to 10<sup>th</sup> Avenue, in form and substance similar to  
30 that attached hereto as Exhibit ‘A.’



**LANDSCAPE AND MAINTENANCE  
MEMORANDUM OF AGREEMENT  
WITH THE  
VILLAGE OF BISCAYNE PARK**

This **AGREEMENT**, entered into on \_\_\_\_\_, 2019, by and between the **CITY OF NORTH MIAMI**, a municipal corporation of the State of Florida, hereinafter called the **CITY**, and the **VILLAGE OF BISCAYNE PARK**, a Florida municipal corporation, having its principal office at 640 NE 114th Street, Biscayne Park, FL 33161, hereinafter called the **VILLAGE**, and collectively referred to as the **PARTIES**.

**RECITALS:**

- A. The **CITY** and the **VILLAGE** have split jurisdiction over the medians that are located on N.E. 121 Street from Griffing Blvd. to 10<sup>th</sup> Avenue; and
- B. The **VILLAGE** would like to perform scheduled maintenance to the medians, including beautification improvements such as landscaping and sod replacement; and
- C. The **PARTIES** to this **AGREEMENT** mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party with regards to the maintenance of the medians; and
- D. The **CITY** desires to enter into this **AGREEMENT** and authorizes its officers to do so.

**NOW, THEREFORE**, for and in consideration of the mutual benefits contained herein and other good and valuable consideration, the parties covenant and agree as follows:

**1. RECITALS**

The recitals in this **AGREEMENT** are true and correct, and are incorporated herein by reference and made a part hereof.

**2. VILLAGE RESPONSIBILITIES**

The **PARTIES** agree that by executing this **AGREEMENT** the **VILLAGE** shall be responsible for maintaining the landscaping that it installs, in accordance with all applicable **CITY** guidelines. The **VILLAGE**'s maintenance obligations shall include but not be limited to:

- a. Mowing, cutting, weed eating, blowing and/or trimming and edging the grass, turf and hedges for site clearance.
- b. Pruning all plant materials, which include shrubs and ground covers and parts thereof.

c. Removing and properly disposing of dead, diseased or otherwise deteriorated plants and fallen limbs in their entirety, and replacing those that fall below the **CITY**'s standards. All plantings shall be Florida Friendly/Native plants which have been approved by the **CITY**.

d. Mulching all plant beds and tree rings.

e. Removing and disposing of all undesirable vegetation including but not limited to weeding of plant beds and removal of invasive exotic plant materials.

f. Taking all necessary maintenance measures necessary to ensure all the plant materials remain in a healthy and vigorous growing condition.

g. Installation of wood pole to deter traffic cutting over medians.

### **3. CITY'S MAINTENANCE RESPONSIBILITIES**

The **CITY** shall maintain all trees in the medians. The **CITY'S** maintenance obligations shall include but not be limited to:

- a) Tree removal.
- b) Removal of tree stumps.
- c) Tree trimming.
- d) Planting of new trees upon approval of **VILLAGE** and **CITY**.

### **4. MAINTENANCE DEFICIENCIES**

If at any time it shall come to the attention of the **CITY** that the **VILLAGE's** responsibilities as established herein are not being properly accomplished pursuant to the terms of this **AGREEMENT**, the **CITY** shall issue a written notice, to the **VILLAGE MANAGER**, to notify the **VILLAGE** of the maintenance deficiencies. From the date of receipt of the notice, the **VILLAGE** shall have a period of thirty (30) calendar days, within which to correct the cited deficiency or deficiencies. Receipt is determined in accordance with Section 5 of this **AGREEMENT**.

If said deficiencies are not corrected within this time period, the **CITY** may, at its option, proceed as follows:

- a) Perform the required maintenance activities and invoice the **VILLAGE** for expenses incurred; or

b) Terminate this Agreement in accordance with Section 7.

**5. NOTICES**

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

**To the CITY:** City of North Miami  
776 NE 125<sup>th</sup> Street  
North Miami, Florida 33161  
Attention: City Manager

**With a Copy to:** City of North Miami  
776 NE 125<sup>th</sup> Street  
North Miami, Florida 33161  
Attention: City Attorney

**To the VILLAGE:** Village of Biscayne Park  
600 NE 114th Street  
Biscayne Park, FL 33161  
Attention: Village Manager

Notices shall be deemed to have been received by the end of five (5) business days from the proper sending thereof unless proof of prior actual receipt is provided.

**6. REMOVAL, RELOCATION OR ADJUSTMENT.** The Parties agree that the landscaping addressed by this **AGREEMENT** may be removed, relocated or adjusted at any time in the future, by t the **CITY'S**, with the written approval of the **VILLAGE**, which approval will not be unreasonably withheld. In the event that the **CITY** relocates or adjusts the landscaping pursuant to the Paragraph 6 the **VILLAGE'S** maintenance responsibilities will survive the relocation or adjustment, so long as the materials remain within the medians.

**7. TERMINATION**

This **AGREEMENT** is subject to termination under any one of the following conditions:

- a) By the **CITY**, if the **VILLAGE** fails to perform its duties under Section 3 of this **AGREEMENT**, following the thirty (30) days written notice, as specified in Section 4 of this **AGREEMENT**.
- b) By either parties, upon thirty (30) days advance notice.

## 8. TERMS

- a) The effective date of this **AGREEMENT** shall commence upon execution by the **PARTIES**. This **AGREEMENT** shall continue in perpetuity or until termination as set forth in Section 7.
- b) This writing embodies the entire agreement and understanding between the parties hereto and there are no other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
- c) This **AGREEMENT** shall not be transferred or assigned, in whole or in part, without the prior written consent of **either PARTY**.
- d) This **AGREEMENT** shall be governed by and constructed in accordance with the laws of the State of Florida. Any provisions of this **AGREEMENT** found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions of the **AGREEMENT**.
- e) Venue for any and all actions arising out of or in connection to the interpretation, validity, performance or breach of this **AGREEMENT** shall lie exclusively in a state court of proper jurisdiction in Miami-Dade County, Florida.
- f) A modification or waiver of any of the provisions of this **AGREEMENT** shall be effective only if made in writing and executed with the same formality as this agreement.
- g) The section headings contained in this **AGREEMENT** are for reference purposes only and shall not affect the meaning or interpretation hereof.
- h) No term or provision of this **AGREEMENT** shall be interpreted for or against either Party because the Party or its legal representative drafted the provision.
- i) The **PARTIES** are subject to the provisions of Section 768.28, Florida Statutes, as may be amended from time to time. Nothing in this **AGREEMENT** shall be deemed or otherwise interpreted as waiving sovereign immunity protections, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

## 9. INDEMNIFICATION

Subject to Section 768.28, Florida Statutes, , the **VILLAGE** shall promptly indemnify, defend, save and hold harmless the **CITY**, its officers, and employees from any and all losses, expenses, fines, fees, taxes, assessments, penalties, costs, damages, judgments, claims, demands, liabilities, attorney's fees, (including regulatory and appellate fees), and suits of any nature or kind whatsoever caused by, arising out of, or related to the

**VILLAGE'S** exercise or attempted exercise of its responsibilities as set out in this **AGREEMENT**.

Subject to Section 768.28, Florida Statutes, , the **City** shall promptly indemnify, defend, save and hold harmless the **VILLAGE**, its officers, and employees from any and all losses, expenses, fines, fees, taxes, assessments, penalties, costs, damages, judgments, claims, demands, liabilities, attorney's fees, (including regulatory and appellate fees), and suits of any nature or kind whatsoever caused by, arising out of, or related to the **CITY'S** exercise or attempted exercise of its responsibilities as set out in this **AGREEMENT**.

Each PARTY'S obligation to indemnify, defend and pay for the defense of the other, or at each PARTY'S option, to participate and associate with the other in the defense and trial of any claim and any related settlement negotiations, shall be triggered immediately upon the **receipt** of the **notice** of claim for indemnification. The notice of claim for indemnification shall be deemed received if the PARTY sends the notice in accordance with the formal notice mailing requirements set forth in Section 5 of this **AGREEMENT**. **A PARTY'S failure** to notify the **other** of a claim shall not release the **obligation** of the above duty to defend and indemnify.

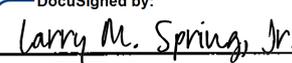
The indemnification provisions of this section shall survive termination or expiration of this **AGREEMENT**, but only with respect to those claims that arose from acts or circumstances which occurred prior to termination or expiration of this **AGREEMENT**.

Nothing in this Paragraph 9 shall be deemed or otherwise interpreted as waiving sovereign immunity protections, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed the day and year first above written.

**CITY OF NORTH MIAMI**

**VILLAGE OF BISCAYNE PARK:**

BY: DocuSigned by:  
  
CITY Manager  
CC3981D8A27...

BY: \_\_\_\_\_  
VILLAGE Manager

ATTEST: DocuSigned by:  
  
CITY Clerk  
BB47A9B43269492...

ATTEST: \_\_\_\_\_  
VILLAGE Clerk

**LEGAL REVIEW:**

BY: DocuSigned by:  
  
CITY Attorney  
8AF8443D7145491...

BY: \_\_\_\_\_  
VILLAGE Attorney

***EXHIBIT 'A'***

Below are the limits of the landscape and signage to be maintained under this **AGREEMENT**.

**Agreement Limits: Medians located on NE 121 Street, From Griffing Blvd. to NE 10<sup>th</sup> Avenue**

**County: Miami-Dade**



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 8.d**

**REGULAR MEETING**

---

**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Krishan Manners, Village Manager

**DATE:** October 1, 2019

**TITLE:** Mutual Aid Agreement with City of N. Miami Police

**Recommendation**

Staff recommends the Village enter into a Mutual Aid Agreement with the City of N. Miami Beach Police Department.

**Background**

It is in the interest of Biscayne Park and our residents to enter into this agreement. During emergencies, this allows us to both give and receive Police support here in the Village and in the City of N. Miami. The Village has multiple MAA's with a number of local municipalities and all have proven beneficial to the Village.

**Resource Impact**

Historically, these MAA's have a minimal budgetary impact.

---

Prepared by: Krishan Manners

1  
2  
3 **RESOLUTION NO. 2019-25**  
4

5 **A RESOLUTION OF THE VILLAGE COMMISSION OF THE**  
6 **VILLAGE OF BISCAYNE PARK, FLORIDA; APPROVING A**  
7 **MUTUAL AID AGREEMENT BETWEEN THE CITY OF NORTH**  
8 **MIAMI BEACH AND THE VILLAGE OF BISCAYNE PARK,**  
9 **FLORIDA TO ENSURE PUBLIC SAFETY BY PROVIDING**  
10 **ADEQUATE LEVELS OF POLICE SERVICES; PROVIDING FOR**  
11 **AN EFFECTIVE DATE.**

12  
13 **WHEREAS**, it is the responsibility of the governments of the Village of Biscayne Park  
14 (the "Village") and the City of North Miami Beach (the "North Miami Beach"), to ensure the  
15 public safety of their citizens by providing adequate levels of police services to address any  
16 foreseeable routine or emergency situation; and

17 **WHEREAS**, because of the existing and continuing possibility of the occurrence of  
18 law enforcement problems and other natural and man-made conditions which are, or are lively  
19 to be, beyond the control of the services, personnel, equipment, or facilities of the Village's  
20 Police Department or North Miami Beach's Police Department; and

21 **WHEREAS**, Staff has recommended that the Village Commission approve a Mutual  
22 Aid Agreement between the Village and North Miami Beach to ensure public safety by  
23 providing adequate levels of police services; and

24 **WHEREAS**, the Village Commission has determined it is in the best interests of the  
25 public safety of Village residents to enter into a mutual aid agreement with North Miami  
26 Beach;

27 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COMMISSION OF THE**  
28 **VILLAGE OF BISCAYNE PARK, FLORIDA, that:**

29 **Section 1. Recitals.** The above recitals are confirmed, adopted, and incorporated herein  
30 and made a part hereof by this reference.

1           **Section 2. Approval.** The Mutual Aid Agreement between the Village of Biscayne  
2 Park, Florida and the City of North Miami Beach, Florida, attached hereto as Exhibit “A”,  
3 which is incorporated herein and made a part hereof by this reference, is hereby approved. The  
4 Village Manager and Village Mayor are hereby authorized to execute the Mutual Aid  
5 Agreement on behalf of the Village subject to approval as to form and legal sufficiency by the  
6 Village Attorney.

7           **Section 3. Implementation.** The Village Manager, Village Mayor, and the Village  
8 Attorney are hereby authorized to take such further action as may be necessary to implement  
9 the purpose and provisions of this Resolution.

10           **Section 4. Effective Date.** This Resolution shall be effective immediately upon its  
11 adoption.

12  
13 PASSED AND ADOPTED this 1<sup>st</sup> day of October, 2019

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

14  
15  
16  
17  
18 \_\_\_\_\_  
19 Tracy Truppman, Mayor

Mayor Truppman:  
Vice-Mayor Samaria:  
Commissioner Johnson-Sardella:  
Commissioner Tudor:  
Commissioner Wise:

20  
21  
22  
23 Attest:

24  
25  
26 \_\_\_\_\_  
27 Roseann Prado, Village Clerk

28  
29  
30 **Approved as to form:**

31  
32 \_\_\_\_\_  
33 Rebecca A. Rodriguez, Village Attorney



**CITY OF NORTH MIAMI BEACH  
POLICE DEPARTMENT  
OFFICE OF THE CHIEF OF POLICE**



Excelsior Status

September 11, 2019

Chief Luis Cabrera  
Biscayne Park Police Department  
600 NE 114<sup>th</sup> Street  
Biscayne Park, Florida 33161

Re: Mutual Aid Agreements

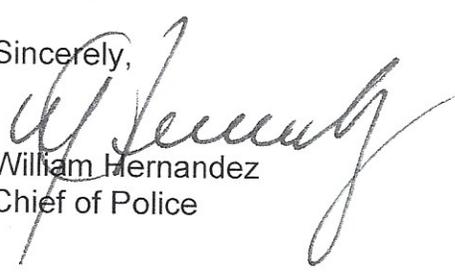
Dear Chief Cabrera:

Enclosed please find a set of three (3) signed originals of the Mutual Aid Agreements between the City of North Miami Beach Police Department and the Village of Biscayne Park Police Department. Once the agreements have been signed by your city officials, please return two (2) of the fully executed originals of the Mutual Aid Agreements to the below address for our records.

As you know, in accordance with the Mutual Aid Act found in Florida Statute §23.1225(4), all agreements must be promptly filed with the Florida Department of Law Enforcement. My staff will ensure compliance with the aforementioned statute. As always, we appreciate your continued support and cooperation in all matters of mutual concern.

Should you have additional questions or comments, please do not hesitate to contact me at (305) 948-2995.

Sincerely,

  
William Hernandez  
Chief of Police

**VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE  
MUTUAL AID AGREEMENT  
BETWEEN THE CITY OF NORTH MIAMI BEACH, FLORIDA  
AND THE VILLAGE OF BISCAYNE PARK, FLORIDA**

This Voluntary Cooperation and Operational Assistance Mutual Aid Agreement ("Cooperation Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019 (Effective Date), by and between the City of North Miami Beach, Florida, a municipal corporation having its principal office at 17011 NE 19<sup>th</sup> Avenue, 4th Floor, North Miami Beach, Florida 33162, and the Village of Biscayne Park, Florida having its principal office at 600 NE 114<sup>th</sup> Street, Biscayne Park, Florida 33161.

**RECITALS**

WHEREAS, it is the responsibility of the governments of the Village of Biscayne Park, Florida, and the City of North Miami Beach, Florida, to ensure the public safety of their respective citizens by providing adequate levels of police services to address any foreseeable routine or emergency situation; and

WHEREAS, because of the existing and continuing possibility of the occurrence of law enforcement problems and other natural and man-made conditions which are, or are likely to be, beyond the control of the services, personnel, equipment, or facilities of the Village of Biscayne Park Police Department or the City of North Miami Beach Police Department; and

WHEREAS, in order to ensure that preparation of these law enforcement agencies will be adequate to address any and all of these conditions, to protect the public peace and safety, and to preserve the lives and property of the people of the Village of Biscayne Park, Florida, and the City of North Miami Beach, Florida; and

WHEREAS, it is to the advantage of each law enforcement agency to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to:

- (1) Continuing, multi jurisdiction law enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people; and
- (2) Intensive situations including but not limited to emergencies as defined under Section 252.34 of the Florida Statutes, or requests for certain law enforcement services specified herein and as defined under Section 23.1225 of the Florida Statutes; and

WHEREAS, the Village of Biscayne Park and the City of North Miami Beach

have the voluntary cooperation and assistance authority under the Florida Mutual Aid Act, Sections 23.12-23.127 of the Florida Statutes, to enter into this Voluntary Cooperation and Operational Assistance Mutual Aid Agreement ("Cooperation Agreement") for law enforcement service which:

- (1) Permits voluntary cooperation and operational assistance of a routine law enforcement nature across jurisdictional lines as allowed under Section 23.1225, of the Florida Statutes; and
- (2) Provides for rendering of assistance in a law enforcement emergency as defined in Section 252.34 of the Florida Statutes.

NOW THEREFORE, BE IT KNOWN that the Village of Biscayne Park, Florida, and the City of North Miami Beach, Florida, in consideration for mutual promises to render valuable aid in times of necessity, do hereby agree to fully and faithfully abide by and be bound by the following terms and conditions:

## **SECTION I. PROVISIONS FOR VOLUNTARY COOPERATION**

Each of the aforesaid law enforcement agencies hereby approve and enter into this Cooperation Agreement whereby each of the agencies may request and render law enforcement assistance to the other in dealing with any violations of Florida Statutes to include, but not necessarily be limited to, investigating sex offenses, robberies, assaults, batteries, burglaries, larcenies, gambling, motor vehicle thefts, drug violations pursuant to Chapter 893 of the Florida Statutes, backup services during patrol activities, and interagency task forces and/or joint investigation as set forth pursuant to, and under the authority of Chapter 23 of the Florida Statutes.

## **SECTION II. PROVISIONS FOR OPERATIONAL ASSISTANCE**

The aforesaid law enforcement agencies hereby approve and enter into this Cooperation Agreement whereby each of the agencies may request and render law enforcement assistance to the other to include, but not necessarily be limited to dealing with, the following:

1. Joint multi-jurisdictional criminal investigations.
2. Civil affray or disobedience, disturbances, riots, large protest demonstrations and assemblies, controversial trials, political conventions, labor disputes, and strikes.
3. Any natural disaster.
4. Incidents which require rescue operations and crowd and traffic control measures including, but not limited to, large-scale evacuations, aircraft and shipping disasters, fires, explosions, gas line leaks, radiological incidents, train wrecks and derailments, chemical or hazardous waste spills, and electrical power failures.
5. Terrorist activities including, but not limited to, acts of sabotage.
6. Escapes from, or disturbances within, prisoner processing facilities.
7. Hostage and barricaded subject situations, and aircraft piracy.
8. Control of major crime scenes, area searches, perimeter control, back-ups to emergency and in-progress calls, pursuits, and missing person calls.

9. Enemy attack.
10. Transportation of evidence requiring security.
11. Major events, e.g., sporting events, concerts, parades, fairs, festivals, and conventions.
12. Security and escort duties for dignitaries.
13. Incidents requiring utilization of specialized units; e.g., underwater recovery, aircraft, canine, motorcycle, bomb, crime scene and police information.
14. Emergency situations in which one agency cannot perform its functional objective.
15. Joint training in areas of mutual need.
16. Joint multi-jurisdictional marine interdiction operations.

The following procedures will apply in mutual aid operations:

1. Mutual aid requested or rendered will be approved by the Chief of Police, or designee.
2. Specific reporting instructions for personnel rendering mutual aid will be included in the request for mutual aid. In the absence of such instructions, personnel will report to the ranking on-duty supervisor on the scene.
3. Communications instructions will be included in each request for mutual aid and each agency's communications centers will maintain radio contact with each other until the mutual aid situation has ended.
4. Incidents requiring mass processing of arrestees, transporting prisoners, and operating temporary detention facilities will be handled per established procedures of the requesting agency, or directors involved.

### **SECTION III. PROCEDURE FOR REQUESTING ASSISTANCE AND LIMITATIONS OF ASSISTANCE**

In the event that a party to this Cooperation Agreement is in need of assistance as set forth above, the Chief of Police or his/her designee, shall notify the Chief of Police or his/her designee from whom such assistance is requested. The Chief of Police or authorized agency representative whose assistance is sought shall evaluate the situation and the agency's available resources, consult with his/her supervisors, if necessary, and will respond in a manner he/she deems appropriate.

The Chief of Police in whose jurisdiction assistance is being rendered may determine who is authorized to lend assistance in his/her jurisdiction, for how long such assistance is authorized, and for what purpose such authority is granted. This authority may be granted either verbally or in writing as the particular situation dictates.

Should a law enforcement officer be in another subscribed agency's jurisdiction for matters of a routine nature, such as traveling through the area on routine business, attending a meeting or going to or from work, and a violation of Florida Statutes occurs in the presence of said party, representing his/her respective agency, **HE/SHE SHALL ONLY BE EMPOWERED TO RENDER ENFORCEMENT ASSISTANCE AND ACT IN ACCORDANCE WITH FLORIDA LAW.** Should enforcement assistance be taken,

said party shall notify the agency having normal jurisdiction, and upon the latter's arrival, turn the situation over to them and offer any assistance requested, including but not limited to, a follow-up written report documenting the event and the actions taken. This provision, so prescribed in this paragraph, shall not grant general authority to conduct investigations, serve warrants, and/or subpoenas or to respond without request to emergencies already being addressed by the agency of normal jurisdiction, but is intended to address critical, life-threatening or public safety situations, prevent bodily injury to citizens, or secure apprehension of criminals whom the law enforcement officer may encounter and such encounter results in a breach of the peace.

The parties acknowledge that the policy of the Florida Mutual Aid Act is to provide a means to deal with disasters, emergencies, and other major law enforcement problems. This Cooperation Agreement shall not extend police powers beyond the specific additional authority granted by the Legislature in Chapter 23 of the Florida Statutes, which intent was to assure the continued functioning of law enforcement in times of emergencies or in areas where major law enforcement efforts were being thwarted by jurisdictional barriers, and the respective parties, police officers and authority are limited to those instances where the subject matter of the investigation originates inside the municipal city limits.

#### **SECTION IV. COMMAND AND SUPERVISORY RESPONSIBILITY**

The personnel and equipment that are assigned by the assisting Agency shall be under the immediate command of a supervising officer designated by the assisting Agency. Such supervising officer shall be under the direct supervision and command of the Chief of Police or his/her designee of the agency requesting assistance.

#### **SECTION V. CONFLICTS**

Whenever an officer is rendering assistance pursuant to this Cooperation Agreement, the officer shall abide by and be subject to the rules and regulations, personnel policies, general orders, and standard operating procedures of his/her own employer. If any such rule, regulation, personnel policy general order or standard operating procedure is contradicted, contravened or otherwise in conflict with a direct order of a superior officer of the requesting agency, then such rule, regulation, policy, general order or procedure shall control and shall supersede the direct order.

#### **SECTION VI. HANDLING COMPLAINTS**

Whenever there is cause to believe that a complaint has arisen as a result of a cooperative effort as it may pertain to this Cooperation Agreement, the Chief of Police or his/her designee of the requesting agency shall be responsible for the documentation of said complaint to ascertain at a minimum:

1. The identity of the complainant.
2. An address where the complaining party can be contacted.
3. The specific allegation.

4. The identity of the employees accused without regard as to agency affiliation.

If it is determined that the accused is an employee of the assisting agency, the above information, with all pertinent documentation gathered during the receipt and processing of the complaint, shall be forwarded without delay to the agency for administrative review. The requesting agency may conduct a review of the complaint to determine if any factual basis for the complaint exists and/or whether any of the employees of the requesting agency violated any of their agency's policies or procedures.

## **SECTION VII. LIABILITY**

Each party engaging in any mutual cooperation and assistance, pursuant to this Cooperation Agreement, agrees to assume full and final responsibility for the acts, omissions or conduct of such party's own employees while engaged in rendering such aid pursuant to this Cooperation Agreement, subject to the provisions of Section 768.28 of the Florida Statutes, where applicable.

## **SECTION VIII. POWERS, PRIVILEGES, IMMUNITIES AND EXPENDITURES**

- (a) Employees of the Village of Biscayne Park and the City of North Miami Beach, when actually engaging in mutual cooperation and assistance outside of their normal jurisdictional limits but inside this State, under the terms of this Agreement, shall pursuant to the provisions of Section 23.127(1) of the Florida Statutes (as amended), have the same powers, duties, rights, privileges and immunities as if the employee was performing duties inside the employee's political subdivision in which normally employed.
- (b) Each party agrees to furnish necessary personnel equipment, resources and facilities and to render services to each other party to this Cooperation Agreement as set forth above; provided however, that no party shall be required to deplete unreasonably its own personnel, equipment, resources, facilities, and services in furnishing such mutual aid.
- (c) A party that furnishes equipment pursuant to this Cooperation Agreement must bear the cost of loss or damage to that equipment and must pay any expense incurred in the operation and maintenance of that equipment.
- (d) The agency furnishing aid pursuant to this Cooperation Agreement shall compensate its appointees/employees during the time such aid is rendered and shall defray the actual travel and maintenance expenses of its employees while they are rendering such aid, including any amounts paid or due for compensation due to personal injury or death while such employees are engaged in rendering such aid.
- (e) To the extent provided by applicable law, ordinance, or rule, the privileges and immunities from liability, exemption from laws, ordinances and rules, and all

pension, insurance, relief, disability, worker's compensation, salary, death and other benefits that apply to the activity of an employee of an agency when performing the employee's duties within the territorial limits of the employee's agency apply to the employee to the same degree, manner, and extent while engaged in the performance of the employee's duties extraterritorially under the provisions of this Cooperation Agreement. The provisions of this section shall apply to paid, volunteer, and reserve employees.

- (f) Nothing herein shall prevent the requesting agency from requesting supplemental appropriations from the governing authority having budgeting jurisdiction to reimburse the assisting agency for any actual costs or expenses incurred by the assisting agency performing hereunder.
- (g) Should the Village of Biscayne Park receive reimbursement for expenditures from a third party for a mutual aid event covered by this Cooperation Agreement, the City of North Miami Beach shall be eligible to receive an equitable reimbursement share for any actual costs or expenses incurred that are directly attributable to the event, provided such costs and expenses are authorized by the third party for reimbursement purposes.
- (h) Should the City of North Miami Beach receive reimbursement for expenditures from a third party for a mutual aid event covered by this Cooperation Agreement, the Village of Biscayne Park costs or expenses incurred that are directly attributable to the event, provided such costs and expenses are authorized by the third party for reimbursement purposes.
- (i) The municipality/agency in which any property is seized pursuant to the Florida Contraband Forfeiture Act shall have exclusive authority to initiate forfeiture proceedings under the Florida Contraband Forfeiture Act for any matters which arise from a mutual aid event that is covered by this Cooperation Agreement. However, the municipality/agency with the right to proceed with the forfeiture may allow the other municipality/agency to prosecute the forfeiture with the written authorization of the Chief of Police and the legal counsel for each municipality/agency. The municipality/agency pursuing the forfeiture action shall have the exclusive right to control and the responsibility to maintain the property, including, but not limited to, the complete discretion to bring the action, or to dismiss the action, or settlement the forfeiture. The property shall be seized and forfeited in accordance with this agreement, and the proceeds, if any, shall be equitably distributed among the participating municipalities/agencies in proportion to the amount of investigation and participation performed by each municipality/agency, less the costs associated with the forfeiture action. Any participating municipality/agency must request sharing, in writing before the entry of the Final Order of Forfeiture, or they will be barred from claiming any portion of the property forfeited.

