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ORDINANCE NO. 2011-2

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING CHAPTER 2 OF THE VILLAGE OF BISCAYNE PARK LAND DEVELOPMENT CODE ENTITLED "DEFINITIONS" BY ADDING DEFINITIONS FOR FENCES AND CORNER SIDE YARDS AND AMENDING THE DEFINITION FOR HEDGE; AMENDING CHAPTER 11 OF THE VILLAGE OF BISCAYNE PARK LAND DEVELOPMENT CODE ENTITLED "ACCESSORY STRUCTURES" BY AMENDING SECTION 11.6; ADDRESSING CORNER SIDE FENCES AND WALLS, HEIGHT, AND RELATED CHANGES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE

22 **WHEREAS**, the Code Review Committee has provided suggested changes to the Village
23 Land Development Code which address fences, walls and hedges; and

24 **WHEREAS**, the Village Commission is aware that citizens have had issues when
25 attempting to locate corner side fences and certain fence materials on their property; and

26 **WHEREAS**, the Village Commission deems it to be in the best interests of the citizens
27 of Biscayne Park to amend the Village's Land Development Code to add certain definitions and
28 to address fences, walls, and hedges; now, therefore

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

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

1 (b) When a fence, wall or hedge is placed on a property line abutting an alley, at least
2 forty (40) square feet, a minimum of four (4) feet deep, of open space must be left for the
3 temporary storage of trash and garbage containers.
4

5
6 (c) No walls or fences may be located in the front yard except as provided in section (d).
7

8 (d) On corner lots, fences and walls may be located in the corner side yard but may be no
9 closer than three (3) feet from the corner side yard property line. Fences and walls may be
10 extended into the front yard beginning at the corner or the enclosed portion of the house closest
11 to the corner side yard or the interior side yard, but not both side yards, provide the maximum
12 enclosed yard area including the footprint of the enclosed area of the dwelling, totals less than
13 fifty-five (55) percent of the property. Fences and walls can extend a maximum of fifteen (15)
14 feet beyond said corner, but no closer than fifteen (15) feet from the front property line to
15 achieve an enclosed area that does not exceed fifty-five (55) percent of the property. A
16 landscape buffer must be provided between the fence and the side property line. The landscape
17 buffer must be a continuous buffer (with the exception of any pedestrian gate), which covers a
18 minimum of fifty percent (50%) of the fence or wall.
19

20 (e) All fences, walls, hedges and gates must conform to the clear visibility triangle set
21 forth in Chapter 5.4.1 of the Land Development Code. (See Diagram 4 Visibility Triangle).
22

23 (f) All fences, walls, and gates require a permit and approval by the Planning Board.
24

25 **11.6.2 Height.**

26
27 (a) Fences and walls, when located between the building and the interior side and the
28 rear property lines, shall not exceed six (6) feet in height.
29

30 (b) The inside Through Lots on Northeast 11 Place and Northeast 11 Court from
31 Northeast 119 Street to Northeast 121 Street shall be allowed the six-foot height from the
32 building to and parallel to the rear property line.
33

34 (c) Properties abutting the FEC corridor and/or properties abutting public rights-of-
35 way which abut the FEC corridor shall be permitted to erect a fence or wall up to ten (10) feet in
36 height only on the side abutting the FEC corridor.
37

38 (d) Pedestrian gates located in the front yard shall not exceed a height of six feet (6')
39 and shall not exceed a width of five feet (5').
40

41 (e) On corner side yards, fences and walls may be four (4) feet in height when set back
42 three (3) feet from the corner side yard property line and fifteen (15) feet forward from the front
43 corner of the building as described in 11.6.1(d). The height of the fence or wall may be
44 increased one (1) foot for each additional two (2) feet setback from the dimensions described

1 above with a maximum height of six (6) feet. Fences and walls in the corner side yard must be
2 of a uniform height.

3
4 **11.6.3 Construction.** Fences and walls may be constructed of wood, masonry, composite
5 materials, vinyl, metal or wire, and shall be constructed so as to discourage climbing and be
6 constructed of one (1) material type only, except where specifically permitted herein.

7
8 (a) Wood fences are to be constructed with pressure treated pine, cedar, redwood or
9 other rot resistant wood in compliance with the Florida Building Code. Wood fences shall be
10 finished with a stain, wood preservative or sealer. Stain colors require a separate permit and
11 approval by the Planning Board. Planks shall have a minimum nominal thickness of 1" (3/4"
12 actual) and post shall not be less than a nominal 4" by 4". Only galvanized or stainless hardware
13 and fasteners are permitted. Fences shall be constructed to be level and plumb. Gates shall be
14 diagonally braced to prohibit sagging. Fences shall be of one color except where masonry or
15 concrete pillars are used in conjunction with fences where the pillars may be of one color and the
16 fence portions another color.

17
18 (b) Walls may be constructed of the following materials and must conform to the
19 construction requirement of the Florida Building Code and shall be of a compatible design and
20 color in relation to the dwelling.

21
22 (i) Walls constructed of stone shall be of a consistent type.

23
24 (ii) Concrete block is to be stuccoed with a smooth stucco finish or texture on all
25 faces that reflects compatibility with the finish of the dwelling. Walls constructed of
26 decorative masonry units shall be of a uniform type and color.

