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**ORDINANCE NO. 2020-02**

**AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, REPEALING ORDINANCE 2019-05 AND AMENDING CHAPTERS 14 AND 15 OF THE BISCAYNE PARK LAND DEVELOPMENT CODE REGARDING THE POWERS AND DUTIES OF THE BISCAYNE PARK CODE ENFORCEMENT BOARD; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Section 4.03 of the Village Charter of the Village of Biscayne Park empowers the Village Commission to adopt, amend, or repeal such ordinances as may be required for the proper governing of the Village; and

**WHEREAS**, the Village Commission desires to repeal Ordinance 2019-05 creating the position of Village Code Enforcement Special Magistrate and adopt regulations concerning the powers and duties of the Village Code Enforcement Board similar to the regulations in place prior to the adoption of Ordinance 2019-05;

**WHEREAS**, on March 3, 2020, the Village Commission held a first reading and public hearing on the adoption of Ordinance 2020-02; and

**WHEREAS**, on May 19, 2020, the Village Commission held a second reading and legally noticed public hearing on the adoption of Ordinance 2020-02.

**NOW, THEREFORE, BE ORDAINED BY THE VILLAGE OF BISCAYNE PARK, FLORIDA AS FOLLOWS:<sup>1</sup>**

**Section 1. Recitals.** The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Village Commission.

**Section 2. Repeal of Ordinance 2019-05.** Ordinance 2019-05, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference, is repealed in its entirety.

**Section 3. Land Development Code Amended.** Chapters 14 and 15 of the Land Development Code of the Village of Biscayne Park, Florida are amended to read as follows:

**CHAPTER 14. – CODE COMPLIANCE BOARD**

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<sup>1</sup>/ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

1  
2 14.1. – Code compliance board—Generally.  
3

4 14.1.1 Purpose. This chapter sets forth the procedures of the code  
5 compliance board. When not expressly provided for in this chapter, article  
6 III, section 2-30 of the Biscayne Park Code shall apply.  
7

8 14.1.2 Intent. It is the intent of the village to provide an equitable,  
9 expeditious, effective, and inexpensive method of enforcing the codes and  
10 ordinances in force in the village by granting to the code compliance board  
11 the authority to impose administrative fines and other non-criminal  
12 penalties for violation(s) of said codes and ordinances. In addition to the  
13 enforcement and remedy powers provided herein, the Village may enforce  
14 any alleged violation of the Biscayne Park Code and Biscayne Park Land  
15 Development Code by any means authorized by law, including legal action  
16 in any court of competent jurisdiction.  
17

18 14.1.3 Composition.  
19

20 (a) Code compliance board.  
21

22 (1) Composition. The five-member board shall be appointed by  
23 the village commission.  
24

25 (2) Qualifications. Members of the code compliance board shall  
26 be property owners and residents of the Village of Biscayne Park.  
27 Residents who are not property owners in the Village of Biscayne  
28 Park may be appointed by the village commission by at least a four-  
29 fifths super majority vote. Appointments shall be made on the basis  
30 of experience or interest and, when possible, include the following  
31 individuals: an architect, an attorney, a businessperson, an engineer,  
32 a general contractor, a subcontractor and a licensed real estate  
33 person.  
34

35 14.1.4 Terms of office. The initial appointments to the code compliance board and  
36 the alternate members shall be as follows:  
37

38 (a) One (1) member appointed for a term of one (1) year.  
39

40 (b) Two (2) members appointed for a term of two (2) years.  
41

42 (c) Two (2) members appointed for a term of three (3) years.  
43

44 Thereafter, all appointments shall be made for a term of three (3) years and shall  
45 take effect on May 1 of the year the appointment is made. A member may be  
46 reappointed upon approval of the village commission. Appointments to fill any  
47 vacancy on the code compliance board shall be for the remainder of the unexpired  
48 term of office. For an excused absence, a board or committee member must advise  
49 the village clerk prior to the meeting of the fact that they will be absent and provide

1 a reason for that absence. The board or committee may vote to excuse the requested  
2 absence at the same meeting that the board or committee member is absent. The  
3 absence, and whether or not the absence is excused or unexcused, is to be reflected  
4 in the minutes. The members shall serve in accordance with the village charter and  
5 may be suspended and removed for cause as provided in the village code for  
6 removal of members of village boards.