## **SECTION IX. INSURANCE**

Each party shall provide satisfactory proof of liability insurance by one or more of the means specified in Section 768.28(16)(a) of the Florida Statutes (2010}, in an amount which is, in the judgment of the governing body of that party, at least adequate to cover the risk to which that party may be exposed. Should the insurance coverage, however provided, of any party be canceled or undergo material change, that party shall notify all parties to this agreement of such change within ten (10) days of receipt of notice or actual knowledge of such change.

## **SECTION X. EFFECTIVE DATE**

This Agreement shall take effect upon execution and approval by both parties and shall continue in full force and effect until June 7, 2023. Under no circumstances may this agreement be renewed, amended, or extended except in writing.

## **SECTION XI. CANCELLATION**

Either party may cancel its participation in this Agreement at any time upon delivery of written notice to the other party.

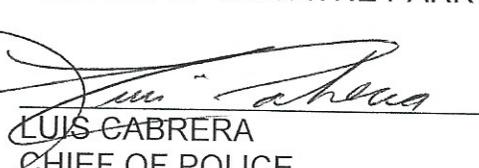
In witness whereof, the parties hereto cause to these presents to be signed on the date specified.

AGREED TO AND ACKNOWLEDGED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF NORTH MIAMI BEACH

VILLAGE OF BISCAYNE PARK

  
WILLIAM HERNANDEZ  
CHIEF OF POLICE

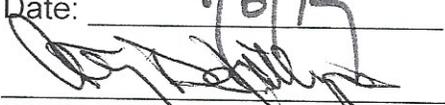
  
LUIS CABRERA  
CHIEF OF POLICE

Date: 8/6/2019

Date: 09/18/19

ESMOND K. SCOTT  
CITY MANAGER

KRISHAN T. MANNERS  
VILLAGE MANAGER

Date: 9/6/19  


Date: \_\_\_\_\_

ANTHONY DEFILLIPO  
MAYOR

TRACY TRUPPMAN  
MAYOR

Date: 9/6/19

Date: \_\_\_\_\_

**ATTEST:**

  
ANDRISE BERNARD, CMC  
CITY CLERK

ROSEANN PRADO  
VILLAGE CLERK

Date: 9/10/2019

Date: \_\_\_\_\_

SIGNED AS TO FORM, LANGUAGE,  
LEGALITY AND EXECUTION THEREOF

SIGNED AS TO FORM, LANGUAGE  
LEGALITY AND EXECUTION THEREOF

  
SARAH JOHNSTON, ESQ.  
CITY ATTORNEY

REBECCA RODRIGUEZ, ESQ.  
VILLAGE ATTORNEY



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

**Item # 11.a**

---

**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Dan Samaria

**DATE:** October 1, 2019

**TITLE:** Discussion of Mayor – Change of Leadership

---

**Recommendation**

According to our Charter – The responsibility of the Mayor is minimum, it is to run the meetings, sign checks and represent the village at official functions.

It is NOT the responsibility of the Mayor to interfere with Village Administration, which the Mayor has done on many occasions. Which is explained in the background.

And therefore, I am recommending we have a vote of **no confidence** and hopefully a change of leadership.

**Background**

Month after month Village residents have repeatedly appeared before the Commission, expressing concerns over the role that the Mayor has adopted, which is seen as exceeding the authority of the office as described in the Village Charter. There has been no response, or even acknowledgement, from the Commission on these concerns.

Every elected Commissioner asked for voters' support, promising transparency and promising to listen to the residents. Yet that does not appear to be what is taking place today. The Village residents deserve answers to the concerns they raise. At minimum this public discussion should include the Village Charter, the roles and limitations of the Commission and Manager, the failings of the current leadership, and potential changes that may be implemented.

**Resource Impact N/A since done during a regular commission meeting**

**Attachment:**

None

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Prepared by: Dan Samaria

October 1, 2019  
Item # 11.a



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 11.b**

**REGULAR MEETING**

---

**TO:** Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Dan Samaria, Commissioner

**DATE:** October 1, 2019

**TITLE:** Village Attorney Invoices and Future Role

**Background**

The Village Charter describes the qualifications and role of the Village Attorney stating:  
Section 3.02. - Village Attorney.

(A) The Commission shall appoint an attorney who is licensed to practice law in the State of Florida to serve as Village Attorney (the "Attorney") and who shall serve at the pleasure of the Commission. The Attorney shall act as the legal advisor to, and attorney and counselor for, the Village and all of its officers in matters relating to their official duties under such terms, conditions and compensation as are consistent with this Charter and as may be established. The Commission at any time may remove the Attorney as provided in Section 3.03 below. (B) When requested by the Commission or Manager, the Attorney shall: (1) prepare all contracts, bonds and other instruments in writing or shall endorse on each his/her approval of the form, language and execution thereof; (2) prosecute and defend, for and on behalf of the Village, all complaints, suits and controversies in which the Village is a party; (3) furnish his/her opinion on any question of law relating to their respective powers and duties; and (4) perform such other professional duties as may be required by ordinance, by resolution of the Commission, by this Charter, or such as are prescribed for village attorneys under the general laws of the State, not inconsistent with this Charter. (C) No contract with the Village shall be binding upon the Village until the Attorney has approved such contract for form, language and execution.

By Resolution 2018-23 on July 30, 2018, the Commission approved the engagement and fee agreement with John R. Herin, Jr., (as the main point of contact and lead attorney pursuant to the proposal) and the firm of Gray Robinson, P.A. ("GR"), a copy of which is attached to this Agenda Item. The agreement specifies,

- a) "In the even that two attorneys attend a Commission meeting or [GR's] convenience, the Village will not be double billed for their attendance." (Emphasis added.)

- b) "We will not bill the Village for routine phone calls or for travel time to and from the Village, and provide the services set forth in our proposal free of charge."

At a special meeting held February 12, 2019, the Commission discussed GR's request for the Village to remain as a client with GR, move to John Herin's new firm, or make a third selection for continuing representation. Discussions and presentations since that meeting led the Commission to decide on staying with GR as Village Attorney.

In the last few months Village residents have highlighted categories of GR billings that are out of line with past experience and contrary to the retainer agreement. Specifically, with regard to preparation for and attendance at Commission meetings, GR billings include "double billed" and triple billed for service, in the following instances, causing excessive billing of at least \$8,220+ (bundled and vague entries preclude calculation of a definitive amount):

- 1) March 18, 2019 – 3 GR attorneys billed preparation for meeting: JCM 1.9 hr, RR 2.7 hr, THL 1.1 hr = 5.7 hours / \$1,282.50 total.
- 2) March 19, 2019 – 2 GR attorneys prep and attend meeting: JCM 5.2 hr, RR 3.6 hr = 8.8 hours / \$1,980. total.
- 3) April 1, 2019 – 3 GR attorneys on teleconference re meeting agenda: JCM .6 hr, RR .9 hr, AP .9 hr = 2.4 hours / \$540 total.
- 4) April 2, 2019 – 3 GR attorneys prep and attend meeting: JCM .6 hr, RR four entries combined for 5.1 hr, AP 5.4 hr = 11.1 hours / \$2,497.50 total.
- 5) April 16, 2019 – 3 GR attorneys addressing GoToMeeting / Zoom issues: JCM 1.4 hr, RR 1 hr, AP 1.4 hr = 3.8 hours / \$855 total.
- 6) April 18, 2019 – 2 GR attorneys participating in conference call: JCM 2.5 hr, RR 1.2 hr = 3.7 hours / \$832.50 total.
- 7) April 26, 2019 – 3 GR attorneys participating in conference call: JCM 1.6 hr, RR 1.1 hr, AP 1 hr = 3.8 hours / \$855 total.
- 8) May 7, 2019 – 3 GR attorneys prep and attend meeting: JCM 6.5 hr, RR 6.5 hr (of which 2.7 is no charged), AP 6.7 hrs = 20.3 hours / (adjusted for no charge) \$3,937.50 total.
- 9) May 13, 2019 – 2 GR attorneys on conference call: JCM .9 hr / RR .6 hr = 1.5 hours / \$337.50 total.

Other GR billing categories of concern include:

- 1) Exclusive contact w/Mayor of undisclosed substance. Details of the Mayor's consultations with the attorney need to be made public.

2) Unauthorized research and drafting of documents, particularly drafting of an ordinance concerning boards.

### **Recommendations**

I ask the Commission to consider and support the following recommendations, as well as others that may develop in discussion:

- 1) Task the Manager or his designee (possibly, the Finance Director) to prepare an analysis to determine the credit due to the Village for overcharges by GR.
- 2) Consider withholding any further payments until an appropriate credit is accomplished.
- 3) Going forward, elected officials must follow the Charter and Code when dealing with the Administration and the Attorney. Since the Manager-Commission form of government was instituted, the Manager (as the budget officer) has been the point person for communications with the Attorney.
- 4) When a situation arises that requires an individual Commissioner/Mayor to consult with the Village Attorney, the substance of such communication should be reported by the Attorney at the next Commission meetings so that all elected officials are informed on matters of relevance to decisions on Village business.
- 5) All attorney time entries must be sufficiently detailed to reflect the name of persons participating in the task, the subject and substance of the matters billed to the Village.
- 6) Pursue a substitute for Rebecca Rodriguez as lead attorney.

### **Resource Impact**

The Village budget will experience a positive impact from the proper resolution of these issue. Without it, the impact on resource will continue to be negative.

---

Attachments:  
Reso. 2018-23

Prepared by: Dan Samaria

Rebecca A. Rodriguez, Esq.  
Of Counsel  
305-913-0536

REBECCA.RODRIGUEZ@GRAY-ROBINSON.COM

## MEMORANDUM

**TO: Mayor & Commissioners of the Village of Biscayne Park, Florida**

**FROM: Rebecca A. Rodriguez, Village Attorney**

**DATE: October 1, 2019**

**SUBJECT: Written Notice of Conflict of Interest; Procedures for Charter Officers Pursuant to the Applicable Provisions of the Village Charter.**

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With respect to the upcoming regular commission meeting scheduled for Tuesday, October 1, 2019, proposed agenda item 11.b (the "Proposed Agenda Item") seeks to, among other things, discuss suspending payments to, and potentially removing the Village Attorney. The Proposed Agenda Item also seeks to take certain actions which have the potential to inure a financial detriment to the Village Attorney. A plain reading of the Proposed Agenda Item makes clear it presents an apparent conflict of interest.

Therefore, pursuant to the applicable authority governing conflicts of interest, the Village Attorney is unable to provide any legal advice or guidance to Village Commission for the Proposed Agenda Item. Of course, the Village Attorney will provide legal guidance and counsel on all other agenda items and issues in the upcoming meeting which do not present a conflict of interest.

Lastly, as this agenda item seeks to discuss suspending and potentially removing the current Village Attorney, the Village Attorney must be afforded certain procedures as a Charter Officer. Should the Village Commission elect to proceed on this item, it will have to retain separate outside counsel for those proceedings.



Rebecca Rodriguez, Village Attorney

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2  
3 **RESOLUTION NO. 2018-23**  
4

5 **A RESOLUTION OF THE VILLAGE COMMISSION**  
6 **OF THE VILLAGE OF BISCAYNE PARK, FLORIDA;**  
7 **AUTHORIZING THE VILLAGE MANAGER TO**  
8 **EXECUTE THE ENGAGEMENT LETTER**  
9 **AGREEMENT BETWEEN GRAYROBINSON, P.A.**  
10 **AND THE VILLAGE OF BISCAYNE PARK FOR**  
11 **PROFESSIONAL LEGAL SERVICES AND EXPEND**  
12 **BUDGETED FUNDS; PROVIDING FOR AN**  
13 **EFFECTIVE DATE.**  
14

15  
16 WHEREAS, pursuant to Section 3.02 of the Village of Biscayne Park Charter, the  
17 Village Commission shall appoint an attorney licensed to practice law in the State of Florida to  
18 serve as the Village Attorney; and,  
19

20 WHEREAS, the Village Commission publicly solicited and received proposals from  
21 individuals and law firms to serve as the Village Attorney; and,  
22

23 WHEREAS, the Village Commission interviewed several candidates for the position of  
24 Village Attorney and has selected the law firm of GrayRobinson, P.A. to serve as the Village  
25 Attorney.  
26

27  
28 NOW THEREFORE BE IT RESOLVED BY THE VILLAGE COMMISSION OF THE  
29 VILLAGE OF BISCAYNE PARK, FLORIDA:  
30

31  
32 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as  
33 being true and correct and hereby made a specific part of this Resolution upon adoption hereof.  
34

35 **Section 2.** The Village Commission of the Village of Biscayne Park hereby  
36 approves the engagement letter between the law firm of GrayRobinson, P.A. and the Village of  
37 Biscayne Park for Professional Legal Services substantially in the form attached as Exhibit 1  
38 ("Engagement Letter"), and incorporated by reference into this Resolution. The Village  
39 Commission authorizes the Village Manager to execute the Engagement Letter and expend  
40 budgeted funds on behalf of the Village.  
41

42 **Section 3.** This Resolution shall become effective upon adoption.  
43

44 PASSED AND ADOPTED this 30<sup>th</sup> day of July, 2018.  
45  
46  
47

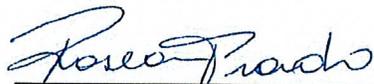
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The foregoing resolution upon being put to a vote, the vote was as follows:

  
\_\_\_\_\_  
Tracy Truppman, Mayor

Mayor Truppman: Yes  
Vice Mayor Tudor: Yes  
Commissioner Bilt: Yes  
Commissioner Johnson-Sardella: Yes  
Commissioner Ross: Yes

Attest:

  
\_\_\_\_\_  
Roseann Prado, Village Clerk

Approved as to form:

  
\_\_\_\_\_  
John R. Hevin Jr., Village Attorney

John R. Herin, Jr.  
Attorney At Law  
954-761-7500

JOHN.HERIN@GRAY-ROBINSON.COM

July 31, 2018

Hon. Mayor, Vice-Mayor and Commissioners  
Village of Biscayne Park  
Attn.: Krishan Manners, Village Manager  
600 NE 114<sup>th</sup> Street  
Biscayne Park, Florida 33161

**Re: *Engagement & Fee Agreement with GrayRobinson, P.A. (the "Firm")***

Dear Mayor, Vice-Mayor and Commissioners:

We would like to thank you for selecting our Firm to serve as Village Attorney for the Village of Biscayne Park, Florida. We look forward to working with you in this capacity. At the initiation of each new matter, it is the policy of the Firm to expressly agree upon a fee arrangement for the work to be undertaken in such matter. This letter is intended to set forth our understanding as to the nature and scope of the legal services we have agreed to render for you, the amount of our fees for those services, the manner in which our fees for those services shall be determined and the terms upon which you will make payment. We have attached a copy of the Firm's Policy Regarding Fees and Expenses. All conditions in those documents are incorporated by reference as part of this engagement letter.

**Terms of Engagement**

You have engaged us to provide general legal services for the Village of Biscayne Park, Florida and to serve as the Village Attorney. In this matter, our fee for legal services will be calculated at the blended hourly rate of \$225.00 for all attorneys; and \$150.00 for paralegals. Subject to the approval of the Village Commission as part of its annual budget process, this hourly rate may increase 2% on the anniversary date of this agreement (rounded up to the nearest whole number). In accordance with the Village's Charter, the Village may terminate this engagement letter upon a vote of the majority of the Village Commission at a duly called public meeting. Furthermore, the Village Commission retains the discretion and power to select outside counsel to assist in any matter it deems necessary.

It is our practice to charge for actual time expended on your behalf, but no less than 2/10<sup>th</sup> of an hour for each activity. In the event two attorneys attend a Commission meeting for our convenience, the Village will not be double billed for their attendance. We will not bill the Village for routine phone calls or for travel time to and from the Village, and provide the services set forth in our proposal free of charge. Furthermore, in order to stay within the yearly fiscal budget adopted by the Village we will prepare and submit to the Village Manager a monthly report outlining the legal work we performed for the month in question, together with the reasonable fees and costs we incurred on behalf of the Village.

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In addition, you will be billed monthly for the costs incurred in connection with our representation. Costs generally include filing services and fees, express delivery services, travel expenses, copying expenses, long distance telephone expenses, etc. Other than the items indicated, we will consult with the Village before incurring any costs that we believe are extraordinary. We are aware of and acknowledge that the Village desires to minimize its legal costs and fees. To that end we will make every effort to minimize any costs and fees incurred on behalf of the Village without compromising the quality of the services we render on behalf of the Village, or successful outcome of any particular matter. Our invoices will be submitted to you on a monthly basis, and each invoice is due and payable upon receipt. We are entitled to collect from you any expenses, costs, and attorneys' fees, including appeal, for collection of unpaid balances.

Because of the relatively large size of our Firm and our representation of many other clients, it is possible that there may arise in the future a dispute between another client and you. Our acceptance of the current representation of you will preclude us from accepting future representations adverse to you, which involve matters substantially related to the work we perform in the course of this engagement. However, as a condition to our undertaking the representation described in this letter, the Village and Firm agree that our acceptance of this engagement shall not preclude us from representing other clients in the future who may have interests adverse to you, with respect to matters not substantially related to the particular matters for which you have engaged our services. If required by applicable Florida Bar Rule(s) we will obtain a written waiver from the Village.

If the foregoing correctly describes the Village's understanding regarding our representation and our fee arrangement, please have the Mayor sign a copy of the Legal Services Agreement and this letter in the space provided below to evidence the Village's consent and approval and return to us. We are pleased to represent the Village of Biscayne Park, Florida, appreciate the confidence in our Firm, and will ensure that the performance of our services will be provided in a prompt, cost effective and efficient manner. We encourage every Commissioner to communicate with us at any time you have questions on the status or progress of the work we are performing for the Village. Thank you again.

Sincerely,

John R. Herin, Jr.

JRH:mdb

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GRAY ROBINSON  
PROFESSIONAL ASSOCIATION

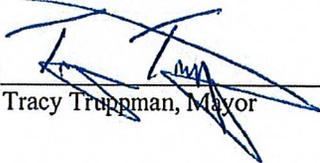
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July 31, 2018  
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**ACKNOWLEDGMENT AND AGREEMENT**

On behalf of the Village of Biscayne Park, Florida, the undersigned has read this engagement letter and the enclosed policy regarding fees and expenses and agrees to the terms set forth in this engagement letter and the enclosed policy.

Dated this 30 day of JULY, 2018.

VILLAGE OF BISCAYNE PARK, FLORIDA

By:   
Tracy Trappman, Mayor

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### **POLICY REGARDING FEES AND EXPENSES**

#### **FEES:**

Quality legal services and good results require ability and effort. These are our "stock in trade." Generally, our fees are based on our skill, the time expended, and the responsibility involved. While our fee in most cases will be based mainly on the time devoted to the matter and the professional skill involved, the Supreme Court of Florida has ruled that where a favorable result has been obtained for a client, a reasonable attorney's fee may include consideration of that favorable result and may result in a fee greater than one based solely on a normal hourly rate. We will charge such a fee where we believe it is justified and in accordance with the Supreme Court's guidelines. Those guidelines involve factors other than the amount of time required, such as the uniqueness and complexity of the questions involved, the skill required to provide proper legal representation, familiarity with the specific area of law involved, the preclusion of other engagements caused by acceptance of this engagement, the magnitude of the matter, the results achieved, customary fees for similar legal services, and the nature and length of our relationship. All these factors have a significant bearing on the reasonable value of the services performed.

#### **EXPENSES:**

You will be charged a reasonable rate for computerized document production, postage, reproduction, telecopies, couriers, express mail, long-distance telephone, travel costs and other costs. We may also use computerized research services to assist in handling your matters. This service will be used when we believe that it will save you money to do so. Expenses incurred or advanced on your behalf will be itemized on the statement.

#### **BILLING:**

You will be billed monthly. In the event you should disagree with or question any amount due under an invoice, you agree to communicate such disagreement to us, in writing, within thirty (30) days of the invoice date. Any disagreement you may have with a bill that is not communicated to us within that period shall be deemed waived.

#### **COMMENCEMENT OF REPRESENTATION:**

Our representation will commence August 1, 2018.

#### **WITHDRAWAL FROM REPRESENTATION:**

We reserve the right to withdraw as your counsel in the event you fail to honor your agreement with respect to our legal fees or for any just reason as permitted or required under the Florida Code of Professional Responsibility or as permitted by the rules of courts of the State of Florida. Conversely, the Village may terminate the Firm's services at any time with or without cause in accordance with the Village Charter. In the event of our termination or withdrawal, you will promptly pay for all services rendered by us prior to the date of withdrawal. Upon termination or withdrawal, we agree to take all

Village of Biscayne Park, Florida  
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necessary steps and sign all papers and documents (if needed) to accomplish a smooth transition with the successor Village Attorney.

**FILE RETENTION:**

Upon termination or withdrawal, under applicable state law and Florida Bar Rule(s) we are obligated to turn over to the Village correspondence, documents and papers of the Village, and agree to do so as set forth above. To the extent we maintain any copies you should be aware of our file retention policy. Once we conclude the transfer all correspondence, documents and papers to the Village, our file will be officially closed. Once the file is closed, it may be sent to off-site storage, and there may be costs associated with retrieval of information from the file. We retain stored and closed files for a period of ten (10) years after which time they may be destroyed.

**PRIVACY POLICY**

Attorneys, like other professionals who advise on personal financial matters, are now required by a new federal law to inform their clients of their policies regarding privacy of client information. Attorneys have been, and continue to be, bound by professional standards of confidentiality that are even more stringent than those required by this new law. Therefore, we have always protected your right to privacy and do not take lightly the confidence you place in us.

In the course of providing our clients with financial and tax planning and preparation services, employment counseling, bankruptcy activities, certain real estate services, and other certain financial services, we receive significant personal financial information about you either from you or with your authorization. If you are a current or former client of Gray Robinson, P.A. you should know that all information that we receive about you is held in extreme confidence, and is not released to any person or entity outside of this law firm, except as agreed upon by you, or as required under applicable law.

We retain records relating to professional services that we provide so that we are better able to assist you with your professional needs and, in some cases, to comply with professional guidelines. In order to guard your non-public personal information, we maintain physical, electronic, and procedural safeguards that comply with our professional standards.

Please call if you have any questions regarding this matter. Your privacy, our professional ethics, and the ability to provide you with quality legal services are very important to us.

**Miami**

333 SE 2<sup>nd</sup> St., Suite 3200  
Miami, FL 33131  
(305) 416-6880

**Ft. Lauderdale**

401 East Las Olas Blvd., Suite 1000  
Ft. Lauderdale, FL 33301  
(954) 761-8111

**Jacksonville**

50 North Laura Street, Suite 1100  
Jacksonville, FL 32202  
(904) 598-9929

**Key West**

221 Simonton St.  
Key West, FL 33040  
(305) 294-0252

**Lakeland**

One Lake Morton Drive  
Lakeland, FL 33801  
(863) 284-2200

**Melbourne**

1795 W. Nasa Blvd.  
Melbourne, FL 32901  
(321) 727-8100

Village of Biscayne Park, Florida  
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**Naples**

3838 Tamiami Trail North  
Suite 410  
Naples, FL 34103  
(239) 598-3601

**Tampa**

401 E. Jackson St., Suite 2700  
Tampa, FL 33602  
(813) 273-5000

**Fort Myers**

1401 Dean St., Suite 300  
Fort Myers, FL 33901  
(239) 340-7979

**Orlando**

301 East Pine Street, Suite 1400  
Orlando, FL 32801  
(407) 843-8880

**Boca Raton**

225 NE Mizner Blvd., Suite 500  
Boca Raton, FL 33432  
(561) 368-3808

**Gainesville**

720 SW 2<sup>nd</sup> Ave., Suite 106  
Gainesville, FL 32601  
(352) 376-6400

**Tallahassee**

301 South Bronough Street, Suite 600  
Tallahassee, FL 32301  
(850) 577-9090

**West Palm Beach**

515 N. Flagler Dr., Suite 1425  
West Palm Beach, FL 33401  
(561) 268-5727

Rebecca A. Rodriguez, Esq.  
Of Counsel

954-761-8111  
REBECCA.RODRIGUEZ@GRAY-ROBINSON.COM

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gray-robinson.com MELBOURNE  
MIAMI  
NAPLES  
ORLANDO  
TALLAHASSEE  
TAMPA  
WASHINGTON, DC  
WEST PALM BEACH

## **MEMORANDUM**

**TO:** Village Commission of Village of Biscayne Park, Florida

**FROM:** Rebecca A. Rodriguez, Village Attorney

**DATE:** October 1, 2019

**SUBJECT:** Amending Village Land Development Code to Include a Special Magistrate;  
Draft Ordinance for Commission Consideration and Discussion

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Pursuant to the Village Commission's directive in the September 2019 regular commission meeting, attached please find the draft ordinance for Commission discussion. This draft ordinance would revise the Village's current Land Development Code to authorize a special magistrate presiding over the Village's code enforcement proceedings.

**FOR DISCUSSION**

**ORDINANCE NO. 2019-XX**

**AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING CHAPTERS 14 AND 15 OF THE LAND DEVELOPMENT CODE OF THE VILLAGE OF BISCAYNE PARK; AUTHORIZING SPECIAL MAGISTRATE POSITION FOR CODE ENFORCEMENT PURPOSES; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 162.03(2), Florida Statutes, a charter municipality may, by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances; and

**WHEREAS**, pursuant to Section 162.03(2), Florida Statutes, a special magistrate shall have the same status as an enforcement board; and

**WHEREAS**, Chapter 14 of the Village's Land Development Code created a code compliance board to preside over the Village's code enforcement proceedings;

**WHEREAS**, Chapter 15 of the Village's Land Development Code provides enforcement guidelines for code compliance issues;

**WHEREAS**, the Village Commission is desirous to also utilize a special magistrate for certain Village code enforcement proceedings;

**BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AS FOLLOWS:**

1           **Section 1. Ratification.** The foregoing “Whereas” clauses are hereby ratified and  
2 confirmed as being true and correct and are hereby made a specific part of this Ordinance upon  
3 adoption hereof.

4           **Section 2. Land Development Code Amended.** Chapters 14 and 15 of the Land  
5 Development Code of the Village of Biscayne Park, Florida shall be amended to read as follows:

6           CHAPTER 14. – SPECIAL MAGISTRATES AND CODE COMPLIANCE  
7           BOARD

8  
9           14.1. – Special magistrates and code compliance board—Generally.

10  
11           14.1.1 Purpose. This chapter sets forth the procedures of the special  
12 magistrate and code compliance board. When not expressly provided for in this  
13 chapter, article III, section 2-30 of the Biscayne Park Code shall apply.

14  
15           14.1.2 Intent. It is the intent of the village to provide an equitable,  
16 expeditious, effective, and inexpensive method of enforcing the codes and  
17 ordinances in force in the village by granting to the special magistrate and code  
18 compliance board the authority to impose administrative fines and other non-  
19 criminal penalties for violation(s) of said codes and ordinances.

20  
21           14.1.3 Composition.

