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ORDINANCE NO. 2016-03

**AN ORDINANCE OF THE VILLAGE
COMMISSION OF THE VILLAGE OF
BISCAYNE PARK, FLORIDA AMENDING
SECTION 6.3 ENTITLED "SOLID
WASTE"; PROVIDING FOR CONFLICTS;
PROVIDING FOR SEVERABILITY;
PROVIDING FOR INCLUSION;
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, staff periodically reviews the Village Code and makes recommendations concerning amendments to the Code; and

WHEREAS, a review of Section 6.3 has revealed that there is an inconsistency in the times for which garbage, trash and recycling may be placed at the property line and removed by the resident; and

WHEREAS, staff has found that streamlining and perhaps shortening the timeframes will help to eliminate piles and receptacles throughout the Village and will allow for more consistent Code compliance administration; and

WHEREAS, the Village Commission finds it in the best interests of the Village to approve this ordinance, authorizing the standardization of garbage, trash and recycling pickup and removal times to be consistent with staff's recommendations;

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF
THE VILLAGE OF BISCAYNE PARK, FLORIDA:**

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

Section 2. Section 6.3 of the Village of Biscayne Park Land Development Code, entitled, "Solid waste", is hereby amended to read as follows:

6.3. - Solid waste.

6.3.1 Local government solid waste responsibilities. The municipality of Biscayne Park is responsible for collecting and transporting solid waste from its jurisdiction to a solid waste disposal facility operated by the county or operated under a contract with the county. The county may charge reasonable fees for the handling and disposal of solid waste at their facilities.

6.3.2 Containers.

(a) Each residential unit shall have a sufficient number of garbage cans or approved containers, not to exceed forty (40) gallons in capacity, to accommodate all garbage,

1 leaves and grass cuttings. Garbage cans shall be kept tightly-closed at all times and
2 easily accessible to collectors. Collection service may be discontinued where the
3 garbage cans or containers are determined to be unfit for receptacles by the public
4 works department. Failure of the property owner to provide proper garbage cans or
5 containers which results in discontinuance of service shall subject the property owner to
6 the penalty provisions of this Code.

7 (b) Garbage cans and trash receptacles must be placed behind the face of the building and
8 screened from view except when properly placed out for pickup.

9 (c) Dumpsters.

10 (1) Intent. It is the intent of this section to regulate the location and construction of
11 bulk container enclosures in a manner that promotes the public health and safety,
12 and lessens or otherwise mitigates the visual impact of such bulk containers upon
13 the community. A bulk container is a receptacle with a capacity of greater than one
14 (1) cubic yard which purpose is for the disposal and storage of garbage, trash and
15 any form of waste materials, not including hazardous or infectious waste

16 (2) Domestic trash. Every refuse accumulation of animal, fruit or vegetable matter that
17 attends the preparation, use, cooking and dealing in the storage of edibles, and any
18 other matter of any nature whatsoever which is subject to decay, purification and
19 degeneration of noxious or offensive gases or odors.

20 (3) Garden/bulky waste. Items of household refuse, tree cutbacks and shrubbery
21 cuttings, and other refuse attending the care of lawns, boxes and like articles.

22 (4) Enclosure. Wheeled bulk containers for the disposal of solid waste shall be
23 enclosed in a fence or wall fully screening it from view. Chain link fencing is not
24 permitted for enclosure or gate. Containers are to be positioned upon a hard surface
25 pad and a hard surface roll-away from the pad to the servicing area is provided to
26 facilitate servicing. Wheeled bulk containers shall only be placed curbside for
27 collection and shall remain curbside for a reasonable amount of time in order to
28 facilitate collection. In no case shall wheeled bulk containers remain overnight at
29 curbside or street side.

30 (5) Size requirement. Each enclosure shall provide a minimum of eighteen (18) inches
31 of clear space between each side of each bulk container (including lifting flanges)
32 and the adjacent wall surface of that enclosure, or other containers within the same
33 enclosure. The height of each enclosure shall be six (6) inches greater than the
34 highest part of the bulk container therein.

35 (6) Placement. The placement of containers and enclosures shall be planned and
36 constructed in a manner that allows unobstructed access to each container and the
37 unobstructed opening of the gates during the emptying process. Containers shall
38 not be located in such a manner that the service vehicle will block any intersection
39 during the emptying process. Containers shall be located to the rear of the property,
40 no closer than ten (10) feet to a property line.

41 (7) Gates. All enclosures shall have gates and their construction shall be of sturdy
42 metal frame and hinges with an opaque facing material. Servicing gates shall
43 incorporate gate stops and latches that are functional in the full open and closed

1 positions. Hinge assemblies shall be strong and durable so that access and servicing
2 gates function properly and do not sag. Enclosure gates shall be closed at all times
3 except for the time necessary to service the bulk container(s).

4 (8) Pad/hard surface. All enclosures shall be placed on poured concrete, solid or
5 perforated interlocking concrete block paving (ICB), or any existing hardened
6 paving system. A service access drive for the purpose of emptying the bulk
7 container shall also be provided unless a hard surface that provides access to the
8 bulk container already exists.

9 (9) Maintenance. Approved enclosures shall be maintained in good condition and
10 appearance at all times. Gates and latches shall be kept fully operable and shall be
11 cleaned periodically to prevent noxious odors and unsanitary conditions from
12 occurring. Enclosure pads and access drives shall be repaired or rebuilt whenever
13 the pavement structure deteriorates.

14 6.3.3 Owner/occupant responsibility.

15 (a) It shall be the duty of each owner/occupant to prevent the continued, excessive and
16 unsightly accumulation of garbage, trash and other types of waste and rubbish.