7  
8 14.1.5 Procedures for code compliance board.

9  
10 (a) Chairperson. The members of the code compliance board shall elect  
11 a chairperson and vice-chairperson from among its members.

12  
13 (b) Quorum. The presence of three (3) members shall constitute a  
14 quorum of the code compliance board.

15  
16 (c) Expenses. Members shall serve without compensation, but may be  
17 reimbursed for such travel, mileage and per diem expenses as may be  
18 authorized by the village commission.

19  
20 14.1.6 Counsel. The village attorney either shall be counsel to the code compliance  
21 board or shall represent the village by presenting cases before the board, but in no  
22 case shall the village attorney serve in both capacities. If a violator or the owner of  
23 property that is subject to an enforcement proceeding is represented by counsel, the  
24 violator and/or property owner shall notify the Village in writing of such  
25 representation no less than 72 hours prior to the hearing on the violation before the  
26 code compliance board. If the violator or property owner fails to give the required  
27 notice, the hearing on the alleged violation shall be automatically continued to the  
28 next code board hearing, unless by a supermajority vote of the code board members  
29 present the code board elects to hear the case.

30  
31 14.1.7 Compliance procedure.

32  
33 (a) It shall be the duty of the code compliance officer to initiate  
34 enforcement proceedings of the various codes, provided, however, no  
35 member of the code compliance board shall have the power to initiate such  
36 enforcement proceedings.

37  
38 (b) Except as provided in subsections (c), (d) and (f), if a violation of  
39 the codes is found, the code compliance officer shall notify the violator and  
40 give the violator a reasonable time to correct the violation. Should the  
41 violation continue beyond the time specified for correction, the code  
42 compliance officer shall notify the code compliance board of the charges  
43 and request a hearing pursuant to procedure in section 14.1.8. Notice shall  
44 be provided pursuant to section 14.1.13.

45  
46 (c) If the violation is corrected and then recurs or if the violation is not  
47 corrected by the time specified for correction by the code compliance  
48 officer, the case may be presented to the code compliance board even if the  
49 violation has been corrected prior to the board hearing, and the notice shall

1 so state. If a repeat violation is found, the code compliance officer shall  
2 notify the violator but is not required to give violator a reasonable time to  
3 correct the violation. The code compliance officer, upon notifying the  
4 violator of a repeat violation, shall notify the code compliance board and  
5 request a hearing. The code compliance board shall schedule a hearing and  
6 shall provide notice pursuant to section 14.1.12. The case may be presented  
7 to the code compliance board even if the repeat violation has been corrected  
8 prior to the board hearing, and the notice shall so state. "Repeat violation"  
9 means a violation of a provision of a code or ordinance by a person who has  
10 been previously found, through a code compliance board or other quasi-  
11 judicial or judicial process, to have violated or has admitted violating the  
12 same provision within five (5) years prior to the violation.

13  
14 (d) If the code compliance officer has reason to believe a violation  
15 presents a serious threat to the public health, safety and welfare, the code  
16 compliance officer may proceed directly to the procedure in subsection  
17 14.1.7(b) without notifying the violator.

18  
19 (e) If the owner of property that is subject to an enforcement proceeding  
20 before an enforcement board, or court transfers ownership of such property  
21 between the time the initial pleading was served and the time of the hearing,  
22 such owner shall:

23  
24 (1) Disclose, in writing, the existence and the nature of the  
25 proceeding to the prospective transferee.

26  
27 (2) Deliver to the prospective transferee a copy of the pleadings,  
28 notices, and other materials relating to the code enforcement  
29 proceeding received by the transferor.

30  
31 (3) Disclose, in writing, to the prospective transferee that the  
32 new owner will be responsible for compliance with the applicable  
33 code and with orders issued in the code enforcement proceeding.