22  
23           (a) Special magistrates. Special magistrates shall be appointed by a  
24 simple majority vote of the village commission taken during any  
25 regular commission meeting. Special magistrates shall be  
26 authorized to hear and decide cases involving code violations in  
27 the same manner as the code compliance board. Special  
28 magistrates shall be members in good standing with the Florida  
29 Bar. The village commission may remove a special magistrate by  
30 a simple majority vote taken during any regular commission  
31 meeting.

32  
33           (b) Code compliance board. The five-member board shall be  
34 appointed by the village commission. Members of the code  
35 compliance board shall be property owners and residents of the  
36 Village of Biscayne Park. Residents who are not property owners  
37 may be appointed by the village commission by at least a four-  
38 fifths super majority vote. Appointments shall be made on the  
39 basis of experience or interest and, when possible, include the  
40 following individuals: an architect, an attorney a business person,

1 an engineer, a general contractor, a subcontractor and a licensed  
2 real estate person.

3  
4 14.1.4 Terms of office for code enforcement board. The initial  
5 appointments to the code compliance board and the alternate members shall be as  
6 follows:

- 7  
8 (1) One (1) member appointed for a term of one (1) year.  
9  
10 (2) Two (2) members appointed for a term of two (2) years.  
11  
12 (3) Two (2) members appointed for a term of three (3) years.  
13

14 Thereafter, all appointments shall be made for a term of three (3) years and shall  
15 take effect on May 1 of the year the appointment is made. A member may be  
16 reappointed upon approval of the village commission. Appointments to fill any  
17 vacancy on the code compliance board shall be for the remainder of the unexpired  
18 term of office. For an excused absence, a board or committee member must  
19 advise the village clerk prior to the meeting of the fact that they will be absent and  
20 provide a reason for that absence. The board or committee may vote to excuse the  
21 requested absence at the same meeting the board or committee member is absent.  
22 The absence, and whether or not the absence is excused or unexcused, is to be  
23 reflected in the minutes.  
24

25 The members shall serve in accordance with the village Charter and may be  
26 suspended and removed for cause as provided in the village code for removal of  
27 members of village boards.  
28

29 14.1.5 Procedures for code compliance board.

- 30  
31 (a) *Chairman.* The members of the code compliance board shall elect  
32 a chairman from among its members.  
33  
34 (b) *Quorum.* The presence of three (3) members shall constitute a  
35 quorum of the code compliance board.  
36  
37 (c) *Expenses.* Members shall serve without compensation, but may be  
38 reimbursed for such travel, mileage and per diem expenses as may  
39 be authorized by the village commission.  
40

41 14.1.6 Counsel. The village attorney shall either be counsel to the code  
42 compliance board or shall represent the village by presenting cases before the  
43 board, but in no case shall the village attorney serve in both capacities.  
44  
45

1 14.1.7 Compliance procedure.  
2

- 3 (a) It shall be the duty of the code compliance officer to initiate  
4 enforcement proceedings of the various codes; provided, however,  
5 no member of the code compliance board shall have the power to  
6 initiate such enforcement proceedings.  
7
- 8 (b) Except as provided in subsections (c), (d) and (f), if a violation of  
9 the codes is found, the code compliance officer shall notify the  
10 violator and give the violator a reasonable time to correct the  
11 violation. Should the violation continue beyond the time specified  
12 for correction, the code compliance officer shall notify the special  
13 magistrate or code compliance board of the charges and request a  
14 hearing pursuant to procedure in section 14.1.8. Notice shall be  
15 provided pursuant to section 14.1.13.  
16
- 17 (c) If the violation is corrected and then recurs or if the violation is not  
18 corrected by the time specified for correction by the code  
19 compliance officer, the case may be presented to the special  
20 magistrate or code compliance board even if the violation has been  
21 corrected prior to the special magistrate or board hearing, and the  
22 notice shall so state. If a repeat violation is found, the code  
23 compliance officer shall notify the violator but is not required to  
24 give violator a reasonable time to correct the violation. The code  
25 compliance officer, upon notifying the violator of a repeat  
26 violation, shall notify the special magistrate or code compliance  
27 board and request a hearing. The special magistrate or code  
28 compliance board shall schedule a hearing and shall provide notice  
29 pursuant to section 14.1.12. The case may be presented to the  
30 special magistrate or code compliance board even if the repeat  
31 violation has been corrected prior to the ~~board~~ hearing, and the  
32 notice shall so state. "Repeat violation" means a violation of a  
33 provision of a code or ordinance by a person who has been  
34 previously found, through a special magistrate, code compliance  
35 board, or other quasi-judicial or judicial process, to have violated  
36 or has admitted violating the same provision within five (5) years  
37 prior to the violation.  
38
- 39 (d) If the code compliance officer has reason to believe a violation  
40 presents a serious threat to the public health, safety and welfare,  
41 the code compliance officer may proceed directly to the procedure  
42 in subsection 14.1.7(b) without notifying the violator.  
43
- 44 (e) If the owner of the property which is subject to an enforcement  
45 proceeding before a special magistrate or code compliance board,  
46 or if the court, transfers ownership of such property between the

1 time the initial pleading was served and the time of the hearing,  
2 such owner shall:

- 3
- 4 (1) Disclose, in writing, the existence and the nature of the  
5 proceeding to the prospective transferee.  
6
- 7 (2) Deliver to the prospective transferee a copy of the  
8 pleadings, notices, and other materials relating to the code  
9 enforcement proceeding received by the transferor.  
10
- 11 (3) Disclose, in writing, to the prospective transferee that the  
12 new owner will be responsible for compliance with the  
13 applicable code and with orders issued in the code  
14 enforcement proceeding.  
15
- 16 (4) File a notice with the code compliance department of the  
17 transfer of the property, with the identity and address of the  
18 new owner and copies of the disclosures made to the new  
19 owner, within five (5) days after the date of the transfer. A  
20 failure to make the disclosures described in this subsection  
21 before the transfer creates a rebuttable presumption of  
22 fraud. If the property is transferred before the hearing, the  
23 proceeding shall not be dismissed, but the new owner shall  
24 be provided a reasonable period of time to correct the  
25 violation before the hearing is held.  
26

27 (f) The village commission finds that aesthetics are paramount to  
28 maintaining an attractive and marketable community. The  
29 violations enumerated below severely damage the aesthetics and  
30 livability of the community immediately upon their commission.  
31 Such damage cannot be repaired or reversed. Therefore, the village  
32 commission hereby deems a violation of this section an irreparable  
33 and irreversible violation. As a result, the Village of Biscayne Park  
34 adopts supplemental and alternative code enforcement procedures  
35 pursuant to F.S. §§ 162.13 and 162.22, as amended, to authorize  
36 code compliance officers to issue administrative citations for  
37 review before the special magistrate or code compliance board. A  
38 code compliance officer shall have the sole discretion in  
39 determining whether to issue an administrative citation or a notice  
40 of violation for the following offenses:  
41

- 42 (1) Open feeding that causes a gathering of more than four (4)  
43 dogs or four (4) cats or combination thereof totaling four  
44 (4), in violation of section 3-4 of the code;  
45

- 1 (2) Excessive barking or howling of dogs, in violation of  
2 section 3-21 of the code;
- 3
- 4 (3) Parking not on an approved surface where there is an  
5 approved parking surface as required by section 5.6.1 of the  
6 Land Development Code;
- 7
- 8 (4) Garbage cans and trash receptacles not placed behind face  
9 of building and screened from view, in violation of section  
10 6.3.2 of the Land Development Code;
- 11
- 12 (5) Domestic trash and recycling materials placed at the  
13 property line and/or not removed under the requirements of  
14 section 6.3.3 of the Land Development Code;
- 15
- 16 (6) Trees and garden refuse placed at the property line and/or  
17 not removed under the requirements of section 6.3.4 of the  
18 Land Development Code;
- 19
- 20 (7) Overgrown grass in violation of section 8.4.1 of the Land  
21 Development Code;
- 22
- 23 (8) Offensive noise, in violation of section 10-1 of the code.
- 24

25 In the issuance of an administrative citation, the following procedures shall be  
26 used:

- 27
- 28 (1) For the offenses enumerated above, a code compliance officer  
29 who, upon personal investigation, has reasonable cause to believe  
30 that there is a violation, shall have the authority to issue an  
31 administrative citation to the alleged violator and/or owner of the  
32 property.
- 33
- 34 (2) The administrative citation issued shall be in a form approved by  
35 the village manager and shall contain:
  - 36 a. The date and time of issuance.
  - 37
  - 38 b. The name and address of the person to whom the  
39 administrative citation is issued.
  - 40
  - 41 c. The facts constituting reasonable cause.
  - 42
  - 43 d. The section of the code that is violated.
  - 44
  - 45 e. The name of the code compliance officer.
  - 46

- 1  
2 f. The procedure for the person to follow in order to pay or  
3 contest the administrative citation.  
4  
5 g. The penalty, including administrative costs, if the person  
6 elects to contest the administrative citation and is found in  
7 violation.  
8  
9 h. The penalty if the person elects to pay the administrative  
10 citation.  
11  
12 i. A conspicuous statement that if the person fails to pay the  
13 penalty within the time allowed, or fails to appear before  
14 the special magistrate or code compliance board, that the  
15 person shall be deemed to have waived his or her right to  
16 contest the administrative citation and that, in such case, a  
17 final order and/or judgment may be entered against the  
18 person up to five hundred dollars (\$500.00).  
19

20 (3) After issuing the administrative citation, the code compliance officer  
21 shall deposit an original with the village manager or their designee.  
22

23 (4) A person who has been served with an administrative citation shall  
24 elect either to:  
25

- 26 a. Correct the violation immediately and pay within fourteen (14)  
27 days of service of the administrative citation the penalty in the  
28 manner indicated on the administrative citation; or  
29  
30 b. Request a hearing before the special magistrate or code compliance  
31 board.  
32

33 14.1.8 Conduct of hearing.  
34

35 ~~(a) The chairman of the code compliance board may call hearings of the~~  
36 ~~board, and hearings may also be called by written notice signed by at least three~~  
37 ~~(3) members of the code compliance board. The board, at any hearing, may set a~~  
38 ~~future hearing date. The board shall attempt to convene no less frequently than~~  
39 ~~once every two (2) months, but it may meet more or less often as the demand~~  
40 ~~necessitates. Minutes shall be kept of all hearings by the board, and all hearings~~  
41 ~~and proceedings shall be open to the public. The village shall provide clerical and~~  
42 ~~administrative personnel as may be reasonably required by the board for the~~  
43 ~~proper performance of its duties.~~  
44

45 ~~(b) Each case before the code compliance board shall be presented by a~~  
46 ~~code compliance officer appointed by the village for that purpose.~~

1  
2           ~~(e) The special magistrate and code compliance board shall proceed to~~  
3 ~~hear the cases on the agenda for that day. All testimony shall be under oath and~~  
4 ~~shall be recorded. The board shall take testimony from the code compliance~~  
5 ~~officer, the alleged violator, and any witnesses called. Formal rules of evidence~~  
6 ~~shall not apply, but fundamental due process shall be observed and govern said~~  
7 ~~proceedings.~~

8  
9           ~~(d) At the conclusion of the hearing, the special magistrate and code~~  
10 ~~compliance board shall issue findings of fact, based on evidence recorded and~~  
11 ~~conclusions of law, and shall issue an order affording the proper relief consistent~~  
12 ~~with powers granted herein. The finding shall be by motion approved by a~~  
13 ~~majority of those present and voting, except that at least three (3) members of the~~  
14 ~~code compliance board must vote for the action to be official. The order may~~  
15 ~~include a notice that it must be complied with by a specified date and that a fine~~  
16 ~~may be imposed if the order is not complied with by said date. A certified copy of~~  
17 ~~such order may be recorded in the public records of the county and shall~~  
18 ~~constitute notice to any subsequent purchasers, successors in interest, or assigns if~~  
19 ~~the violation concerns real property, and the findings therein shall be binding~~  
20 ~~upon the violator and, if the violation concerns real property, any subsequent~~  
21 ~~purchasers, successors in interest, or assigns. If an order is recorded in the public~~  
22 ~~records pursuant to this subsection and the order is complied with by the date~~  
23 ~~specified in the order, the code compliance board shall issue an order~~  
24 ~~acknowledging compliance that shall be recorded in the public records. A hearing~~  
25 ~~is not required to issue such an order acknowledging compliance.~~

26  
27           ~~(a) Upon request of the code inspector, or at such other times as may~~  
28 ~~be necessary, the special magistrate or chair of the code~~  
29 ~~compliance board may call a code enforcement hearing; a hearing~~  
30 ~~also may be called by written notice signed by at least two~~  
31 ~~members of the code compliance board. Minutes shall be kept of~~  
32 ~~all code enforcement hearings, and all hearings and proceedings~~  
33 ~~shall be open to the public. The village commission shall provide~~  
34 ~~clerical and administrative personnel as may be reasonably~~  
35 ~~required by the special magistrate or code compliance board for the~~  
36 ~~proper performance of code enforcement duties.~~

37  
38           ~~(b) Each case before an enforcement board shall be presented by the~~  
39 ~~local governing body attorney or by a member of the~~  
40 ~~administrative staff of the local governing body. If the local~~  
41 ~~governing body prevails in prosecuting a case before the~~  
42 ~~enforcement board, it shall be entitled to recover all costs incurred~~  
43 ~~in prosecuting the case before the board and such costs may be~~  
44 ~~included in the lien authorized under s. 162.09(3).~~

1           (c) An enforcement board shall proceed to hear the cases on the  
2           agenda for that day. All testimony shall be under oath and shall be  
3           recorded. The enforcement board shall take testimony from the  
4           code inspector and alleged violator. Formal rules of evidence shall  
5           not apply, but fundamental due process shall be observed and shall  
6           govern the proceedings.

7  
8           (d) At the conclusion of the hearing, the special magistrate or code  
9           compliance board shall issue findings of fact, based on evidence of  
10           record and conclusions of law, and shall issue an order affording  
11           the proper relief consistent with powers granted herein. The  
12           finding shall be by motion approved by a majority of those  
13           members present and voting, except that at least three members of  
14           the code compliance board, must vote in order for the action to be  
15           official. The order may include a notice that it must be complied  
16           with by a specified date and that a fine may be imposed and, under  
17           the conditions specified in s. 162.09(1), the cost of repairs may be  
18           included along with the fine if the order is not complied with by  
19           said date. A certified copy of such order may be recorded in the  
20           public records of the county and shall constitute notice to any  
21           subsequent purchasers, successors in interest, or assigns if the  
22           violation concerns real property, and the findings therein shall be  
23           binding upon the violator and, if the violation concerns real  
24           property, any subsequent purchasers, successors in interest, or  
25           assigns. If an order is recorded in the public records pursuant to  
26           this subsection and the order is complied with by the date specified  
27           in the order, the special magistrate or code compliance board shall  
28           issue an order acknowledging compliance that shall be recorded in  
29           the public records. A hearing is not required to issue such an order  
30           acknowledging compliance.

31  
32           14.1.9 Powers of the special magistrate and code compliance board. The  
33           special magistrate and code compliance board shall have the power to:  
34

- 35           (1) Adopt rules for the conduct of its hearings.  
36  
37           (2) Subpoena alleged violators and witnesses to its hearings.  
38           Subpoenas may be served by the police department.  
39  
40           (3) Subpoena evidence to its hearings.  
41  
42           (4) Take testimony under oath.  
43  
44           (5) Issue orders having the force of law commanding whatever steps  
45           are necessary to bring a violation into compliance.  
46

1 14.1.10 Fines; liens.  
2

3 (a) The special magistrate and code compliance board, upon notification  
4 by the code compliance officer that a previous order of the board has not been  
5 complied with by the set time, or finds a person to be a repeat violator under  
6 subsection (c), may order the violator to pay a fine in an amount specified in this  
7 section for each day the violation continues past the date set by the board for  
8 compliance or, in the case of a repeat violation, for each day the repeat violation  
9 continues past the date of notice to the violator of the repeat violation. If a finding  
10 of a violation or a repeat violation has been made as provided in this part, a  
11 hearing shall not be necessary for issuance of the order imposing the fine.  
12

13 An "uncorrectable violation" is a violation which cannot be remedied after  
14 the violation has been committed because the violation constitutes a single  
15 prohibited act rather than an ongoing condition or circumstance. Each  
16 reoccurrence of an uncorrectable violation shall constitute a separation violation  
17 and shall subject the violator to an additional penalty in the same amount as that  
18 prescribed for the original violation. If, however, a violator has been once found  
19 guilty of an uncorrectable violation, and causes the same uncorrectable violation  
20 to occur a second time, each reoccurrence of the uncorrectable violation by such  
21 violator shall constitute a "repeat violation."  
22

23 "Continuing violations" are those violations which remain uncorrected  
24 beyond the reasonable time period for correction contained in either the civil  
25 violation notice or the final order of the code compliance board, whichever is  
26 applicable. For each day of continued violation after the time for correction has  
27 run, an additional penalty in the same amount as that prescribed for the original  
28 violation shall be added.  
29

30 A "repeat violation" is a recurring violation of an ordinance by a violator  
31 who has previously been guilty of the same violation within the last five (5) years.  
32 In the case of correctable violations, a repeat violation can occur only after  
33 correction of the previous violation has been made. For the first repeat violation,  
34 the amount of the civil penalty shall be double the amount of penalty prescribed  
35 for the original violation.  
36

37 (b) Amount of fine.  
38

39 (1) The fine amount(s) are referenced in a resolution kept on file by the  
40 village clerk.  
41

42 (2) In determining the amount of the fine, if any, the special magistrate  
43 or code compliance board shall consider the following factors:  
44

45 a. The gravity of the violation;  
46

- 1           b. Any actions taken by the violator to correct the violation; and
- 2
- 3           c. Any previous violations committed by the violator.
- 4
- 5           (c) Reduction of fine imposed pursuant to this section.
- 6

7           (1) The code compliance board is hereby delegated the authority to hear  
8 requests for reduction of fines pursuant to this section and make the final decision  
9 on behalf of the village.

10           (2) For all requests for reduction of fine, the code compliance officer  
11 shall submit a written recommendation to the special magistrate or code  
12 compliance board. In formulating the recommendation, the code compliance  
13 officer shall consider criteria, which includes, but is not limited to the following:

- 14           a. The cooperation of the respondent, including whether the  
15 respondent had appeared before the board at the original hearing;
- 16           b. The documentation provided by the respondent in support of the  
17 request;
- 18           c. Whether the respondent has new evidence or information which  
19 could not be provided at the original hearing;
- 20           d. Whether there was any extraordinary hardship which existed or  
21 currently exists;
- 22           e. Whether the respondent has come into compliance with the order  
23 of the board;
- 24           f. The number of days that the violation existed;
- 25           g. Whether the respondent has been deemed a repeat violator by the  
26 board;
- 27           h. Whether the property is homestead or non-homestead property;  
28 and
- 29           i. The total administrative cost to the village for the handling of the  
30 case, which cost will be inclusive of staff time and recording and  
31 release of lien fees.
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42

43           (3) The special magistrate or code compliance board shall consider the  
44 same criteria as the code compliance officer.

1 (4) The special magistrate or code compliance board shall not waive  
2 administrative costs incurred by the local government in enforcing its codes. In  
3 addition, the code compliance board and the administrative panel shall not waive  
4 costs of repairs incurred by the local government.  
5

6 (d) A certified copy of an order imposing a fine, or a fine plus repair  
7 costs, may be recorded in the public records and thereafter shall constitute a lien  
8 against the land on which the violation exists, or, if the violator does not own the  
9 land, upon any other real or personal property owned by the violator. Upon  
10 petition to the circuit court, such order shall be enforceable in the same manner as  
11 a court judgment by the sheriffs of this state, including execution and levy against  
12 the personal property of the violator but such order shall not be deemed otherwise  
13 to be a judgment of a court except for enforcement purposes. A fine imposed  
14 pursuant to this part shall continue to accrue until the violator comes into  
15 compliance or until judgment is rendered in a suit to foreclose on a lien filed  
16 pursuant to this section, whichever occurs first. After three (3) months from the  
17 filing of any such lien which remains unpaid, the special magistrate or code  
18 compliance board may authorize the village attorney to foreclose on the lien. No  
19 lien created pursuant to the provisions of this chapter may be foreclosed on real  
20 property, which is a homestead under the Florida Constitution, Art. X, § 4.  
21

22 14.1.11 Duration of lien.  
23

24 No lien provided by the Code Compliance Boards Act shall continue for a longer  
25 period than twenty (20) years after the certified copy of an order imposing a fine  
26 has been recorded, unless within that time an action to foreclose on the lien is  
27 commenced in a court of competent jurisdiction. In an action to foreclose on the  
28 lien, the prevailing party is entitled to recover all costs, including a reasonable  
29 attorney's fee, that it incurs in the foreclosure. The continuation of the lien  
30 effected by the commencement of the action shall not be good against creditors or  
31 subsequent purchasers for valuable consideration without notice, unless a notice  
32 of lis pendens is recorded.  
33

34 14.1.12 Appeal.  
35

36 An aggrieved party, including the village, may appeal a final order of the special  
37 magistrate or code compliance board to the circuit court. Such an appeal shall not  
38 be a hearing do novo but shall be limited to appellate review of the record created  
39 before the special magistrate or board. An appeal shall be filed within thirty (30)  
40 days of the execution of the order to be appealed.  
41

42 14.1.13 Notice and procedures.  
43

44 (a) All notices required by this part shall be provided to the alleged  
45 violator by:  
46

- 1 (1) Certified mail, return receipt requested, provided if such notice is  
2 sent under this subsection to the owner of the property in question  
3 at the address listed in the tax collector's office for tax notices, and  
4 at any other address provided to the village by such owner and is  
5 returned as unclaimed or refused, notice may be provided by  
6 posting as described in subsections (b)(1) and (2) below, and by  
7 first class mail directed to the addresses furnished to the local  
8 government with a properly executed proof of mailing or affidavit  
9 confirming the first class mailing; or  
10  
11 (2) Hand delivery by the sheriff or other law enforcement officer, code  
12 compliance officer, or other person designated by the local  
13 governing body; or  
14  
15 (3) Leaving the notice at the violator's usual place of residence with  
16 any person residing therein who is above fifteen (15) years of age  
17 and informing such person of the contents of the notice.  
18

19 (b) (1) In lieu of notice as described in subsection (a), such notice  
20 may be posted at least ten (10) days prior to the hearing, or prior to the expiration  
21 of any deadline contained in the notice, in at least two (2) locations, one of which  
22 shall be the property upon which the violation is alleged to exist and the other of  
23 which shall be at the Village Hall.  
24

25 (2) Proof of posting shall be by affidavit of the person posting the  
26 notice, which affidavit shall include a copy of the notice posted and the date and  
27 places of its posting.  
28

29 (c) Evidence that an attempt has been made to hand deliver or mail  
30 notice as provided in subsection (a), together with proof of notice or posting as  
31 provided in subsection (b), shall be sufficient to show that the notice requirements  
32 of this chapter have been met, without regard to whether or not the alleged  
33 violator actually received such notice.  
34

35 14.1.14 Enforcement procedures by code compliance officer.  
36

37 (a) For the purposes of this chapter, a "code compliance officer" is  
38 defined to be any agent or employee of the village or Miami-Dade County whose  
39 duty is to assure the enforcement of and compliance with the village code, the  
40 Florida Building Code, or Miami-Dade County, as applicable. Prior to being  
41 provided the authority to initiate enforcement proceedings under this chapter, a  
42 code compliance officer shall be required to successfully complete a criminal  
43 background investigation as prescribed by administrative order of the county  
44 manager. Subject to the requirements of section 8CC-11, a "code compliance  
45 officer" is also defined to be any agent or employee of a municipality who has  
46 been authorized pursuant to that section to assure code compliance. Municipal

1 employees shall also be required to successfully complete a criminal background  
2 investigation prior to being provided authority to initiate enforcement proceedings  
3 under this chapter.  
4

5 (b) For the purposes of this chapter, "violators" shall be deemed to be  
6 those persons or entities legally responsible for the violation of the village's Code  
7 of Ordinances, applicable provision of the Miami-Dade County Code, or the  
8 Florida Building Code.  
9

10 (c) A code compliance officer who finds a violation of an ordinance  
11 shall determine a reasonable time period within which the violator must correct  
12 the violation. This determination shall be based on considerations of fairness;  
13 practicality; ease of correction; ability to correct; severity of violation; nature,  
14 extent and probability of danger or damage to the public; and other relevant  
15 factors relating to the reasonableness of the time period prescribed. A time for  
16 correction need not be specified if the violation is deemed to be an uncorrectable  
17 violation.  
18

19 (d) Service shall be effected by delivering the civil violation notice to  
20 the violator or his agent, or by leaving the civil violation notice at the violator's  
21 usual place of abode with any person residing therein who is fifteen (15) years of  
22 age or older and informing that person of its contents. If such service cannot be  
23 effected, the notice may be sent by certified mail, return receipt requested, or by  
24 posting of the civil violation notice in a conspicuous place on the premises or real  
25 property upon which the violation has been observed or by mailing to or posting  
26 the civil violation notice at the property owner's mailing address as listed in the  
27 tax records of Miami-Dade County. Such posting of the notice or violation shall  
28 be deemed proper service, and the time for compliance, stated in the notice, shall  
29 commence with the date such notice is posted.  
30

31 (e) A code compliance officer is authorized to record in the public  
32 record the civil violation notice or a notice of violation which is based upon the  
33 civil violation notice. The recording of the civil violation or a notice of violation  
34 under this section shall not act as or be a lien on the property and shall not act as a  
35 notice of a lien on the property but shall merely act as public notice of the  
36 existence of the violation.  
37

38 (f) A code compliance officer must have, at a minimum, a Florida  
39 Association of Code Enforcement (F.A.C.E.) Level 1 certification within one (1)  
40 year of hire.  
41  
42

1 CHAPTER 15. - ENFORCEMENT  
2

3 15.1. - Generally.  
4

5 15.1.1 Enforcement of Land Development Code. The planning board,  
6 special magistrate, and the code compliance board shall enforce the Land  
7 Development Code.  
8

9 15.2. - Building official.  
10

11 15.2.1 Designation. The building official shall be designated by the  
12 appointing authority, whatever the official title, to enforce the provisions of the  
13 Florida Building Code and other applicable laws; provided, the official may act  
14 with the aid and through authorized assistants.  
15

16 15.2.2 Authority. The building official is hereby authorized and directed  
17 to interpret and enforce all of the provisions of this code subject to the powers  
18 vested in the planning board and the code compliance board.  
19

20 15.3. - Violations and general penalty.  
21

22 15.3.1 General penalty. Whenever in this code or in any ordinance of  
23 the village any act is prohibited or is made or declared to be unlawful or an  
24 offense, or whenever in such code or ordinance the doing of any act is required or  
25 the failure to do any act is declared to be unlawful, where no specific penalty is  
26 provided therefor, the violation of any such provision of this code or any  
27 ordinance shall be punished by a fine not to exceed five hundred dollars  
28 (\$500.00), or imprisonment for a term not exceeding sixty (60) days, or by both a  
29 fine and imprisonment. Each day violation of any provision of this code or of any  
30 ordinance shall continue shall constitute a separate offense.  
31

32 15.3.2 Continuation of violation. In addition to the penalties  
33 hereinabove provided, any condition caused or permitted to exist in violation of  
34 any of the provisions of this code or any ordinance shall be deemed a public  
35 nuisance and may be, by the village, abated as provided by law, and each day that  
36 such condition continues shall be regarded as a new and separate offense.  
37

38 15.4. - Other penalties and remedies.  
39

40 15.4.1 Civil remedies. If any building or structure is erected,  
41 constructed, reconstructed, altered, repaired, or maintained or any building,  
42 structure, land, or water is used in violation of this code, the village, through the  
43 village attorney, may institute any appropriate civil action or proceedings in any  
44 court to prevent, correct, or abate the violation.  
45

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

5           **Section 4.**    **Codification.** It is the intention of the Village Commission of the Village of  
6 Biscayne Park, that the provisions of this Ordinance shall become and made a part of the Land  
7 Development Code of the Village of Biscayne Park, Florida, and that the Sections of this Ordinance  
8 may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article"  
9 or other word or phrase in order to accomplish such intention.