27
28 (iii) Slump brick.

29
30 (iv) Used red bricks, limed red bricked or cement bricks appropriately painted.

31
32 (v) Precast concrete caps may be used in combination with the preceding wall types.
33 Precast walls are only permitted on property lines parallel to the FEC corridor.

34
35 (c) Composite and vinyl fences shall be made of Miami-Dade County approved
36 materials for fencing.

37
38 (d) Metal fences shall be made of aluminum, wrought iron, galvanized steel or marine
39 grade stainless steel and shall be of one (1) color. Iron and steel fences, with the exception of
40 chain link, shall be painted (or finished). Words and pictorial images are not permitted except
41 for one location on the gate or fence where the street numbers are permitted. Post caps, scrolls,
42 and studs are part of the overall allowable height. Metal fences may only be of one color.

1
2 (e) Wire fences shall be of chain-link or diamond weave of heavy galvanized material
3 or material of equal strength and shall have top rails. All posts shall be set in concrete so as to be
4 secure and safe. Decorative inserts/privacy slats are not permitted except where fences are
5 parallel to the FEC corridor.

6
7 (f) Gates shall only be made of wood, composite material, vinyl or metal.

8
9 (g) The decorative face of a fence is to face the street or exterior of the property. All
10 parts of the wall or fence, including uprights, posts and vertical and horizontal and structural
11 supports shall be on applicant's side of the fence or wall. No part of the fence or wall shall
12 protrude into the adjacent property or public right-of-way.

13
14 (h) Each application shall be consistent with Village building permit requirements.
15 The fence shall be so designed to be suitable and compatible with surrounding areas.

16
17 **11.6.4 Chain-link, and wire fences prohibited in certain areas.**

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19 Chain-link and/or wire fences shall not be permitted in front yards and corner side yards
20 or when they extend farther toward the front and side front property lines than the front corner of
21 the building closest to the side property line. Chain link fences shall not be permitted parallel to
22 the abutting right of way except on the rear, interior property line or alley.

23
24 **11.6.5 Electric or barbed wire prohibited.** No fence shall be constructed with barbed wire and
25 no fence charged with electricity shall be erected.

26
27 **11.6.6 Non-conforming fences and walls.** Any fence or wall which has been properly permitted
28 and approved by the Village prior to the passage of Ordinance 2011-2 or which existed prior to
29 Ordinance 24 (S. 1988) and which does not comply with the requirements of this ordinance, shall
30 be considered a legal, non-conforming structure. Such non-conforming fence or wall may be
31 continued until such fence or wall has deteriorated to the extent of more than twenty five percent
32 (25%) of the structure or has been damaged by more than fifty percent (50%) of the structure.
33 Replacement of any fence or wall shall require a permit, and compliance with this Code. At that
34 time, such non-conforming fence or wall must be removed in its entirety.

35
36 **11.6.7 Maintenance.**

37 (a) Fences and walls shall be maintained free of rot, mold, rust and graffiti, and shall be
38 repaired if not straight, plumb and level.

39 (b) Fences and walls shall be recoated or cleaned when there is excessive discoloration,
40 fading, peeling or general deterioration.

41 (c) Fences, walls and hedges shall be kept free of weeds.

42 (d) Fences and walls that are not structurally sound and present a threat to public safety shall
43 be repaired or removed.

1 (e) Hedges shall not extend over or into the public right-of-way for the full height of the
2 hedge.

3 (f) If a wall is to be placed on a shared property line, consent for access must be obtained
4 from the adjoining property owner(s) prior to finishing the opposite side of the wall. If
5 such consent cannot be obtained, the property owner erecting the wall must present proof
6 that a request for access approval was mailed to every adjacent property owner, by
7 certified mail, return receipt requested, to the mailing address(es) as listed in the most
8 current Miami-Dade County tax roll, and the mailing was returned undeliverable or the
9 adjacent property owner(s) failed to respond to the request within thirty (30) days after
10 receipt. Upon such a showing, the property owner erecting or maintaining the wall shall
11 not be required to finish the opposite side of the wall.

12 * * *

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

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

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

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

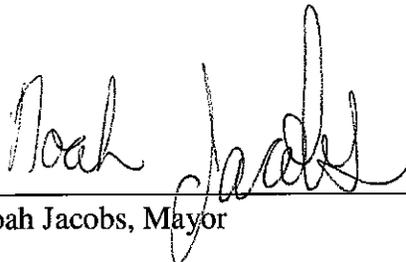
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1 The foregoing Ordinance was offered by Mayor Noah Jacobs, who moved its adoption.
2 The motion was seconded by Commissioner Roxanna Ross and upon being put to a vote, the
3 vote was as follows:

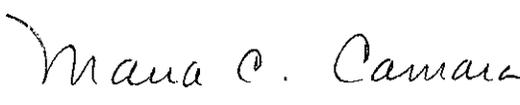
4 **FIRST READING:** July 12, 2011

5 **SECOND READING:** February 7, 2012

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Noah Jacobs, Mayor



Maria C. Camara, Village Clerk

Approved as to form:



Village Attorney

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

- Mayor Jacobs: Yes
- Vice Mayor Watts: No
- Commissioner Anderson: Yes
- Commissioner Cooper: No
- Commission Ross: Yes