34  
35 (4) File a notice with the code compliance department of the  
36 transfer of the property, with the identity and address of the new  
37 owner and copies of the disclosures made to the new owner, within  
38 five (5) days after the date of the transfer. A failure to make the  
39 disclosures described in this subsection before the transfer creates a  
40 rebuttable presumption of fraud. If the property is transferred before  
41 the hearing, the proceeding shall not be dismissed, but the new  
42 owner shall be provided a reasonable period of time to correct the  
43 violation before the hearing is held.

44  
45 (f) The village commission finds that aesthetics are paramount to  
46 maintaining an attractive and marketable community. The violations  
47 enumerated below severely damage the aesthetics and livability of the  
48 community immediately upon their commission. Such damage cannot be  
49 repaired or reversed. Therefore, the village commission hereby deems a

1 violation of this section an irreparable and irreversible violation. As a result,  
2 the Village of Biscayne Park adopts supplemental and alternative code  
3 enforcement procedures pursuant to F.S. §§ 162.13 and 162.22, as amended,  
4 to authorize code compliance officers to issue administrative citations for  
5 review before the code compliance board. A code compliance officer shall  
6 have the sole discretion in determining whether to issue an administrative  
7 citation or a notice of violation for the following offenses:

8  
9 (1) Open feeding that causes a gathering of more than four (4)  
10 dogs or four (4) cats or combination thereof totaling four (4), in  
11 violation of section 3-4 of the code;

12  
13 (2) Excessive barking or howling of dogs, in violation of section  
14 3-21 of the code;

15  
16 (3) Parking ~~not~~ on an un-approved surface ~~where there is an~~  
17 approved parking surface as required by section 5.6.1 of the Land  
18 Development Code;

19  
20 (4) Garbage cans and trash receptacles not placed behind face of  
21 building and screened from view, in violation of section 6.3.2 of the  
22 Land Development Code;

23  
24 (5) Domestic trash and recycling materials placed at the  
25 property line and/or not removed under the requirements of section  
26 6.3.3 of the Land Development Code;

27  
28 (6) Trees and garden refuse placed at the property line and/or  
29 not removed under the requirements of section 6.3.4 of the Land  
30 Development Code;

31  
32 (7) Overgrown grass in violation of section 8.4.1 of the Land  
33 Development Code;

34  
35 (8) Offensive noise, in violation of section 10-1 of the code.

36  
37 In the issuance of an administrative citation, the following procedures shall  
38 be used:

39  
40 (1) For the offenses enumerated above, a code compliance  
41 officer who, upon personal investigation, has reasonable cause to  
42 believe that there is a violation, shall have the authority to issue an  
43 administrative citation to the alleged violator and/or owner of the  
44 property.

45  
46 (2) The administrative citation issued shall be in a form  
47 approved by the village manager and shall contain:

48  
49 a. The date and time of issuance.

- 1  
2  
3       **b.**     The name and address of the person to whom the  
4           administrative citation is issued.  
5  
6       **c.**     The facts constituting reasonable cause.  
7  
8       **d.**     The section of the code that is violated.  
9  
10       **e.**     The name of the code compliance officer.  
11  
12       **f.**     The procedure for the person to follow in order to pay  
13           or contest the administrative citation.  
14  
15       **g.**     The penalty, including administrative costs, if the  
16           person elects to contest the administrative citation and is  
17           found in violation.  
18  
19       **h.**     The penalty if the person elects to pay the  
20           administrative citation.  
21  
22       **i.**     A conspicuous statement that if the person fails to  
23           pay the penalty within the time allowed, or fails to appear  
24           before the special magistrate or code compliance board, that  
25           the person shall be deemed to have waived his or her right to  
26           contest the administrative citation and that, in such case, a  
27           final order and/or judgment may be entered against the  
28           person up to five hundred dollars (\$500.00).

29       **(3)**     After issuing the administrative citation, the code  
30           compliance officer shall deposit an original with the village manager  
31           or their designee.