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

12          **Section 6.**    **Effective Date.** This Ordinance shall become effective immediately upon its  
13 passage and adoption, in accordance with the Village Charter.

14           The foregoing Ordinance was offered by \_\_\_\_\_ who moved its adoption.  
15 The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as  
16 follows:

17 PASSED AND ADOPTED upon first reading this \_\_\_\_\_, 2019.

18 PASSED AND ADOPTED upon second reading this \_\_\_\_\_, 2019.

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

19  
20  
21  
22  
23  
24 \_\_\_\_\_  
25 Tracy Truppman, Mayor

Mayor Truppman: \_\_\_\_\_  
Vice Mayor Johnson-Sardella: \_\_\_\_\_  
Commissioner Samaria: \_\_\_\_\_  
Commissioner Tudor: \_\_\_\_\_  
Commissioner Wise: \_\_\_\_\_

Rebecca A. Rodriguez, Esq.  
Of Counsel

954-761-8111  
REBECCA.RODRIGUEZ@GRAY-ROBINSON.COM

**MEMORANDUM**

**TO: Village Commission, Village of Biscayne Park, Florida**

**FROM: Rebecca A. Rodriguez, Village Attorney**

**DATE: October 1, 2019**

**SUBJECT: Preliminary Draft from Two Public Workshops Held to Explore Amending the Village Code to Codify Various Commission Meeting Rules and Procedures**

---

**Background**

On July 24, 2019 and September 18, 2019, the Village Commission hosted two public workshops to explore various potential rules and procedures for future Commission meetings and workshops. The Village Commission received public comments from Village residents during these workshops. The Village Commission discussed various sample rules and procedures from other jurisdictions during these two public workshops.

After two public workshops on this topic, the attached draft ordinance was prepared at the directive of the Village Commission. This draft ordinance is presented to the Village Commission for a preliminary review and public discussion during the Commission's October 2019 regular meeting.

**Legal Note**

This draft work product is presented solely for a preliminary public discussion amongst members of the Village Commission. The public discussion *will not* constitute an ordinance "first reading" for purposes of complying with Fla. Stat. § 166.041. Stated differently, if the Village Commission finds the draft ordinance to be an accurate work product from the two public workshops, the Village will then need to notice two readings of the proposed ordinance in compliance with Fla. Stat. § 166.041.

**Recommendation**

Should the Village Commission determine the draft accurately reflects the comments and discussion from the two public workshops, it is recommended the two ordinance readings be scheduled with the Village Clerk.

**Attachments**

1. Draft ordinance for review and public discussion

**FOR DISCUSSION**

**ORDINANCE NO. 2019-XX**

**AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING SECTION 2-16 OF THE VILLAGE OF BISCAYNE PARK CODE OF ORDINANCES; ADOPTING COMMISSION RULES AND PROCEDURES FOR MEETINGS AND WORKSHOPS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, Section 4.01(B) of the Charter of the Village of Biscayne Park (the “Village”) states the Commission shall determine its own rules of procedure and order of business; and

**WHEREAS**, Section 4.03(A)(1) of the Village Charter requires the Commission to act by ordinance to adopt or amend an administrative regulation; and

**WHEREAS**, Section 4.03(A)(2) of the Village Charter requires the Commission to act by ordinance to establish any rule or regulation the violation of which carries a penalty; and

**WHEREAS**, Section 4.03(A)(9) of the Village Charter requires the Commission to act by ordinance to amend or repeal any ordinance previously adopted; and

**WHEREAS**, Section 2-16 of the Village’s Code of Ordinances (the “Code”) currently only addresses the dates which regular meetings will be held by the Commission; and

**WHEREAS**, the Village Commission is desirous to implement and adopt various rules and procedures for its meetings and public workshops, including rules of debate, rules of decorum, and enforcement guidelines for violating the rules and procedures; and

**WHEREAS**, on July 24, 2019, the Village Commission held its first public workshop to receive resident comments and explore various potential rules of procedure; and

1           **WHEREAS**, on September 18, 2019, the Village Commission held its second public  
2 workshop to receive resident comments and explore various potential rules of procedure; and

3           **WHEREAS**, the Village Commission publicly discussed the drafting this ordinance  
4 during its regular Commission meeting on October 1, 2019;

5           **BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF**  
6 **BISCAYNE PARK, FLORIDA, AS FOLLOWS:**

7           **Section 1.    Ratification.** The foregoing “Whereas” clauses are hereby ratified and  
8 confirmed as being true and correct and are hereby made a specific part of this Ordinance upon  
9 adoption hereof.

10           **Section 2.    Section 2-16 of the Village Code of Ordinances Amended.** Section 2-  
11 16 of the Code of Ordinances for the Village of Biscayne Park, Florida shall be amended to read  
12 as follows:

13           Sec. 2-16. – Rules of procedure for Commission mMeetings and public workshops.

14           (X)    GOVERNING RULES; AMENDMENT.

15           Except as may be provided in the Charter, the Code or by these rules, questions of order,  
16 the methods of organization and the conduct of business of the Commission shall be  
17 governed by Roberts’ Rules of Order (current edition).

18           (X)    PRESIDING OFFICER.

19           Commission meetings as herein defined shall be conducted in an orderly manner to  
20 ensure that the public has a full opportunity to be heard and that the deliberative process  
21 of the Commission is conducted as efficiently as possible. The Presiding Officer shall be  
22 responsible for maintaining the order and decorum of meetings. The Village Mayor shall  
23 serve as the Presiding Officer for Commission meetings. In the Mayor’s absence, the  
24 Vice-Mayor shall serve as the Presiding Officer for Commission meetings. If the Mayor  
25 and Vice Mayor are both absent, the Presiding Officer shall be elected for that meeting by  
26 a vote of the Commission members in attendance.

1           (X) VILLAGE MANAGER.

2  
3           The Village Manager shall be available to the Commission at all meetings and public  
4           workshops.

5  
6           (X) VILLAGE CLERK.

7  
8           The Village Clerk shall be available to the Commission at all meetings and public  
9           workshops. The Village Clerk shall prepare the minutes and shall certify all ordinances  
10           and resolutions adopted by the Commission.

11  
12           (X) VILLAGE ATTORNEY.

13  
14           The Village Attorney shall be available to the Commission at all meetings. When  
15           requested by the Presiding Officer, the Village Attorney shall act as parliamentarian, and  
16           shall advise and assist the Presiding Officer in matters of parliamentary law.

17           (X) SERGEANT-AT-ARMS.

18  
19           The Chief of Police for the Village Police Department, or such other Village official,  
20           employee, or other officer as the Commission may designate, shall be the Sergeant-at-  
21           Arms at Commission meetings. The Sergeant-at-Arms shall carry out all orders and  
22           instructions given by the Presiding Officer for the purpose of maintaining order and  
23           decorum at the meetings.

24  
25           (X) REGULAR MEETINGS.

26  
27           ~~The regular meetings of the commission shall be held at 7:00 p.m., on the first Tuesday~~  
28           ~~of each month at the village hall in the Village of Biscayne Park. The meeting time may~~  
29           ~~be changed by resolution if approved by a simple majority of the commission.~~  
30           The regular meetings of the Village Commission shall be held monthly on the first  
31           Tuesday of each month at 7:00 p.m. Regular meetings shall adjourn no later than 11:00  
32           p.m. The Village Commission may publicly vote to reschedule any regular meeting date  
33           to a date certain.

34  
35           (X) SPECIAL MEETINGS AND EMERGENCY MEETINGS.

- 36  
37           (1)   *Special meetings.* A special meeting of the Commission may be called by  
38           the Village Mayor, or by a majority of the members of the Commission.  
39           The Village Clerk shall forthwith serve verbal and written notice upon  
40           each member of the Commission stating the date, hour and place of the  
41           special meeting and the purpose for which such meeting is called, and no  
42           other business shall be transacted at that meeting. At least twenty-four  
43           (24) hours must elapse between the time the Clerk receives notice in  
44           writing and the time the meeting is to be held. A special meeting of the

1 Board of Village Commissioners may be cancelled (1) by resolution or  
2 motion adopted at a regular meeting by a majority of the Commission  
3 members present or (2) by seven (7) members of the Board of Village  
4 Commissioners serving notice containing the required seven (7) signatures  
5 on the members of the Board of Village Commissioners and upon the  
6 Clerk who shall provide public notice when a meeting is cancelled. The  
7 Commission chambers shall be made available for a special meeting  
8 whenever such a meeting is called.

9 (2) Emergency meetings. An emergency meeting of the Commission may be  
10 called by the Village Mayor whenever in his or her opinion an emergency  
11 exists which requires immediate action by the Commission. Whenever  
12 such emergency meeting is called, the Village Mayor shall notify the  
13 Clerk who shall forthwith serve either verbal or written notice upon each  
14 member of the Commission, stating the date, hour and place of the  
15 meeting and the purpose for which it is called, and no other business shall  
16 be transacted at that meeting. At least twenty-four (24) hours shall elapse  
17 between the time the Clerk receives notice of the meeting and the time the  
18 meeting is to be held. An emergency meeting of the Village Commission  
19 may be cancelled (1) by resolution or motion adopted at a regular meeting  
20 by a simple majority of the Commission members present. The  
21 Commission chambers shall be made available for an emergency meeting  
22 whenever such a meeting is called.

23 (3) Notice to Commissioners. If after reasonable diligence, it is impossible to  
24 give notice to each Commissioner, such failure shall not affect the legality  
25 of the meeting if a quorum is present. The minutes of each special or  
26 emergency meeting shall show the manner and method by which notice of  
27 such special or emergency meeting was given to each member of the  
28 Commission, or shall show a waiver of notice. All special or emergency  
29 meetings shall be open to the public and shall be held and conducted in the  
30 Village Hall, or other suitable location within the Village of Biscayne  
31 Park, Florida. Minutes thereof shall be kept by the Clerk.

32 (4) Waiver of Requirements. No special or emergency meeting shall be held  
33 unless notice thereof shall be given in compliance with the provisions of  
34 this rule, or notice thereof is waived by a supermajority vote of the entire  
35 membership of the Commission.

36  
37 (X) PUBLIC WORKSHOPS.

38 (1) Purpose. The Commission may, by a simple majority vote, schedule a  
39 public workshop to receive resident comments or publicly discuss any  
40 issue. Workshops shall be scheduled publicly, by resolution, with an clear  
41 and express workshop objective stated therein.

- 1 (2) Commissioner Attendance. While commissioner attendance is not  
2 required for public workshops, a commissioner who affirmatively votes to  
3 schedule a public workshop on a date certain must attend that workshop.
- 4 (3) No action items permitted. The Village Commission may not adopt any  
5 resolutions or ordinances during a public workshop. This prohibition  
6 cannot be waived by a vote of the Commission, even if said vote is  
7 unanimous.

8 (X) CANCELLATION PROCEDURES.

- 9 (1) Authority to cancel. The Village Manager shall have the authority to  
10 cancel any scheduled Commission meeting or public workshop.
- 11 (2) Basis for cancellation. At the next regular Commission meeting, the  
12 Village Manager shall provide the Village Commission with a written  
13 memorandum explaining the basis for cancellation.
- 14 (3) Notice to public for cancellation. The Village Clerk shall post all meeting  
15 and workshop cancellation notices on the Village website. The Village  
16 Clerk shall also post cancellation notices at the entrances of Village Hall  
17 on the date of the cancelled meeting.

18 (X) AGENDA FOR MEETINGS AND WORKSHOPS.

- 19 (1) Five day rule. A copy of each agenda item shall be furnished to the  
20 members of the Commission not later than five (5) business days before a  
21 vote may be called on the item. The provisions of this rule shall be  
22 deemed waived unless asserted by a Commissioner before the board takes  
23 action on the resolution, ordinance, motion or other item in question. This  
24 rule is not applicable to special or emergency meetings called in  
25 compliance with the Village Code and Charter.
- 26 (2) Publishing Agenda to the Public. The agenda for a regular commission  
27 meeting shall be published by the Village Clerk no later than the Friday  
28 prior to that meeting. This requirement does not apply to special  
29 commission meetings, nor emergency or time sensitive matters which may  
30 be added to an agenda due to exigent circumstances as provided herein.
- 31 (3) Minimum Standards for Proposed Agenda Items. Proposed agenda items  
32 must include a cover memorandum providing, at minimum, the following  
33 information:
- 34 (A) Background. The cover memorandum must include a general  
35 background of the item being presented to the Village  
36 Commission.  
37  
38  
39  
40

- 1 (B) Recommended Action. The cover memorandum must express a  
2 clear proposed course of action to the Village Commission.  
3
- 4 (C) Financial Impact. The cover memorandum must include an  
5 estimated financial impact. The memorandum must expressly state  
6 whether the adopted budget allocated funds for the proposed item.  
7 In the event a proposed item is contingent upon receiving grant  
8 funds, the memorandum shall so state.  
9
- 10 (D) Village Clerk. The Village Clerk shall ensure all agenda materials  
11 conform to the requirements provided herein. The Village Clerk  
12 shall promptly notify a submitter of a deficient proposed item and  
13 provide an opportunity to correct the materials to be included in  
14 the agenda.  
15
- 16 (4) Emergency matters; time sensitive matters. A matter may be placed on the  
17 meeting agenda to meet a public emergency or other time sensitive  
18 circumstance. Items placed on the agenda as an emergency or time  
19 sensitive matter shall so state. The Commission must ratify the emergency  
20 or time sensitive circumstance by a majority vote of Commission members  
21 present for the item to proceed.  
22
- 23 (5) Sponsorship; Authority to Sponsor or Present Agenda Items. A  
24 Commissioner, Village Manager, Village Attorney, Village Clerk, or  
25 Village department head may sponsor any report or memorandum to be  
26 presented before the Commission. A Village Commissioner may assume  
27 sponsorship of any ordinance, resolution, report, or other matter.  
28
- 29 (6) Prime Sponsorship and Co-Sponsorship. When a resolution or ordinance  
30 is placed on the agenda at the request of a Commissioner, the  
31 Commissioner who requested the preparation of the item shall be  
32 designated as the prime sponsor. Any other commissioner who wishes to  
33 sponsor the resolution or ordinance shall so state during agenda approval  
34 and be designated a co-sponsor of the item.  
35
- 36 (7) Limitation on Amount of Sponsored Agenda Items. No Commissioner  
37 shall be a prime sponsor of a total of more than three (3) action items on a  
38 single regular Commission agenda unless the Presiding Officer of the  
39 Commission authorizes the placement of additional items on the agenda  
40 by a particular Commissioner when approving the agenda. For purposes  
41 of this section, an "action item" means an ordinance for first reading or a  
42 resolution. This provision shall not be applied to ordinances or resolutions  
43 which are intended to correct scrivener's errors, or have "rolled over" from  
44 a prior meeting's agenda.
- 45 (8) Limitation on Deferral of Agenda Items. An agenda item shall be deemed  
46 withdrawn upon its third deferral. The provisions of this subsection shall

1 not apply to the certification of any election, quasi-judicial matters, zoning  
2 applications, or applications to amend the Village's Land Development  
3 Code.

4 (9) Approval by Village Attorney. All ordinances, resolutions, and contract  
5 documents, before presentation to the Village Commission, shall have  
6 been reduced to writing and shall have been approved as to form and  
7 legality by the Village Attorney. All reports or memoranda that  
8 supplement pending ordinances or resolutions shall be presented to the  
9 Village Attorney for review and approval for placement on the agenda,  
10 when such reports or memoranda contain proposed amendatory language  
11 that can be used to formulate amendments to ordinances or resolutions.  
12 Prior to presentation all such documents may be referred to the head of the  
13 department under whose jurisdiction the administration of the subject  
14 matter of the ordinance, resolution or contract document would devolve.

15 (10) Approval by Commission. The proposed agenda must be voted on and  
16 approved by a simple majority vote of the Commission during the  
17 meeting. Amendments to the agenda, such as tabling, deferral, and  
18 removal must be made at that time. Any action item not removed, tabled,  
19 or otherwise deferred prior to the agenda approval vote must proceed to a  
20 vote during that meeting and cannot be subsequently withdrawn.

21  
22 (X) CONDUCT OF MEETINGS AND WORKSHOPS.

23 (1) Call to Order. Promptly at the hour set for each meeting, the members of  
24 the Commission, the Village Attorney, the Village Manager and the  
25 Village Clerk shall take their regular stations on the dais. The Presiding  
26 Officer shall take the chair and shall call the Commission to order  
27 immediately. In the absence of the Presiding Officer, the Village Clerk  
28 shall then determine whether a quorum is present and in that event shall  
29 call for the election of a temporary Presiding Officer. Upon the arrival of  
30 the Mayor or Vice-Mayor, the temporary Presiding Officer shall relinquish  
31 the chair upon the conclusion of the business immediately before the  
32 Commission.

33 (2) Roll Call. The Village Clerk shall call the roll of the members, and the  
34 names of those present shall be entered in the minutes. The Village Clerk  
35 shall note in the minutes when a Commissioner arrives after the  
36 commencement of a Commission meeting, or if a Commissioner departs a  
37 Commission meeting before it has adjourned.

38 (3) Quorum. A simple majority of the Commission members then in office  
39 shall constitute a quorum. No ordinance, resolution, or motion shall be  
40 adopted by the Commission without the affirmative vote of the majority of  
41 all the members present. A quorum is not required for public workshops.

1 (4) Failure to Maintain a Quorum. Should no quorum attend within fifteen  
2 (15) minutes after the hour appointed for the meeting of the Commission,  
3 the Presiding Officer, the Village Manager, or the Village Clerk may  
4 adjourn the meeting until another hour or day unless, by unanimous  
5 agreement, those members present select another time and continue the  
6 meeting to a date certain. The names of the members present and their  
7 action at such meeting shall be recorded in the minutes by the Village  
8 Clerk.

9 (X) RULES OF DECORUM.

10 (1) Preservation of Order. Meetings of a Commission as herein defined shall  
11 be conducted in an orderly manner to ensure that the public has a full  
12 opportunity to be heard and that the deliberative process of the  
13 Commission is conducted as efficiently as possible. The Presiding Officer  
14 shall be responsible for maintaining the order and decorum of meetings.

15 (2) Commission Members. The members of a Commission as herein defined  
16 shall preserve order and decorum, and a member shall not by conversation  
17 or other means delay or interrupt the Commission's proceedings, including  
18 delaying or interrupting any person who is speaking who has been  
19 recognized by the Presiding Officer.

20 (3) Village Staff Members. Employees of the Village shall observe the same  
21 rules of order and decorum as those that apply to members of the  
22 Commission.

23 (4) Persons Addressing the Commission. Members of the public are afforded  
24 the opportunity to address the Commission on any item of interest to the  
25 public that is within the subject matter jurisdiction of the Commission.  
26 Each person who addresses the Commission shall do so in an orderly  
27 manner and shall not make personal, impertinent, slanderous, or profane  
28 remarks to any member of the Commission, staff, or general public that  
29 disrupt, disturb, or otherwise impede the orderly conduct of any meeting  
30 of the Commission.

31 Any person who makes such remarks; or who utters loud, threatening,  
32 personal, or abusive language; or engages in any other disorderly conduct  
33 that disrupts, disturbs, or otherwise impedes the orderly conduct of any  
34 meeting of the Commission, including, but not limited to, addressing the  
35 Commission without being recognized, repetitiously addressing the same  
36 subject, or failing to relinquish the podium when requested to do so, shall,  
37 at the discretion of the Presiding Officer, be barred from further audience  
38 before the Commission during that meeting.

39 (5) Members of the Audience. No person in the audience at a Commission  
40 meeting shall engage in disorderly or boisterous conduct, including the  
41 utterance of loud, threatening, or abusive language; whistling; stamping of

1 feet; or other acts which disturb, disrupt, or otherwise impede the orderly  
2 conduct of any meeting of the Commission. Any person who conducts  
3 himself or herself in the aforementioned manner shall, at the discretion of  
4 the Presiding Officer, be barred from further audience before the  
5 Commission during that meeting.

6 (6) Addressing the Village Commission. Any person wishing to address the  
7 Commission regarding an item which is on the meeting agenda or is  
8 otherwise within the subject matter jurisdiction of the Commission may  
9 submit a request on the form provided, or he or she may seek recognition  
10 by the Presiding Officer during discussion of any such item. Persons  
11 wishing to discuss a nonagenda item may seek recognition by the  
12 Presiding Officer during the Public Comment portion of the meeting. No  
13 person shall address the Commission without first being recognized by the  
14 Presiding Officer.

15 The following procedures shall be observed by persons addressing the  
16 Commission:

17 A. Each person shall speak from the podium provided for the use of  
18 the public.

19 B. Each person shall limit his or her remarks to three (3) minutes.

20 (7) Enforcement of Decorum. The rules of decorum set forth above shall be  
21 enforced in the following manner:

22 (A) Warning. The Presiding Officer shall request that a person who is  
23 violating the rules of decorum conform his or her behavior to these  
24 rules.

25 (B) Instructed to Leave Meeting. If, after receiving a warning from the  
26 Presiding Officer, a person persists in disturbing the meeting, the  
27 Presiding Officer shall order the individual to leave the meeting.

28 (C) Removal. If such person does not remove himself or herself from  
29 the meeting, the Presiding Officer may order any law enforcement  
30 officer who is on duty at the meeting as Sergeant-at-Arms to  
31 remove that person from the meeting.

32 Any law enforcement officer who is serving as Sergeant-at-arms  
33 may carry out orders and instructions given by the Presiding  
34 Officer for the purpose of maintaining order and decorum at the  
35 meeting. Upon instruction of the Presiding Officer, the Sergeant-  
36 at-Arms may remove any person(s) who is (are) disturbing the  
37 proceedings of the Commission in violation of these rules from the  
38 meeting.

1 (D) Resisting Removal. Any person who resists removal by the  
2 Sergeant-at-Arms may be charged with a violation of this section.

3 (E) Commission Override; Reinstatement. The Commission may, by a  
4 simple majority vote, override the Presiding Officer's removal  
5 determination and reinstate an individual's ability to attend any  
6 meeting or public workshop.

7 (F) Citations and Arrests. Nothing in this section precludes the  
8 Sergeant-at-Arms from utilizing their authority as a sworn law  
9 enforcement officer to cite or arrest any individual for violating the  
10 law, including, but not limited to, breach of the peace, disorderly  
11 conduct, disorderly intoxication, or trespass after warning.

12 (G) Clearing the Meeting Site. In the event that any meeting is  
13 willfully interrupted by a group or groups of persons so as to  
14 render the orderly conduct of such meeting unfeasible and order  
15 cannot be restored by the removal of individuals who are willfully  
16 interrupting the meeting, the Presiding Officer may order the room  
17 cleared and continue in session. The Presiding Officer may  
18 subsequently readmit individuals not believed to be responsible for  
19 creating the disturbance into the meeting. If a meeting of the  
20 Commission is disturbed or disrupted in such a manner as to make  
21 unfeasible or improbable the restoration of order, the meeting may  
22 be adjourned or continued at the discretion of the Presiding  
23 Officer, and any remaining business of the Commission may be  
24 considered at the next scheduled Commission meeting.

25 (8) Rules for recording meetings. As permitted by Florida Statutes, members of the  
26 public are permitted to record any open and public Commission meeting. In order  
27 to provide for the recording of such meetings by members of the public, the  
28 Village has developed the following guidelines:

29 (A) The recording procedure must not disrupt, disturb, or otherwise impede  
30 the conduct of the meeting. A disruption or disturbance of the orderly  
31 conduct of the meeting can include, but is not limited to, the following:

32 1. Obstructing the view of audience/staff members.

33 2. Creating noise that keeps audience/staff members from hearing the  
34 proceedings.

35 3. Treating potential interviewees, and/or conducting interviews, in a  
36 belligerent manner.

37 4. Interfering with the Village's audio and/or recording equipment for  
38 the meeting. This includes, but is not limited to, the use of

1 equipment which creates beeping, radio noise, or static interference  
2 “white noise” with Village equipment during the pendency of a  
3 Commission meeting.

4 (B) Placement of video recording equipment/crew:

5 1. When recording is taking place in the meeting chambers, video  
6 cameras, tripods, and/or crew shall be located in the back corner of  
7 the room and shall be situated so the public is able to safely walk  
8 around the room’s aisles and perimeter without being impeded by  
9 such video cameras, tripods, and/or crew.

10 2. When recording is taking place at a meeting of a Commission  
11 herein defined at a location other than the Village Council  
12 Chambers, video cameras, tripods, and/or crew shall be situated so  
13 neither the view nor the circulation of the audience or staff is  
14 impeded.

15 3. All audio/electrical cords must be securely taped or covered with a  
16 mat.

17 4. No recording devices may be placed on the dais, podium, or other  
18 Village-owned apparatus.

19 (C) Village staff is in charge of enforcing the recording guidelines at the  
20 meeting site. The Presiding Officer may instruct the Sergeant-at-arms to  
21 unplug or otherwise remove any equipment which fails to conform with  
22 the rules provided herein.

23 (X) PUBLIC PARTICIPATION.

24 (1) *Persons authorized on the dais; approaching dais prohibited.* No person,  
25 except Village officers or their representatives, shall be permitted on the  
26 dais unless authorized by the Presiding Officer or a majority vote of the  
27 Commission. Unauthorized individuals approaching the dais is strictly  
28 prohibited and may result in removal from the Commission meeting.

29 (2) *Registration of speakers for public hearing items.*

30 (a) The Village Clerk shall prepare appropriate sign-in sheets for  
31 public hearing items which should indicate the speaker's name, the  
32 public hearing item on which he or she is speaking, and whether he  
33 or she is speaking in favor of or against the proposed item.

34 (b) On the day of the meeting or workshop, a person desiring to speak  
35 shall sign in with the Village Clerk, at least five (5) minutes prior  
36 to the commencement of the discussion on the item, at a  
37 registration table in the meeting chambers.

1                   (c) Failure to comply with the registration provisions of this rule shall  
2                   prohibit a person from speaking on any public hearing item for  
3                   which he or she is not properly signed-in.

4                   (3) Addressing the Commission, manner, time for public hearing items. Each  
5                   person, other than salaried members of the Village staff, who addresses  
6                   the Commission or a committee shall step up to a podium and shall give  
7                   the following information in an audible tone of voice for the minutes:

8                   (a) Name;

9                   (b) Address;

10                  (c) Whether the person speaks on his or her own behalf, a group of  
11                  persons, or a third party; or if the person represents an  
12                  organization; and whether the view expressed by the speaker  
13                  represents an established policy of the organization approved by  
14                  the board or governing council;

15                  (d) Compensation, if any, including in-kind compensation;

16                  (e) Whether the person or any immediate family member has a  
17                  personal financial interest in the pending matter, other than as set  
18                  forth in (d).

