

ORDINANCE 2012-05

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3           **AN ORDINANCE OF THE VILLAGE COMMISSION OF**  
4           **THE VILLAGE OF BISCAYNE PARK, FLORIDA**  
5           **RELATING TO COMPLYING WITH THE REQUEST OF**  
6           **THE MIAMI-DADE COUNTY DEPARTMENT OF**  
7           **ELECTIONS REQUEST RELATING TO THE**  
8           **QUALIFYING PERIOD AS IT RELATES TO THE**  
9           **VILLAGE'S AMENDMENT OF SECTIONS 2.04 AND**  
10           **5.02(C), OF THE VILLAGE OF BISCAYNE PARK'S**  
11           **CHARTER; PROVIDING REQUISITE BALLOT**  
12           **LANGUAGE FOR SUBMISSION TO ELECTORS OF THE**  
13           **PROPOSED AMENDMENT AS TO SCHEDULING OF**  
14           **ELECTIONS TO THE VILLAGE CHARTER AND**  
15           **ENABLING PROVISIONS; PROVIDING FOR COPIES OF**  
16           **THE CHARTER AMENDMENT BE AVAILABLE FOR**  
17           **PUBLIC INSPECTION; PROVIDING FOR THE VILLAGE**  
18           **CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE**  
19           **COUNTY SUPERVISOR OF ELECTIONS TO PLACE THE**  
20           **CHARTER AMENDMENTS ON THE BALLOT;**  
21           **PROVIDING FOR SEVERABILITY AND AN EFFECTIVE**  
22           **DATE.**

23  
24           WHEREAS, the Village of Biscayne Park Charter (6/13/2006), provides at Article V, Section  
25 5.02(C) that general elections shall be held in odd-numbered years on the first Tuesday in December; and,  
26

27           WHEREAS, the Village of Biscayne Park Charter (6/13/2006), provides at Article II, Section  
28 2.04 that candidates may qualify for elections beginning on October 15 or the first business day  
29 immediately thereafter and end on the last business day of October; and,  
30

31           WHEREAS, Article VI, Charter Amendments, provides at Section 6.02(A)(1): "The Commission  
32 may propose amendments to this Charter by ordinance and shall submit the proposed amendment to a  
33 vote of the electors at the next general election held within the Village or at a special election called of  
34 such purpose;" and,  
35

36           WHEREAS, the Village Commission after careful consideration of this matter, deems it advisable  
37 and in the best interest of the general welfare of the Village of Biscayne Park and its inhabitants for a  
38 ballot question to issue relating to changing the date of Village elections as hereinafter set forth; and,  
39

40           WHEREAS, based upon the foregoing, the Mayor and Village Commission would like to amend  
41 sections 2.04 and 5.02(C) of the Charter of the Village of Biscayne Park; and,  
42

43           WHEREAS, the Village Commission may, by ordinance, propose amendments to the Charter  
44 subject to approval by the electorate at the next general election or at a special election called for such  
45 purpose; and,  
46

47           WHEREAS, the Village Commission has determined to submit certain proposed Charter  
48 amendments for approval or disapproval by the electors; and,

1  
2 WHEREAS, based upon the foregoing, the Mayor and Village Commission adopted an ordinance  
3 to amend the charter language, amending sections 2.04 and 5.02(C), of the Charter of the Village of  
4 Biscayne Park; and,  
5

6 WHEREAS, the Miami-Dade County Department of Elections, after the Village adopted the  
7 above referenced amendment, to be decided by ballot question presented to the residents of the Village,  
8 advised the Village that a modification needed to be made to the qualifying period; and,  
9

10 WHEREAS, in order to ensure that Miami-Dade County Department of Elections is able to  
11 perform the tasks assigned to the Department, the Village is seeking to modify the proposed language  
12 pursuant to the Elections Department request; and,  
13

14 WHEREAS, the Mayor and Village Commission desire to amend sections 2.04 and 5.02(C), of  
15 the Charter of the Village of Biscayne Park to provide requisite ballot language for submission to electors,  
16 providing for copies of this Charter amendment be available for public inspection and providing for the  
17 Village Clerk to utilize the services of Miami-Dade County Supervisor of Elections.  
18

19 BE IT RESOLVED BY THE MAYOR AND VILLAGE COMMISSION OF THE VILLAGE OF  
20 BISCAYNE PARK, FLORIDA, AS FOLLOWS:  
21

22 **Section 1.** *Whereas clauses.* The above whereas clauses are incorporated by reference into this  
23 Ordinance.  
24

25 **Section 2.** *Proposed Revisions or Amendments to the Village Charter.* The Commission proposes  
26 certain amendments to the Village Charter, which shall be voted upon by the Village electorate. Those  
27 proposed amendment shall be commonly referred to by the ballot title which shall read as follows:  
28

29 1. CHANGE OF ELECTION DATES TO COINCIDE WITH GENERAL ELECTION  
30 DATES.  
31

32 **Section 3.** *Form of Ballot.* The form of ballot of the Charter amendments provided for in this  
33 Ordinance shall be as follows:  
34

35 \* \* \*

36 1. **Change of election dates to coincide with General Election dates.**  
37

38 The Village's general election is held on the first Tuesday in December of odd-numbered years.  
39 Should the Charter be amended to hold the general election in even-numbered years commencing in  
40 November 2016, in conjunction with Miami-Dade County's elections, providing for candidate  
41 qualification period and run-offs coordinated with Elections Department and an 11 month extension of the  
42 four year term of candidates elected in 2011 and all candidates elected in 2013?  
43