32  
33       **(4)**     A person who has been served with an administrative  
34           citation may elect either to:

35  
36           **a.**     Correct the violation immediately and pay within  
37           fourteen (14) days of service of the administrative citation  
38           the penalty in the manner indicated on the administrative  
39           citation; or

40  
41           **b.**     Request a hearing before the code compliance board.  
42

43       **14.1.8 Conduct of hearing.**

44  
45       **(a)**     ~~Upon request of the code inspector, or at such other times as may be~~  
46           ~~necessary, the chair of an enforcement board may call a hearing of an~~  
47           ~~enforcement board; a hearing also may be called by written notice signed~~  
48           ~~by at least three members of a seven-member enforcement board or signed~~  
49           ~~by at least two members of a five-member enforcement board.~~

1 Upon the request of the code inspector, the chairperson of the code  
2 compliance board may call hearings of the board, and hearings may also be  
3 called by written notice signed by at least three (3) members of the code  
4 compliance board. The board, at any hearing, may set a future hearing date.  
5 The board shall attempt to convene no less frequently than once every two  
6 (2) months, but it may meet more or less often as the demand necessitates.  
7 Minutes shall be kept of all hearings by the board, and all hearings and  
8 proceedings shall be open to the public. The village shall provide clerical  
9 and administrative personnel as may be reasonably required by the board  
10 for the proper performance of its duties.

11  
12 (b) Each case before the code compliance board shall be presented by  
13 the village attorney or a code compliance officer appointed by the village  
14 for that purpose.

15  
16 (c) The code compliance board shall proceed to hear the cases on the  
17 agenda for that day. All testimony shall be under oath and shall be recorded.  
18 The board shall take testimony from the code compliance officer, the  
19 alleged violator, and any witnesses called. Formal rules of evidence shall  
20 not apply, but fundamental due process shall be observed and govern said  
21 proceedings.

22  
23 (d) At the conclusion of the hearing, the special magistrate and code  
24 compliance board shall issue findings of fact, based on evidence recorded  
25 and conclusions of law, and shall issue an order affording the proper relief  
26 consistent with powers granted herein. The finding shall be by motion  
27 approved by a majority of those present and voting, except that at least three  
28 (3) members of the code compliance board must vote for the action to be  
29 official. The order may include a notice that it must be complied with by a  
30 specified date and that a fine may be imposed if the order is not complied  
31 with by said date. A certified copy of such order may be recorded in the  
32 public records of the county and shall constitute notice to any subsequent  
33 purchasers, successors in interest, or assigns if the violation concerns real  
34 property, and the findings therein shall be binding upon the violator and, if  
35 the violation concerns real property, any subsequent purchasers, successors  
36 in interest, or assigns. If an order is recorded in the public records pursuant  
37 to this subsection and the order is complied with by the date specified in the  
38 order, the code compliance board shall issue an order acknowledging  
39 compliance that shall be recorded in the public records. A hearing is not  
40 required to issue such an order acknowledging compliance.

41  
42 14.1.9 Powers of the code compliance board. The code compliance board shall  
43 have the power to:

44  
45 (a) Adopt rules for the conduct of its hearings.

46  
47 (b) Subpoena alleged violators and witnesses to its hearings. Subpoenas  
48 may be served by the police department.  
49

- 1 (c) Subpoena evidence to its hearings.  
2  
3 (d) Take testimony under oath.  
4  
5 (e) Issue orders having the force of law commanding whatever steps are  
6 necessary to bring a violation into compliance.  
7

8 14.1.10 Fines; liens.  
9

10 (a) The code compliance board, upon notification by the code  
11 compliance officer that a previous order of the board has not been  
12 complied with by the set time, or finds a person to be a repeat violator  
13 under subsection (c), may order the violator to pay a fine in an amount  
14 authorized in this chapter for each day the violation continues past the date  
15 set by the code compliance board for compliance or, in the case of a repeat  
16 violation, for each day the repeat violation continues past the date of notice  
17 to the violator of the repeat violation. If a finding of a violation or a repeat  
18 violation has been made as provided in this part, a hearing shall not be  
19 necessary for issuance of the order imposing the fine.  
20

21 (b) Amount of fine.  
22

23 (1) The fine amount(s) are referenced in a resolution kept on file  
24 by the village clerk.  
25