19                  Unless further time is granted by the Commission or committee, the  
20                  statement on a public hearing item shall be limited to three (3) minutes.  
21                  All remarks shall be addressed to the Commission or committee as a body  
22                  and not to any member thereof. No person, other than Commissioners and  
23                  the person having the floor, shall be permitted to enter into any discussion,  
24                  either directly or through a member of the Commission, without the  
25                  permission of the Presiding Officer. No question shall be asked directly to  
26                  a Commissioner except through the Presiding Officer.

27                  (X) RULES OF DEBATE.

28                  (1) Questions under consideration. When a motion is presented and seconded,  
29                  it is under consideration and no other motion shall be received thereafter,  
30                  except to adjourn, to lay on the table, to postpone, or to amend until the  
31                  question is decided. These motions shall have preference in the order in  
32                  which they are mentioned and the first two (2) shall be decided without  
33                  debate. Final action upon a pending motion may be deferred until a date  
34                  certain by a majority vote of the Commission members present.

35                  (2) Getting the floor, improper references to be avoided. Every member  
36                  desiring to speak for any purpose shall address the Presiding Officer, and  
37                  upon recognition, shall be confined to the question under debate, avoiding  
38                  all personalities and indecorous language.

39                  (3) Interruption; call to order; appeal a ruling of the chair. A Commission  
40                  member, once recognized, shall not be interrupted when speaking unless it

1 be a call to order or as herein otherwise provided. Should a member be  
2 called to order, the member shall cease speaking until the question of  
3 order be determined by the Presiding Officer, and if in order the member  
4 shall be permitted to proceed. Any member may appeal to the Commission  
5 from the decision of the Presiding Officer upon a question of order, when,  
6 without debate, the Presiding Officer shall submit to the Commission the  
7 question, "Shall the decision of the Chair be sustained?" and the  
8 Commission shall decide by a majority vote.

9 (4) Privilege of closing debate. The Commissioner sponsoring or moving the  
10 adoption of an ordinance, resolution or motion shall have the privilege of  
11 closing the debate.

12 (5) Method of voting. Voting shall be by roll call, voice vote or paper ballot.  
13 Upon every roll call vote the names of the Commissioners shall be called  
14 alphabetically by title and surname. The Village Clerk shall call the roll,  
15 tabulate the votes, and announce the results. The vote upon every  
16 resolution and ordinance shall be taken by roll call. Board appointments  
17 may be made by paper ballot which clearly identify the Commissioner  
18 voting, but must be announced and confirmed thereafter by roll call.

19 (6) Explanation of vote; conflicts of interest. Upon any roll call, there shall be  
20 no discussion by any commissioner voting, and the commissioner shall  
21 vote yes or no. A commissioner shall have the privilege of filing with the  
22 clerk a written explanation of his or her vote.

23 Any commissioner with a conflict of interest on a particular matter shall:  
24 (1) announce publicly at the meeting the nature of the conflict before the  
25 matter is heard; (2) absent himself or herself from the commission  
26 chambers during that portion of the meeting when the matter is  
27 considered; and (3) file a written disclosure of the nature of the conflict  
28 with the Village Clerk consistent with state and local ethics rules. The  
29 filing of the State of Florida form prescribed for written disclosure of a  
30 voting conflict shall constitute compliance with this subsection. Any such  
31 Commissioner who does not leave the chambers shall be deemed absent  
32 for purposes of constituting a quorum, counting the vote, or for any other  
33 purpose.

34 (7) Tie votes. Whenever action cannot be taken because the vote of the  
35 commissioners has resulted in a tie, and no other available motion on an  
36 item is made and approved before the next item is called for consideration  
37 or before a recess or adjournment is called, whichever occurs first, the  
38 item shall be carried over to the next regularly scheduled meeting for the  
39 consideration and Commission vote.

40 (8) Vote change. Any Commissioner may change his or her vote before the  
41 next item is called for consideration, or before a recess or adjournment is  
42 called whichever occurs first but not thereafter.

- 1 (9) No motion or second. If an agenda item fails to receive a motion or  
2 second, it shall be removed from the agenda and may only be reintroduced  
3 thereafter in accordance with the renewal provisions of this section.
- 4 (10) Item Reconsideration. An action of the commission may be reconsidered  
5 only at the same meeting at which the action was taken or at the next  
6 regular meeting thereafter. A motion to reconsider may be made only by a  
7 Commissioner who voted on the prevailing side of the question and must  
8 be concurred in by a majority of those present at the meeting. A motion to  
9 reconsider an item resulting in a tie vote is not in order, and no such  
10 motion shall be reconsidered. A motion to reconsider shall not be  
11 considered unless at least the same number of commissioners is present as  
12 participated in the original vote, or upon affirmative supermajority vote of  
13 those commissioners present. Adoption of a motion to reconsider shall  
14 rescind the action reconsidered.
- 15 (11) Renewal. Once action is taken on a proposed ordinance or resolution,  
16 neither the same matter nor its repeal or rescission may be brought before  
17 the Commission again during the six (6) month period following the said  
18 action, unless application for renewal is presented and approved by a  
19 supermajority vote of the Commissioners present. An application for  
20 renewal must be approved during a regular commission meeting prior to  
21 that item being placed on a meeting agenda.
- 22 (12) Expiration of postponed items. Once an item before the Board is  
23 postponed indefinitely, and no action is taken by the Board on such item  
24 for a period of six (6) months following the latest postponement, such item  
25 shall be deemed withdrawn. Consideration of the matter covered under the  
26 item shall require the introduction of a new item.
- 27 (13) Recess. Any Commission member may move for a recess during a  
28 pending meeting. The Presiding Officer has the authority to unilaterally  
29 declare a recess in the interests of security, safety, and/or order during  
30 Commission meetings.
- 31 (14) Adjournment A motion to adjourn shall always be in order and decided  
32 without debate.
- 33 (15) Suspension of the rules. No rule of procedure provided herein shall be  
34 suspended except by an affirmative supermajority vote of the  
35 Commissioners present.

36  
37 (X) CENSURE.  
38

- 39 (1) Censure defined. Censure is a formal act by the Commission as a body,  
40 which publicly condemns and reprimands an individual or entity whose  
41 action runs counter to the Village's acceptable standards for behavior,  
42 civility, order, or decorum.  
43

- 1 (2) Authority to censure. The Village Commission may, as a body, censure  
2 any individual or entity by a unanimous vote of the voting members of the  
3 Commission at a properly noticed public hearing. Any Commission  
4 censure must be memorialized in a signed written resolution detailing the  
5 conduct at issue and basis for the Commission decision to censure.  
6  
7 (3) Public hearing required. Any proposal to censure is due to the Village  
8 Clerk in writing at least thirty (30) calendar days prior to a regularly  
9 scheduled Commission meeting. Upon receipt, the Village Clerk shall  
10 immediately provide written notice to the potential respondent, and notify  
11 the respondent of their ability to provide a written response to the  
12 Commission in advance of the public hearing. Written responses are due  
13 to the Village Clerk at least five (5) business days prior to the public  
14 hearing on the censure proposal.  
15  
16 (4) Co-sponsorship required. A proposal to censure an individual or entity  
17 must be co-sponsored by a second Commission member during the agenda  
18 approval phase of a public meeting. In the event a proposal to censure  
19 does not receive a co-sponsorship from a second Commission member, the  
20 censure proposal must be removed from the agenda for the meeting and  
21 shall be deemed a failed agenda item.  
22  
23 (5) No authority to unilaterally censure. No individual Commission member  
24 has the authority to unilaterally censure or otherwise publicly reprimand  
25 any individual or entity during a Commission meeting, or at any time  
26 whatsoever, on behalf of the Village of Biscayne Park.  
27

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

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





**VILLAGE OF BISCAYNE PARK  
Village Commission Agenda Report  
REGULAR MEETING**

**Item # 12.c**

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**TO:** Members of the Biscayne Park Village Commission  
**FROM:** Mayor Tracy Truppmann  
**DATE:** October 1, 2019  
**TITLE:** Discussion on Vacation Rental Concerns within the Village

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**Background & Rationale**

The Village of Biscayne Park is a desirable and quiet residential community with virtually no commercial development. Residents have voiced concerns regarding short-term vacation rentals within the Village. For example, quite recently a residential property within the Village was rented out as a vacation rental, but was instead used to host a large, disruptive party. It should be recognized that not all vacation rentals have problems that negatively impact the community. I ask my fellow Commissioners to consider developing local regulations to address the problematic aspects of vacation rentals that can arise from these commercial activities, in order to protect the character of our Village. This item **does not** address regulations regarding long-term rentals..

These issues include: excess number of occupants, commercial events (including large parties) in residential zoned areas, excessive noise, parking issues, littering, and other quality of life and property value issues that arise for neighboring properties. Attached is a 2019 Legislative Brief from the Florida League of Cities discussing the issues, challenges, background and legislative history. This Legislative Brief discusses the challenges that pre-empt the Village's ability to freely regulate short-term rentals. For the purposes of discussion, the Commission and residents need the legal framework of what constitutes a vacation rental and consider the other issues that may arise. The section below summarizes the legal definitions of vacation rentals.

**Regulating Vacation Rentals**

Florida Statutes defines a vacation rental as "any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project." Fla. Stat. § 509.242(1)(c). Miami-Dade County's Code of Ordinances defines "vacation rental" as:

[A]ny dwelling unit or residence, including, but not limited to, any unit or group of units in a condominium, cooperative, or apartment building, that is rented in whole or in part to a transient occupant **for a period of less than 30 days or one calendar month**, whichever is less, or which is advertised or held out to the public as a place that may be rented to a transient occupant, but shall not include a hotel, motel, or bed and breakfast as defined in this code and referenced in the CDMP. For purposes of this section, the term vacation rental is synonymous with the term

short-term residential rental.

Miami-Dade Code § 33.28(b)(5). A state vacation rental dwelling license is required. Fla. Stat. § 509.241(1). A vacation rental dwelling license will be issued for a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively.” F.A.C. 61C-1.002(4)(a). ““A local law, ordinance, or regulation **may not prohibit** vacation rentals or regulate the duration or frequency of rental of vacation rentals.”

The use of vacation rentals and the issues that arise need to be addressed expeditiously as the number of these properties will continue to increase. The Village’s police and code enforcement officers desire better local enforcement tools. The legislative rationale for enacting this ordinance is found in the attachment herein in the 2019 Florida League of Cities Brief and sample ordinances from other municipalities. Please note the bills summarized therein did not pass last legislative session, but it highlights the municipal interest in regulating vacation rentals.

### **Recommendations**

1. The Village hold at least one public hearing prior to drafting an ordinance to ensure all stakeholders are heard – neighbors, business owners, and any affected parties.
2. Staff review ordinances from other Florida municipalities and how these smaller residential communities have had success in dealing with issues that arise out of short-term rentals.
3. The Village Attorney and staff narrow the focus of the ordinance to actual issues that the Village is experiencing and review any additional issues arising in neighboring cities to include: excess number of occupants, commercial events including large parties in residential zoned areas, excessive noise, parking issues, and littering.
4. After holding a public hearing, I recommend the Commission direct the Village Attorney to propose draft an ordinance regulating short term rentals in the Village and resolution with proposed changes to the Village’s fee schedule to incorporate the fines for enforcement.

### **Resource Impact**

Attorney research and time to draft the ordinance. Expense of advertising public hearings on the proposed ordinance.

### **Attachment(s)**

1. Florida League of Cities 2019 Legislative Brief on Short Term Rentals
2. Florida Attorney General Opinion 2019-07
3. Applicable Florida Statutes
4. Section 33-28 of the Miami-Dade County Code of Ordinances
5. F.A.C. 61C-1.002(4)(a)
6. Copy of Florida DBPR Vacation Rental Dwelling Application



# 2019 Legislative Issue Briefs



## Short-Term Rentals

### Statement:

The Florida League of Cities SUPPORTS legislation that restores local zoning authority with respect to short-term rental properties, thereby preserving the integrity of Florida's residential neighborhoods and communities. The Florida League of Cities OPPOSES legislation that preempts municipal authority as it relates to the regulation of short-term rental properties.

### Background:

In 2011, the Florida Legislature prohibited cities from regulating short-term vacation rentals. A short-term vacation rental is defined as a property that is rented more than three times a year for less than 30 days at a time. The legislation passed in 2011 included a provision that "grandfathered" any ordinance regulating short-term rentals prior to June 1, 2011. Since that time, a number of cities, both "grandfathered" cities and those that did not have an ordinance in place, have experienced problems with these properties. The effect of the 2011 law is that two separate classes of cities were created respective to short-term rentals, those with Home Rule authority and those without.

In 2014, the Legislature passed SB 356 (Thrasher), which diminished the preemption on short-term rentals. The 2014 law allows local governments to adopt ordinances specific to these rentals so that they can address some of the noise, parking, trash and life-safety issues created by their proliferation in residential neighborhoods. Unfortunately, SB 356 left in place existing statutory language stating that cities cannot "prohibit" short-term rentals or regulate the duration or frequency of the rental.

Those cities fortunate enough to have had an ordinance in place prior to the 2011 preemption are still allowed to regulate short-term rentals, but the question remains whether these ordinances will continue to be valid if amended. Some city attorneys believe these ordinances are "frozen" and any future amendments would cause a loss of the "grandfather." The problem with this is twofold. First, with the rise of popular rental websites like Vacation Rental by Owner (VRBO) and AirBnB making it easier to advertise and rent these properties, the number of properties used as short-term rentals in Florida has exponentially increased in the last four years. Second, as a result of this enormous growth in the rental market, the scope of the problem has changed and ordinances adopted before 2011 may no longer be effective.

It is important to note that many of Florida's larger cities (with a larger professional staff) fell into the grandfathered category. They have retained the ability to regulate these properties through zoning and may have duration and frequency requirements. Some of these cities may want to amend their ordinances to adjust to a changing problem. They are reluctant to do so out of fear of losing their existing ordinance and with it their Home Rule authority relating to short-term rentals. Recognizing that the ordinances on the books are no longer effective, cities want the ability to come up with solutions that work for their respective community, but because of the potential loss of the "grandfather," they are unable to do so. It is important to note that any potential amendments to existing ordinances would be vetted through numerous public hearings that allow neighboring

**Contact:** Casey Cook, Senior Legislative Advocate – 850-701-3609 – [ccook@flcities.com](mailto:ccook@flcities.com)

homeowners, short-term rental owners, property managers and local businesses to weigh in on proposed legislation.

Cities without short-term rental regulations in place prior to June 1, 2011, have had their zoning authority stripped and are now seeing these rentals completely overtaking residential neighborhoods. Long-time residents are moving out as a result, and the residential character of traditional neighborhoods is slowly being destroyed.

The impacts of problematic short-term rentals on neighboring residents are felt in a number of ways:

#### The Hotel Next Door – Commercial Activity in Residential Neighborhoods

Houses that sleep 26 people are now present in what were once traditional neighborhoods. Because of the inability to regulate the duration of a renter's stay, these houses could experience weekly, daily or even hourly turnover. Obviously, the constant turnover of renters creates a number of issues for cities and neighboring property owners. Prior to the preemption, local governments were able to regulate this activity through zoning. Short-term rentals have become increasingly popular in the last five years. Because a city cannot "prohibit" these properties, they are powerless to exclude them from residential neighborhoods. As a result, investors, many of whom are located out of state or even in a different country, have purchased or built single-family homes with the sole intent of turning them into short-term rentals.

Cities use zoning as a tool to prepare for their future growth and also use it to control where commercial and residential properties are located. Hotels have different infrastructure needs than single-family residential properties. As residential neighborhoods are developed, the infrastructure installed is designed for the future use of the properties. Many neighborhoods have infrastructure in place with capacity for up to eight people per house. Now there are houses in these very same neighborhoods that sleep more people than the number originally planned for, placing a significant strain on existing infrastructure. Commercial properties like bars, hotels and restaurants typically need more parking than a single-family property, as well as have different operating hours and experience greater noise levels. The current law removes important land use and zoning tools that will impact how a city plans for future growth and levels of service.

#### Noise Complaints

In areas where short-term rentals are situated, many neighboring residents complain of the noise generated by the vacationing renters next door. When people go on vacation, often their behavior changes. They may stay awake later, consume more alcoholic beverages throughout the day, or participate in recreational activities that they would not participate in while at their own homes, such as swimming at midnight with music blaring. For those homes located near water, a lake or the ocean, it is important to note that sound travels easily over water – and residents located hundreds of yards away may be the ones calling and complaining to the police and their local elected officials.

Some cities have noise ordinances, but these have proved problematic to enforce. One such example is Lighthouse Point. Its ordinance requires sustained noise over a certain decibel threshold for 10 minutes. Many times after the police arrive at a residence, the noise dies down. These renters may leave the next day with new ones replacing them. The new renters are often unaware of the noise ordinance or past complaints and may cause the same problems. The out-of-state property owner may not even be aware of the problems created by their renters and with the constant turnover. The

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problem ends as one renter leaves and begins again as new renters arrive. This causes a significant drain on law enforcement resources. When law enforcement officers are called to respond to noise complaints, one less officer is on the street either preventing or solving crimes.

### Parking

Many short-term rentals are located in single-family neighborhoods. In most cases, the driveway was built to accommodate two or three vehicles. When you now have a renovated house that acts as a small hotel, there will be more than three cars needed to get these renters to the property. This leads to cars that are parked on the street, making it difficult for emergency vehicles to respond to emergencies and causes increased response times in these neighborhoods. Cities have begun to adopt ordinances creating parking standards for short-term rental properties. Unfortunately, these ordinances only solve the parking issue but fail to address any of the other issues created by this commercial activity in residential areas.

### Revenue Issues

As stated earlier, a property rented more than three times a year for less than 30 days at a time meets the vacation rental definition and should be licensed by the state. The Department of Business and Professional Regulation (DBPR) is tasked with investigating unlicensed vacation rentals but lacks the resources needed to fully investigate every complaint. Unlicensed vacation rentals could be costing Florida millions of dollars each year from lost licensing revenue.

Licensed short-term vacation rentals and hotels are also required to charge a sales tax to renters and then remit this back to the state. Many licensed and unlicensed vacation rentals are not doing this. The Florida Department of Revenue (DOR) has limited resources and cannot adequately monitor these transactions, costing the state millions of dollars in lost revenue. Similarly, short-term rental owners in some counties are required to collect and remit the tourist development tax to the state. DOR is often unable to track down the vacation rental owners who are not paying the tourist development tax.

The Legislature began the conversation on short-term rentals in 2014, and the Florida League of Cities supported both HB 307 (Hutson) and SB 356 (Thrasher). The bills were a step in the right direction, but they only partially restored Home Rule to Florida's cities. Cities are still prevented from regulating the duration and frequency of the rentals, and local zoning does not apply to these properties. Without the ability to regulate these key areas, local governments will not be able to adequately address the problems associated with these properties.

### **Status:**

There have been several short-term rental bills filed for the 2019 legislative session.

### **SB 824 (Diaz) and HB 987 (J. Grant) – Oppose**

- Preempt to the state the regulation of vacation rentals
- Any ordinances (noise, parking, trash, etc.), must apply to all residential properties, regardless of how the property is being used
- Local governments cannot prohibit rentals (not just STRs), impose occupancy limits on rental properties, or require inspections or licensing of rentals (specific to STRs)
- Create a process where city must prove by clear and convincing evidence that their ordinance or regulation complies with this section

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- **Remove the grandfather clause; also potentially jeopardizes HOA restrictions**
- Require applicants for STR license to provide name, address, phone number, and email to Department of Business and Professional Regulation (DBPR) who must make this available to the public on the division's website.

### **SB 812 (Simmons) and SB 814 (Simmons) – Support**

- Requires short-term rental (STR) registration to be displayed in the establishment and the registration number to be included in any listing or advertisement
- Defines “commercial vacation rental”: five or more units under common ownership
- Defines “hosting platform”
- Clarifies that rental units, in whole or in part, and advertised for rental periods for less than 30 days, are classified as STRs
- Requires the Department of Business and Professional Regulation (DBPR) to inspect commercial vacation rentals at least biannually
- Requires that non-commercial STRs must be made available for inspection upon request
- Requires that local governments treat all residential properties the same, regardless of use...but there's an exception...In single family residences where the owner is not occupying a portion of the property where the rental activity is taking place (home sharing), local governments can adopt specific regulations to the rental
- Requires that STR owners give the city a copy of their state license and the owner's emergency contact information. Cities can't charge for this information.
- Says that grandfathered cities can amend their ordinances if it's the changes are “less restrictive”
- Says that DBPR can refuse to issue or renew, or suspend or revoke, the license of any public lodging establishment that is the subject of a final order from a local government directing the establishment to cease operations due to a violation of a local ordinance
- Requires any advertisements to list the license number, and the ad must also include the physical address of the property
- Adds several new requirements on hosting platforms including a prohibition on facilitating a rental if the property has not been licensed by DBPR
- Requires the hosting platform to maintain rental records of every property advertised on the platform and requires DBPR to audit at least annually, with penalties for noncompliance or failed audits.

### **SB 1196 (Mayfield) – Support**

- Defines “hosting platform,” and provides for more accountability of the platforms
- Requires Department of Business and Professional Regulation (DBPR) to collect information relating to the bookings of each short-term rental and share this information with cities upon request
- Expands definition of transient public lodging establishment to include “group of units in a dwelling”
- Requires a license to be displayed inside the STR and the license number to be included in all advertising
- Prohibits platform from facilitating a booking transaction unless the operator has consented to the disclosure of the required information

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- Requires hosting platform to remove noncompliant ads within three business days of DBPR's notification
- Requires DBPR to revoke, refuse to issue, or renew a short-term rental license when the subject property violates the terms of an applicable lease or property restriction OR the agency determines that the operation of a short-term rental violates a local law, ordinance or regulation.

**SB 1720** (Lee) and **HB 1383** (Grant) would significantly amend the Bert J. Harris Act. These bills could have a serious impact on local government operations and expose cities and counties to substantial liability, especially for those who receive a flurry of Harris Act claims relating to vacation rental ordinances. For more information on this set of bills see FLC's Issue Brief on Private Property Rights "Bert Harris Act".

**Revised:** 3/21/2019

# Florida Attorney General Advisory Legal Opinion

**Number: AGO 2019-07**

**Date: August 16, 2019**

**Subject: Vacation rentals, municipalities, grandfather provision**

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Jennifer C. Rey, Esq.  
The Hogan Law Firm, as City Attorney  
20 South Broad Street  
Brooksville, Florida 34601

RE: VACATION RENTALS – MUNICIPALITIES – LOCAL GOVERNMENT – preserving grandfathered status under preemption provision when changing zoning district. § 509.032(7)(b), Fla. Stat.

Dear Ms. Rey:

This office has received your letter on behalf of the of the Crystal River City Council requesting an opinion regarding the effect of an amendment to the City's zoning laws in the area of vacation rentals.

May a City change its table of permitted uses for zoning districts to allow vacation rentals within districts in which they were not allowed under the City's pre-2011 ordinance, and still preserve the "grandfathered" status of its pre-2011 ordinance under section 509.032(7)(b), Florida Statutes (2018)?

In sum:

Amending an ordinance that was enacted prior to June 1, 2011, will not invalidate the grandfathering protection for those provisions that are reenacted, but new provisions would be preempted if they revise such language in a manner that would regulate the duration or frequency of rental of vacation rentals, even when such regulation would be considered "less restrictive" than the prior local law.

You indicate that the table of permitted uses in the City's Land Development Code enacted in 2005 permits resort housing units only in the City's Commercial Waterfront zoning district.[1] "Resort housing units" are defined in section 1.07.00 as dwelling units that are made available for occupancy for less than three months. Section 5.05.13 describes the permitted use as follows:

- A. Resort housing units are permissible in the CW zoning district, subject to the district standards and the supplemental standards set forth below.
- B. Nightly rentals or rentals of less than a one-week period are not permitted.
- C. Density for resort housing units shall not exceed twelve (12) units per acre.
- D. Resort housing units may be managed by the individual unit owner or by a property management company. An occupational license is required for the manager, whether an individual owner with a single unit, or a property management company.

**Section 509.032(7)(b), Florida Statutes, provides:**

**A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.**

**Section 509.032(7)(b) allows the City to regulate vacation rentals so long as such regulation does not prohibit them or limit the duration or frequency of rental.[2] You ask,**

however, whether enactment of a less restrictive ordinance that would permit vacation rentals where they are now prohibited, by allowing resort housing units in other zoning districts, would eliminate the grandfathered protection of remaining ordinances that deal with vacation rentals.

When a law is amended, provisions of the original law that are essentially and materially unchanged are considered to be a continuation of the original law. “The provisions of the original act or section reenacted by amendment are the law since they were first enacted, and provisions introduced by the amendment are considered to have been enacted at the time the amendment took effect. Thus, rights and liabilities accrued under the original act which are reenacted are not affected by amendment.”[3] As stated by the Florida Supreme Court, this general rule “sometimes becomes important, where rights had accrued before the revision or amendment took place.”[4]

[W]here a statute has been repealed and substantially re-enacted by a statute which contains additions to or changes in the original statute, the re-enacted provisions are deemed to have been in operation continuously from the original enactment whereas the additions or changes are treated as amendments effective from the time the new statute goes into effect.[5]

This principle was operative in a recent case involving vacation rentals, *City of Miami v. Airbnb*. In the course of deciding the case, the Third District observed that a 2017 resolution interpreting zoning ordinances that prohibited short-term rentals in a suburban/residential zone was not preempted, because it was “identical in its material provisions” to the zoning code the City had enacted in 2009. In contrast, “to the extent the City’s 2015 Zoning Interpretation goes beyond the restrictions in [the 2009 ordinance], the Interpretation is preempted under section 509.032(7)(b).”[6]

Provisions in your amended ordinances that are essentially unchanged from the prior ordinances are deemed to have been in operation since 2005 and, thus, continue to be exempt from the preemption provision of section 509.032(7)(b), Florida Statutes. New provisions that act to prohibit vacation rentals that were not previously prohibited, or that “regulate”[7] the duration and frequency of vacation rentals, even if such provisions are less restrictive than the earlier provisions, are preempted by the statute. Changing the table of permitted uses to reflect that “resort housing units” would also be permitted in other zoning districts would conceivably expand the areas in which vacation rentals could be operated. But the duration and frequency restrictions in section 5.05.13(B), which would then apply to those zoning districts, would “regulate” resort housing units operated as vacation rentals.[8] Because the “resort housing unit” land use classification expressly regulates, and restricts, the duration or frequency of rentals of residential property that could be considered “vacation rentals,” amending the City’s table of permitted uses to permit resort housing units in other zoning districts would violate section 509.032(7)(b).

Sincerely,

Ashley Moody  
Attorney General

[1] Section 2.03.02, Code of Ordinances, City of Crystal River, Florida, Appendix A – Land Development Code.

[2] See Att’y Gen. Op. Fla. 2016-12 (quoting from House of Representatives Final Bill Analysis, CS/CS/CS/HB 883, dated June 28, 2011).

[3] Norman Singer, 1A Sutherland Statutory Construction §22:33 (7th ed. Nov. 2018 update).

[4] Perry v. Consolidated Special Tax School Dist. No 4, 89 Fla. 271, 276, 103 So. 639, 641 (1925) (quoting Cooley's Const. Lim., at 96-97 (7th ed.)). Accord Orange County v. Robinson, 111 Fla. 402, 405, 149 So. 604, 605 (1933).