17 (b) Unless side yard service is requested, each owner/occupant shall place domestic
18 (kitchen) trash and recyclable materials at the edge of the pavement property line in
19 front of the property no earlier than 5:00 p.m. of the day the evening not more than
20 twenty-four (24) hours before preceding the scheduled collection time and containers
21 must be removed and placed out of sight by 9:00 a.m. the day following the scheduled
22 day of collection. Each owner/occupant shall remove their trash container from the front
23 of the property within twenty-four (24) hours after collection.

24 (c) Failure to comply with the provisions of this section shall constitute a violation of this
25 Code.

26 6.3.4 Garden/bulky waste. All tree trimmers and tree surgeons who are employed by a resident
27 or occupant of any residence or who may be employed by the village, or who may otherwise
28 pursue their occupation in the village shall be required to remove immediately to a dump or
29 other place designated for refuse, all refuse, cutting or debris resulting from their operation.
30 In no event shall any refuse, cuttings or debris remain overnight on any premises where tree
31 trimmers or tree surgeons have been engaged in their occupation. Each property owner shall
32 place tree and garden refuse at the edge of the pavement property line in front of the
33 property no earlier than 9:00 a.m. 6:00 a.m. of the day preceding the scheduled collection
34 time and containers must be removed and placed out of sight by 6:00 a.m. 9:00 a.m. the day
35 following the scheduled day of collection. Failure to comply with the provisions of this
36 section shall constitute a violation of this Code.

37 6.3.5 Recycling program. The village may form cooperative arrangements with the county for
38 implementing recycling programs. The following requirements shall apply:

39 (a) Construction and demolition debris must be separated from the solid waste stream and
40 segregated in separate locations at a solid waste disposal facility or other permitted site.

41 (b) The local government is encouraged to separate all plastic, metal, and all other grades of
42 paper for recycling prior to final disposal and is further encouraged to recycle yard trash

1 and other mechanically treated solid waste into compost available for agricultural and
2 other acceptable uses.

3 (c) In developing and implementing recycling programs, the village is encouraged to use
4 for-profit organizations for the collection, marketing, and disposition of recyclable
5 materials.

6 6.3.6 Solid waste franchise. The village may enter into a written agreement with other persons
7 to undertake to fulfill some or all of the village's solid waste responsibilities.

8 6.3.7 Determination and announcement of full cost for solid waste management.

9 (a) The village shall determine the full cost for solid waste management within the service
10 area of the village for the one-year period beginning on October 1, 1988, and shall
11 update the full cost every year thereafter. The method to be used in calculating full cost
12 shall be according to the rule established by the Florida Department of Environmental
13 Regulations.

14 (b) The village shall establish a system to inform, no less than once a year, residential and
15 nonresidential users of solid waste management services within the village service area
16 of the user's share, on an average or individual basis, of the full cost for solid waste
17 management as determined pursuant to subsection 6.3.7(a) above.

18 (c) Additional/unscheduled trash removal. The village shall provide additional/unscheduled
19 trash removal for its residents. The cost for these services shall be determined annually
20 by resolution of the village commission.

21 6.3.8 Litter. Unless otherwise authorized by law or permit, it shall be unlawful for any person
22 to dump litter in any manner or amount as stipulated in the Florida Litter Law.

23 6.3.9 Violations of this section; enforcement procedures available to village; schedule of fines
24 and penalties. Any violation or repeat violation of this section may be pursued by the village
25 by appropriate remedy either in court, or through code enforcement by the imposition of a
26 fine as set forth in a resolution kept on file by the Village Clerk. ~~below, or by any other~~
27 ~~means available at law or in equity, at the option of the village.~~ If it is the first violation, a
28 warning may be given. ~~Any person violating this section shall be punished by a fine of not~~
29 ~~more than thirty dollars (\$30.00) per violation.~~ Each day, or portion thereof, that a violation
30 occurs is considered a separate and additional violation.

31
32 **Section 3.** Conflicts. That all Ordinances or parts of Ordinances, Resolutions or parts
33 thereof in conflict herewith, are and the same are hereby repealed to the extent of such conflict.

34 **Section 4.** Severability. The provisions of this Ordinance are declared to be
35 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be
36 held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining
37 sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it

1 being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any
2 part.

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

8 **Section 6.** Effective Date. This Ordinance shall be effective upon adoption on
9 second reading.

10
11 The foregoing Ordinance was offered by Commissioner Anderson, who moved its adoption. The
12 motion was seconded by Commissioner Jonas and upon being put to a vote, the vote was as
13 follows:

14
15 PASSED AND ADOPTED upon first reading this 1st day of March, 2016.

16 PASSED AND ADOPTED upon second reading this 5th day of April, 2016.

17

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

20
21 
22 _____
23 David Coviello, Mayor

24 Mayor Coviello: Yes
25 Vice Mayor Watts: No
26 Commissioner Anderson: Yes
27 Commissioner Jonas: Yes
28 Commissioner Ross: No
29
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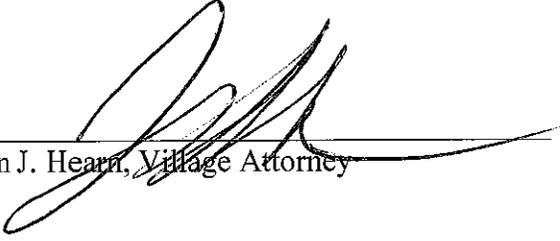
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Attest:



Maria C. Camara, Village Clerk

Approved as to form:



John J. Hearn, Village Attorney