26 (2) In determining the amount of the fine, if any, the code  
27 compliance board shall consider the following factors:  
28

29 a. The gravity of the violation;  
30

31 b. Any actions taken by the violator to correct the  
32 violation; and  
33

34 c. Any previous violations committed by the violator.  
35

36 d. Reduction of fine imposed pursuant to this section.  
37

38 (3) The code compliance board is hereby delegated the authority  
39 to hear requests for reduction of fines pursuant to this section and  
40 make the final decision on behalf of the village.  
41

42 (4) For all requests for reduction of fine by a property owner  
43 and/or violator, the code compliance officer shall submit a written  
44 report recommendation to the code compliance board. In  
45 formulating the recommendation, the code compliance officer  
46 shall consider criteria, which includes, but is not limited to, the  
47 following:  
48  
49

- 1                   a. The cooperation of the respondent, including  
2                   whether the respondent had appeared before the code  
3                   compliance board at the original hearing;  
4  
5                   b. The documentation provided by the respondent in  
6                   support of the request;  
7  
8                   c. Whether the respondent has new evidence or  
9                   information, which could not be provided at the original  
10                   hearing;  
11  
12                   d. Whether there was any extraordinary hardship,  
13                   which existed or currently exists;  
14  
15                   e. Whether the respondent has come into compliance  
16                   with the order of the code compliance board;  
17  
18                   f. The number of days that the violation existed;  
19  
20                   g. Whether the respondent has been deemed a repeat  
21                   violation by the code compliance board;  
22  
23                   h. Whether the property is homestead or non-  
24                   homestead property; and  
25  
26                   i. The total administrative cost to the village for the handling  
27                   of the case, which cost will be inclusive of staff time and  
28                   recording and release of lien fees.

29  
30                   (4) The code compliance board shall consider the same criteria  
31                   as the code compliance officer.  
32

33                   (5) The code compliance board shall not waive administrative  
34                   costs incurred by the Village in enforcing its codes. In addition, the  
35                   code compliance board and the administrative panel shall not waive  
36                   costs of any repairs incurred by the Village.  
37

38                   (d) A certified copy of an order imposing a fine, or a fine plus repair  
39                   costs, may be recorded in the public records of Miami-Dade County,  
40                   Florida and thereafter shall constitute a lien against the land on which the  
41                   violation exists, or, if the violator does not own the land, upon any other  
42                   real or personal property owned by the violator. Upon petition to the  
43                   circuit court, such order shall be enforceable in the same manner as a court  
44                   judgment by the sheriffs of this state, including execution and levy against  
45                   the personal property of the violator but such order shall not be deemed  
46                   otherwise to be a judgment of a court except for enforcement purposes. A  
47                   fine imposed pursuant to this part shall continue to accrue until the violator  
48                   comes into compliance or until judgment is rendered in a suit to foreclose  
49                   on a lien filed pursuant to this section, whichever occurs first. After three

1                   (3) months from the filing of any such lien, which remains unpaid, the  
2                   code compliance board commission may authorize the village attorney to  
3                   initiate court proceedings to foreclose upon the lien. No lien created  
4                   pursuant to the provisions of this chapter may be foreclosed on real  
5                   property, which is a homestead under the Florida Constitution, Art. X, §  
6                   4.

7  
8                   14.1.11           Duration of lien.       No lien provided for herein shall continue for  
9                   a longer period than twenty (20) years after the certified copy of an order imposing  
10                  a fine has been recorded, unless within that time an action to foreclose on the lien  
11                  is commenced in a court of competent jurisdiction. In an action to foreclose on the  
12                  lien, the prevailing party is entitled to recover all costs, including a reasonable  
13                  attorney's fee that it incurs in the foreclosure. The continuation of the lien effected  
14                  by the commencement of the action shall not be good against creditors or  
15                  subsequent purchasers for valuable consideration without notice, unless a notice of  
16                  lis pendens is recorded.

17  
18                  14.1.12           Appeal.