[5] McKibben v. Mallory, 293 So. 2d 48, 53 (Fla. 1974). Accord Venice HMA, LLC v. Sarasota Cty., 228 So. 3d 76, 83 (Fla. 2017).

[6] City of Miami v. Airbnb, 260 So. 3d 478, 482 (Fla. 3d DCA 2018).

[7] Black's Law Dictionary defines the word "regulate" to mean, in pertinent part: "To control (an activity or process) esp. through the implementation of rules." BLACK'S LAW DICTIONARY (11th ed. 2019).

[8] I note that section 5.05.13(A) of the City's Land Development Code also expressly restricts resort housing units to the CW zoning district.

## The 2019 Florida Statutes

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Title XXXIII  
REGULATION OF TRADE, COMMERCE, INVESTMENTS,  
AND SOLICITATIONS

Chapter 509  
LODGING AND FOOD SERVICE ESTABLISHMENTS;  
MEMBERSHIP CAMPGROUNDS

[View Entire  
Chapter](#)

### **509.242 Public lodging establishments; classifications.—**

(1) A public lodging establishment shall be classified as a hotel, motel, nontransient apartment, transient apartment, bed and breakfast inn, timeshare project, or vacation rental if the establishment satisfies the following criteria:

(a) *Hotel.*—A hotel is any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally provided by a hotel and recognized as a hotel in the community in which it is situated or by the industry.

(b) *Motel.*—A motel is any public lodging establishment which offers rental units with an exit to the outside of each rental unit, daily or weekly rates, offstreet parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit, and at least six rental units, and which is recognized as a motel in the community in which it is situated or by the industry.

(c) *Vacation rental.*—A vacation rental is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.

(d) *Nontransient apartment.*—A nontransient apartment is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.

(e) *Transient apartment.*—A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.

(f) *Bed and breakfast inn.*—A bed and breakfast inn is a family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a bed and breakfast inn, and which is recognized as a bed and breakfast inn in the community in which it is situated or by the hospitality industry.

(g) *Timeshare project.*—A timeshare project is a timeshare property, as defined in chapter 721, that is located in this state and that is also a transient public lodging establishment.

(2) If 25 percent or more of the units in any public lodging establishment fall within a classification different from the classification under which the establishment is licensed, such establishment shall obtain a separate license for the classification representing the 25 percent or more units which differ from the classification under which the establishment is licensed.

(3) A public lodging establishment may advertise or display signs which advertise a specific classification, if it has received a license which is applicable to the specific classification and it fulfills the requirements of that classification.

*History.*—s. 2, ch. 57-824; s. 2, ch. 61-81; ss. 16, 35, ch. 69-106; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 19, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 26, 51, 52, ch. 90-339; s. 11, ch. 91-40; s. 4, ch. 91-429; s. 9, ch. 93-53; s. 12, ch. 96-384; s. 7, ch. 2008-55; s. 5, ch. 2011-119; s. 2, ch. 2012-165; s. 5, ch. 2014-133.

## The 2019 Florida Statutes

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[Title XXXIII](#)  
REGULATION OF TRADE, COMMERCE, INVESTMENTS,  
AND SOLICITATIONS

[Chapter 509](#)  
LODGING AND FOOD SERVICE ESTABLISHMENTS;  
MEMBERSHIP CAMPGROUNDS

[View Entire  
Chapter](#)

### 509.032 Duties.—

(1) GENERAL.—The division shall carry out all of the provisions of this chapter and all other applicable laws and rules relating to the inspection or regulation of public lodging establishments and public food service establishments for the purpose of safeguarding the public health, safety, and welfare. The division shall be responsible for ascertaining that an operator licensed under this chapter does not engage in any misleading advertising or unethical practices.

#### (2) INSPECTION OF PREMISES.—

(a) The division has jurisdiction and is responsible for all inspections required by this chapter. The division is responsible for quality assurance. The division shall inspect each licensed public lodging establishment at least biannually, except for transient and nontransient apartments, which shall be inspected at least annually. Each establishment licensed by the division shall be inspected at such other times as the division determines is necessary to ensure the public's health, safety, and welfare. The division shall adopt by rule a risk-based inspection frequency for each licensed public food service establishment. The rule must require at least one, but not more than four, routine inspections that must be performed annually, and may include guidelines that consider the inspection and compliance history of a public food service establishment, the type of food and food preparation, and the type of service. The division shall reassess the inspection frequency of all licensed public food service establishments at least annually. Public lodging units classified as vacation rentals or timeshare projects are not subject to this requirement but shall be made available to the division upon request. If, during the inspection of a public lodging establishment classified for renting to transient or nontransient tenants, an inspector identifies vulnerable adults who appear to be victims of neglect, as defined in s. [415.102](#), or, in the case of a building that is not equipped with automatic sprinkler systems, tenants or clients who may be unable to self-preserve in an emergency, the division shall convene meetings with the following agencies as appropriate to the individual situation: the Department of Health, the Department of Elderly Affairs, the area agency on aging, the local fire marshal, the landlord and affected tenants and clients, and other relevant organizations, to develop a plan that improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements such as facilities licensed under part II of chapter 400 or under chapter 429.

(b) For purposes of performing required inspections and the enforcement of this chapter, the division has the right of entry and access to public lodging establishments and public food service establishments at any reasonable time.

(c) Public food service establishment inspections shall be conducted to enforce provisions of this part and to educate, inform, and promote cooperation between the division and the establishment.

(d) The division shall adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness in those establishments licensed under this chapter. These rules shall provide the standards and requirements for obtaining, storing, preparing, processing, serving, or displaying food in public food service establishments, approving public food service establishment facility plans, conducting necessary public food service establishment inspections for compliance with sanitation regulations, cooperating and coordinating with the Department of Health in epidemiological investigations, and initiating enforcement actions, and for other such responsibilities deemed necessary by the division. The division may not establish by rule any regulation governing the design, construction, erection, alteration, modification, repair, or demolition of any public lodging or public food service establishment. It is the intent of the Legislature to preempt that function to the Florida Building Commission and the State Fire Marshal through adoption and maintenance of the Florida Building Code and the Florida Fire Prevention Code. The division shall provide technical assistance to the commission in updating the construction standards of the Florida Building Code which govern public lodging and public food service establishments. Further, the division shall enforce the provisions of the Florida Building Code which apply to public lodging and public food service establishments in conducting any inspections authorized by this part. The division, or its agent, shall notify the local firesafety authority or the State Fire Marshal of any readily observable violation of a rule adopted under chapter 633 which relates to public lodging establishments or public food establishments, and the identification of such violation does not require any firesafety inspection certification.

(e)1. Relating to facility plan approvals, the division may establish, by rule, fees for conducting plan reviews and may grant variances from construction standards in hardship cases, which variances may be less restrictive than the provisions specified in this section or the rules adopted under this section. A variance may not be granted pursuant to this section until the division is satisfied that:

- a. The variance shall not adversely affect the health of the public.
- b. No reasonable alternative to the required construction exists.
- c. The hardship was not caused intentionally by the action of the applicant.

2. The division's advisory council shall review applications for variances and recommend agency action. The division shall make arrangements to expedite emergency requests for variances, to ensure that such requests are acted upon within 30 days of receipt.

3. The division shall establish, by rule, a fee for the cost of the variance process. Such fee shall not exceed \$150 for routine variance requests and \$300 for emergency variance requests.

(f) In conducting inspections of establishments licensed under this chapter, the division shall determine if each coin-operated amusement machine that is operated on the premises of a licensed establishment is properly registered with the Department of Revenue. Each month the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed establishment that has on location a coin-operated amusement machine and that does not have an identifying certificate conspicuously displayed as required by s. 212.05(1)(h).

(g) In inspecting public food service establishments, the department shall notify each inspected establishment of the availability of the food-recovery brochure developed under s. 595.420.

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(a) Prescribe sanitary standards which shall be enforced in public food service establishments.

(b) Inspect public lodging establishments and public food service establishments whenever necessary to respond to an emergency or epidemiological condition.

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013(5)(b), a public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events.

(4) STOP-SALE ORDERS.—The division may stop the sale, and supervise the proper destruction, of any food or food product when the director or the director's designee determines that such food or food product represents a threat to the public safety or welfare. If the operator of a public food service establishment licensed under this chapter has received official notification from a health authority that a food or food product from that establishment has potentially contributed to any instance or outbreak of food-borne illness, the food or food product must be maintained in safe storage in the establishment until the responsible health authority has examined, sampled, seized, or requested destruction of the food or food product.

(5) REPORTS REQUIRED.—The division shall submit annually to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees a report, which shall state, but need not be limited to, the total number of active public lodging and public food service licenses in the state, the total number of inspections of these establishments conducted by the division to ensure the enforcement of sanitary standards, the total number of inspections conducted in response to emergency or epidemiological conditions, the number of violations of each sanitary standard, the total number of inspections conducted to meet the statutorily required number of inspections, and any recommendations for improved inspection procedures. The division shall also keep accurate account of all expenses arising out of the performance of its duties and all fees collected under this chapter. The report shall be submitted by September 30 following the end of the fiscal year.

(6) RULEMAKING AUTHORITY.—The division shall adopt such rules as are necessary to carry out the provisions of this chapter.

**(7) PREEMPTION AUTHORITY.—**

(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

**(b) A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.**

(c) Paragraph (b) does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.

History.—ss. 1, 2, 9, ch. 6952, 1915; RGS 212, 213, 2130; s. 2, ch. 9264, 1923; CGL 245, 246, 3359; ss. 3, 4, ch. 16042, 1933; CGL 1936 Supp. 245, 246; s. 9, ch. 26945, 1951; s. 1, ch. 28129, 1953; ss. 1, 8, ch. 29821, 1955; s. 1, ch. 57-389; s. 1, ch. 63-420; ss. 12, 16, 35, ch. 69-106; s. 2, ch. 73-325; s. 135, ch. 73-333; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 39, 42, ch. 79-240; ss. 1, 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 3, 51, 52, ch. 90-339; s. 2, ch. 91-40; s. 4, ch. 91-429; s. 22, ch. 92-180; s. 2, ch. 93-53; s. 35, ch. 93-216; s. 19, ch. 94-314; s. 4, ch. 95-416; s. 137, ch. 95-418; s. 3, ch. 96-384; s. 1165, ch. 97-103; s. 1, ch. 98-275; s. 4, ch. 98-283; s. 246, ch. 99-8; s. 47, ch. 2000-141; s. 47, ch. 2000-154; s. 109, ch. 2000-349; s. 34, ch. 2001-186; s. 3, ch. 2001-372; s. 11, ch. 2002-48; s. 1, ch. 2002-299; s. 96, ch. 2006-197; s. 2, ch. 2008-55; s. 3, ch. 2008-134; s. 2, ch. 2011-119; s. 76, ch. 2012-96; s. 1, ch. 2013-147; s. 146, ch. 2013-183; s. 1, ch. 2014-71; s. 2, ch. 2014-133; s. 48, ch. 2014-150; s. 66, ch. 2015-2; s. 1, ch. 2015-143; s. 2, ch. 2016-86.

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**509.271** Prerequisite for issuance of municipal or county occupational license.—A municipality or county may not issue an occupational license to any business coming under the provisions of this chapter until a license has been procured for such business from the division.

History.—s. 49, ch. 16042, 1933; CGL 1936 Supp. 3355(1); s. 7, ch. 29821, 1955; ss. 16, 35, ch. 69-106; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 22, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 29, 51, 52, ch. 90-339; s. 4, ch. 91-429.

Note.—Former s. 511.04.

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### **509.241 Licenses required; exceptions.—**

(1) **LICENSES; ANNUAL RENEWALS.**—Each public lodging establishment and public food service establishment shall obtain a license from the division. Such license may not be transferred from one place or individual to another. It shall be a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#), for such an establishment to operate without a license. Local law enforcement shall provide immediate assistance in pursuing an illegally operating establishment. The division may refuse a license, or a renewal thereof, to any establishment that is not constructed and maintained in accordance with law and with the rules of the division. The division may refuse to issue a license, or a renewal thereof, to any establishment an operator of which, within the preceding 5 years, has been adjudicated guilty of, or has forfeited a bond when charged with, any crime reflecting on professional character, including soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in controlled substances as defined in chapter 893, whether in this state or in any other jurisdiction within the United States, or has had a license denied, revoked, or suspended pursuant to s. [429.14](#). Licenses shall be renewed annually, and the division shall adopt a rule establishing a staggered schedule for license renewals. If any license expires while administrative charges are pending against the license, the proceedings against the license shall continue to conclusion as if the license were still in effect.

(2) **APPLICATION FOR LICENSE.**—**Each person who plans to open a public lodging establishment or a public food service establishment shall apply for and receive a license from the division prior to the commencement of operation.** A condominium association, as defined in s. [718.103](#), which does not own any units classified as vacation rentals or timeshare projects under s. [509.242](#)(1)(c) or (g) is not required to apply for or receive a public lodging establishment license.

(3) **DISPLAY OF LICENSE.**—Any license issued by the division shall be conspicuously displayed in the office or lobby of the licensed establishment. Public food service establishments which offer catering services shall display their license number on all advertising for catering services.

**History.**—ss. 3-5, 8, ch. 6952, 1915; RGS 2124-2126, 2129; ss. 3, 4, ch. 9264, 1923; s. 6, ch. 12053, 1927; CGL 3353-3355, 3358; s. 1, ch. 13659, 1929; ss. 6-8, 13, ch. 16042, 1933; CGL 1936 Supp. 3353, 3354; s. 1, ch. 23930, 1947; ss. 5, 6, ch. 29821, 1955; s. 1, ch. 29820, 1955; s. 9, ch. 57-389; s. 1, ch. 57-824; s. 1, ch. 61-81; s. 1, ch. 67-507; ss. 16, 35, ch. 69-106; s. 4, ch. 70-281; s. 480, ch. 71-136; s. 6, ch. 71-157; s. 19, ch. 73-325; s. 20, ch. 75-233; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 17, ch. 78-336; s. 1, ch. 78-343; ss. 18, 20, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; s. 389, ch. 81-259; ss. 2, 3, ch. 81-318; s. 4, ch. 86-174; s. 23, ch. 89-294; ss. 25, 51, 52, ch. 90-339; s. 10, ch. 91-40; s. 4, ch. 91-429; s. 97, ch. 2006-197; s. 4, ch. 2011-119; s. 4, ch. 2014-133.

**Note.**—Former ss. 511.01-511.03, 511.10.

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**509.285** Enforcement; city and county officers to assist.—Any state or county attorney, sheriff, police officer, and any other appropriate municipal and county official shall, upon request, assist the division or any of its agents in the enforcement of this chapter.

History.—ss. 31, 52, ch. 90-339; s. 4, ch. 91-429.

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**509.013 Definitions.**—As used in this chapter, the term:

- (1) “Division” means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.
- (2) “Operator” means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.
- (3) “Guest” means any patron, customer, tenant, lodger, boarder, or occupant of a public lodging establishment or public food service establishment.
- (4)(a) “Public lodging establishment” includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.
  1. “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.
  2. “Nontransient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

License classifications of public lodging establishments, and the definitions thereof, are set out in s. [509.242](#). For the purpose of licensure, the term does not include condominium common elements as defined in s. [718.103](#).

(b) The following are excluded from the definitions in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. [381.0072](#).
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent.
5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. [381.008-381.00895](#).
6. Any establishment inspected by the Department of Health and regulated by chapter 513.
7. Any nonprofit organization that operates a facility providing housing only to patients, patients’ families, and patients’ caregivers and not to the general public.
8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department’s behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.
9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. [509.242](#).

(5)(a) “Public food service establishment” means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in s. [381.0072\(2\)](#), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

(b) The following are excluded from the definition in paragraph (a):

1. Any place maintained and operated by a public or private school, college, or university:
  - a. For the use of students and faculty; or
  - b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.
2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:
  - a. For the use of members and associates; or
  - b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Upon request by the division, a church or a religious, nonprofit fraternal, or nonprofit civic organization claiming an exclusion under this subparagraph must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization. Upon request by the division, the event host must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

4. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.

5. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. [381.0072](#).

6. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. [500.12](#).

7. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.

8. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

9. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.

10. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. [381.0072](#).

11. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

(6) "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(7) "Single complex of buildings" means all buildings or structures that are owned, managed, controlled, or operated under one business name and are situated on the same tract or plot of land that is not separated by a public street or highway.

(8) "Temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.

(9) "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

(10) "Third-party provider" means, for purposes of s. [509.049](#), any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

**(11) "Transient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.**

(12) "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

(13) "Transient" means a guest in transient occupancy.

(14) "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole residence of the guest.

(15) "Nontransient occupancy" means occupancy when it is the intention of the parties that the occupancy will not be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

(16) "Nontransient" means a guest in nontransient occupancy.

History.—s. 1, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 1, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; s. 2, ch. 83-241; s. 3, ch. 87-117; s. 31, ch. 88-90; s. 2, ch. 88-275; ss. 2, 51, 52, ch. 90-339; s. 1, ch. 91-40; s. 4, ch. 91-429; s. 21, ch. 92-180; s. 1, ch. 93-53; s. 14, ch. 93-133; s. 36, ch. 94-180; s. 202, ch. 94-218; s. 42, ch. 95-210; s. 3, ch. 95-314; s. 2, ch. 96-384; s. 245, ch. 99-8; s. 7, ch. 2004-292; s. 1, ch. 2008-55; s. 25, ch. 2010-161; s. 1, ch. 2011-119; s. 1, ch. 2012-165; s. 275, ch. 2014-19; s. 1, ch. 2014-133; s. 1, ch. 2016-86; s. 2, ch. 2016-120.

### **61C-1.002 Licensing and Inspection Requirements.**

(1) The current license from the division shall be conspicuously displayed in the office or lobby of the licensed establishment. If no office or lobby is present on the premises of the licensed establishment, the license must be readily available for inspection upon request.

(2) To apply for licensure, an applicant must submit the appropriate application and the required fee, pursuant to section 509.251, F.S., and rule 61C-1.008, F.A.C., to the division. Any license fee received by the division is non-refundable once the establishment commences operation.

#### **(a) License Applications.**

1. Public lodging establishments, except vacation rentals and timeshare projects, required to be licensed by the division, under chapter 509, F.S., must submit DBPR HR-7027, Application for Public Lodging Establishment License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09612>), incorporated herein by reference and effective 2018 August.

2. Vacation rentals and timeshare projects required to be licensed by the division under chapter 509, F.S., must submit DBPR HR-7028, Application for Vacation Rental or Timeshare Project License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06283>), incorporated herein by reference and effective 2015 December 1.

3. Public food service establishments required to be licensed by the division under chapter 509, F.S., must submit one of the following applications, as appropriate to the establishment.

a. DBPR HR-7007, Application for Public Food Service Establishment License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08358>), incorporated herein by reference and effective 2017 June.

b. DBPR HR-7030, Application for Public Food Service Establishment License with Plan Review (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08359>), incorporated herein by reference and effective 2017 June.

c. DBPR HR-7031, Application for Mobile Food Dispensing Vehicle License with Plan Review (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08360>), incorporated herein by reference and effective 2017 June.

4.a. Temporary public food service establishments required to be licensed by the division under Chapter 509, F.S., must complete DBPR Form HR 5021-029, Temporary Event Vendor Receipt, Application and Inspection (<https://www.flrules.org/Gateway/reference.asp?No=Ref-04024>), incorporated herein by reference and effective 2014 March 24. The division will provide a copy of this application at the time of inspection.

b. Pursuant to section 559.79(1), F.S., the application shall require the name, address and social security number of each person who owns 10 percent or more of the outstanding stock or equity interest in the licensed activity. The division shall keep the social security number of each person reported on the application confidential, except in accordance with section 559.79(3), F.S., and as provided in law with other governmental agencies.

c. Pursuant to section 213.0535, F.S., the application shall require the federal employer identification number and sales tax identification number of the applicant. The division shall keep such numbers confidential except as provided in conjunction with the Registration Information Sharing and Exchange Program and as provided in law with other governmental agencies.

(3) Upon the division determining that each new application for license or application for change of ownership is complete, the establishment shall pass an opening inspection by the division prior to issuance of the license. An opening inspection shall not be required for vacation rentals, timeshare projects or vending machines. An opening inspection shall not be required for a change of ownership for public food service establishments that do not require a plan review if within 120 days prior to the postmark date on the application the establishment had a satisfactory inspection that did not result in administrative action or require a call-back inspection.

(4) Public lodging establishments as defined in section 509.013(4), F.S., are licensed in accordance with the classifications in section 509.242, F.S., and:

**(a) Transient establishments – are licensed as hotels, motels, transient apartments, bed and breakfast inns, vacation rentals and timeshare projects. Vacation rentals are further classified as condominiums or dwellings. A vacation rental condominium license will be issued for a unit or group of units in a condominium or cooperative. A vacation rental dwelling license will be issued for a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively.**

1. Vacation rental and timeshare project licenses will be issued as a single, group, or collective license pursuant to section 509.251, F.S., to either an individual person or to a licensed agent. For the purpose of this rule, “licensed agent” means the operator of a management company that has been licensed by the dwelling or unit owner, through a rental agreement or contract between the

two parties, to hold out the dwelling or unit for rent on a transient basis. A licensed agent is not required to hold a license from the Division of Real Estate.

a. A single license is a license issued by the division to an individual person or entity, but not a licensed agent. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity.

b. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A group license shall only cover those units which are held out to the public as a place regularly rented to guests as defined in chapter 509, F.S.

c. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations. A collective license may not be issued for more than 75 houses or units per license and is restricted to counties within one district.

## 2. Responsibilities of Vacation Rental and Timeshare Project Licensees.

a. For inspection purposes, the licensee or operator shall, upon request, meet the inspector at the site of a specified establishment with keys to the licensed house or unit being inspected.

b. The licensee or operator shall notify the division of any and all houses or units represented for inclusion in the license application. Anytime a change occurs in the street or unit address or number of houses or units included under the license, the licensee or operator shall notify the division of any and all houses or units included in the license at least 60 days prior to the expiration date of the license. In addition, a list of the included houses or units shall be maintained in a written form for inspection by request.

c. Failure to fulfill any of the responsibilities of the licensee set forth in sub-subparagraphs a. and b., above, constitutes failure to make the premises available for inspection.

d. In the case of a single license, the licensee shall be responsible for all violations pursuant to chapter 509, F.S., and chapters 61C-1 and 61C-3, F.A.C.

e. In the case of a collective license or group license, the authorized agent shall be responsible for all violations pursuant to chapter 509, F.S., and chapters 61C-1 and 61C-3, F.A.C., if violations occurred while the dwelling or unit was listed under the licensed agent or as reflected in records filed with the division.

(b) Nontransient establishments – are licensed as nontransient apartments.

(c) For all public lodging establishments except vacation rentals and timeshare projects, the operator is required to notify the division immediately of any changes in the number of rental units.

(5) Public food service establishments, as defined in section 509.013(5), F.S., are licensed in accordance with the following classifications and requirements:

(a) Nonseating:

1. Permanent – Permanent nonseating establishments are classified as those fixed public food service establishments for which the sole service provided is intended as take-out or delivery, or which do not otherwise provide accommodations for consumption of food by guests on the premises, or premises under the control of the operator. For the purposes of this section, establishments located at food courts and malls are classified in this manner as long as seating is not provided within the premises of the establishment itself.

2. Mobile food dispensing vehicle – Mobile food dispensing vehicles are classified as any vehicle mounted public food service establishments which are self-propelled or otherwise movable from place to place and include self-contained utilities, such as gas, water, electricity and liquid waste disposal. The owner is responsible for acquainting all operators with the requirements of all applicable laws and rules. All mobile food dispensing vehicles required to have vehicle identification numbers shall submit this number to the division on the application for license. All mobile food dispensing vehicles required to have a commissary under rule 61C-4.0161, F.A.C., must submit DBPR HR-7022, Commissary Notification, to the division upon application for plan review or application for a license, if plan review is not required.

3. Caterer – Caterers are classified as any public food service establishments where food or drink is prepared for service elsewhere in response to an agreed upon contract for a function or event. The term includes catering kitchens. For the purpose of this rule, the term “caterer” does not include those establishments licensed pursuant to chapter 500 or 381, F.S., or any other location where food is provided or displayed for sale by the individual meal. A licensed public food service establishment that also provides catering services is not required to hold a separate catering license from the division. Caterers must meet all applicable standards of a

public food service establishment as provided in rules 61C-1.004, 61C-4.010 and 61C-4.023, F.A.C. Separate independent caterers utilizing the equipment or premises of a licensed public food service establishment are deemed operators as defined by section 509.013(2), F.S., of such public food service establishment and subject to all applicable requirements of law and rule.

4. Temporary public food service establishments and vendors.

a. Temporary public food service establishments are classified as those establishments operated at temporary food service events as defined in section 509.013(8), F.S. If upon inspection the temporary public food service establishment does not meet minimum sanitation standards as provided in chapters 61C-1 and 61C-4, F.A.C., food service operations shall be discontinued until corrections are complete and verified by the division.

b. Public food service establishments that have a current license may operate one facility at a temporary event as part of the existing license. Each additional facility operated by the same licensee must acquire a separate temporary food service event license.

5. Vending machines – Vending machines are classified as any self-service devices licensed pursuant to chapter 509, F.S., which, upon insertion of coin or token, or by other means, dispense unit servings of time/temperature control for safety (potentially hazardous) food, either in bulk or packaged, without the necessity of replenishing the device between each operation. All vending machine owners shall submit the serial number of each vending machine to the division on DBPR HR-7007, Application for Public Food Service Establishment License. The vending machine owner shall maintain an accurate and current list of vending machine locations with the corresponding serial number. This list shall be made available to the division upon request. The division shall coordinate with the vending machine owner to schedule inspections with the assistance of the owner or the owner's agent with the capability to open and demonstrate the machine.

6. Theme park food carts – Theme park food carts are classified as mobile or stationary units which operate within the confines of a theme park or entertainment complex as an extension of or in association with a fixed public food service establishment. Such carts shall be licensed collectively by the entity which maintains and operates them. The entity which maintains and operates any food cart or group of food carts within a theme park or entertainment complex shall acquaint all operators with the requirements of all applicable laws and rules. The operator is required to notify the division immediately of any changes in the number of carts.

7. Culinary education programs – Nonseating culinary education programs are culinary education programs as defined in section 381.0072(2), F.S., which offer, prepare, serve, or sell food to the general public and that do not otherwise provide accommodations for consumption of food by guests on the premises, or premises under the control of the establishment.

(b) Seating:

1. Permanent – Permanent seating establishments are classified as those public food service establishments that provide and maintain accommodations for consumption of food on the premises of the establishment or under the control of the establishment. The operator of the establishment is responsible for providing the number of seats available to the public to the division prior to licensing. Prior to making any changes in the number of seats provided which may affect the license fee, fire safety, or the wastewater disposal system, the operator must report the change to the division by submitting DBPR Form HR 5021-103, Seating Change Evaluation (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00895>), incorporated herein by reference and effective October 22, 2008, or any document obtained from the local authorities having jurisdiction that provides proof the operator obtained approval for the change. A change in the number of seats is not valid until approved by the division. License fees related to a seating change are not due until the license is renewed, unless the seating change is part of a license application.