44 Shall the amendment be adopted?

45 YES [ ]

46 NO [ ]  
47

48 \* \* \*

1  
2 **Section 4.** The Full text of the proposed amendments to the Village Charter are as follows:  
3  
4

\* \* \*

5 Article V, Section 5.02 Elections

6 (C) Election dates. A general election shall be held in each ~~odd-numbered~~ even-  
7 numbered year, on the first Tuesday in ~~December~~ November, commencing with the  
8 general election of 2016 and every two years subsequent thereto. In the event of a  
9 deadlocked vote for the third position, there shall be candidate qualifications and run-off  
10 election(s) as soon as possible thereafter, upon coordination with the Miami-Dade County  
11 Elections Department. In the event that there is a deadlock for the second position and  
12 the affected individuals are unable to amicably resolve such deadlock at the first (1<sup>st</sup>)  
13 Commission meeting following the general election, the Clerk shall flip a coin to  
14 determine who is to receive the two (2) year term and who is to receive the four (4) year  
15 term. The coin toss shall occur after the affected individuals have been duly sworn to the  
16 Commission.

17 Article II, Section 2.04 Candidates

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19 To qualify for elections, candidates for the Commission shall file a written notice of  
20 candidacy with the Clerk consistent with Article V of this Charter at such time and in  
21 such manner as prescribed by ordinance; and make payment to the Clerk of any required  
22 election assessment fee. Only electors of the Village who have resided continuously in  
23 the Village for at least one year preceding the date of such filing shall be eligible to hold  
24 the office of Commissioner. Qualifying period shall be coordinated with the Miami-  
25 Dade County Department of Elections. In order to align Village elections with  
26 Countywide general elections, the terms of office of two current Commissioners and  
27 three future Commissioners shall be extended approximately 11 months until each  
28 successor takes office. The persons elected to serve a four-year term on December 6,  
29 2011, and 2013 shall serve until their successors are elected on the first Tuesday of  
30 November of 2016. The persons elected to serve a four-year term on December 3, 2013,  
31 shall serve until their successors are elected on the first Tuesday of November of 2018;  
32 the person elected to serve a two-year term on December 3, 2013, shall serve until his or  
33 her successor is elected on the first Tuesday of November of 2016.  
34

35 \* \* \*  
36

37 The proposed amendments to the Village Charter are reflected by underlining in the text, and  
38 strikethroughs reflect items to be deleted from the Charter.  
39

40 **Section 5.** *Charter Amendment to be Available for Public Inspection, and for the Village Clerk to*  
41 *Utilize the Services of Miami-Dade County Supervisor of Elections.* The place, information and the full  
42 text of the proposed Village Charter amendments are available at the office of the Village Clerk located at  
43 640 NE 114th Street, Biscayne Park, Florida 33161. Copies of this ordinance providing the Charter

1 amendments subject to this referendum approval are on file in the office of the Village Clerk and  
2 available for public inspection during regular business hours. The Village Clerk is authorized to utilize  
3 the services of Miami-Dade County Supervisor of Elections for any assistance required in the  
4 administration of the election.

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6 **Section 6.** *Providing for Inclusion in the Charter.* It is the intention of the Village Council and it is  
7 hereby ordained that the provisions of this ordinance shall become and made a part of the Charter of the  
8 Village of Biscayne Park, Florida, as to each Charter amendment measure approved by a majority of  
9 voters on such measure in such election; that the sections of this ordinance may be renumbered or  
10 relettered to accomplish such intentions; and the word "resolution" shall be changed to "section" or other  
11 appropriate word.

12  
13 **Section 7.** *Providing for Adoption of Enabling Resolution.* The Village Council shall enable the  
14 submittal of the proposed amendments to the electorate pursuant to section 6.03 of the Miami-Dade  
15 County Charter.

16  
17 **Section 8.** *Effective Date.* This Ordinance shall become effective upon adoption, and each of the  
18 Charter amendment measures provided herein shall be effective only upon approval of a majority of  
19 electors voting on the measure, effective upon certification of the election results. If conflicting  
20 amendments are adopted at the same election, the one receiving the greatest number of affirmative votes  
21 shall prevail to the extent of such conflict.

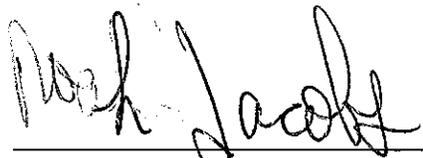
22  
23 **Section 9.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid  
24 or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the  
25 remaining portions of this Ordinance.

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27 **Section 10.** Consistent with the requirements of Section 6.03, of the Miami-Dade County Charter,  
28 this Ballot question shall be placed on the November 2012, ballot as a special election ballot question for  
29 the Village of Biscayne Park.

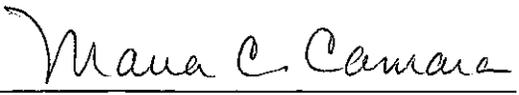
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34 The foregoing Ordinance was offered by Vice Mayor Ross, who moved its adoption. The motion was  
35 seconded by Commissioner Anderson and upon being put to a vote, the vote was as follows:

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40 **FIRST READING:                      Tuesday, July 10, 2012**  
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42 **SECOND READING:                    Thursday, July 19, 2012**  
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Noah Jacobs, Mayor

Attest:

  
\_\_\_\_\_  
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: No  
Vice Mayor Ross: Yes  
Commissioner Anderson: Yes  
Commission Cooper: No  
Commissioner Watts: Yes