19  
20                  (a)               An aggrieved party, including the Village, may appeal a final  
21                  order of the code compliance board to the circuit court. Such an appeal shall  
22                  not be a hearing de novo, but shall be limited to appellate review of the  
23                  record created before the code compliance board.

24  
25                  14.1.13           Notice and procedures.

26  
27                  (a)               All notices required by this part shall be provided to the alleged  
28                  violator by:

29  
30                               (1)               Certified mail, return receipt requested, provided if  
31                               such notice is sent under this subsection to the owner of the property  
32                               in question at the address listed in the tax collector's office for tax  
33                               notices, and at any other address provided to the village by such  
34                               owner and is returned as unclaimed or refused, notice may be  
35                               provided by posting as described in subsections (b)(1) and (2)  
36                               below, and by first class mail directed to the addresses furnished to  
37                               the village with a properly executed proof of mailing or affidavit  
38                               confirming the first class mailing; or

39  
40                               (2)               Hand delivery by the sheriff or other law  
41                               enforcement officer, code compliance officer, or other person  
42                               designated by the village; or

43  
44                               (3)               Leaving the notice at the violator's usual place of  
45                               residence with any person residing therein who is above fifteen (15)  
46                               years of age and informing such person of the contents of the notice.

47  
48                               (4)               In lieu of notice as described in subsection (a), such  
49                               notice may be posted at least ten (10) days prior to the hearing, or

1 prior to the expiration of any deadline contained in the notice, in at  
2 least two (2) locations, one of which shall be the property upon  
3 which the violation is alleged to exist and the other of which shall  
4 be at the village hall.

5  
6 (5) Proof of posting shall be by affidavit of the person  
7 posting the notice, which affidavit shall include a copy of the notice  
8 posted and the date and places of its posting.

9  
10 (c) Evidence that an attempt has been made to hand deliver or mail  
11 notice as provided in subsection (a), together with proof of notice or posting  
12 as provided in subsection (b), shall be sufficient to show that the notice  
13 requirements of this chapter have been met, without regard to whether or  
14 not the alleged violator actually received such notice.

15  
16 14.1.14 Enforcement procedures by code compliance officer.

17  
18 (a) For the purposes of this chapter, a "code compliance officer" is  
19 defined to be any agent or employee of the village or Miami-Dade County  
20 whose duty is to assure the enforcement of and compliance with the village  
21 code, the Florida Building Code, or Miami-Dade County Code, as  
22 applicable. Prior to being provided the authority to initiate enforcement  
23 proceedings under this chapter, a code compliance officer shall be required  
24 to successfully complete a criminal background investigation as prescribed  
25 by administrative order of the county manager. Subject to the requirements  
26 of section 8CC 11, a "code compliance officer" is also defined to be any  
27 agent or employee of a municipality who has been authorized pursuant to  
28 that section to assure code compliance. Municipal employees shall also be  
29 required to successfully complete a criminal background investigation prior  
30 to being provided authority to initiate enforcement proceedings under this  
31 chapter.

32  
33 (b) For the purposes of this chapter, "violators" shall be deemed those  
34 persons or entities legally responsible for the violation of the Village's Code  
35 of Ordinances, Village Land Development Code, Village ordinance,  
36 applicable provision of the Miami-Dade County Code, or the Florida  
37 Building Code ("Codes"). Each day violation of any provision of the Codes  
38 or of any Village ordinance shall continue shall constitute a separate  
39 offense.

40  
41 (c) A code compliance officer who finds a violation of the Codes or of  
42 an ordinance shall determine a reasonable time period within which the  
43 violator must correct the violation. This determination shall be based on  
44 considerations of fairness; practicality; ease of correction; ability to correct;  
45 severity of violation; nature, extent and probability of danger or damage to  
46 the public; and other relevant factors relating to the reasonableness of the  
47 time period prescribed. A time for correction need not be specified if the  
48 violation is deemed to be an uncorrectable violation.  
49



1 15.2.2 Authority. The building official is hereby authorized and directed to  
2 interpret and enforce all of the provisions of the Florida Building Code and this  
3 code subject to the powers vested in the planning board and the code compliance  
4 board.

5  
6 15.3. - Violations and general penalty.