2. Culinary education programs – Seating culinary education programs are culinary education programs as defined in section 381.0072(2), F.S., which offer, prepare, serve, or sell food to the general public and that provide and maintain accommodations for consumption of food on the premises of the establishment or under the control of the establishment. The operator of the establishment is responsible for providing the number of seats available to the public to the division prior to licensing. Prior to making any changes in the number of seats provided which may affect the license fee, fire safety, or the wastewater disposal system, the operator must report the change to the division by submitting DBPR Form HR 5021-103, Seating Change Evaluation or any document obtained from the local authorities having jurisdiction that provides proof the operator obtained approval for the change. A change in the number of seats is not valid until approved by the division. License fees related to a seating change are not due until the license is renewed, unless the seating change is part of a license application.

(c) Plan Reviews.

1. The operator of each public food service establishment to be newly constructed, remodeled, converted, or reopened after being out of business for more than 12 months shall submit properly prepared facility plans and specifications to the division for review and approval in accordance with the provisions of chapter 509, F.S., and rule chapters 61C-1 and 61C-4, F.A.C. Such plans

must be approved by the division as meeting the sanitation and safety requirements provided in law prior to scheduling of an opening inspection and licensing. For remodeling, plan review submittal is not required if the division can otherwise determine that the intended remodeling will not have an impact on any sanitation and safety requirements provided in law or rule. Plan review is not required for applications for change of ownership when no interruption in operation or no change to the establishment occurs. Plan reviews for additional theme park food carts are not required if such units have been previously reviewed and approved and have no modifications from the originally approved model.

2. The plans and specifications shall indicate the general operation of the establishment; the intended menu items; location of employee and public bathrooms; proposed layout, including all work, guest, and employee areas and storage facilities; construction finishes of work areas; and equipment location, design and installation, including the type of proposed fixed equipment and facilities. Plans and specifications must be submitted by the owner, prospective operator or their designated representative along with DBPR HR-7005, Application for Plan Review (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08356>), incorporated by reference herein and effective 2017 June, or DBPR HR-7030, Application for Public Food Service Establishment License with Plan Review. Plans and specifications, for mobile food dispensing vehicles must be submitted by the owner, prospective operator or their designated representative along with DBPR HR-7006, Mobile Food Dispensing Vehicle Plan Review Application (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08357>), incorporated herein by reference and effective 2017 June, or DBPR HR-7031, Application for Mobile Food Dispensing Vehicle License with Plan Review. The division shall grant or deny approval of the plans in writing pursuant to the provisions of chapter 120, F.S.

3. When the establishment's water source is a well or the sewer source is an onsite sewage treatment and disposal system, applicants for plan review must also submit proof of approval from the Department of Health.

(d) A public food service establishment operating in conjunction with a public lodging establishment must obtain a separate public food service establishment license from the division, unless the only food served at the public lodging establishment is packaged or prepackaged as defined in the Food Code, as adopted by reference in rule 61C-1.001, F.A.C. In such cases, the establishment which prepares the food is subject to the licensing provisions of this chapter, unless otherwise exempt.

(6) Renewal – The licensee is responsible for renewing the license prior to the expiration date. Any public lodging establishment or public food service establishment operating on an expired license is deemed to be operating without a license, and subject to the penalties provided for this offense in law and rule. Annual renewal dates for all establishments are determined by district and county as follows:

- (a) DISTRICT 01 – October 1 – Dade, Monroe;
- (b) DISTRICT 02 – December 1 – Broward, Martin, Palm Beach;
- (c) DISTRICT 03 – February 1 – Citrus, Hernando, Hillsborough, Pasco, Pinellas, Polk, Sumter;
- (d) DISTRICT 04 – April 1 – Brevard, Indian River, Lake, Orange, Osceola, St. Lucie, Seminole, Volusia;
- (e) DISTRICT 05 – June 1 – Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns, Suwannee, Union;
- (f) DISTRICT 06 – June 1 – Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, Washington; and,
- (g) DISTRICT 07 – December 1 – Charlotte, Collier, Desoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota.

(7) The division shall issue a license to each public lodging establishment and public and food service establishment which has satisfied the requirements of chapter 509, F.S., and this chapter upon initial licensing and annual renewal. In addition to the license, the division shall issue a license decal to each mobile food dispensing vehicle, theme park food cart and vending machine, which must be prominently displayed and affixed to the vehicle, cart or machine.

(8) General Inspection Requirements.

(a) Division personnel shall inspect all public lodging establishments as often as necessary for enforcement of the provisions of law and rule and protection of the public's health, safety and welfare. The result of each inspection shall be recorded on DBPR Form HR-5022-014, LODGING INSPECTION REPORT (<https://www.flrules.org/Gateway/reference.asp?No=Ref-07062>), incorporated herein by reference and effective 2016 July, a legible copy of which shall be provided to the operator.

(b) Division personnel shall inspect all public food service establishments and other places where food is served to or prepared for service to the public as often as necessary for enforcement of the provisions of law and rule and protection of the public's health, safety and welfare. The result of each inspection, except inspections of temporary public food service establishments, shall be

recorded on DBPR Form HR-5022-015, FOOD SERVICE INSPECTION REPORT (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07063>), incorporated herein by reference and effective 2016 July, a legible copy of which shall be provided to the operator. The result of each inspection of a temporary public food service establishment shall be recorded on DBPR Form HR 5021-029, TEMPORARY EVENT VENDOR RECEIPT, APPLICATION AND INSPECTION, a legible copy of which shall be provided to the operator. Persons operating a public food service establishment shall permit division personnel right of entry during operating hours to observe food preparation and service, and if necessary examine records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used.

(c) The operator of each public food service establishment shall maintain the latest inspection report on premises and shall make it available to any consumer who asks to see it.

(d) Inspection Frequency. The division shall annually inspect each licensed public lodging and food service establishment as described herein and at such times as the division determines necessary to ensure the public’s health, safety and welfare. The annual inspection cycle shall begin July 1 and end June 30 the following year.

1. Public lodging establishments shall be inspected as prescribed by section 509.032(2)(a), F.S.

2. Public food service establishments.

a. The minimum number of annual inspections required for each public food service establishment shall be based upon the risk presented by the establishment’s type of food and food preparation processes, type of service, and compliance history. An establishment’s initial classification shall be assigned upon annual inspection or upon application for a license and verified at the licensing inspection, as applicable. Public food service establishments shall be classified and inspected according to the following risk-based inspection frequency schedule.

Classification	Public Food Service Establishment Classification Guidelines	Minimum Annual Inspections
Level 1	Establishments licensed as culinary education programs, annual temporary public food service establishments, vending machines, or Establishments that: <ul style="list-style-type: none"> <li>• Do not cook raw animal food, or</li> <li>• Cook raw animal food, but do not cool any cooked or heated foods.</li> </ul>	1
Level 2	Establishments that: <ul style="list-style-type: none"> <li>• Cook raw animal food and cool any cooked or heated foods, or</li> <li>• Conduct a special process as described in 3-502.11 or 3-502.12, Food Code, as adopted by reference in rule 61C-1.001, F.A.C., or</li> <li>• Serve a raw or undercooked animal food that requires a consumer advisory under 3-603.11, Food Code, as adopted by reference in rule 61C-1.001 or 61C-4.010, F.A.C.</li> </ul>	2
Level 3	Establishments with a history of non-compliance resulting in three or more disciplinary Final Orders filed with the Agency Clerk within the previous two annual inspection cycles, or Establishments that serve a highly susceptible population as defined in the Food Code, as adopted by reference in rule 61C-1.001, F.A.C.	3
Level 4	Establishments with a confirmed foodborne illness within the previous calendar year as reported by the Florida Department of Health.	4

b. The division shall reassess each establishment’s inspection frequency classification and reclassify each establishment as necessary.

3. Establishments initially licensed between January 1 and June 30 will receive a prorated number of annual inspections, including the opening inspection, during the first annual inspection cycle.

(9) Obtaining forms. All forms incorporated in this section are available from the Division of Hotels and Restaurants internet website [www.MyFloridaLicense.com/dbpr/hr](http://www.MyFloridaLicense.com/dbpr/hr); by e-mail request submitted at [www.MyFloridaLicense.com/contactus](http://www.MyFloridaLicense.com/contactus); by phone request to the department at (850)487-1395; or upon written request to the Division of Hotels and Restaurants, Department of Business and Professional Regulation, 2601 Blair Stone Rd., Tallahassee, Florida 32399-1011.

509.2112, 509.013 FS. History–New 1-20-63, Amended 9-19-63, 5-20-64, 2-23-66, 8-9-68, 2-4-71, 10-18-71, Repromulgated 12-18-74, Amended 9-1-83, 10-1-83, Formerly 7C-1.02, Amended 1-30-90, 12-31-90, 2-27-92, 6-15-92, Formerly 7C-1.002, Amended 3-31-94, 3-15-95, 10-9-95, 9-25-96, 5-11-98, 9-9-03, 1-1-13, 7-4-13, 7-1-14, 11-20-14, 12-28-15, 2-24-16, 7-11-16, 12-28-16, 7-16-17, 9-2-18.

(A) *Applicability and purpose.*

- (1) This section shall apply in the unincorporated areas of Miami-Dade County.
- (2) The purpose of this section is to provide additional regulations pertaining to vacation rentals to preserve the quiet nature and atmosphere of residential areas and to ensure to the County's residents the tranquility and peaceful enjoyment of their neighborhoods. These regulations shall be in addition to, and shall not supplant, other provisions in this code and the CDMP that may apply to vacation rentals; and in the event of a conflict, the more restrictive provision shall control. Nothing in this section shall be deemed to create an enforceable right or private right of action against the County.

(B) *Definitions.* For purposes of this section, the following definitions shall apply:

- (1) *Peer-to-peer or platform entity* shall mean any person, service, business, company, marketplace, or other entity that, for a fee or other consideration, provides property owners and responsible parties a platform or means to offer vacation rentals to transient occupants, whether through the internet or other means.
- (2) *Property owner* shall mean the person who, or entity that, owns the property being used or occupied as a vacation rental.
- (3) *Responsible party* shall mean the person or entity authorized by the property owner to obtain a Certificate of Use for a vacation rental, and who will be:
  - (a) Responsible for ensuring compliance with all regulations related to vacation rentals; and
  - (b) Available to respond 24 hours per day, 7 days per week to any issue that arises relating to the vacation rental.

The property owner may serve as responsible party.

- (4) *Transient occupant* shall mean any person who rents or occupies any dwelling unit or residence or part thereof for less than 30 days or one calendar month, whichever is less, and any guest or invitee of such person.

- (5) *Vacation rental* shall mean any dwelling unit or residence, including, but not limited to, any unit or group of units in a condominium, cooperative, or apartment building, that is rented in whole or in part to a transient occupant for a period of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place that may be rented to a transient occupant, but shall not include a hotel, motel, or bed and breakfast as defined in this code and referenced in the CDMP. For purposes of this section, the term vacation rental is synonymous with the term short-term residential rental.

(C) *Certificate of Use Required.* No property owner, responsible party, or peer-to-peer or platform entity shall offer as a vacation rental, or allow any person to rent or occupy as a vacation rental, any property in whole or in part within the unincorporated area of Miami-Dade County, unless a Certificate of Use has first been obtained in accordance with the provisions of this section. A property may be offered as a vacation rental immediately upon submission of an application for Certificate of Use, unless and until such time as the application is thereafter rejected or revoked for failure to pass inspection.

- (1) *Application.* A complete Certificate of Use application shall be submitted to the Department online or in hard copy. A peer-to-peer or platform entity may enter into an agreement with the County whereby the peer-to-peer or platform entity agrees to submit applications on behalf of responsible parties. The application must be signed under oath or affirmation, and shall include the following:
  - (a) The address and legal description of the vacation rental property;
  - (b) Name, address, and phone number of the property owner;
  - (c) Name, address, and phone number of the responsible party;
  - (d) Name and contact information for the peer-to-peer or platform entity or entities on which the vacation rental is, or will be, listed for rent;
  - (e) Statement that the responsible party is, or will be, remitting all applicable local Miami-Dade County business and tourist taxes; or that a peer-to-peer or platform entity through which vacation rentals are booked will be remitting all such taxes associated with the vacation rental on the responsible party's behalf;
  - (f) Statement that the responsible party has the permission of the property owner and authority to offer the property as a vacation rental and act as the responsible party;
  - (g) Statement as to whether the entire property, or just a part thereof (i.e., a room or rooms), will be used as a vacation rental; and
  - (h) Statement that insurance coverage will be in effect at all times while the property is being used as a vacation rental to cover liability for injury or harm to transient occupants or other invitees, and acknowledging that a standard homeowner's or renter's insurance policy may not necessarily provide such liability coverage while the property is used as a vacation rental;
  - (i) Statement acknowledging that the responsible party has received information explaining that using the property as a vacation rental could result in loss of the Homestead Exemption, and has provided such information to the property owner;
  - (j) Statement indicating how many times, and for how many days in all, the property was used as a vacation rental within the previous calendar year;
  - (k) Statement acknowledging that the vacation rental must be registered with the Florida Department of Revenue, or successor agency,

for purposes of collecting and remitting applicable state taxes and all such state taxes have been, or will be, paid;

- (l) Statement acknowledging that a vacation rental license, issued by the Florida Department of Business and Professional Regulation, or successor agency, must be obtained; and
  - (m) Statement acknowledging that the property is, and will be at all times during which it is used as a vacation rental, maintained in compliance with the vacation rental standards set forth in subsection (D) below.
- (2) *Supporting documentation.* The responsible party shall maintain all required licenses, records, and other documentation sufficient to demonstrate that the statements and information required by subsection (1) above are true and accurate. All such licenses, records, and other documentation shall be provided upon request, and failure to do so may result in the denial, suspension, or revocation of the Certificate of Use.
- (3) *Providing false information.* Providing false or misleading information in an application for a Certificate of Use is grounds to deny or revoke the Certificate of Use. A determination that false or misleading information was provided in an application is appealable to a hearing examiner in accordance with the procedures set forth in chapter 8CC or section 1-5, or both.
- (4) *Annual renewal.* The Certificate of Use shall be renewed annually. A Certificate of Use may not be renewed if there are any outstanding fines or liens for violations of this code.
- (5) *Inspection.* Upon the issuance or renewal of a Certificate of Use, the vacation rental property shall be subject to inspection to ensure compliance with all applicable code requirements. At the time of such inspection, the responsible party shall provide all licenses, records, and other documentation sufficient to demonstrate compliance with all requirements of this section.
- (6) *Enforcement history.*
- (a) When reviewing an application to obtain or renew a Certificate of Use, the Department shall consider the violation history of the property identified in the application. If the violation history shows three or more violations of this section within the preceding 12 months, the Department shall not issue or renew the Certificate of Use unless:
    - (i) All outstanding violations or liens are first satisfied and corrected; and
    - (ii) A bond in the amount of \$10,000.00 is provided to the Department, in the form approved by the Director. The bond shall be subject to forfeiture for future violations, as set forth in this section.
  - (b) When the violation history shows three or more violations of this section within the preceding 12 months, the Department shall notify the peer-to-peer or platform entity, if known, of the property at which the violations have occurred, and the dates of the violations.
  - (c) When calculating whether a vacation rental property has three or more violations within the preceding 12 months, if one or more unresolved citations that will affect the decision to issue or renew the Certificate of Use are pending, the Director may issue or renew a Certificate of Use on a provisional basis and for a limited time, which may be extended by the Director for good cause shown.
- (D) *Vacation Rental Standards.* The following vacation rental standards shall govern vacation rentals in unincorporated Miami-Dade County:
- (1) *Duties of peer-to-peer or platform entity.* For each vacation rental listed or offered, a peer-to-peer or platform entity shall:
    - (a) Provide notice of the requirements of this section to any person or entity listing or offering a vacation rental on its service or platform;
    - (b) Only provide payment processing services, or otherwise facilitate payment for a vacation rental that has a valid Certificate of Use in accordance with this section. A peer-to-peer or platform entity shall not be held liable pursuant to this subsection where it:
      - (i) Requires the responsible party to have applied for or obtained a Certificate of Use number as a precondition to listing or offering a vacation rental on its platform;
      - (ii) Provides the Department on at least a weekly basis the Certificate of Use number or application number, the listing identification number associated therewith, the address of the vacation rental property, and the responsible party's name and contact information for all listings on the platform in unincorporated Miami-Dade County; and
      - (iii) Removes any listing from the platform within 10 days of notification from the Department that a Certificate of Use number or application number associated with the listing is invalid or expired, or that the enforcement history of a vacation rental associated with the listing shows three or more violations within the preceding 12 months, pursuant to subsection (C)(6) herein.
    - (c) Include language in rental documents to discourage the secondary subletting of vacation rentals;
    - (d) Maintain records demonstrating that the requirements of this subsection have been satisfied, and such records shall be subject to inspection by the Department upon request, provided, however, that certain confidential information, such as social security numbers, credit card information, and names of minors, shall not be subject to inspection upon request of the County; and
    - (e) Make available to the County for inspection upon request all records relating to any suspected violations of state or local law associated with any vacation rental property in unincorporated Miami-Dade County, provided, however, that certain confidential information, such as social security numbers, credit card information, and names of minors, shall not be subject to inspection upon request of the County.
  - (2) *Duties of responsible party.* For each vacation rental, the responsible party shall:

- (a) Provide written notice to transient occupants, prior to occupancy of the vacation rental, of the vacation rental standards set forth herein laws, ordinances, or regulations concerning noise, public nuisance, vehicle parking, solid waste collection, and common area usage. This also be made available to each transient occupant inside the subject property;
  - (b) Provide notice to prospective transient occupants at the time the subject property is listed as a vacation rental of any limitations on the property pertaining to access for the disabled;
  - (c) Provide notice to the homeowner's association or condominium/cooperative association or board, if any, that the subject property will be used as a vacation rental and adhere to all policies, rules, and regulations of such association or board pertaining to vacation rentals;
  - (d) Ensure compliance with all provisions of this section, including the vacation rental standards set forth herein, and promptly address and report any violations of this section or of such other law or regulation of which the responsible party knows or should know to the Department or law enforcement, as appropriate, as well as to the peer-to-peer or platform entity;
  - (e) Ensure that any violations regarding the rental of the property are able to be promptly addressed and resolved 24 hours a day/7 days per week; and
  - (f) Maintain a register with names and dates of stay of all guests, including but not limited to all transient occupants and their invitees, which shall be open to inspection by the County.
- (3) *Maximum occupancy.* Maximum overnight occupancy for vacation rentals shall be up to a maximum of two persons per bedroom, plus two additional persons per property, up to a maximum of 12 persons, excluding children under three years of age. At all other times, maximum occupancy for vacation rentals shall not exceed the maximum overnight occupancy of the vacation rental plus four additional persons per property, up to a maximum of 16 persons, excluding children under three years of age. For purposes of this subsection, "overnight" shall mean from 10:00 p.m. until 7:00 a.m. the following day. Notwithstanding the foregoing, at no time may the occupancy of a vacation rental exceed the maximum occupant load for the property under the Florida Building Code.
- (4) *Responsible party residency.* In any area designated on the CDMP as Estate or Low Density residential, the property on which a vacation rental is operated shall be a residence in which the responsible party resides for more than six months per calendar year. Nothing in this subsection shall preclude the rental of the property at the same time that the responsible party is residing there. The requirement of responsible party residency set forth in this subsection shall not apply to a vacation rental located in any area designated Low-Medium, Medium, Medium-High, or High Density residential on the CDMP.
- (5) *Solid waste handling and containment.* Solid waste containers sufficient to handle the maximum occupancy permitted shall be maintained in accordance with [chapter 15](#). All regulations regarding screening and storage of solid waste containers shall apply to vacation rentals. For purposes of this section, and as required in [section 15-5](#), all solid waste containers shall be placed at curbside or other designated collection area only on scheduled collection days, no later than 7:00 a.m., and shall be removed therefrom that same day once collection has occurred.
- (6) *Advertising and signs.* Signs shall only be allowed to the extent permitted by the regulations in the code applicable to the relevant zoning district. Any advertisements or signs pertaining to vacation rentals that are inconsistent with the requirements, restrictions, and regulations of the Certificate of Use or these vacation rental standards shall be deemed prima facie evidence in any enforcement action that a vacation rental is being operated in violation of this section.
- (7) *Sexual offenders and sexual predators.*
- (a) If the vacation rental property is within 2,500 feet of a school, pursuant to [section 21-283](#) it shall be a violation to allow any person to occupy the property with knowledge that such person is a registered sexual offender or registered sexual predator in any jurisdiction. The responsible party shall be required to obtain confirmation of a nationwide search from the Miami-Dade County Police Department or other law enforcement agency that the prospective transient occupant or occupants is not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense, as defined in [section 21-280](#). The responsible party may call the Miami-Dade County Answer Center (311) to obtain assistance or referrals to determine whether a prospective transient occupant is a sexual offender or predator and to determine whether a residence is 2,500 feet from a particular school.
  - (b) If the vacation rental property is within 2,500 feet of a school, pursuant to [section 21-281](#) it shall be a violation of this section for a sexual offender or sexual predator to occupy the property for a period of four or more days in any month.
- (8) *Posting of Certificate of Use.* Whenever a property is being used as a vacation rental, the Certificate of Use required by this section shall be available in a conspicuous location that is clearly visible to guests within the vacation rental and shall include, at a minimum, the name, address, and phone number of the responsible party and the maximum occupancy of the vacation rental.
- (9) *Parking and vehicles.* All parking must comply with article VII of this chapter, and all other applicable sections of this code. In addition, all vehicles associated with the vacation rental, whether in the possession or control of the property owner, responsible party, or transient occupant, shall only be parked within a driveway or in a designated parking area on the subject property; or, where there is no such driveway or designated parking area, vehicles shall only be parked on the street or swale directly in front of the subject property. Transient occupants shall not be permitted to park more than two vehicles at any one time on the subject property or on the street or swale during the rental period.

- (10) *Noise.* All transient occupants shall abide by section 21-28 of this code, which prohibits unreasonably loud, excessive, unnecessary, or unusual addition, outdoor amplified sound at a vacation rental shall not be permitted at any time.
  - (11) *Public nuisance.* The responsible party and all transient occupants shall abide by all applicable state and local public nuisance laws and ordinances, including, but not limited to, sections 823.05 and 823.10 of the Florida Statutes and article XIII A of this code, which prohibits any place or premises from being used as the site for the unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, gambling, illegal sale or consumption of alcoholic beverages, or lewd or lascivious behavior that adversely affects the public health, safety, morals, and welfare.
  - (12) *Pets.* If the responsible party permits transient occupants to have pets at the vacation rental, such pets shall be at all times secured within the property lines or on a leash, but shall not be tethered. Continual nuisance barking by pets is prohibited. The keeping of pets shall be subject to the regulations of this chapter and chapter 5 of this code regarding animals.
  - (13) *Swimming pool safety features.* If there is a swimming pool onsite, the responsible party shall ensure that the swimming pool has in place at least one of the pool safety features listed in Section 515.27, Florida Statutes, (i.e., pool safety barrier, pool safety cover, pool alarm, or door latch/alarm) prior to use of the property as a vacation rental by any person under the age of six. The responsible party shall be deemed to have complied with this provision if the pool safety feature is put in place at the time that the property is turned over to any transient occupant occupying the vacation rental. This provision shall not apply to a vacation rental with a community swimming pool onsite, such as in a condominium, as determined by the Director. Compliance with this provision shall be in addition to compliance with section 33-12 of this code pertaining to swimming pool fences.
  - (14) *Compliance with applicable laws.* In addition to the foregoing, the responsible party and all transient occupants shall comply with all other applicable local, state, and federal laws, regulations, rules, and standards, including, but not limited to, those pertaining to anti-discrimination, disability, and fair housing to the extent applicable.
- (E) *Enforcement.* The requirements of this section may be enforced in accordance with the following:
- (1) *Penalties.* Any person operating a vacation rental without a Certificate of Use or in violation of the vacation rental standards or any other provisions in this section shall be subject to the penalties set forth in section 8CC-10 and section 1-5, or both, of this code and to all other enforcement measures authorized in this code or by other applicable law.
  - (2) *Forfeiture of bond.*
    - (a) Where a bond is required to obtain or renew a Certificate of Use, if the vacation rental property is cited for a violation of this section within 12 months of providing the bond, and that citation is later resolved adversely to the owner or responsible party, then the bond shall be deemed forfeited, and the Certificate of Use for that vacation rental shall be revoked and may not be reissued for 12 months.
    - (b) If there are no violations for 12 months after providing the security, the Department shall release the bond upon written request from the responsible party. Until the responsible party obtains release, the bond shall continue to be subject to forfeiture for future violations.
  - (3) *Joint and several liability.* The property owner of the vacation rental property shall be liable for any violations of this section, any rule or regulation promulgated under this section, or any order of the Director made under this section. In addition, whenever two or more persons commit such a violation, each violator shall be jointly and severally liable for any fines or other damages assessed. This applies to situations where a property owner, responsible party, peer-to-peer or platform entity, or transient occupant, or any combination thereof, are together responsible for a violation of this section. It is provided, however, that where a peer-to-peer or platform entity does not itself commit a violation of this section, it shall not be held jointly and severally liable, nor shall it be held vicariously liable for any violations committed solely by the responsible party or transient occupants. In addition, where a peer-to-peer or platform entity complies with subsection (D)(1)(b)(i), (ii), and (iii), it shall not be held jointly and severally liable for providing a listing for, or collecting a fee for listing, any vacation rental.
  - (4) *Affordable Housing Trust Fund.* Five percent of all monies collected as penalties or fines based on violations of this section shall be deposited into the Affordable Housing Trust Fund of Miami-Dade County, established in chapter 17, article VIII of this code.

**DBPR HR-7028 – Division of Hotels and Restaurants Application for Vacation Rental or Timeshare Project License**

STATE OF FLORIDA, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

2601 Blair Stone Road, Florida 32399-0783

850.487.1395 – Web: [www.MyFloridaLicense.com/contactus/](http://www.MyFloridaLicense.com/contactus/) & [www.myfloridalicense.com/DBPR/hotels-restaurants/](http://www.myfloridalicense.com/DBPR/hotels-restaurants/)

**Section 1 – License Type**

Please check the box that best describes the establishment type (see instructions for definitions).

Vacation Rental:  Condominium (2006)  Dwelling (2007)  Timeshare Project (2022):  
Timeshare Project Number

**Classification:** Check one box that best describes the license classification.

Single (SNGL)  Group (GRP)  Collective (CLCT)

**NUMBER OF RENTAL UNITS (NOTE: There is a 75-unit limit for collective licenses.)**

**Section 2 – Application Information**

Please check the appropriate box and provide information as applicable.

New Establishment  Change of Ownership (previously licensed within the last year by H&R)  
Lodging License Number Previous Business Name

Federal Employers Identification Number (FEIN) <i>(For businesses and corporations)</i>		* Under the Federal Privacy Act, disclosure of Social Security Numbers is voluntary unless specifically required by Federal statute. In this instance, disclosure of social security numbers is mandatory pursuant to Title 42 United States Code, Sections 653 and 654; and sections 409.2577, 409.2598, and 559.79, Florida Statutes. Social Security numbers are used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations.
Social Security Number (REQUIRED)* <i>(For president, primary shareholder, partner or individual)</i>		
Sales Tax Number (Check if exempt <input type="checkbox"/> )		
Opening Date (MM/DD/YYYY)		

**Section 3 – Owner and Main Address (MA)**

Note: This address will be designated as the "address of record" for the owner of this establishment.