7  
8 15.3.1 General penalty. Whenever in this code or in any ordinance of the village  
9 any act is prohibited or is made or declared to be unlawful or an offense, or  
10 whenever in such code or ordinance the doing of any act is required or the failure  
11 to do any act is declared to be unlawful, where no specific penalty is provided  
12 therefor, the violation of any such provision of this code or any ordinance shall be  
13 punished by a fine not to exceed five hundred dollars (\$500.00), or imprisonment  
14 for a term not exceeding sixty (60) days, or by both a fine and imprisonment. Each  
15 day violation of any provision of this code or of any ordinance shall continue shall  
16 constitute a separate offense. The provisions of this code may also be enforced as  
17 provided for in Chapter 14.

18  
19 15.3.2 Continuation of violation. In addition to the penalties hereinabove provided,  
20 any condition caused or permitted to exist in violation of any of the provisions of  
21 this code or any ordinance shall be deemed a public nuisance and may be, by the  
22 village, abated as provided by law, and each day that such condition continues shall  
23 be regarded as a new and separate offense.

24  
25 15.4. - Other penalties and remedies.

26  
27 15.4.1 Civil remedies. If any building or structure is erected, constructed,  
28 reconstructed, altered, repaired, or maintained or any building, structure, land, or  
29 water is used in violation of this code, the village, through the village attorney, may  
30 institute any appropriate civil action or proceedings in any court to prevent, correct,  
31 or abate the violation.

32  
33 **Section 4. Inclusion in the Code & Scrivener's Errors.** The Village Commission intends  
34 that the provisions of this Ordinance be made a part of the Biscayne Park Code, and that sections herein  
35 may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish  
36 codification; regardless, typographical errors that do not affect intent may be corrected with notice to and  
37 authorization of the Village Manager without further process.

38  
39 **Section 5. Conflicts.** Whenever the requirements or provisions of this Ordinance are in  
40 conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most  
41 restrictive shall apply.

42  
43 **Section 6. Severability.** If any section, subsection, sentence, clause or phrase of this  
44 Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid,  
45 such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the  
46 part so declared.

47  
48 **Section 7. Effective Date.** This Ordinance shall become effective upon adoption by the Town  
49 Council.

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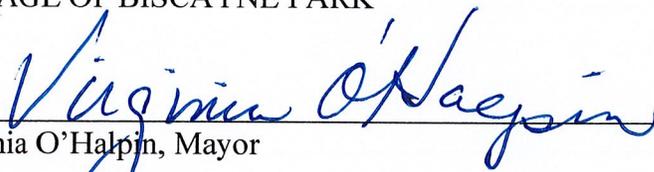
PASSED AND ADOPTED upon first reading this 3rd day of March, 2020.

PASSED AND ADOPTED upon second reading this 19<sup>th</sup> day of May, 2020.

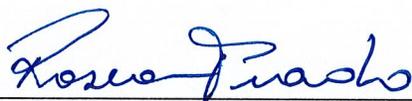
1 The foregoing Ordinance was offered by Commissioner Kennedy, who moved its adoption. The  
2 motion was seconded by Commissioner Ross, and upon being put to a vote the vote was as follows:

|   |                                       |     |
|---|---------------------------------------|-----|
| 3 |                                       |     |
| 4 | Virginia O'Halpin, Mayor              | Yes |
| 5 | William Tudor, Vice Mayor             | No  |
| 6 | Macdonald "Mac" Kennedy, Commissioner | Yes |
| 7 | Roxanna Ross, Commissioner            | Yes |
| 8 | Dan Samaria, Commissioner             | Yes |
| 9 |                                       |     |

10 VILLAGE OF BISCAIYNE PARK

11  
12   
13 \_\_\_\_\_  
14 Virginia O'Halpin, Mayor

15  
16  
17 ATTEST:

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

20 Roseann Prado, Village Clerk

21  
22  
23  
24 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
25 USE AND RELIANCE OF THE VILLAGE OF BISCAIYNE PARK ONLY:

26   
27 \_\_\_\_\_

28 John R. Herin, Jr., Interim Village Attorney