FOR ESTABLISHMENTS OWNED OR OPERATED BY PARTNERSHIPS, CORPORATIONS OR COOPERATIVES, please attach a separate sheet or sheets listing the name, address, and social security number of each person who owns 10% or more of the outstanding stocks or equity interest in the licensed activity and the name, address, and social security numbers\* of each officer, director, chief executive, or other person who, in accordance with the rules of the issuing agency, is determined to be able directly or indirectly to control the operation of the business of the licensed entity.

Owner Name (please check one:  Corporation  Partnership  Individual)

Routing Name (e.g., Management Company, contact name)

Street Address or Post Office Box

City	State	Zip Code (+4 optional)
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Florida County (if applicable)	Country
--------------------------------	---------

Phone Number	E-Mail Address
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**Section 4 – Establishment Location Information (LL)**

Note: For more than one rental unit, please list one building address as the "main" unit and attach a list of all other rental units.

Establishment Name (DBA)

Street Address

City	Zip Code (+4 optional)	Florida County
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Phone Number	E-Mail Address
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**Section 5 – Mailing Information (LM)**

Note: This address will be used by the department for all mailings, including the license.

Complete below or check here if: Same as Section 3 – Owner and Main Address  Same as Section 4 – Establishment Location

Routing Name (e.g., Management Company, contact name)

Street Address or Post Office Box

City	State	Zip Code (+4 optional)
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Florida County (if applicable)	Country
--------------------------------	---------

Phone Number	E-Mail Address
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**Section 6 - License Modifier**

**Seasonal:** Will this establishment be operated only during a particular time period during the year?  Yes  No  
If Yes, indicate the seasonal dates in which the establishment will be open for operation below.

Start Date

End Date

**Section 7 - Signature**

SECTION 559.79 (2), FS: Each application for a license or renewal of a license issued by the Department of Business and Professional Regulation shall be signed under oath or affirmation by the applicant, or owner or chief executive of the applicant without the need for witnesses unless otherwise required by law.

I certify that I am empowered to execute this application as required by Section 559.79, Florida Statutes. I understand that my signature on this written declaration has the same legal effect as an oath or affirmation. Under penalties of perjury, I declare that I have read the foregoing application and the facts stated in it are true. **I understand that falsification of any material information on this application may result in criminal penalty or administrative action, including a fine, suspension or revocation of the license.**

Applicant Name

Applicant Title

Signature

Date

**Complete the application and supporting documents and mail them with the appropriate fees to:**

**Division of Hotels and Restaurants  
Department of Business and Professional Regulation  
2601 Blair Stone Road  
Tallahassee, FL 32399-0783**

**Reminder:** Please use the entire 9-digit zip code in the address above to ensure proper handling. Please allow up to 30 days for processing after mailing. After we process your application, we will mail your license to the address noted in Section 5 of the application. We do not require inspections prior to licensing vacation rentals or timeshare projects, but we may inspect at any time upon request or complaint.



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

Item # 12.d

**REGULAR MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM** Dan Samaria

**DATE:** October 1, 2019

**TITLE:** Whistle Blower Protection for Village of Biscayne Park Employees

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**Recommendation:** In order to better protect their employees Miami-Dade County passed a Whistle Blower Protection ordinance on September 4, 2019. I believe we owe it to our employees to protect them in the same way.

**Background:** Currently we do not have a Biscayne Park ordinance to protect our very dedicated employees. I believe this is extremely unfair and discourages employees from reporting serious issues.

**Resource Impact:** Preparation of ordinance and advertising. Less attorney time will be needed if we use Miami-Dade County ordinance and change only necessary wording for Biscayne Park.

**Attachment:** Copy of Miami-Dade County ordinance passed on September 4, 2019

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Prepared by: Dan Samaria

# MEMORANDUM

Agenda Item No. 7(F)

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**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** September 4, 2019

**FROM:** Abigail Price-Williams  
County Attorney

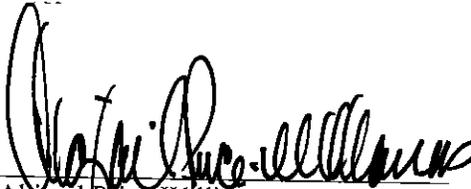
**SUBJECT:** Ordinance relating to Municipal Whistleblowers; amending article LXXI of chapter 2 of the Code; requiring municipalities to adopt ordinances by a certain date to protect municipal employees who disclose specified information; setting minimum standards for municipalities to enact such ordinances; requiring municipalities to submit annual reports; providing for Inspector General oversight; providing that Board may take certain actions in the event municipalities are not in compliance with minimum standards

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**A substitute was presented and forward to the BCC with a favorable recommendation at the 7-17-19 Heath Care and County Operations Committee. This substitute differs from the original version in that it: 1) replaces mandatory language with language making it optional for municipalities to adopt Whistleblower Ordinances in compliance with the minimum standards of this Ordinance; 2) requires only those municipalities that opt-in to the minimum standards of this Ordinance to submit annual reports; 3) modifies the scope of Inspector General oversight; and 4) removes the penalty provision for municipalities that are not in compliance with minimum standards.**

**Rule 5.06(i) of the Board's Rules of Procedure provides that differences between an original item and a substitute item should be uniquely identified in the substitute by double underlining and double strike-through, or where such approach would not clearly show the difference or are not practical, by providing footnotes or comments on the item. Based on Rule 5.06(i), the preceding comprehensive description of the differences between the original item and substitute is provided in lieu of double underlining and double strike through.**

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsor Commissioner Esteban L. Bovo, Jr.

  
Abigail Price-Williams  
County Attorney

APW/lmp

# Memorandum



**Date:** September 4, 2019

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is written in a cursive, flowing style.

**Subject:** Fiscal Impact Statement for Ordinance Relating to Municipal Whistleblowers - Substitute

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The substitute item amends the legislation to allow municipalities to opt-in rather than mandating the adoption of Whistleblower Ordinance and its compliance. Therefore, if the demand is minimal, then the Commission on Ethics and the Office of the Inspector General (OIG) will be able to perform these tasks using existing resources. However, if a substantial number of the municipalities adopt conforming ordinances, then the OIG may have to reassess the impact on their existing resources.

A handwritten signature in black ink, appearing to read "Edward Marquez". The signature is written in a cursive, flowing style.

Edward Marquez  
Deputy Mayor

FIS05019 191806

2

# Memorandum



**Date:** September 4, 2019

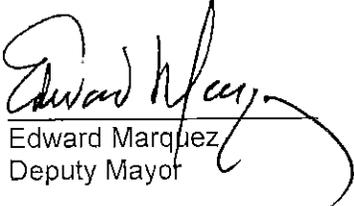
**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez   
Mayor

**Subject:** Social Equity Statement for Ordinance Relating to Municipal Whistleblowers

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The implementation of this ordinance could have a positive social benefit for the employees of municipalities who are whistleblowers. This benefit would be based on the uniform standards and confidentiality provisions of the ordinance, as well as employee protection from retaliation by a municipality or independent contractor against whom the employee has filed a complaint.

  
Edward Marquez  
Deputy Mayor



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** September 4, 2019

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 7(F)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(F)  
9-4-19

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO MUNICIPAL WHISTLEBLOWERS; AMENDING ARTICLE LXXI OF CHAPTER 2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING MUNICIPALITIES TO ADOPT ORDINANCES BY A CERTAIN DATE TO PROTECT MUNICIPAL EMPLOYEES WHO DISCLOSE SPECIFIED INFORMATION; SETTING MINIMUM STANDARDS FOR MUNICIPALITIES TO ENACT SUCH ORDINANCES; REQUIRING MUNICIPALITIES TO SUBMIT ANNUAL REPORTS; PROVIDING FOR INSPECTOR GENERAL OVERSIGHT; PROVIDING THAT BOARD MAY TAKE CERTAIN ACTIONS IN THE EVENT MUNICIPALITIES ARE NOT IN COMPLIANCE WITH MINIMUM STANDARDS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, in 1994, the Board of County Commissioners adopted Ordinance No. 94-107 known as the Employee Protection Ordinance consistent with section 112.3187 *et seq.*, Florida Statutes, now codified as chapter 2, article IV, division 6 of the Code of Miami-Dade County, which prohibits the County from retaliating against County employees for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by the County or independent contractors; and

**WHEREAS**, in 1996, the Board of County Commissioners adopted Ordinance No. 96-41 known as the Whistleblower Ordinance, now codified as chapter 2, article LXXI of the Code, which currently prohibits the County from retaliating against any person for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by the County or independent contractors; and

**WHEREAS**, in 2015, the Board of County Commissioners adopted Ordinance No. 15-120, which expanded the means for employees to provide protected disclosures, to empower employees to take responsibility for an efficient and effective government, and to empower them to safely and securely disclose specified information to authorized local officials; and

**WHEREAS**, on October 3, 2017, the Board of County Commissioners adopted Ordinance No. 17-74, to prohibit any employer with 10 or more employees that enters into a contract with the County, from retaliating against any employee or other person for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by employees, agents or independent contractors of County departments; and

**WHEREAS**, some of the municipalities within Miami-Dade County may not have adequate employee protection ordinances; and

**WHEREAS**, it is the intent of this ordinance, consistent with section 112.3187 *et seq.*, Florida Statutes, the State Whistleblower's Act, to set minimum standards for municipalities to enact employee protection ordinances, and to ensure that municipal employees who disclose violations of law or wrongdoing by a municipality or independent contractors have effective protections, including confidentiality and protection from retaliation,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Article LXXI of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

**ARTICLE LXXI. – PROTECTION OF PERSONS  
DISCLOSING SPECIFIED INFORMATION.**

**>>DIVISION I. COUNTY EMPLOYEES AND  
CONTRACTORS.<<**

\* \* \*

**>>DIVISION II. MUNICIPAL EMPLOYEES AND  
CONTRACTORS.**

**Sec. 2-967.10.2 - Declaration of legislative intent.**

The intent of this division is to provide optional minimum standards for municipalities to prevent municipalities or independent contractors from taking retaliatory action against an employee or person who reports a violation of law on the part of a municipality, municipal officer, or independent contractor relating to a substantial and specific danger to the public's health, safety, or welfare; or who reports unlawful activity, misfeasance, malfeasance, gross waste of funds, or any other abuse or gross neglect of duty on the part of a municipality, municipal officer, or independent contractor.

Recognizing that the State of Florida has adopted its own Whistleblower's Act, section 112.3187 et. seq., Florida Statutes, and that the state act provides for the adoption of local procedures for administrative enforcement, the Board intends this ordinance to be interpreted consistently with the state act, as it may be amended from time to time.

**Sec. 2-967.10.3 - Jurisdiction and area of application.**

- (1) The provisions of this division shall not apply to any complaint naming the county, the state, the federal government, or any of their agencies, employees, or independent contractors as a respondent.
- (2) This division shall be an optional minimum standard to be enacted and enforced by the municipalities; provided, any municipality may establish and enforce more stringent regulations as such municipality may deem necessary.
- (3) The provisions of this division shall be cumulative and in addition to and not in derogation of any and all other existing provisions or laws.

**Sec. 2-967.10.4 - Definitions. As used in this Article:**

- (1) “Municipality” means a municipality within Miami-Dade County created pursuant to general or special law authorized or recognized pursuant to section 2 or section 6, article VIII of the State Constitution or pursuant to article 6 of the Miami-Dade County Home Rule Charter.
- (2) “Employee” means a person who performs services for, and under the control and direction of, or contracts with, a municipality or independent contractor for wages or other remuneration.
- (3) “Adverse personnel action” means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse personnel action taken against an employee within the terms and conditions of employment by a municipality or independent contractor.
- (4) “Independent contractor” means a person, other than a federal, state, or local government entity, engaged in any business and who enters into a contract, including a provider agreement, with a municipality.
- (5) “Person” means any natural person, corporation, firm, joint venture or entity other than a federal, state or local government entity or any employee thereof.
- (6) “Technical support” means assistance intended to facilitate the development of processes and procedures and not assistance in conducting investigations.
- (7) “Ethics Commission” means the Miami-Dade Commission on Ethics and Public Trust.
- (8) “Inspector General” means the Miami-Dade County Office of the Inspector General.
- (9) All other words or terms used in this ordinance shall have the same meaning as such words and terms have under the State Whistleblower’s Act.

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**Sec. 2-967.10.5. - Municipal Employee Protection.**

- (1) County Technical Support for Municipal Employee Protection.
  - (a) The Inspector General may provide a requesting municipality with technical support in developing the processes and procedures for receiving, documenting, and investigating disclosures of actual or suspected violations of law or prohibited acts committed by an employee or agent of the municipality or independent contractor.
  - (b) The Ethics Commission may provide a requesting municipality with technical support in developing the processes and procedures for receiving, documenting and investigating complaints of adverse personnel action taken in retaliation for disclosing information under this division.
  - (c) The technical support referenced in subsections (1)(a) and (b) above is not intended to replace the municipality's own commitment of resources to develop a system for the intake, processing, and documentation of disclosures of violations and adverse personnel actions, and the investigation of such complaints.
- (2) Opt-in Provision for Municipalities to Enact Employee Protection Ordinances.
  - (a) At its option, any municipality within Miami-Dade County may adopt Employee Protection Ordinances consistent with the State Whistleblower's Act and the minimum standards of this division. Within 30 days of the adoption of any such municipal ordinance, the municipality shall provide written notice and a copy of the municipal ordinance to: the Clerk of the Board of the Board of County Commissioners, the Inspector General, and the Ethics Commission.
  - (b) A current list of all municipalities that have adopted their own employee protection ordinances and programs shall be kept on file with the Inspector General and shall be available for inspection.

(3) Minimum Standards for Municipal Ordinances. Pursuant to the authority granted in section 1.01(A)(18) of the Miami-Dade County Home Rule Charter, the County hereby adopts the provisions below as optional minimum standards for municipal ordinances.

(a) To comply with the optional minimum standards for employee protection ordinances, a municipal ordinance shall contain provisions:

(i) that designate the “actions prohibited” and

1. specify that the municipality shall not dismiss, discipline, take any other adverse personnel action or other adverse action that affects the rights or interests of an employee or person because the employee or person has disclosed or threatened to disclose information pursuant to this division; and

2. specify that the provisions shall not apply when an employee or person discloses information known by the employee or person to be false.

(ii) that designate the “nature of information disclosed” and specify that the information disclosed under the provision must include:

1. Any violation or suspected violation of any federal, state or local law, rule or regulation committed by an employee or agent of the municipality or independent contractor which creates and presents a substantial and specific danger to the public’s health, safety or welfare; or

2. Any act or suspected act of gross mismanagement, malfeasance, gross waste of public funds or gross neglect of duty committed by an employee or

agent of the municipality or an independent contractor.

- (iii) that designate “to whom information disclosed” and require that the information be disclosed to a chief executive officer of the municipality or such official or officials as the chief executive officer may designate to receive such information on his/her behalf, or other appropriate local official for the municipality as described in section 112.3187(6), Florida Statutes.
- (iv) that designate the “employees and persons protected” and
  - 1. require the protection of employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by the municipality, any local, state or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act; who refuse to participate in any adverse personnel action prohibited by this division; who refuse to participate in any adverse action prohibited by this division; or who are otherwise protected by the State Whistleblower's Act.
  - 2. require that the provisions may not be used by persons while they are under care, custody, or control of the state or county correctional system or, after release from the care, custody, or control of the state or county correctional system, with respect to circumstances that occurred during any period of incarceration.

3. require that no remedy or other protection under the ordinance apply to any person who has committed or intentionally participated in committing a violation or suspected violation for which protection under the ordinance is being sought.
  4. require that an employee who provides false information pursuant to this ordinance may be investigated and prosecuted pursuant to Florida Statutes.
  5. require that it shall be an affirmative defense to any complaint brought pursuant to the ordinance that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by the ordinance.
- (v) that designate "remedies" and require the chief executive officer of the municipality to designate an appropriate executive-level municipal official or authority to receive written and signed complaints of prohibited actions as described in this division, and that establish an administrative procedure for handling such complaints. The administrative procedure created by municipal ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate executive-level municipal official or authority. Such panelists may be paid a fee for their services, but shall not be deemed municipal officials or employees. The panel shall conduct a hearing after notice to the complainant, the respondent, and the municipal department, division, bureau, commission, authority, or political subdivision, or independent contractor involved. Any interested party may procure

the attendance of witnesses and the production of records at such hearings. Upon hearing the complaint, the panel must make findings of fact and conclusions of law, and recommendations for a final decision by the chief executive officer or other appropriate executive-level municipal official or authority. Within 180 days after entry of a final decision by the municipal authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction;

(vi) that designate "relief" to employees or persons subjected to actions prohibited under this division and

1. require, in any case brought under this division in which the chief executive officer of the municipality or other appropriate executive-level municipal official or authority finds that the employee has been subjected to an adverse action in violation of this division, the chief executive officer or designee to:

a. reinstate the employee to the same position held before the adverse personnel action was commenced or to an equivalent position, or award reasonable front pay as alternative relief;

b. reinstate the employee's fringe benefits and seniority rights, as appropriate; and

c. compensate the employee, if appropriate, for lost wages, benefits or other lost remuneration caused by the adverse personnel action, or compensate the person, if

appropriate, for the lost income, benefits or other lost remuneration caused by the adverse action.

2. specify that the municipality may sanction an independent contractor for violations of this division in one or more of the following ways:
  - a. require the municipal independent contractor to compensate the person or reimburse the municipality for any amounts paid by the municipality to compensate the person, for the lost income, benefits or other lost remuneration caused by the adverse action of the municipal independent contractor;
  - b. debar the independent contractor pursuant to any existing municipal debarment procedures; or
  - c. suspend payment or terminate payment under the contract or terminate the contract with the municipal independent contractor.
3. require that if a municipal independent contractor fails to pay any sanctions assessed by the municipality under this division, the municipality provide for sanctions against the non-complying independent contractor similar to the sanctions delineated under section 2-967.8(4) – (8) of the Code.

- (vii) that designate “existing rights” and ensure that the rights, privileges or remedies of any employee under any other law or rule or under any collective bargaining agreement or employment contract are not diminished; and that the election of remedies provided by section 447.401, Florida Statutes, shall also apply to complaints under the municipal ordinance.
- (viii) that designate “confidentiality of individuals disclosing information” and guarantee the protections of state law be afforded to any individual who discloses information in compliance with this division to the municipal officials set forth in this division. For example, the identity of such individuals shall be confidential and exempt from the provisions of the public records laws to the fullest extent permitted by, and in accordance with the law including, but not limited to, the confidentiality requirements and exemptions set forth in sections 119.0713 and 112.3188, Florida Statutes.
- (ix) that require any employee found by the chief executive officer or other appropriate executive-level municipal official or authority to have retaliated against another municipal employee in violation of this division, shall be subject to disciplinary action up to and including dismissal from municipal employment.
- (x) that require the chief executive officer, or his/her designee, to provide training regarding this division to all current municipal employees, and to new municipal employees hired after the effective date of the municipal employee protection ordinance as part of the initial municipal employee orientation;

- (xi) that require the chief executive officer, or his/her designee to periodically provide information and publish instructions on this division including, but not limited to, the disclosure of information, the methods of disclosing information, and the protections afforded by this division, to all employees of the municipality and public officials.
  - (xii) that require the chief executive officer, or his/her designee to maintain an accurate and complete log of all complaints made by municipal employees pursuant to this Division, and to provide that report to the Inspector General on an annual basis;
- (b) *Optional Investigation by the Ethics Commission. In addition to the remedies set forth in this division, every municipal employee protection ordinance should also provide the following retaliation review process:*
- (i) Any employee protected under this division who alleges retaliation may, only after exhausting all available municipal administrative remedies provided for in this division, or an applicable collective bargaining agreement, file a written complaint with the Ethics Commission alleging a prohibited personnel action, no later than 60 days after a final written decision regarding an alleged prohibited personnel action has been rendered under the administrative or contractual procedures referenced above. The purpose of such complaint is to determine whether, in addition to any findings or determination made in any of the above-referenced administrative or contractual proceedings, there has been a violation of this division.
  - (ii) Within ten working days after receiving a complaint under this division, the Ethics Commission shall acknowledge receipt of the complaint and provide copies of the

complaint to the employee accused of retaliation and the Department Director of the department in which such employee is employed.

(iii) Upon the filing of a complaint with the Ethics Commission under this division, the Ethics Commission shall:

1. Conduct a preliminary investigation, to the extent necessary, to determine whether there is probable cause to believe that a prohibited personnel action under this division, has occurred.
  
2. Within 90 days after receiving the complaint, provide the accused employee, the Department Director of the department in which the accused employee is employed and the complainant with a copy of a probable cause memorandum and conduct a probable cause hearing before the Ethics Commission. Notwithstanding the procedures provided in chapter 2, article LXXVIII of the Code of Miami-Dade County, the Ethics Commission may use hearing examiners when a complaint is filed under this division, which shall make a determination as to whether there is probable cause to believe retaliation prohibited by this division has occurred. The probable cause memorandum and the final written decision and findings of the administrative or contractual proceedings shall be presumed admissible in any Ethics Commission hearing conducted under this division.

- (iv) The time limits regarding the actions to be taken by the Ethics Commission set forth in subsections (3)(b)(ii) and (iii) above may be extended by the Ethics Commission for good cause.
- (v) Based on its fact-finding report, the Ethics Commission may recommend to the municipalities' Mayor or chief executive officer, an appropriate course of action. The Mayor or chief executive officer may thereafter take appropriate relief in accordance with section 2-967.10.5.(a)(vi) of the Code.
- (c) Municipalities that have already enacted employee protection ordinances as of the effective date of this Ordinance shall have the option to bring their ordinances into compliance with these minimum standards.
- (4) *Municipality Shall File Annual Report.* Municipalities that have enacted employee protection ordinances pursuant to the optional provisions of this ordinance shall annually file a report detailing the number of Employee Protection Ordinance complaints received and the dispositions of those complaints with the Inspector General. Consistent with the confidentiality provisions in subsection (3)(a)(viii) above, the municipality's annual report should not contain the identity of any complainant.
- (5) *Oversight by the Inspector General.* In accordance with the Inspector General's functions, powers and authority, the Inspector General:
  - (a) shall have the power to audit, investigate, monitor, oversee, inspect and review the processes and procedures for the receipt, intake, and investigation of complaints that have been established in accordance with the optional minimum standards established by this division and a municipality's enacted ordinance.

- (b) shall have the power to obtain from municipalities any reports or information required by the Inspector General during the course of an audit, investigation, monitoring, oversight, inspection or review, conducted in accordance with this division.
  
- (c) Whenever the Inspector General concludes a report or recommendation regarding a municipality's compliance with the optional provisions of this division, the Inspector General shall provide a copy of the report or recommendation to the chief executive officer, or his/her designee, responsible for the enforcement of the municipality's employee protection ordinance. The Inspector General shall provide the chief executive officer, or his/her designee, with 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The Inspector General's final report will be submitted to the governing board of the municipality and to the Board of County Commissioners.<<

**Section 2.** 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 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 4.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Marlon D. Moffett

Prime Sponsor: Commissioner Sally A. Heyman  
Co-Sponsor: Commissioner Esteban L. Bovo, Jr.

# Memorandum



**Date:** September 4, 2019

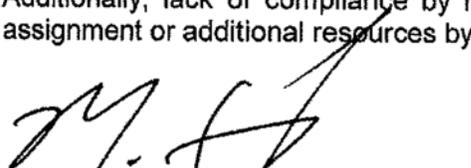
**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Fiscal Impact Statement for Ordinance Relating to Municipal Whistleblowers

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The fiscal impact to implement the proposed ordinance requirement for technical assistance, compliance, and investigation is difficult to assess due to the uncertainty of the demand for assistance and eventual compliance by municipalities. If the demand is minimal, then the Commission on Ethics will be able to perform these tasks using existing resources. However, once the municipalities adopt confirming ordinances, the Office of Inspector General (OIG) anticipates that it will require an additional position to perform the program verification function. Should an additional position be required, the fiscal impact in the first year would be \$86,183. Additionally, lack of compliance by multiple municipalities will require reprioritization of work assignment or additional resources by the OIG, which would result in a negative impact.

  
\_\_\_\_\_  
Edward Marquez  
Deputy Mayor

Attachment

Fis03919 191140

Fiscal Impact Table

Use Existing Resources

Revenue Category	Value	Year 1	Future Yr 1	Future Yr 2	Future Yr 3	Future Yr 4	Future Yr 5	Yes	No
General Fund	\$ 84,100	\$ 84,100	\$ 86,183	\$ 90,469	\$ 94,970	\$ 99,694	\$ 104,654		X
Proprietary									
Federal Funds									
State Funds									
Interagency Transfers									
<b>Subtotal</b>	<b>\$ 84,100</b>	<b>\$ 84,100</b>	<b>\$ 86,183</b>	<b>\$ 90,469</b>	<b>\$ 94,970</b>	<b>\$ 99,694</b>	<b>\$ 104,654</b>		
<b>Expenditure Category</b>									
<i>Operating</i>									
Salary	\$ 63,200	\$ 63,200	\$ 66,360	\$ 69,678	\$ 73,162	\$ 76,820	\$ 80,661		X
Fringes	\$ 17,800	\$ 17,800	\$ 18,690	\$ 19,625	\$ 20,606	\$ 21,636	\$ 22,718		X
Court Costs									
Contractual Services									
Charges for County Services									
Other Operating	\$ 1,100	\$ 1,100	\$ 1,133	\$ 1,167	\$ 1,202	\$ 1,238	\$ 1,275		
Grants to Outside Organizations									
Capital	\$ 2,000	\$ 2,000	\$ -	\$ -	\$ -	\$ -	\$ -		
<b>Subtotal</b>	<b>\$ 84,100</b>	<b>\$ 84,100</b>	<b>\$ 86,183</b>	<b>\$ 90,469</b>	<b>\$ 94,970</b>	<b>\$ 99,694</b>	<b>\$ 104,654</b>		
<i>Non-Operating</i>									
Debt Services									
Distribution of Funds In Trust									
Transfers									
Depreciation, Amortization, and Deletions									
<b>Subtotal</b>	<b>\$ -</b>								
<b>Grand Total</b>	<b>\$ 84,100</b>	<b>\$ 84,100</b>	<b>\$ 86,183</b>	<b>\$ 90,469</b>	<b>\$ 94,970</b>	<b>\$ 99,694</b>	<b>\$ 104,654</b>		

Note: Fiscal impact narrative (paragraph above the table) should contain the following, if applicable:

1. Description of the anticipated increase or decrease of expenditures listed above and current and subsequent fiscal years, if any,
2. Description of projected dollar value of anticipated expenditures that will be absorbed within existing resources within the current fiscal year;
3. Description of subsequent governmental action that will be required in order to determine anticipated revenues and expenditures, including new revenues (federal, state, or the need to increase existing fees)
4. Any long-term fiscal implications as a result of the implementation of the proposed legislation, if any, in cases where risk factors or other variables that may impact future revenues or expenditures are uncertain, volatile, or difficult to project, a description of risk factors or variables and estimate or projection of anticipated or projected impacts to revenues and expenditures
5. Description of all assumptions used to project the fiscal impact of the proposed legislation and include estimate anticipated revenues and expenditures
6. In the cases where the Mayor has determined a "no fiscal impact", a description of the assumptions and analysis used to reach that conclusion